



# General Assembly

Distr.: General  
15 November 2022  
English  
Original: English/French

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**Human Rights Council**  
**Working Group on the Universal Periodic Review**  
**Forty-second session**  
23 January–3 February 2023

## Switzerland

### Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights

#### I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the outcome of the previous review.<sup>1</sup> It is a compilation of information contained in relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

#### II. Scope of international obligations and cooperation with human rights mechanisms

2. Switzerland was urged to become a party to: the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,<sup>2</sup> the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights,<sup>3</sup> the Optional Protocol to the International Covenant on Civil and Political Rights,<sup>4</sup> the Optional Protocol to the Convention on the Rights of Persons with Disabilities<sup>5</sup> and the Convention on the Reduction of Statelessness and the European Convention on Nationality.<sup>6</sup>

3. The United Nations Educational, Scientific and Cultural Organization (UNESCO) recommended that Switzerland ratify the Convention against Discrimination in Education of 1960.<sup>7</sup>

4. Switzerland was host to the headquarters in Geneva of the Office of the United Nations High Commissioner for Human Rights and made annual voluntary contributions to support the work of the Office during the reporting period.<sup>8</sup>

#### III. National human rights framework

##### 1. Constitutional and legislative framework

5. The Committee on Economic, Social and Cultural Rights encouraged Switzerland to fully implement the rights set out in the International Covenant on Economic, Social and Cultural Rights within its domestic legal order and ensure that victims of violations of those rights had full access to effective legal remedies.<sup>9</sup>



6. The Human Rights Committee was concerned about the lack of information on concrete measures taken to strengthen the checks implemented before citizens' initiatives were put to the vote, which was recommended as a matter of priority.<sup>10</sup>

## **2. Institutional infrastructure and policy measures**

7. The Committee on the Elimination of Racial Discrimination applauded the adoption of a law on the establishment of a national human rights institution by the Federal Assembly in October 2021. Nevertheless, the Committee regretted that the institution did not have a mandate to receive individual complaints and was concerned by reports that it did not have sufficient financial resources to fulfil its mandate effectively.<sup>11</sup> The Committee recommended that Switzerland take the necessary steps to bring the national human rights institution fully into conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and that it issue a mandate for the institution to receive and deal with individual complaints.<sup>12</sup> The Working Group of Experts on People of African Descent recommended allocating human and financial resources adequate to the scope of the institution's responsibilities.<sup>13</sup>

8. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment stated that the lack of clarity as to the structure of the National Commission for the Prevention of Torture and its place within the Federal Department of Justice and Police was helping to create the impression that it was not independent.<sup>14</sup> The Subcommittee recommended that Switzerland sever the links between the National Commission and the Federal Department of Justice and Police, and that it provide the Commission with a budget separate from that of the Federal Department of Justice and Police that was sufficient to guarantee its operational independence and the proper exercise of its functions.<sup>15</sup>

9. The Committee on the Rights of the Child recommended that Switzerland establish a standing government structure to coordinate and prepare reports to and engage with international and regional human rights mechanisms, and to coordinate and track national follow-up to, and implementation of, the recommendations and decisions emanating from such mechanisms.<sup>16</sup>

## **IV. Promotion and protection of human rights**

### **A. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

#### **1. Equality and non-discrimination**

10. The Committee on Economic, Social and Cultural Rights regretted that the lack of a general anti-discrimination law continued to make it difficult for victims to access effective remedies and adequate protection against all prohibited grounds for, and multiple forms of, discrimination.<sup>17</sup> The Committee recommended that Switzerland pass a general anti-discrimination law, enforceable uniformly throughout the Confederation, that covered all prohibited grounds of discrimination.<sup>18</sup>

11. The Committee on the Elimination of Racial Discrimination was deeply concerned at the absence of legislation that would clearly prohibit racial discrimination and at the lack of sufficient and accessible remedies for victims.<sup>19</sup> It recommended that Switzerland adopt a clear and comprehensive definition of racial discrimination, including direct and indirect discrimination, covering all areas of private and public life, that was fully in accordance with article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination.<sup>20</sup>

12. The same Committee was very concerned by reports of a growing number of incidents, which had intensified during the coronavirus disease (COVID-19) pandemic, involving racial hate speech, and of incidents involving ethnic/religious hate speech; and at the fact that the registration of crimes motivated by racism was not carried out on a uniform basis and was not mandatory.<sup>21</sup> It recommended that Switzerland take steps to prevent,

condemn and combat racial hate speech directed at the groups that were the most at risk of racial discrimination, including such speech when it was conveyed over the Internet and social media and used by public figures, and ensure that all reported cases of racial hate speech were investigated effectively.<sup>22</sup>

## **2. Right to life, liberty and security of person, and freedom from torture**

13. The Subcommittee on Prevention of Torture noted that the only acts of torture punishable under the Criminal Code and the Military Criminal Code were those committed in the context of a crime against humanity. The Subcommittee recommended that Switzerland introduce in its Criminal Code a specific offence of torture, defined in accordance with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>23</sup>

14. The Working Group of Experts on People of African Descent stated that it had heard shocking reports of police brutality and the expectation of impunity. It indicated that the proximity of the police, public prosecution and the judiciary, and the exercise of prosecutorial discretion, limited independent investigations of police conduct.<sup>24</sup>

15. The Subcommittee on Prevention of Torture drew attention to the situation of persons in indefinite detention under article 64 of the Criminal Code, many of whom were suffering from severe psychiatric disorders. Those detainees were placed in ordinary detention, sometimes in high-security wings, where they were held in solitary confinement for long periods.<sup>25</sup>

## **3. Human rights and counter-terrorism**

16. In 2020, several special procedure mandate holders expressed concern that the adoption of the bill on police measures to combat terrorism would result in significant infringements of human rights and fundamental freedoms.<sup>26</sup>

17. Noting with deep concern that the Federal Act on Police Measures to Combat Terrorism was applicable to children as young as 12 years of age, the Committee on the Rights of the Child urged Switzerland to revise its counter-terrorism legislation to bring it into line with children's rights standards.<sup>27</sup>

18. The Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination recommended that Switzerland monitor the situation of Swiss citizens detained, prosecuted or sentenced abroad for terrorism-related offences, and seek their extradition in contexts where there were credible concerns that their rights to, inter alia, freedom from torture and a fair trial might be violated.<sup>28</sup>

## **4. Administration of justice, including impunity, and the rule of law**

19. The Subcommittee on Prevention of Torture noted information received indicating that detained persons had access to legal safeguards only from the start of their interrogation.<sup>29</sup> The Committee on Enforced Disappearances urged Switzerland to ensure that, in law and in practice, persons deprived of their liberty had access to counsel and could communicate without delay with their relatives or any person of their choice from the outset of the deprivation of liberty.<sup>30</sup>

20. The Subcommittee on Prevention of Torture recommended that Switzerland consider harmonizing the procedure for placement in solitary confinement, and that it ensure that any decision on placement in solitary confinement was legal, necessary, proportionate and non-discriminatory.<sup>31</sup>

21. The Committee on the Elimination of Racial Discrimination reiterated its recommendation that Switzerland establish in all the cantons an independent mechanism, outside the framework of the police and the public prosecutor's office, to investigate complaints of police misconduct, particularly when it involved racially motivated abuse;<sup>32</sup> and urged it to redouble its efforts to effectively counter the use of all practices by law enforcement officers that were based on racial profiling.<sup>33</sup>

22. The Committee on the Rights of the Child recommended that Switzerland raise the age of criminal responsibility to at least 14 years of age, in accordance with international standards; and ensure that all cantons had taken measures to prevent the placement of children together with adults during different forms of detention.<sup>34</sup>

## 5. Fundamental freedoms

23. In 2022, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression drew the Government's attention to concerns regarding article 47 of the Federal Banking Act of 8 November 1934, as amended in 2016, and the potential implications for the right to freedom of expression. She noted that, under the Act, anyone who disclosed customer data in violation of the law was subject to criminal penalties and that this prohibition applied to third parties who disclosed information received from any of the categories of person explicitly referred to in the Act. In addition, it seemed to her that the prohibition applied to journalists and the media.<sup>35</sup>

24. The Special Rapporteur also noted that, although Swiss law contained a general exception allowing disclosure where there was an overriding public or private interest, this exception did not appear to apply to whistle-blowers or media articles. She noted with concern that, in non-banking contexts, Swiss law offered only limited protection to whistle-blowers.<sup>36</sup>

25. The Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, recommended that Switzerland ensure that whistle-blower protection in the private sector met international standards and set consistent criteria governing decisions on whether information provided by whistle-blowers could be validly used as evidence in judicial proceedings.<sup>37</sup>

## 6. Right to marriage and family life

26. While welcoming the changes introduced concerning the secrecy of adoption, the Committee on Economic, Social and Cultural Rights noted that adopted children from third countries were unable to research their origins without the consent of the authorities of those countries and were not given adequate support during that process.<sup>38</sup> The Committee recommended that Switzerland step up its efforts to ensure adequate support, including psychological and financial support, for persons from third countries who had been adopted by Swiss parents and were researching their origins.<sup>39</sup>

27. Taking note of the recommendations of the report of the Federal Council concerning illegal adoptions of children from a third country in the 1980s and 1990s, the Committee on the Rights of the Child recommended that Switzerland adopt legislative and procedural reforms to ensure that the principle of the best interests of the child was at the core of international adoption, and prevent the abduction, sale and trafficking of children.<sup>40</sup> The Committee on Enforced Disappearances urged Switzerland to conduct thorough and impartial investigations to determine whether children adopted in a third country during the 1980s and 1990s could have been victims of enforced disappearance or wrongful removal.<sup>41</sup>

28. The Office of the United Nations High Commissioner for Refugees (UNHCR) indicated that family reunification for persons granted refugee status under the Asylum Act was restricted to the individual's spouse or registered partner and minor children. Provisionally admitted persons could only apply for family reunification after a three-year waiting period, and only if they fulfilled additional requirements under the Federal Act on Foreign Nationals and Integration.<sup>42</sup>

## 7. Right to work and to just and favourable conditions of work

29. The Committee on Economic, Social and Cultural Rights noted with concern that workers dismissed because of their participation in trade union activities, including strikes, were not entitled to reinstatement; and that the compensation provided for in the event of anti-union dismissal did not exert a sufficiently dissuasive effect.<sup>43</sup> The Committee recommended that Switzerland pursue the dialogue with the social partners in order to ensure adequate protection against anti-union dismissals in accordance with the International

Covenant on Economic, Social and Cultural Rights, and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), of the International Labour Organization.<sup>44</sup>

30. The same Committee was concerned that persons with disabilities often continued to suffer discrimination in gaining access to the labour market and that they frequently worked in sheltered workshops and received wages that were insufficient to provide them with a decent standard of living. The Committee was also concerned that the long-term unemployment rate was higher for older persons and that they had greater difficulty in returning to the labour market.<sup>45</sup> It recommended that Switzerland intensify its efforts to address the challenges faced by certain groups of the population, including persons with disabilities and older persons, in gaining access to employment, and encouraged Switzerland to put in place strategies to ensure that those groups were fully integrated into the labour market.<sup>46</sup>

## **8. Right to social security**

31. The Committee on Economic, Social and Cultural Rights noted that, according to information received, stigmatization, sanctions and the complicated procedures that existed in the various cantons were obstacles to gaining access to social benefits.<sup>47</sup> It recommended that Switzerland take steps to harmonize the social assistance systems that existed across the cantons and to set common minimum criteria for levels of welfare benefits with a view to ensuring an adequate standard of living for persons living in its territory.<sup>48</sup>

32. The Committee on the Elimination of Racial Discrimination was concerned at reports that nationals of countries outside the European Union did not apply for social assistance because their residence permit could be withdrawn, thereby putting them at risk of expulsion.<sup>49</sup>

## **9. Right to an adequate standard of living**

33. The Special Rapporteur on the right to development noted that although the social protection institutions in Switzerland were well developed, according to the Federal Statistical Office, in 2018 about 7.9 per cent of the population lived under the poverty rate, and 13.9 per cent were at risk of poverty.<sup>50</sup> The Committee on Economic, Social and Cultural Rights was concerned that certain segments of the population were at an increased risk of poverty, in particular persons with disabilities and older persons.<sup>51</sup>

34. The Special Rapporteur on the right to development noted that the federal Government had launched the National Programme for the Prevention and Eradication of Poverty, to be implemented jointly with cantons, cities, municipalities and private-sector organizations between 2013 and 2018. In 2018, the Federal Council had decided to continue its commitment to poverty prevention until 2024 through a national platform against poverty, but had reduced the funding.<sup>52</sup>

35. The Committee on Economic, Social and Cultural Rights recommended that Switzerland adopt a national strategy to prevent and combat poverty, ensuring that it focused on the individuals and groups most affected and that sufficient resources were allocated to its implementation.<sup>53</sup>

## **10. Right to health**

36. The Committee on Economic, Social and Cultural Rights remained concerned that, despite the measures taken, the suicide rate continued to be high in Switzerland, in particular among lesbian, gay, bisexual, transgender and intersex youth.<sup>54</sup>

37. The Committee on the Rights of the Child recommended that Switzerland ensure the effective implementation of the 2016 action plan on suicide prevention, and that it included preventive measures specifically for transgender adolescents; and invest in addressing the underlying causes of suicide and poor mental health among children.<sup>55</sup> The Committee on Economic, Social and Cultural Rights recommended that Switzerland take measures to

ensure the availability and accessibility of appropriate mental health services throughout the country.<sup>56</sup>

## **11. Right to education**

38. UNESCO indicated that the legal framework should have comprehensively enshrined the right to education but that the Constitution of Switzerland and the country's cantonal laws enshrined only the right to basic education.<sup>57</sup> While nine years of primary and lower secondary education were free of charge in the public schools of all cantons, some cantons charged fees for upper secondary education.<sup>58</sup>

39. The Committee on Economic, Social and Cultural Rights was concerned that refugee children and child asylum-seekers in federal residential centres continued to face many barriers in gaining access to education.<sup>59</sup> The Committee recommended that Switzerland take measures to ensure that those children were integrated into mainstream education in all cantons and were able to have access to quality education.<sup>60</sup>

40. The Committee on the Rights of Persons with Disabilities noted with concern the high number of children in segregated educational settings;<sup>61</sup> and the lack of resources in mainstream schools to support inclusive education.<sup>62</sup> The Committee on the Rights of the Child recommended that Switzerland strengthen the right to inclusive education in mainstream schools for all children with disabilities, including children with autism and children with learning difficulties, and provide clear guidance to cantons that still applied a segregated approach.<sup>63</sup>

## **12. Development, the environment, and business and human rights**

41. The Special Rapporteur on the right to development was concerned about the stagnation of official development assistance for the period 2021–2024, and at the fact that the costs of assistance provided to asylum-seekers within the country was included in that number.<sup>64</sup> The Special Rapporteur appealed to Switzerland to honour its commitment to allocate 0.7 per cent of its gross national income to official development assistance.<sup>65</sup>

42. The Committee on the Rights of the Child was concerned about the disproportionately high carbon footprint of Switzerland, in particular through investments made in fossil fuels by its financial institutions, and the negative impact of climate change and air pollution on children's health.<sup>66</sup> It recommended that Switzerland reduce greenhouse gas emissions in line with the country's international commitments and ensure that the Federal Council strategy of net zero emissions by 2050 was implemented.<sup>67</sup>

43. While noting with appreciation the adoption of the revised national action plans on the implementation of the Guiding Principles on Business and Human Rights and the action plan on corporate social responsibility for the period 2020–2023, the Committee on the Rights of the Child was concerned about the reliance on voluntary self-regulation and reporting by the business sector and the lack of legal accountability for business enterprises that had violated children's rights.<sup>68</sup>

44. The Independent Expert on foreign debt stated that in recent years, through a number of efforts, the Federal Council had achieved progress in curbing illicit financial flows.<sup>69</sup> However, there was room for improvement. For instance, measures could be taken to strengthen the accountability, regulation and supervision of the Swiss financial market to prevent adverse human rights impacts caused by illicit financial flows.<sup>70</sup> The Independent Expert recommended that Switzerland ensure that banks and financial intermediaries exercised sufficient due diligence with clients, in particular politically exposed persons and high-net-worth individuals.<sup>71</sup>

## **B. Rights of specific persons or groups**

### **1. Women**

45. The Committee on Economic, Social and Cultural Rights stated that despite the considerable efforts made to promote equality, traditional gender roles in the family and

society continued to impede the full enjoyment by women of their economic, social and cultural rights. The Committee noted with concern that a majority of women worked part-time, a situation that contributed to the gender wage gap, and was concerned about the continuing barriers faced by women in gaining access to senior and decision-making positions.<sup>72</sup> The Special Rapporteur on the right to development also noted that one of the obstacles to women's equal participation in the labour market was the lack of sufficient early childhood care and its substantial cost.<sup>73</sup>

46. Noting once again that the gender wage gap remained significant in the country and was only changing very slowly, the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organization requested the Government to provide information, including statistics, on the implementation of measures under the Equality Strategy 2030 to combat the causes of wage gaps.<sup>74</sup>

47. The Special Rapporteur on the right to development noted that the 2018 amendment to the Gender Equality Act to introduce measures to address pay discrimination had entered into force in 2020.<sup>75</sup> He also noted, however, information received indicating that in the 100 largest companies, only 9 per cent of the executive board members were women and that 51 per cent of those companies did not have a single woman on their executive board.<sup>76</sup>

48. The Committee on Economic, Social and Cultural Rights recommended that Switzerland continue to promote increased women's representation at all levels of public administration, particularly in decision-making positions, and promote their participation in management roles in the private sector;<sup>77</sup> take effective measures to close the persistent gender pay gap, including by addressing the structural causes that resulted in women occupying lower paid jobs;<sup>78</sup> and increase its efforts to ensure the availability, accessibility and affordability of childcare services, including through increased public funding for day-care nurseries and the introduction of a childcare allowance.<sup>79</sup>

49. The Committee on the Elimination of Racial Discrimination was concerned that the Federal Act on Foreign Nationals and Integration, which established the right of victims of marital violence to remain in the country, was not enforced unless the level of violence reached a certain threshold of severity or was systematic.<sup>80</sup> It recommended that Switzerland ensure that victims of marital violence were allowed to remain in Switzerland under the terms of the Federal Act on Foreign Nationals and Integration without having to overcome excessive procedural obstacles which, in practice, would leave them without real, effective protection.<sup>81</sup>

## **2. Children**

50. The Committee on the Rights of the Child remained concerned that the concept of "the good of the child" in the Constitution did not correspond to the principle of the best interests of the child enshrined in the Convention on the Rights of the Child.<sup>82</sup>

51. The Working Group of Experts on People of African Descent recommended assessing how negative racial stereotypes might drive child removals and family separation in the family courts.<sup>83</sup> The Committee on the Rights of the Child recommended that Switzerland ensure that children were separated from their family only if it was necessary for their best interests and subject to judicial review, and that poverty and disability, including autism spectrum disorder, were never the justification for removing a child from parental care.<sup>84</sup>

52. The Committee on the Rights of the Child regretted the persistent position of Switzerland that an explicit prohibition of corporal punishment in the Civil Code was not necessary because existing laws on violence and abuse were sufficient,<sup>85</sup> and recommended that Switzerland explicitly prohibit corporal punishment in law in all settings, including in the home, schools, childcare institutions, alternative care settings and penal institutions.<sup>86</sup>

## **3. Persons with disabilities**

53. The Committee on the Rights of Persons with Disabilities noted with concern the lack of awareness about the dignity and rights of persons with disabilities in society and in the media; and discriminatory attitudes, negative stereotypes and prejudices towards persons

with disabilities, including autistic persons and persons with intellectual or psychosocial disabilities.<sup>87</sup>

54. The same Committee recommended that Switzerland adopt a comprehensive disability strategy and action plan for implementing all rights set out in the Convention on the Rights of Persons with Disabilities at all levels of government and strengthen coordination and cooperation among entities at the federal, cantonal and municipal levels.<sup>88</sup>

55. The same Committee noted with concern the institutionalization of adults and children with disabilities, including persons with intellectual or psychosocial disabilities and autistic persons, and reports of violence and abuse in those institutions.<sup>89</sup> The Committee recommended that Switzerland develop a strategy and action plan to end, as a matter of priority, the institutionalization of all persons with disabilities; and strengthen personal assistance support and services for persons with disabilities for living independently in the community.<sup>90</sup>

#### **4. Minorities**

56. The Committee on Economic, Social and Cultural Rights was concerned that, despite the efforts made to recognize the right to self-identification, the Yenish, Sinti/Manouche and Roma continued to be discriminated against.<sup>91</sup> The Committee recommended that Switzerland continue its efforts to strengthen the fight against discrimination of the Yenish, Sinti/Manouche and Roma and encouraged the establishment of an adequate number of long-term and short-term reception areas throughout the country and continuing efforts to facilitate access to education for children belonging to those minorities.<sup>92</sup>

#### **5. Lesbian, gay, bisexual, transgender and intersex persons**

57. The Committee on the Rights of Persons with Disabilities was concerned that intersex persons could be subjected to unnecessary and irreversible medical and/or surgical interventions, including during infancy or childhood.<sup>93</sup> The Committee on the Rights of the Child recommended that Switzerland prohibit the performance of unnecessary medical or surgical treatment on intersex children where those procedures could be safely deferred until children were able to provide their informed consent.<sup>94</sup>

#### **6. Migrants, refugees and asylum-seekers**

58. Noting that approximately 49,000 persons, primarily women migrant workers, were employed in households in Switzerland, the Committee on Economic, Social and Cultural Rights was concerned that the Federal Labour Act did not extend protection for such work, and at the lack of effective mechanisms for protecting such workers from exploitation, abuse and harassment.<sup>95</sup> The Committee recommended that Switzerland take further steps to ensure that domestic workers enjoyed the same conditions as other workers with regard to remuneration, rest and leisure, limitation of working hours and protection against unfair dismissal.<sup>96</sup>

59. Concerning supported recommendations from the previous cycle of the universal periodic review,<sup>97</sup> UNHCR commended the application of a new asylum system since 2019. It noted that the overall protection rate in Switzerland was relatively high, but that the country applied a restrictive refugee recognition policy. Many individuals considered refugees by UNHCR were either not recognized as such or were not granted asylum. UNHCR recommended that Switzerland ensure the inclusive application of the refugee definition set out in the Convention relating to the Status of Refugees in line with international standards, including with respect to persons fleeing persecution in the context of conflict and violence.<sup>98</sup>

60. UNHCR stated that the new asylum system in place since 2019 ensured the same standards for federal reception centres in all six asylum regions. However, those standards did not apply to cantonal facilities where standards continued to vary widely. Asylum-seekers were generally not detained, but their freedom of movement was restricted. Detention was frequently used, however, to facilitate deportation, including for asylum-seekers to be returned to other States under Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 (the Dublin III Regulation). Switzerland also continued to detain children aged between 15 and 18 for immigration purposes.<sup>99</sup> The Committee on the



Elimination of Racial Discrimination was concerned about reports that security personnel in federal asylum centres had committed acts of violence against asylum-seekers, including child asylum-seekers, and about the absence of effective and impartial complaint and investigative mechanisms.<sup>100</sup>

61. UNHCR recommended that Switzerland ensure minimum reception standards in federal and cantonal reception centres across the country, taking into account the specific needs of refugees and asylum-seekers, including unaccompanied and separated children; and continue implementing the recommendations of the external evaluation commissioned by the State Secretariat for Migration related to the prevention and follow-up on incidents of violence in federal reception centres.<sup>101</sup>

62. The Committee on Enforced Disappearances recommended that Switzerland ensure that a thorough individual assessment of the risk of any person becoming a victim of enforced disappearance was conducted before it proceeded with an expulsion, return, surrender or extradition, including in cases where entry was refused at an airport or at the border.<sup>102</sup>

## 7. Stateless persons

63. UNHCR stated that whereas individuals could apply for recognition as stateless persons, there was no specialized statelessness determination procedure in the country. The State Secretariat for Migration had decided to develop a legislative proposal for such a procedure, but the process had not yet been concluded. Moreover, the definition of a stateless person as set out in the Convention relating to the Status of Stateless Persons was interpreted narrowly by the authorities and the judiciary, despite some recent positive developments.<sup>103</sup>

64. The Committee on the Rights of the Child recommended that Switzerland ensure that all children born in the country, irrespective of their parents' legal status, had access to birth registration and were entitled to a nationality at birth, or subject to a significantly reduced residence requirement if otherwise stateless.<sup>104</sup>

### Notes

- <sup>1</sup> See [A/HRC/37/12](#), [A/HRC/37/12/Add.1](#) and [A/HRC/37/2](#).
- <sup>2</sup> [E/C.12/CHE/CO/4](#), para. 59; [CERD/C/CHE/CO/10-12](#), para. 29; and [CRC/C/CHE/CO/5-6](#), para. 49.
- <sup>3</sup> [E/C.12/CHE/CO/4](#), para. 58; and [A/HRC/37/54/Add.3](#), para. 92 (w).
- <sup>4</sup> [E/C.12/CHE/CO/4](#), para. 59.
- <sup>5</sup> *Ibid.*; [A/HRC/45/15/Add.1](#), para. 88; and [CRPD/C/CHE/CO/1](#), para. 6.
- <sup>6</sup> [CRC/C/CHE/CO/5-6](#), para. 21 (b). See also [CERD/C/CHE/CO/10-12](#), para. 29; and Office of the United Nations High Commissioner for Refugees (UNHCR) submission for the universal periodic review of Switzerland, p. 6.
- <sup>7</sup> UNESCO submission for the universal periodic review of Switzerland, para. 14.
- <sup>8</sup> OHCHR, "Voluntary contributions to OHCHR in 2022 as at 31 October", available at <https://www.ohchr.org/sites/default/files/2022-02/VoluntaryContributions2022.pdf>; OHCHR, *United Nations Human Rights Report 2021*, pp. 110, 113–114, 122–123, 130 and 136; OHCHR *United Nations Human Rights Report 2020*, pp. 104, 107–108, 117, 119, 135, 141, 177, 186 and 190; OHCHR, *United Nations Human Rights Report 2019*, pp. 18, 90, 99, 109, 120, 124, 147, 150, 152, 158, 165 and 169; OHCHR, *United Nations Human Rights Report 2018*, pp. 72, 76, 78, 85, 96–97, 103, 105, 109, 131, 143–144, 150–151 and 154; and OHCHR, *United Nations Human Rights Report 2017*, pp. 79, 83–84 and 90.
- <sup>9</sup> [E/C.12/CHE/CO/4](#), para. 5.
- <sup>10</sup> [CCPR/C/132/2/Add.4](#), p. 2.
- <sup>11</sup> [CERD/C/CHE/CO/10-12](#), para. 9. See also [CED/C/CHE/CO/1](#), para. 11; [CRPD/C/CHE/CO/1](#), para. 63 (b); and [E/C.12/CHE/CO/4](#), para. 8.
- <sup>12</sup> [CERD/C/CHE/CO/10-12](#), para. 10. See also [CED/C/CHE/CO/1](#), para. 12; [CRPD/C/CHE/CO/1](#), para. 64 (b); and [E/C.12/CHE/CO/4](#), para. 9.
- <sup>13</sup> See [A/HRC/51/54/Add.1](#).
- <sup>14</sup> [CAT/OP/CHE/ROSP/1](#), para. 22.
- <sup>15</sup> *Ibid.*, paras. 24, 27 and 32. See also [CAT/OP/CHE/CSPRO/1](#), paras. 10–15; [CED/C/CHE/CO/1](#), para. 32; and [CRPD/C/CHE/CO/1](#), para. 32 (b).
- <sup>16</sup> [CRC/C/CHE/CO/5-6](#), para. 52.
- <sup>17</sup> [E/C.12/CHE/CO/4](#), para. 20.
- <sup>18</sup> *Ibid.*, para. 21. See also [CRC/C/CHE/CO/5-6](#), para. 18 (a) and (b).

- 19 [CERD/C/CHE/CO/10-12](#), para. 5.
- 20 *Ibid.*, para. 6 (a).
- 21 *Ibid.*, para. 15.
- 22 *Ibid.*, para. 16 (a).
- 23 [CAT/OP/CHE/ROSP/1](#), paras. 42–43. See also [CAT/OP/CHE/CSPRO/1](#), paras. 29–35.
- 24 [A/HRC/51/54/Add.1](#).
- 25 [CAT/OP/CHE/ROSP/1](#), paras. 175–176. See also [CAT/OP/CHE/CSPRO/1](#), paras. 138–140.
- 26 See communication CHE 1/2020, available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25305>. Switzerland replied to the communication; see <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35419>.
- 27 [CRC/C/CHE/CO/5-6](#), para. 23.
- 28 [A/HRC/45/9/Add.1](#), para. 104.
- 29 [CAT/OP/CHE/ROSP/1](#), paras. 44–45.
- 30 [CED/C/CHE/CO/1](#), para. 26; see also paras. 25 and 29.
- 31 [CAT/OP/CHE/ROSP/1](#), para. 92.
- 32 [CERD/C/CHE/CO/10-12](#), para. 18. See also [CCPR/C/132/2/Add.4](#), p. 3.
- 33 *Ibid.*, para. 20. See also [A/HRC/51/54/Add.1](#).
- 34 [CRC/C/CHE/CO/5-6](#), para. 46 (a) and (d).
- 35 See communication CHE 1/2022, available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27138>. Switzerland replied to the communication; see <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36918>.
- 36 *Ibid.*
- 37 [A/HRC/37/54/Add.3](#), para. 92 (q).
- 38 [E/C.12/CHE/CO/4](#), para. 44.
- 39 *Ibid.*, para. 45.
- 40 [CRC/C/CHE/CO/5-6](#), para. 32 (a).
- 41 [CED/C/CHE/CO/1](#), para. 40 (a).
- 42 UNHCR submission, p. 3. See also [E/C.12/CHE/CO/4](#), para. 42.
- 43 [E/C.12/CHE/CO/4](#), para. 36.
- 44 *Ibid.*, para. 37.
- 45 *Ibid.*, para. 24. See also [CRPD/C/CHE/CO/1](#), para. 51 (a).
- 46 [E/C.12/CHE/CO/4](#), para. 25. See also [CRPD/C/CHE/CO/1](#), para. 52 (b).
- 47 [E/C.12/CHE/CO/4](#), para. 38.
- 48 *Ibid.*, para. 39.
- 49 [CERD/C/CHE/CO/10-12](#), para. 25 (e).
- 50 [A/HRC/45/15/Add.1](#), paras. 60–61.
- 51 [E/C.12/CHE/CO/4](#), para. 46.
- 52 [A/HRC/45/15/Add.1](#), para. 62.
- 53 [E/C.12/CHE/CO/4](#), para. 47. See also [A/HRC/45/15/Add.1](#), para. 94; and [CRC/C/CHE/CO/5-6](#), para. 38 (b).
- 54 [E/C.12/CHE/CO/4](#), para. 48.
- 55 [CRC/C/CHE/CO/5-6](#), para. 36 (c) and (d). See also [E/C.12/CHE/CO/4](#), para. 49.
- 56 [E/C.12/CHE/CO/4](#), para. 49. See also [CRC/C/CHE/CO/5-6](#), para. 36 (a).
- 57 UNESCO submission, p. 6.
- 58 *Ibid.*
- 59 [E/C.12/CHE/CO/4](#), para. 52 (a).
- 60 *Ibid.*, para. 53 (a). See also UNESCO submission, para. 14.
- 61 [CRPD/C/CHE/CO/1](#), para. 47 (a). See also [E/C.12/CHE/CO/4](#), para. 52 (d); and [A/HRC/45/15/Add.1](#), para. 40.
- 62 [CRPD/C/CHE/CO/1](#), para. 47 (b).
- 63 [CRC/C/CHE/CO/5-6](#), para. 34 (a).
- 64 [A/HRC/45/15/Add.1](#), para. 20.
- 65 *Ibid.*, para. 81. See also [E/C.12/CHE/CO/4](#), paras. 16–17.
- 66 [CRC/C/CHE/CO/5-6](#), para. 37.
- 67 *Ibid.*, para. 37 (a). See also [E/C.12/CHE/CO/4](#), para. 19.
- 68 [CRC/C/CHE/CO/5-6](#), para. 16. See also [A/HRC/45/9/Add.1](#), para. 92; and [A/HRC/37/54/Add.3](#), para. 93 (d).
- 69 [A/HRC/37/54/Add.3](#), para. 88.
- 70 *Ibid.*, para. 89. See also [E/C.12/CHE/CO/4](#), para. 12.
- 71 [A/HRC/37/54/Add.3](#), para. 92 (b).
- 72 [E/C.12/CHE/CO/4](#), para. 22. See also [A/HRC/45/15/Add.1](#), paras. 55–58.

- <sup>73</sup> [A/HRC/45/15/Add.1](#), para. 57.
- <sup>74</sup> See [https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P13100\\_COUNTRY\\_ID:4118270,102861](https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4118270,102861).
- <sup>75</sup> [A/HRC/45/15/Add.1](#), para. 45.
- <sup>76</sup> *Ibid.*, para. 51.
- <sup>77</sup> [E/C.12/CHE/CO/4](#), para. 23 (b).
- <sup>78</sup> *Ibid.*, para. 23 (c). See also [A/HRC/45/15/Add.1](#), para. 90.
- <sup>79</sup> [E/C.12/CHE/CO/4](#), para. 41. See also [A/HRC/45/15/Add.1](#), para. 92.
- <sup>80</sup> [CERD/C/CHE/CO/10-12](#), para. 25 (b). See also [E/C.12/CHE/CO/4](#), para. 42.
- <sup>81</sup> [CERD/C/CHE/CO/10-12](#), para. 26 (c).
- <sup>82</sup> [CRC/C/CHE/CO/5-6](#), para. 19 (a).
- <sup>83</sup> [A/HRC/51/54/Add.1](#).
- <sup>84</sup> [CRC/C/CHE/CO/5-6](#), para. 31 (e).
- <sup>85</sup> *Ibid.*, para. 26.
- <sup>86</sup> *Ibid.*, para. 27 (a).
- <sup>87</sup> [CRPD/C/CHE/CO/1](#), para. 17 (a) and (c).
- <sup>88</sup> *Ibid.*, para. 8 (c). See also [A/HRC/45/15/Add.1](#), para. 67.
- <sup>89</sup> [CRPD/C/CHE/CO/1](#), para. 39 (a).
- <sup>90</sup> *Ibid.*, para. 40 (a) and (b).
- <sup>91</sup> [E/C.12/CHE/CO/4](#), para. 56.
- <sup>92</sup> *Ibid.*, para. 57. See also [CERD/C/CHE/CO/10-12](#), paras. 23 and 24 (a).
- <sup>93</sup> [CRPD/C/CHE/CO/1](#), para. 35 (c).
- <sup>94</sup> [CRC/C/CHE/CO/5-6](#), para. 29 (b). See also [CRPD/C/CHE/CO/1](#), para. 36 (c).
- <sup>95</sup> [E/C.12/CHE/CO/4](#), para. 32.
- <sup>96</sup> *Ibid.*, para. 33.
- <sup>97</sup> For the relevant recommendations, see [A/HRC/37/12](#), para. 146.119 (Central African Republic), and para. 147.62 (Afghanistan).
- <sup>98</sup> UNHCR submission, pp. 1–2.
- <sup>99</sup> *Ibid.*, p. 5.
- <sup>100</sup> [CERD/C/CHE/CO/10-12](#), para. 25 (a). See also [CRC/C/CHE/CO/5-6](#), para. 25.
- <sup>101</sup> UNHCR submission, p. 5. See also [CERD/C/CHE/CO/10-12](#), para. 26 (a); [A/HRC/45/9/Add.1](#), para. 101; and [CRC/C/CHE/CO/5-6](#), para. 43 (a).
- <sup>102</sup> [CED/C/CHE/CO/1](#), para. 24.
- <sup>103</sup> UNHCR submission, pp. 5–6.
- <sup>104</sup> [CRC/C/CHE/CO/5-6](#), para. 21 (a). See also [CERD/C/CHE/CO/10-12](#), para. 26 (g).