

**UNIVERSAL PERIODIC REVIEW**  
**42<sup>nd</sup> session of the UPR Working Group**

**SWITZERLAND**

**Submitted by:**

**ACT212** - Established in 2014, ACT212 supports efforts to combat human trafficking in Switzerland and abroad. It contributes to awareness raising, counselling, training and networking. ACT212 operates a national hotline that receives reports related to situations of exploitation and relays them to the appropriate governmental and non-governmental services.  
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# HUMAN TRAFFICKING IN SWITZERLAND

## SUMMARY

- 1. Switzerland is a destination and transit country for trafficking. There are no precise numbers, but research and evidence assume that there are a significant number of victims concerned by trafficking in Switzerland.** The most widespread form still is sexual exploitation, but there is also trafficking for the purpose of labour exploitation in different areas such as the domestic service sector, beauty services, the HORECA sector, agriculture or construction and exploitation in organised begging. Trafficking victims originate primarily from Central and Eastern Europe particularly Romania, Hungary and Bulgaria. Victims also come from Asia, African Countries such as Nigeria, as well as Latin America.
2. Switzerland continues its efforts to counter human trafficking. Progresses have been made in several areas, however some setbacks had to be accepted as well since the last UPR review. In 2021 for example, Switzerland was downgraded to tier 2 in the Trafficking in Persons (TIP) Report issued by the US Department of State, as a result of shortcomings of Switzerland in different areas. For example, it has been criticized, that there are still little convictions of traffickers and that the imposed sentences for traffickers are not commensurate to the gravity of the crime.<sup>1</sup> From 2017-2020 a second National Action Plan was implemented. The evaluation carried out in 2021 showed, that most of the 28 measures were implemented successfully. Continued and improved coordination of anti-trafficking measures at State level was however necessary. In this regard, it should be mentioned that the Swiss Coordination Unit against Trafficking of Persons and Smuggling of Migrants (KSMM) who was in charge of these coordination task at national level has undergone some reorganizations. The unit is still attached to the Federal Office of Police and should bring together Federal and Cantonal agencies, NGOs and inter-governmental organizations involved in combating human trafficking and migrant smuggling. However, civil society organizations question the ability to carry out this important task given the restructuring. An important milestone in the efforts to counter human trafficking was the decision to develop a third National Action Plan in October 2021. It should be adopted in the course of 2022.
3. In this report, we want to evaluate Switzerland's progress in implementing its anti-trafficking strategy. It is necessary for Switzerland to pursue its efforts and continue to adopt far reaching and comprehensive measures to prevent trafficking, to protect victims and punish perpetrators, if it wants to achieve lasting results and see the number of victims go down significantly on the long run.

## PREVIOUS RECOMMENDATIONS

4. During the 28<sup>th</sup> session of the UPR Working Group held in 2018, Switzerland accepted seven recommendations addressing the issue of trafficking.<sup>2</sup> According to the official Statement, six out of these recommendations had already been implemented.<sup>3</sup> The

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<sup>1</sup> US Department of State, *Trafficking in Persons Report*, June 2021, p. 527-531.

<sup>2</sup> A/HRC/37/12 rec. 146.61-146.66, as well as 146.68.

<sup>3</sup> A/HRC/37/12/Add.1, §2 Switzerland considers that recommendations 146.61-146.66 have already been implemented.

recommendations concerned improved protection and assistance of victims, irrespective of their immigration status; the adoption of a new National Action Plan; the implementation of a national helpline for victims<sup>4</sup>; strengthened coordination between the Confederation, cantons and civil society and cooperation with countries of origin. A recommendation concerning increased sentences for the crime of smuggling of persons was merely noted by Switzerland.

## LEGAL FRAMEWORK

5. Switzerland is a party to most of the international conventions addressing human trafficking such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and the Council of Europe Convention on Action against Trafficking in Human Beings. Switzerland has also ratified the Forced Labour Convention of 1930 (No. 29) of the International Labour Organisation (ILO) and the respective Protocol of 2014 as well as the Abolition of Forced Labour Convention of 1957 (No. 105). It is a party to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the UN Convention on the Rights of the Child and the Optional Protocol on the sale of children, child prostitution and child pornography.
6. Article 182 of the Swiss Criminal Code prohibits trafficking of human beings for the purpose of sexual exploitation, exploitation of labour or for the purpose of removing an organ. Article 195 Swiss Criminal Code prohibits sexual exploitation and Article 196 of the Swiss Criminal Code prohibits sexual exploitation of minors.

## ANTI-TRAFFICKING IN SWITZERLAND: RECENT DEVELOPMENTS

7. **Third National Action Plan:** It has been decided to develop a third National Action Plan at the end of 2021. The work is ongoing and the new National Action Plan is supposed to be adopted by the end of 2022. One thematic focus will be on labour exploitation. In addition, the evaluation and measurability of the different measures will be drawn more clearly than in past occasions.
8. **Prevention:** As part of the Second National Action Plan, various awareness raising measures have been carried out. Two campaigns carried out by the Federal Office of Police, fedpol respectively the State Secretariat for Economic Affairs, SECO in cooperation with ACT212, deserve special mention. The first was aimed at medical personnel, the second at labour inspectors. Both groups could potentially encounter trafficking victims in their daily work. Therefore, it is important that they know indicators of exploitation and how to react in cases of a suspicion. It is a good sign, that the number of victims identified for cases of labour exploitation has increased. The awareness and knowledge of this topic at the forefront has thus been increased. Finally, it is still important to train and raise awareness for human trafficking among border protection units, given the ongoing migratory movements and arrival of refugees, notably in the context of the war in Ukraine.

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<sup>4</sup> The NGO ACT212 runs a national hotline for victims, where it also receives observations from third parties. It puts the calling person in touch with the appropriate services, such a victim assistance, specialised police, legal advice, etc

9. **Loverboy method:** Knowledge on the loverboy method<sup>5</sup> has increased since the last UPR. In total, the National Hotline run by ACT212 has received 51 declarations suspecting loverboy exploitation since 2017. At first, cases were handled in a chaotic way as knowledge on this issue was not widespread. In consequence, ACT212 has been very active in this regard and made the topic one of its focuses in the advocacy work, created prevention material and conducted trainings for specific target groups and the general public. The first loverboy cases are now being heard in courts.
10. **Protection:** Under the Swiss Victims Assistance Law, all trafficking victims are entitled to shelter, free medical aid, living stipends, psychological, social and legal assistance from government funded assistance centres. While shelters for adults are available all over Switzerland, places for minors victim of trafficking (especially in the context of the loverboy method) are limited.
11. **Prosecution:** According to the numbers provided by Swiss authorities 71<sup>6</sup> cases of trafficking in human beings (Art. 182) were investigated in 2021, compared to 67 cases in 2020, 99 cases in 2019 and 85 cases in 2018. In addition, 59 cases of encouraging prostitution (Art. 195) were investigated, compared to 84 cases in 2020, 108 cases in 2019 and 146 cases in 2018. As regards sexual acts with minors against payment (Art. 196), 43 cases were investigated in 2021, compared to 32 cases in 2020, 23 cases in 2019 and 19 cases in 2018. Over these four years, there were 35<sup>7</sup> convictions under Article 182, 70 under Article 195 and 49 under Article 196. However, the number of undetected and thus not investigated cases is expected to be much higher than these numbers reflect.
12. **Training for professionals of law enforcement:** The court sentences for traffickers tend to be low compared to other serious crimes and are often not commensurate to the gravity of the crime. In addition, the number of convicted traffickers in Switzerland is still relatively low. Swiss authorities recognize that only the tip of the iceberg is visible in the above-mentioned numbers. There are still too few judges and prosecutors fighting these crimes with dedication and the necessary expertise. In consequence, procedural errors were made in several cases which prevented a conviction for human trafficking. Training sessions for law enforcement personnel, judges, prosecutors etc. are needed and should be developed and encouraged by authorities.
13. **Analysis of case law:** So far, a thorough and comprehensive analysis of case law regarding human trafficking cases in Switzerland is missing. The publication of case files is regulated differently in each canton. The lack of analysis of the Swiss jurisdiction on human trafficking and thus also the lack of transparency has already been criticized internationally on several occasions such as the 2021 TIP Report.<sup>8</sup>
14. **Cantonal roundtables:** 19 out of 26 cantons now have either roundtables or co-operation agreements (co-ordination platforms gathering public prosecution agencies, law enforcement police, victim assistance and social welfare, advisory bureaus counselling prostitutes, migration authorities, and trade inspectorates, NGOs, etc.). How-

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<sup>5</sup> So called loverboys recruit their victims through a pretended love relationship. Their goal is to make them dependent and exploit them afterwards. This method affects both Swiss and foreign nationals.

<sup>6</sup> Federal Statistical Office, *Police Crime Statistics 2021, Table on Swiss Criminal Code: Offences and accused persons*, March 2022.

<sup>7</sup> Federal Statistical Office, *Statistics on Criminal Judgements 2021, Table on convictions under Swiss Criminal Code: Adults*, May 2022.

<sup>8</sup> TIP Report 2021, p. 528.

ever, the objective should be that these structures are systematically put in place in all cantons. There is also a need for better coordination between those cantonal bodies and for common standards. A joint strategy is needed to improve victim identification and assistance, and increase the prosecution of traffickers.

15. **Labour exploitation:** Already in 2016, a study of the University of Neuchâtel, mandated by the Federal Police (fedpol) showed an increase in the cases of labour exploitation.<sup>9</sup> The study gives no exact numbers, but notes that forced labour is happening in particular in the context of domestic labour, in the hotel industry, in restaurants, in the construction sector and in the agriculture sector. The number of undetected cases is expected to be high and convictions under Article 182 have been rare. Actually, in order to be considered a case of trafficking, the victim needs to prove it was subjected to use of force or deception or that its consent resulted out of a situation of vulnerability. If these elements cannot be proven, cases involving exploitative labour conditions do not fall under Art. 182. Experts have thus called for a change in the Swiss Criminal Code in order to include an explicit definition of human trafficking for labour exploitation.<sup>10</sup> Apart from the legal definition, it has been demanded that labour inspectors should be continued to be trained in detecting potential victims of labour exploitation and given a broader mandate, to intervene accordingly in detected cases.
16. **Other forms of exploitations:** Measures for victims of trafficking for forced begging and forced criminal activities taken in Switzerland are insufficient. Victims are often not recognized and even criminalized for the acts they are forced to commit. Another topic of importance, that currently receives little attention in Switzerland is the inter-linkage between trafficking in persons and forced marriage. The phenomenon has to do with migration into Switzerland and can be observed in various communities.
17. **Refugees and trafficking:** Victims of trafficking entering Switzerland as asylum seekers are often not treated as victims by migration authorities. In consequence, a working group was established to address the issue. In 2021, the working group issued a list of recommendations for improvements. While the Secretariat for Migration (SEM) adopted some of the measures, they did not implement all recommendations.<sup>11</sup> Pocket cards were developed and are now handed out to people, if there is a suspicion of trafficking. However, there is a lack of protection for persons who were victims of trafficking abroad and were not residents of Switzerland at the time of the incident. This leaves the impression that Switzerland is not concerned by trafficking that is occurring en route. In addition, there is a lack of sensitivity regarding the expelling and returning of victims of trafficking based on the application of the Dublin Regulation. Switzerland should systematically consider the application of the sovereignty clause for asylum seekers that have become victims in the competent member state.
18. **Illegal adoptions:** In 2020 the Swiss government admitted to oversights in international adoptions of Sri Lankan children to Switzerland from the 1970s to 1990s, which lead to hundreds of illegal adoptions. Switzerland pledged to provide support to those concerned and is going to financially support an organization that is active in

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<sup>9</sup> Swiss Forum for Migration and Population Studies (SFM), PROBST Johanna and EFIONAYI-MÄDER Denise, *Arbeitsausbeutung im Kontext von Menschenhandel. Eine Standortbestimmung für die Schweiz*, March 2016.

<sup>10</sup> For example: GRAF Anne-Laurene and PROBST Johanna, *La répression pénale de la traite des êtres humains à des fins d'exploitation du travail en Suisse Difficultés, stratégies et recommandations*, April 2020.

<sup>11</sup> SEM, *Press release*, May 2021, available at: [Bericht zu Menschenhandel: Das SEM setzt die Empfehlungen um \(admin.ch\)](#)

the search of the origins of the adoptees.<sup>12</sup>

## RECOMMENDATIONS

- 19. Ensure that trainings on human trafficking are available to all professional groups potentially dealing with trafficking victims (such as police officers, judges, prosecutors, health care personnel, etc.). Given the ongoing migratory movements and the arrival of refugees, border protection units should be specifically trained. Ensure a sustainable impact of the information campaigns already carried out among medical personnel and labour inspectors.**
- 20. Raise awareness about sex and labour trafficking among the general public, especially regarding consumption of products and services provided through forced labour.**
- 21. Increase the number of convicted traffickers by improving mechanisms to identify and support victims of trafficking; increase the sentences for perpetrators; the latter should receive sentences commensurate with the severity of the crime. Enhance the collection and compilation of law enforcement and victim assistance data and ensure that an analysis of case law is being carried out.**
- 22. Include an explicit definition for labour exploitation in the current legal definition of human trafficking in order to provide for an easier criminal prosecution of such cases. Adapt the mandate of labour inspectors so that they can check and denounce cases of trafficking as part of their daily work.**
- 23. As regards other forms of trafficking: improve the identification of victims of trafficking for forced begging and criminal activities and the measures taken in their regard. Ensure, that victims receive the necessary support instead of being criminalized for their actions. Recognize the interlinkages between human trafficking and forced marriage.**
- 24. Provide specialized care and assistance to persons, including asylum seekers, who have become victim of trafficking abroad and reconsider the current expelling and return practice of victims of trafficking based on the application of the Dublin Regulation.**
- 25. Sustain the support of victims of illegal adoptions from Sri Lanka. Extend the efforts concerning illegal adoptions to other countries of origin of adoptees.**
- 26. Ensure better coordination and collaboration between the different actors (State and non-State) and levels (Federal, Cantonal, Communal) involved in fighting human trafficking, especially regarding the design and implementation of the Third National Action Plan.**

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<sup>12</sup> Federal Council, *Press release*, December 2020, available at: [Adoptions from Sri Lanka: the Federal Council regrets the negligence of the authorities \(admin.ch\)](#) Federal Department of Justice and Police, *Press release*, May 2022, available at: [Adoptions from Sri Lanka: pilot project to support adoptees \(admin.ch\)](#)

**27. Systematically put in place roundtables against trafficking in the 7 cantons where they are not in place yet. In this regard, it is important to maintain and reinforce a national coordination body that can overview the process.**