

## **Status of Human Rights in Switzerland for the 42nd Session of the Universal Periodic Review**

### **Introduction**

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Swiss Confederation (Switzerland) for the 42nd session of the Universal Periodic Review (UPR).

### **Background**

2. Switzerland is located in central Europe and has an estimated population of 8.5 million people.<sup>1</sup> The population is predominately Christian with 34% of the population identifying as Roman Catholic, 22% as Protestant, 5% as other Christian, 5% as Muslim, 29% as belonging to no religion, and 1% as other.<sup>2</sup>

3. Switzerland's previous UPR was held on November 9, 2017.<sup>3</sup> As a result of the review Switzerland received 251 recommendations, 160 of which were supported by Switzerland.<sup>4</sup> One of the recommendations made by Thailand, and supported by Switzerland, was that the government "[s]eriously combat human trafficking and sexual exploitation, ensure victim assistance, prosecute human traffickers, as well as enhance further cooperation with the countries concerned."<sup>5</sup>

4. It was also recommended by Kenya that the government "[p]rohibit assisted suicide to protect the human rights of the elderly, sick, disabled and other vulnerable members of society in line with their commitment to the right to life, health and non-discrimination."<sup>6</sup> This recommendation was only noted by Switzerland.<sup>7</sup> While there were no recommendations regarding free speech, we are concerned about reports of pro-life groups being targeted and attacked because of their peaceful opposition to abortion. Additionally, there were no recommendations made regarding religious persecution.

### **Legal Framework**

#### *Human Trafficking*

5. According to Article 41(1)(d) of the Constitution of Switzerland, "The Confederation and the Cantons shall, as a complement to personal responsibility and private initiative, endeavour to ensure that: . . . every person who is fit to work can earn their living by working under fair conditions."<sup>8</sup>

6. Under Article 182 of the Swiss Criminal Code:

#### **Art. 182 Trafficking in human beings**

1. Any person who as a supplier, intermediary or customer engages in the trafficking of a human being for the purpose of sexual exploitation, exploitation of his or her labour or for the purpose of removing an organ shall be liable to a custodial sentence or to a monetary penalty. The soliciting of a person for these purposes is equivalent to trafficking.

2. If the victim is a minor or if the offender acts for commercial gain, the penalty is a custodial sentence of not less than one year.

3. In every case, a monetary penalty must also be imposed.

4. Any person who commits the act abroad is also guilty of an offence.<sup>9</sup>

7. In order to provide a comprehensive framework to combat human trafficking, Switzerland adopted the National Action to Fight Human Trafficking 2017 – 2020.<sup>10</sup> The primary objective of this plan is fourfold:

- **To increase public awareness and information** to highlight that human trafficking is a social problem that cannot be tolerated, and **raise awareness among specialists and provide them with better information** to equip them with greater skills to fight this crime;
- **To intensify the prosecution of traffickers** as a credible deterrent against human trafficking and to underscore that the exploitation of human beings does not pay off;
- **To improve the identification of victims, and provide better assistance and greater protection** to help alleviate the consequences of the injustice they have suffered, and to help them assert their rights and facilitate their reintegration into society;
- **To strengthen cooperation with partners in Switzerland and abroad**, since only a multidisciplinary, co-ordinated and joint response can help combat human trafficking.<sup>11</sup>

8. However, this plan expired in 2020 and Switzerland has yet to adopt a new National Action Plan to Fight Human Trafficking.

9. Furthermore, Article 8 of the International Covenant on Civil and Political Rights (ICCPR), to which Switzerland is a party,<sup>12</sup> holds that, “[n]o one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. No one shall be held in servitude.”<sup>13</sup>

### Euthanasia

10. Under Article 10(1) of the Constitution of Switzerland “[e]very person has the right to life.”<sup>14</sup> Furthermore, under Article 112c.(1) of the Constitution, “The Cantons shall provide for assistance and care in the home for elderly people and people with disabilities.”<sup>15</sup>

11. Articles 114 and 115 of the Criminal Code of Switzerland criminalize assisted suicide.

**Art. 114 Homicide at the request of the victim.**

Any person who for commendable motives, and in particular out of compassion for the victim, causes the death of a person at that person's own genuine and insistent request shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.<sup>16</sup>

**Art. 115 Inciting and assisting suicide**

Any person who for selfish motives incites or assists another to commit or attempt to commit suicide is, if that other person thereafter commits or attempts to commit suicide, liable to a custodial sentence not exceeding five years or to a monetary penalty.<sup>17</sup>

12. However, while euthanasia is illegal, "Swiss law tolerates medically assisted dying in certain situations, as long as the patient is over 18, able to administer the dose themselves, and is not being advised by someone trying to pressure them or take advantage of them."<sup>18</sup>

13. Article 6 of the ICCPR states that "[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."<sup>19</sup> Under Article 10 of the Convention on the Rights of Persons with Disabilities (CRPD), to which Switzerland is also a party,<sup>20</sup> "States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others."<sup>21</sup> Moreover, Article 17 of the CRPD holds that "[e]very person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others."<sup>22</sup>

Free Speech

14. Under Article 13 of the Constitution of Switzerland:

**Art 13. Right to privacy**

1. Every person has the right to privacy in their private and family life and in their home, and in relation to their mail and telecommunications.

2. Every person has the right to be protected against the misuse of their personal data.<sup>23</sup>

15. Furthermore, under Article 16 of the Constitution:

**Art 16. Freedom of expression and of information**

1. Freedom of expression and of information is guaranteed.

2. Every person has the right freely to form, express, and impart their opinions.

3. Every person has the right freely receive information to gather it from generally accessible sources and to disseminate it.<sup>24</sup>

16. Additionally, under Article 19 of the ICCPR:

**Article 19**

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.<sup>25</sup>

**Human Trafficking**

17. Since 2017, within Switzerland, there have been 376 *reported* crimes of human trafficking.<sup>26</sup> However, “[t]here are no accurate numbers on how many people are affected in Switzerland. It is to be assumed that the official statistics only grasp what can be considered the tip of the iceberg.”<sup>27</sup> In addition, since 2017 there have only been twenty-seven convictions of human traffickers.<sup>28</sup> According to statistics from 2020, women are the primary victims of human trafficking in Switzerland, and account for 86% of the victims of human trafficking with “[a]bout two thirds of the persons [being] exploited in prostitution.”<sup>29</sup> These victims come from all around the world, approximately 40% come from Europe, 40% from Africa, 10% from Asia, and 10% from Latin American countries.<sup>30</sup> The following are a just a few examples of the human trafficking occurring in Switzerland..

18. In May 2022, Swiss authorities arrested five individuals in Bern Switzerland “for human trafficking and the promotion of prostitution.”<sup>31</sup> In addition, authorities rescued six victims, all of whom were women with Chinese citizenship.<sup>32</sup>

19. In October 2020, Swiss and Romanian police collaborated to uncover a sex trafficking ring that was recruiting “young women from Romania and forcing them into prostitution in the Swiss City of Lausanne on Lake Geneva.”<sup>33</sup> Authorities were able to locate and rescue fifteen victims.<sup>34</sup>

**Assisted Suicide**

20. While the practice of euthanasia is illegal in Switzerland, the practice of assisted suicide is not.<sup>35</sup> This is because in Switzerland “people can be granted access to assisted suicide (AS) on condition that the person whose wish is to die performs the fatal act, that he has the decisional capacity and that the assisting person’s conduct is not selfishly motivated.”<sup>36</sup>

21. There are numerous organizations in Switzerland that provide services for assisted suicide which can cost up to \$11,000 per person.<sup>37</sup> These organizations operate by prescribing patients a lethal dose of barbiturates.<sup>38</sup> The patient must then ingest the “poison, whether by drinking it or through the use of intravenous drips or stomach tubes.”<sup>39</sup> Following the death of an individual a volunteer “calls the police who will investigate the case. The public prosecutor will then decide whether or not criminal charges will be brought against the persons involved.”<sup>40</sup>

22. In 2018-2019, EXIT, one of the largest assisted suicide organizations in Switzerland, reported helping end the lives of 2,420 people.<sup>41</sup> While EXIT only provides services to Swiss citizens, Dignitas, another large provider of assisted suicide in Switzerland, extends services to foreign nationals.<sup>42</sup> This has resulted in what is referred to as “suicide tourism.”<sup>43</sup> For example, in 2021, Dignitas reported assisting in the death of 117 Australians, 4,168 Germans, 1,147 French citizens, 1,433 citizens of Great Britain, 119 Israelis, 598 Italians, 133 Canadians, 104 Koreans, 273 Austrians – just to name a few.<sup>44</sup> In total, Dignitas reported 11,024 assisted suicides of people from ninety-two different countries for 2021 alone.<sup>45</sup> In total, Dignitas participated in 40,146 assisted suicides between 2018 and 2021.<sup>46</sup>

23. In January 2021, UN human rights experts expressed their concern at what they deem to be a “growing trend to enact legislation enabling medically assisted dying based largely on having a disability or disabling conditions, including in old age.”<sup>47</sup> As they noted:

These assumptions, which are grounded in ableism and associated stereotypes, have been decisively rejected by the Convention on the Rights of Persons with Disabilities. Disability is not a burden or a deficit of the person. It is a universal aspect of the human condition.

Under no circumstance should the law provide that it could be a well-reasoned decision for a person with a disabling condition who is not dying to terminate their life with the support of the State.<sup>48</sup>

24. The practice of allowing euthanasia is in itself a flagrant violation of Article 6 of the ICCPR, which requires the State to respect and protect the lives of all people, without exception, and establishes the principle that “[n]o one shall be arbitrarily deprived of his life.”<sup>49</sup> States have an obligation not to take part in an intentional killing by a third person, either by providing the means or by not preventing it when possible.

## Free Speech

25. The Switzerland “March for Life” is a public demonstration that has taken place every year since 2010. The purpose of the march is to support the right to life and pregnant women. There are about a dozen organizations in Switzerland that organize and participate in this event.

26. This annual event is often surrounded by online harassment on forums and social media. Additionally, the event has had physical disruptions by unauthorized demonstrators, often involving violence. According to our firsthand information from one of the pro-life organizations and their lawyer, the administrative authorities in Zurich have repeatedly threatened to ban the demonstration on ideological grounds. So far, the right to peaceful assembly and freedom of expression has allowed for this event to continue.<sup>50</sup>

27. However, every year, the people involved in organizing this event are subjected to malicious acts of vandalism, destruction, attacks with paint, broken car and house windows, damaged locks and building facades, and destruction of mailboxes. Some of the organizers even suffered damages amounting to tens of thousands of Swiss francs.

28. In 2018, one of the co-organizing associations, Human Life International Switzerland (HLI-Switzerland), filed a criminal complaint because the homepage of a website,<sup>51</sup> which has a sizeable following, called for incitement to hatred and violence against co-organizers

and members of the organizational committee. This included the publishing of the mailing addresses of the co-organizers online. This distribution of personal data belonging to members of the pro-life associations on a website which calls for violence undermines Article 13 (2) of the Constitution of Switzerland which states that “[e]very person has the right to be protected against the misuse of their personal data.”

29. Despite numerous attempts by HLI-Switzerland, the public prosecutor’s office has been unwilling to remove the hate speech and the private data of the organizers from the website, nor has it taken legal action against the group despite the fact that the group managing the website has a Swiss address.<sup>52</sup> This is a clear denial of justice and lack of action by a Prosecutor, motivated by ideological beliefs. Because of his inaction, many people and organizers are afraid to practice their freedom of speech and assembly out of fear of violence. Such fear is understandable, as the violence has indeed occurred as outlined above.

## Recommendations

30. Switzerland must allocate resources for police and investigators so they can effectively investigate and prosecute cases of human trafficking. This is also important in understanding the full scope of human trafficking that occurs in the country as many cases go unreported. Training and resources focused on victim identification is paramount in the fight against human trafficking.

31. Furthermore, we ask that Switzerland reform its laws to reflect a true respect and value for innocent human life. It must uphold the right to life by banning the practice of assisted suicide and prevent the operation of businesses that exist merely to profit from taking the lives of human beings.

32. We also ask that Switzerland protect the right to free speech of its citizens who are engaging in peaceful assemblies promoting life. These individuals should be able to peacefully express their opinions without fear of harassment or having their personal information shared on the internet with the specific intent of causing harm.

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<sup>1</sup> *Switzerland*, THE WORLD FACTBOOK (Jun. 6, 2022), <https://www.cia.gov/the-world-factbook/countries/switzerland/>.

<sup>2</sup> *Id.*

<sup>3</sup> *Universal Periodic Review – Switzerland*, UNHRC, <https://www.ohchr.org/en/hr-bodies/upr/ch-index>.

<sup>4</sup> *Switzerland*, UNHRC, [https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session28/CH/SWITZERLAND\\_Infographic\\_28th.pdf](https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session28/CH/SWITZERLAND_Infographic_28th.pdf).

<sup>5</sup> UPR of Switzerland Thematic List of Recommendations A/HRC/37/12 – Para. 146, UNHRC, <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session28/CH/MatriceRecommendationsSwitzerland.docx>.

<sup>6</sup> *Id.* at A/HRC/37/12 – para. 147.

<sup>7</sup> *Id.* at para. 148.59.

<sup>8</sup> Constitution of Switzerland art. 41 (1.c.), [https://www.constituteproject.org/constitution/Switzerland\\_2014.pdf?lang=en](https://www.constituteproject.org/constitution/Switzerland_2014.pdf?lang=en).

<sup>9</sup> Swiss Criminal Code art. 182, [https://www.fedlex.admin.ch/eli/cc/54/757\\_781\\_799/en#fn-d6e6829](https://www.fedlex.admin.ch/eli/cc/54/757_781_799/en#fn-d6e6829).

<sup>10</sup> National Action Plan to Fight Human Trafficking 2017 – 2020, <https://www.fedpol.admin.ch/dam/data/fedpol/aktuell/news/2017/2017-04-13/nap-2017-2020-e.pdf>.

<sup>11</sup> *Id.*

<sup>12</sup> Status of Ratification – Switzerland, UNHRC, <https://indicators.ohchr.org/>.

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- <sup>13</sup> International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. 95-20, 6 I.L.M. 368 (1976), 999 U.N.T.S. 171, art. 8 [hereinafter ICCPR].
- <sup>14</sup> Constitution of Switzerland art. 10 (1), *supra* note 8.
- <sup>15</sup> *Id.* at art. 112c.
- <sup>16</sup> Swiss Criminal Code art. 114, *supra* note 9.
- <sup>17</sup> *Id.* art. 115.
- <sup>18</sup> Bevan Hurley, *American sister's Assisted Suicide in Switzerland spurs calls for more US States to Adopt Aid-in-Dying Laws*, INDEPENDENT (Mar. 23, 2022), <https://www.independent.co.uk/news/world/americas/assisted-suicide-united-states-switzerland-b2041726.html>.
- <sup>19</sup> ICCPR art. 6. *supra* note 13.
- <sup>20</sup> Status of Ratification – Switzerland, *supra* note 12.
- <sup>21</sup> Convention on the Rights of Persons with Disabilities art. 10, <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html>.
- <sup>22</sup> *Id.* art. 17.
- <sup>23</sup> Constitution of Switzerland, art. 13, *supra* note 8.
- <sup>24</sup> *Id.* art 16.
- <sup>25</sup> ICCPR, *supra* note 13, at art. 19.
- <sup>26</sup> *Statistics on Human Trafficking in Switzerland*, ACT 212, <https://www.act212.ch/en/humantrafficking-1/humantraffickingswitzerland>.
- <sup>27</sup> *Id.*
- <sup>28</sup> *Id.*
- <sup>29</sup> *Just the Tip of the Iceberg? Switzerland-wide Number on Victims of Human Trafficking*, PLATFORME TRAITE, <https://platform-human-trafficking.ch/news/just-the-tip-of-the-iceberg-switzerland-wide-numbers-on-victims-of-human-trafficking/>.
- <sup>30</sup> *Id.*
- <sup>31</sup> *Five People Arrested in Bern for Human Trafficking*, NEWS BEEZER (May 20, 2022), <https://newsbeezer.com/switzerlandeng/five-people-arrested-in-bern-for-human-trafficking/>.
- <sup>32</sup> *Id.*
- <sup>33</sup> *Swiss Police Help Dismantle Romanian Human Trafficking Ring*, SWISS INFO (October 7, 2020), <https://www.swissinfo.ch/eng/swiss-police-help-dismantle-romanian-human-trafficking-ring/46081974>.
- <sup>34</sup> *Id.*
- <sup>35</sup> Gagnard & Hurst, *A Qualitative Study on Existential Suffering and Assisted Suicide in Switzerland*, BMC MEDICAL ETHICS (May 14, 2019), <https://bmcmedethics.biomedcentral.com/articles/10.1186/s12910-019-0367-9>.
- <sup>36</sup> *Id.*
- <sup>37</sup> Ronny Reyes, *Inside the Swiss Assisted Suicide Clinic Where US Sisters Paid \$11,000 Each to Die: Facility has Cool White Walls, Designer Furniture – and a death room where you're hooked up to Drip or Given a Drink that Will Kill You*, DAILY MAIL (Mar. 23, 2022), <https://www.dailymail.co.uk/news/article-10644179/Inside-Swiss-assisted-suicide-clinic-sisters-paid-11-000-die.html>.
- <sup>38</sup> *Swiss Organisation Reports Over 1,200 Assisted Suicides Last Year* (Feb. 24, 2020), [https://www.swissinfo.ch/eng/exit\\_swiss-organisation-reports-over-1-200-assisted-suicides-last-year/45576694](https://www.swissinfo.ch/eng/exit_swiss-organisation-reports-over-1-200-assisted-suicides-last-year/45576694).
- <sup>39</sup> *Id.*
- <sup>40</sup> “*Suicide Tourism*” and *Understanding the Swiss Model of the Right to Die*, THE CONVERSATION (May 23, 2018), <https://theconversation.com/suicide-tourism-and-understanding-the-swiss-model-of-the-right-to-die-96698>.
- <sup>41</sup> *Swiss Organisation Reports over 1,200 Assisted Suicides Last Year*, *supra* note 38.
- <sup>42</sup> *Id.*
- <sup>43</sup> Reyes, *supra* note 37.
- <sup>44</sup> Members as of 31 December 2021, *Countries of Residence*, DIGNITAS, <http://www.dignitas.ch/images/stories/pdf/statistik-mitglieder-wohnsitzstaat-31122021.pdf> (last visited July 7, 2022).
- <sup>45</sup> *Id.*
- <sup>46</sup> *Id.*
- <sup>47</sup> *Disability is not a Reason to Sanction Medically Assisted Dying – UN Experts*, OHCHR, <https://www.ohchr.org/en/press-releases/2021/01/disability-not-reason-sanction-medically-assisted-dying-un-experts?LangID=E&NewsID=26687>.
- <sup>48</sup> *Id.*
- <sup>49</sup> ICCPR, *supra* note 13, at art. 6 (emphasis added).
- <sup>50</sup> *Brandenberg, Advokatur und Notariat*, Zug, Switzerland.

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<sup>51</sup> *Sabotaging March for the Läbe*, BARRIKADE (June 6, 2018), <https://barrikade.info/article/1179>.

<sup>52</sup> Staatsanwaltschaft des Kantons Bern, BM 1838603/NES.