

**UNIVERSAL PERIODIC REVIEW**  
**28<sup>th</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 and 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 institutions. [www.act212.ch](http://www.act212.ch)

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# HUMAN TRAFFICKING IN SWITZERLAND

## SUMMARY

1. **Switzerland is primarily a destination country for trafficking. There are no precise estimates, but research and evidence show that thousands of victims are concerned by trafficking in Switzerland.** There is also trafficking in begging, forced labor in the domestic service sector, agriculture, construction and tourism. Trafficking victims originate primarily from Central and Eastern Europe-particularly Romania, Hungary and Bulgaria. Victims also come from Asia, Latin America and Africa, especially from Nigeria and Cameroon. The anti-trafficking efforts are coordinated by the *Swiss Coordination Unit against Trafficking of Persons and Smuggling of Migrants (KSMM)*, which is attached to the Federal Office of Police and brings together federal and cantonal agencies, NGOs and inter-governmental organisations involved in combating human trafficking and migrant smuggling.
2. Switzerland's efforts to counter trafficking have made some notable progresses since the last UPR review. Just a few days before the UPR review in October 2012, Switzerland adopted its first National Action Plan to Fight Human Trafficking (2012-2014) and implemented most if its action points. At the moment of the completion of this report (March 2017), a new National Action Plan is expected to be published any time soon. Another major positive development has been the prohibition of the prostitution of minors in 2013 (which entered into force in July 2014). Several developments in the legal framework need to be noted as well (see §§4-5).
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 last lasting results and see the number of victims go down significantly on the long run.

## PREVIOUS RECOMMANDATIONS

4. During the second session of the UPR Working Group held in 2008, Switzerland accepted two recommendations addressing the issue of trafficking.<sup>1</sup> 11 recommendations pertaining to human trafficking were issued to Switzerland in 2012, and all of them have been at least partially implemented.<sup>2</sup> The recommendations concerned the implementation of a national action plan, the protection of victims, the resources available to protect victims, the prosecution of perpetrators, the awareness raising among the population and cooperation with countries of origin.

## LEGAL FRAMEWORK

5. Switzerland is a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations

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<sup>1</sup> A/HRC/8/41, rec. 17 and 22.

<sup>2</sup> A/HRC/WG.6/14/L, rec. 122.27 to rec. 122.133 and rec. 122.66 to 122.69

Convention against Transnational Organized Crime. **It has now ratified the Council of Europe Convention on Action against Trafficking in Human Beings.** The treaty entered into force on July 2014.

- 6. Article 182 of the Penal Code** prohibits trafficking for most forms of sexual and labour exploitation. Article 195 prohibits sexual exploitation. Those crimes can be punished from a mere fine up to 20 years imprisonment. A new development during the last cycle has been **the adoption of the new Federal Act on Extra-Procedural Witness Protection** which entered into force on 1 January 2013 and offers better protection for witnesses also outside or after the proceeding, which is an important requirement for victims of trafficking to testify. This was a necessary step in the process of ratification of the Council of Europe Convention on action against trafficking in human beings.

## ANTI-TRAFFICKING IN SWITZERLAND: RECENT DEVELOPMENTS

- 7. Prevention:** Switzerland also passed the *Ordinance on Measures to Prevent Criminal Offences in Connection with Human Trafficking* (Anti-Human Trafficking Ordinance), that came into force in 2014. The Ordinance allows the federal authorities to become more involved in combating human trafficking by carrying out or providing financial support for preventive measures, with a budget of CHF 400'000.-, starting in 2015.
- 8. 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. Trainings have been given to immigration officers to ameliorate victim identification, as well as to members of victim advisory centres and social services. However, women in need of shelters are still often placed with victims of domestic violence. More places dedicated to the specific needs of victims of trafficking are needed. A new tool, COMPETO, was presented in October 2014, in order to increase coordination between migration services, the police and the NGOs. In some cantons, this is implemented, but in many others not.<sup>3</sup>
- 9. Prosecution:** According to the numbers provided by Swiss authorities 306 cases of human trafficking were investigated in 2015, compared to 300 in 2014 and 396 in 2013. During 2012 – 2014, judicial authorities made 40 convictions under Article 182 and 64 under Article 195. In 2014, the ¼ of the convicted traffickers were sentenced to prison sentence, with terms ranging from 6 months to 14 years. The court sentences for traffickers are often not commensurate to the gravity of the crime. And the number of convicted traffickers is still relatively low. Swiss authorities recognize that only the tip of the iceberg is visible in those numbers.

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<sup>3</sup> Steps in COMPETO:

1. First contact with migration office
2. Legal status of residence
3. Tasks of victim support
4. Temporary stay for Victims (*Bedenkzeit*). Police investigations
5. Approval Process for permanent residence
6. Return Assistance and Reintegration phase.

10. Punishment for traffickers in Switzerland tend to be low compared to other serious crimes. There are still too few judges and judicial officers fighting these crimes with dedication and the necessary expertise. Training sessions for law enforcement personnel, judges, federal lawyers etc. are needed. In addition, Switzerland should have specialized courts in each canton, which would take care of all the serious offenses against life and limb including human trafficking.
11. One of the difficulty in trafficking cases, is to be able to have the necessary evidence to support the claims of the victims. Police investigation and surveillance is often necessary to corroborate the claims; this includes wiretapping potential perpetrators. However, the costs, according to the regulation in place (*Gebührenverordnung*)<sup>4</sup> are excessively high. Wiretapping costs over CHF 2500 for a Swiss number and over CHF 7'500, for a foreign number. These costs are expected to increase even more in the future. They are an obstacle to the investigations of cases of trafficking, as investigators are working with limited budgets. In addition, some cantonal police have explained not being allowed into clubs without a warrant, making it very difficult to control the working conditions of the sex workers.
12. **Cantonal roundtables:** 18 out of 26 cantons<sup>5</sup> now have either roundtables (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.) or co-operation agreement... This is a step forward. However, 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 number prosecution of traffickers.
13. **International cooperation:** While Switzerland chaired OSCE, it largely contributed to a conference entitled "Not for Sale – Joining Forces Against Trafficking in Human Beings" jointly organized by OSCE and the Council of Europe. The focus was on international cooperation against human trafficking. Switzerland also hosted the 4<sup>th</sup> Interpol Global Conference on Human Trafficking in Lugano, in October 2016.
14. The Swiss-Romania bilateral Working Group is pursuing its activities, and other bilateral cooperation with countries of origins are conducted, such as for example with Nigeria or Bulgaria. In Sudan, Switzerland has invested CHF 500'000.- in a project to assist victims of trafficking (2013-2016).
15. **Other forms of exploitations:** forced labour, forced begging and other forms of exploitations are on the rise, as several NGOs report it.<sup>6</sup> This was also recognized in a

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<sup>4</sup> See <https://www.admin.ch/opc/de/classified-compilation/20032564/index.html>

<sup>5</sup> Aargau, Basel-Landschaft, Basel-Stadt, Bern, Fribourg, Geneva, Lucerne, Neuchatel, Obwalden, Schwyz, St. Gallen, Solothurn, Thurgau, Ticino, Valais, Vaud, Zug and Zurich

<sup>6</sup> In its annual report for 2014, the NGO FIZ indicates that 8% of the cases of trafficking of women they have been registering, concerned forced labour (p. 5)

study of the University of Neuchâtel, mandated by the Federal Police (fedpol).<sup>7</sup> The study gives no estimate 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. Article 182 of the Penal Code prohibits trafficking for labour exploitation. To be considered as a case of trafficking, the victim needs to prove it was subjected to use of force or deception. Cases of blatant exploitation of labour forces, but where these elements cannot be proved, do not fall under Art. 182. It is one of the reasons why so far, Switzerland has only ever recorded two known convictions for forced labour. Switzerland is in the process of ratifying the Protocol of 2014 to the Forced Labour Convention of 1930.

16. **Refugees and trafficking:** Victims of trafficking coming into Switzerland as asylum seekers are often not treated as victims by migration authorities, especially if the exploitation did not happen in Switzerland itself. In a decision dating back to 18 July 2016,<sup>8</sup> the Federal Administrative Court condemned the Federal Office for Migration, for failing to give appropriate care and attention to an asylum seeker victim of trafficking. The duty of the authorities would have been to identify the person as a victim of trafficking and to treat her as such.

## RECOMMENDATIONS

17. **Increase the number of convicted traffickers by improving mechanisms to identify and support victims of trafficking; increase the gravity of the sentences for perpetrators; the latter should receive sentences commensurate with the severity of the crime. Train judicial personal and create special judicial units to combat trafficking in all its forms, including for forced labour.**
18. **Increase the number of trainings for police officers, legal staff, judges, advocates in dealing with trafficking for forced labour, forced begging and forced criminal activities. The Swiss authorities should ensure that the initial training of all police officers includes a module on human trafficking.**
19. **Increase efforts to combat forced labour and improve the capacity to identify victims, by ensuring that law enforcement officials, labour inspectors, trade unions and other relevant actors adopt a more proactive approach and increase their outreach work to identify potential victims. Examine if the current legal definition of forced labour sufficiently protects victims from exploitation, and if necessary, adapt a new legislation accordingly.**
20. **Increase the number of specialised police forces in every canton, such as the MAK (*Milieuaufklärung*) in the Zurich city police in order to increase the identification**

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<sup>7</sup> Swiss Forum for Migration and Population Studies (SFM), PROBST Johana and EFIONAYI-MÄDER Denise, *Arbeitsausbeutung im Kontext von Menschenhandel. Eine Standortbestimmung für die Schweiz*, SFM Studies #65d, März 2016.

<sup>8</sup> D-6806/2013

**of victims, screening individuals engaged in prostitution for signs of trafficking, enhance the collection and compilation of law enforcement and victim assistance data. Ensure that police and other surveillance officers can access to clubs without hindrance, in all the cantons. Provide adequate means to investigators in all cantons, in order for them to be able to carry out thorough investigations**

- 21. Systematically put in place roundtables against trafficking in the 8 cantons were they are not in place yet.**
- 22. Improve or implement specialized care for trafficking victims seeking asylum; enhance trafficking specific services for children and male victims.**
- 23. Enhance the capacity to identify victims of trafficking, including by supporting a national helpline. Enhance the collection and compilation of law enforcement and victim assistance data.**
- 24. Raise awareness about sex and labour trafficking among the public, including potential clients of the sex trade, medical personal and consumers of products and services provided through forced labour.**