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Joint submission by:

SEXUAL HEALTH Switzerland

SEXUAL HEALTH Switzerland is the Swiss umbrella organization of the centers for sexual and reproductive health and of the related professional associations that are active in the areas formation and counseling. SEXUAL HEALTH Switzerland is promoting sexual and reproductive health and rights (SRHR) aiming at providing access for all people, including vulnerable groups, to SRHR information and services, improving the quality of the services and defending and promoting sexual rights both in Switzerland and on international level. SEXUAL HEALTH Switzerland is accredited member of the International Planned Parenthood Federation (IPPF) and partner of the Federal Office of Public Health for the implementation of the National Programme on HIV and other STI.

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*** SANTÉ SEXUELLE
SEXUELLE GESUNDHEIT
SALUTE SESSUALE**
SUISSE SCHWEIZ SVIZZERA

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Sexual Rights Initiative

The Sexual Rights Initiative is a coalition of national and regional organizations based in Canada, Poland, India, Argentina, and Southern Africa that work together to advance human rights related to sexuality at the United Nations.

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Sexual and reproductive health and rights, discrimination, gender-based violence against women, human trafficking, discrimination against lesbian, gay, bisexual, transgender, non-binary and intersex persons, comprehensive sexuality education, access to sexual and reproductive health services, migrant women, female refugees

Executive Summary

1. This report is submitted by SEXUAL HEALTH Switzerland and the Sexual Rights Initiative. It examines the human rights situation in Switzerland, with a focus on sexual and reproductive health and rights (SRHR). Switzerland promotes SRHR through various laws, policies, programmes and measures¹. Human rights and several emanating sexual rights are also protected in the Swiss Constitution. However, in practice, several overall gaps exist in relation to the protection and the promotion of sexual rights of individuals including:
 - a) Disparities in the implementation of existing laws and regulations with and among the cantons
 - b) The absence of a comprehensive strategy to promote sexual and reproductive health and rights both on national, cantonal and municipal level
 - c) The human rights of certain marginalized groups such as migrants, people living in poverty, persons with disabilities, adolescents and lesbian, gay, bisexual, transgender and intersex (LGBTI+) persons are not sufficiently protected. These groups face barriers in relation to access to sexual and reproductive health services.
2. As a result, human rights violations can be identified, especially in the following areas of concern: disparities in access to sexual and reproductive health services, barriers in relation to access to contraception, barriers for migrant women in relation to enjoyment of and access to sexual and reproductive health, inequalities in relation to access to comprehensive sexuality education for children and adolescents; gender based violence against women, human trafficking and sexual exploitation, discrimination and violence against LGBTI persons;

Access for all to sexual and reproductive health services without discrimination

3. We regret that Switzerland did not receive any recommendations on improving access to sexual and reproductive health services in particular.² However, Switzerland did receive a number of recommendations on addressing discrimination that it accepted including:
 - 146.27 Take the necessary measures against all forms of discrimination and to maintain its efforts to raise awareness on this issue (Turkey)

¹ For an overview of/ inventory on relevant legislation see: Sexuelle und reproductive Gesundheit und Rechte: Eine Bestandesaufnahme zum Recht der UNO, des Europarates und der Schweiz. Alecs Recher, 3. Auflage 2019.

²The two recommendations that made reference to the right to health are not relevant to our discussions : 147.43 Increase resources to reduce overcrowding and improve health facilities in prisons, and follow the National Commission for the Prevention of Torture recommendations on youths and juveniles in pretrial detention (United States of America) (Outcome) and 148.59 Prohibit 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 (Kenya) (Noted)

- 146.28 Conduct broad and systematic awareness-raising activities to combat stigmatization, clichés, stereotypes and prejudices faced by non-Swiss nationals (Albania);
 - 146.47 Redouble efforts in all the cantons to avoid discrimination based on race, origin and sexual orientation and gender identity (Colombia);
4. Switzerland needs to do more, to ensure that everyone in the country can enjoy the right to health, and that everyone has access to sexual and reproductive health services. The right to sexual and reproductive health is an integral part of the right to health.³
 5. Switzerland provides, in general, good quality and accessible SRHR services. Comparative studies have shown that quality and care are good. Health insurance is mandatory for everybody and covers a broad range of medical services including abortion⁴. Abortion is regulated by the Swiss Penal Code: during the first 12 weeks of pregnancy, the decision to terminate or continue the pregnancy rests with the woman or person concerned. After this period, a doctor assesses the situation (Article 119). This regulation was introduced in 2002, after a popular vote. The Federal Health Insurance Act stipulates that the costs of termination of pregnancy are covered by the compulsory basic health insurance, after deduction of the deductible and the co-payment.
 6. In addition, federal law⁵ mandates that all cantons offer free counselling services for pregnancy, contraception and family planning.
 7. However, studies and data reveal that not all persons living in Switzerland can equally enjoy the highest attainable standards of health, and that common services and health promotion programs are not equally accessible for all population groups. The Swiss Health Survey 2017⁶ found that migrants are at a disadvantage in terms of health⁷, including sexual and reproductive health, more often. This is particularly concerning when taking into account that migrants make up a sizable part of the population; per the Swiss Health Survey, migrants account for 38% of the permanent population aged 15 and over in private households.
 8. A study of the Federal Office for Public health states⁸ that while a person's migration background should have no determinant influence on his or her health situation, a person's migrant background, nationality or residence status can, nevertheless, influence whether the necessary preconditions for health equity exist - that is, they affect whether or not services are actually Available, Accessible, Acceptable and of good Quality⁹ in practice. These impacts of migration status and nationality vary in tandem with other factors that impact social positionality such as race, class, gender, and sexual orientation, that co-constitute the overall experience of individual migrants.

³ Committee on Economic, Social and Cultural Rights, General Comment No. 22, May 2016

⁴ (LAMal RS 832.10, Article 30).

⁵ Federal Law on the Counselling Centres on matters relating to Pregnancy and Family Planning of 1981: https://www.fedlex.admin.ch/eli/cc/1983/2003_2003_2003/de

⁶ Swiss Health Survey 2017:

<https://www.bfs.admin.ch/bfs/de/home/statistiken/gesundheit/erhebungen/sgb.html>

⁷ Swiss Health Survey 2017, On the Health of the Migrant Population:

<https://www.bag.admin.ch/bag/de/home/strategie-und-politik/nationale-gesundheitsstrategien/gesundheitliche-chancengleichheit/forschung-zu-gesundheitlicher-chancengleichheit/gesundheitsmonitoring-der-migrationsbevoelkerung.html>

⁸ Büro Vatter: Grundlagenanalyse zur Zukunft des Themas Migration und Gesundheit beim Bund. Bern 2015:

https://www.bag.admin.ch/dam/bag/de/dokumente/nat-gesundheitsstrategien/nat-programm-migration-und-gesundheit/programm-migration-und-gesundheit-2014-2017/grundlagenanalyse-migration-gesundheit-abstract.pdf.download.pdf/Grundlagenanalyse_MG_abstract.pdf

⁹ AAAQ is a WHO framework for determining whether or not the necessary standards for the human right to health are being met in terms of access to services

9. Any difficulties in structural, economic and social integration - including administrative or bureaucratic challenges in regularising of status, may affect whether or not migrants are deemed to have the right to access healthcare services. They may be deemed to not have "participation rights", may otherwise have access inhibited for legal reasons, or may have an inability to access work. This poses significant barriers to accessing health services in terms of financial, information, and bureaucratic accessibility.
10. Additionally, language can pose a significant barrier to accessing services, as a lack of proficiency in the Swiss official languages (with an associated lack of adequate interpretation services in the public health system), may exacerbate migrants' experiences of discrimination and stereotyping in healthcare settings. This may lead some to be unwilling to attempt to access services, particularly given their precarity. Additionally, language can contribute to communication barriers that increase difficulties in understanding and navigating the Swiss health system thus contributing to inequality.
11. In addition, a lack of transcultural translation or cultural differences can pose a challenge to the acceptability and quality of health services as healthcare workers may lack the necessary skills to provide culturally appropriate or relevant care, using relevant health concepts. This is another systemic communication barrier embedded in the health system.
12. In a report answering a parliamentary postulate in 2015,¹⁰ the Federal Council concluded that health inequalities still exist around pregnancy and birth between different population groups. The speaker referred to research and statistical analyses that showed that immigrant mothers and newborns have higher rates of maternal and infant mortality, more children with a low birth weight, more complications and other health problems with pregnancy and birth than Swiss mothers and newborns. Key factors that lead to these differences are found in the social and economic context - namely disparities in access to health and other social services, and class inter alia. The report also identified that migrant women might also experience specific health risks during pregnancy and childbirth that are the result of harmful practices such as female genital mutilation, a finding supported by the United Nations Population Fund which indicates that FGM can lead to a number of serious complications in childbirth.¹¹
13. The Federal Council has presented various measures, including sensitization and further training of healthcare professionals, development of information materials in the languages of the migrant population¹², the promotion of intercultural translation and improving access to high quality healthcare for refugees. However, the implementation of these recommendations is insufficient in the federal system. For example, the financing of intercultural translation has still not been solved. Communication is essential for improving the access of migrant women to health services, and also for them to attain the highest standard of health. Every person has the right to be informed about their health status, and

¹⁰Gesundheit von Müttern und Kindern mit Migrationshintergrund. Bericht des Bundesrats in Erfüllung des Postulates Maury Pasquier (12.3966). 2015;

<https://www.bag.admin.ch/dam/bag/de/dokumente/nat-gesundheitsstrategien/nat-programm-migration-und-gesundheit/chancengleichheit-in-der-gesundheitsversorgung/mutter-kind-gesundheit-in-der-migrationsbevoelkerung/postulatsbericht-pasquier-12-3966.pdf.download.pdf/postulatsbericht-pasquier-12-3966.pdf>

¹¹ United Nations Population Fund. 2022. *Female genital mutilation (FGM) frequently asked questions*. [online] Available at:

<https://www.unfpa.org/resources/female-genital-mutilation-fgm-frequently-asked-questions#consequences_childbirth> [Accessed 11 July 2022].

¹² Common languages should be at least: German, French, Italian, English, Albanian, Arabic, Portuguese, Bosnian/Croatian/Serbian, Spanish, Tamil, Tigrinya, Turkish. However, it very much depends on the cantons and even on the hospital; for example the University Hospital in Berne organises translators in various languages. However, the costs are not always covered.

Important resource for written information is a website of the Swiss Cross: <https://www.migesplus.ch/>

the information and available medical services have to be understandable, with the support of a translator, if needed.

14. Availability of interpretation services is inconsistent across the country.¹³In some medical and counselling settings, especially in bigger clinics, professional translators are available, while in others communication is still a barrier to health. The availability and financing of translators in such settings is not ensured. The CEDAW Committee expressed concern in 2016 that language barriers and lack of awareness are preventing migrant women in Switzerland from accessing healthcare facilities, including reproductive health services¹⁴.

Access to contraceptives

15. We regret that Switzerland did not receive any recommendations on access to contraceptives during its third cycle, despite it being an area of concern¹⁵. While information on contraception is free, and a broad range of contraceptives are available,¹⁶ contraceptive commodities and supplies are not covered by health insurance and social benefits do not include contraception costs.
16. Additionally, there are administrative barriers to accessing emergency contraceptives in Switzerland, namely the onerous requirement to have a consultation with a doctor or pharmacist in order to access emergency contraceptives. The pharmacist is then required to do an assessment of the eligibility of the person making the request, and the “patient” is then required to take the pill in the presence of the pharmacist.¹⁷
17. Unfortunately there is no political will to provide contraception in the public health coverage package, with politicians across the political spectrum providing various excuses from their ideological positions, such as that access to contraception is a private issue, or that it is too expensive to provide coverage or that it is a matter of individual responsibility. The Federal Council says it is in the responsibility and thus discretion of the cantons to provide services, and each of the cantons provides its own justification for this failure.
18. For cantonal family planning centres, this is a challenge in their daily work because they regularly have clients who cannot afford contraception. In such cases, the centres often have to rely on social and private funds and donations. The insecurity in relation to supply and availability of contraception produces unnecessary stress in already difficult situations and increases the risk of unwanted pregnancies. The daily experiences of the centers for sexual health demonstrate the urgent need for sustainable funding for contraception.
19. The 2022 European Contraception Policy Atlas of the European Parliamentary Forum for sexual and reproductive rights¹⁸ only scores Switzerland 58.3% overall. The Atlas recommends Switzerland provide clear and concrete information on pricing and reimbursement schemes on its sexual health website. Importantly the Atlas also advises the Swiss government to focus on creating reimbursement for contraception for all women of reproductive age, in particular ensuring that

¹³ Switzerland noted a relevant recommendation given by France on ensuring consistent application of human rights standards across cantons: 148.25 Fight against disparities among cantons when it comes to the implementation of regulations favouring or protecting human rights (France);

¹⁴ CEDAW-Committee, Concluding observations on the combined fourth and fifth periodic reports of Switzerland, November 2016, Art. 38a

¹⁵ Indeed was a topic in our last submission and was also an issue of concern for other CSOs in the, Stakeholder Summary: JS1 was also concerned that contraceptives were not covered by health insurance and social benefits did not include the costs for contraception and recommended that Switzerland review this situation. [Para 59]

¹⁶ Information on contraception in 11 languages: <https://www.sex-i.ch/de/home/>

¹⁷

<https://www.apotheke-thalwil.ch/english/morning-after-pill/morning-after-pill-the-most-important-information.html#c133364>

¹⁸ EPF European Contraception Policy Atlas: <https://www.epfweb.org/node/89>

- vulnerable groups and adolescents are covered. Such reimbursement schemes should include long-acting reversible contraceptives (LARCs).
20. During the Covid-19 pandemic, access to contraception and abortion was restricted in practice for some groups of people, mainly those living in a precarious situation or in poverty, as they were unable to access private medical services. This deepened already existing inequalities in relation to access to reproductive choice.
 21. SEXUAL HEALTH SWITZERLAND (SGCH), the umbrella organization of the Swiss centers for sexual and reproductive health, received money in 2020 from a public solidarity fund in order to support those who were in distress because of the COVID-19 crisis. Over six months in 2020, SGCH was able to support clients from family planning centres who needed contraception but could not afford it. SGCH also supported those who could not cover all the costs in connection with an abortion, either because they had no health insurance or because they could not pay the deductible and/or co-payment. Analysis of 167 contraception cases revealed that the majority of cases needing financial support for contraception were families with children, of whom 22% were single mothers. Over the same period, a total of 45 applications were submitted for funding of uncovered costs in connection with an abortion. Almost one quarter of these cases concerned girls aged younger than 18. 73% were people living in Switzerland without Swiss citizenship.

Comprehensive sexuality education

22. We regret that in the last cycle of the UPR Switzerland did not receive any recommendations on comprehensive sexuality education. Children have a right to education¹⁹ which supports their development and empowers them to claim their human rights. The right to education also includes the right to sexuality education, which must be comprehensive, rights-based, age-appropriate, evidence-based and which empowers children and young people to develop the skills needed to attain their right to enjoy the highest attainable standard of health and to make informed, self-determined choices regarding their sexual life, free from coercion, discrimination and violence.
23. Comprehensive sexuality education should be based on the WHO standards for sexuality education in Europe²⁰ and human rights, promoting a positive approach to sexuality. It should not only provide information, but also strengthen skills for self-determined, responsible sexual relationships based on mutual consent. Sexuality education begins in early childhood and develops, progressively and age-appropriately, the skills to experience sexuality autonomously and with respect for the individuals involved. Comprehensive sexuality education is non-discriminatory and also addresses gender stereotypes. Altogether, it plays an important role in preventing sexual and gender-based violence and in the implementation of the Istanbul convention. The Swiss Federal Office of Public Health (FOPH) points out that sexuality education importantly contributes to the prevention of sexually transmitted infections, early pregnancy and sexual violence, and that it also promotes equal opportunities²¹.
24. In Switzerland, sexuality education in schools is mainly the responsibility of the cantons. Its implementation varies from canton to canton and from community to community. The three language regions have developed their own intercantonal

¹⁹ Switzerland has ratified the UN Convention on the rights of the Child in 1989

²⁰ WHO regional office for Europe and BZgA: Standards for Sexuality Education in Europe. A framework for policy makers, educational and health authorities and specialists. Cologne 2010.

²¹ <https://www.bag.admin.ch/educationsexuelle>

frameworks for school education, which also builds the framework for sexuality education²². However, progress towards harmonisation is still very weak, especially in the German speaking part of Switzerland. Therefore, access to high quality standardised comprehensive sexuality education is not assured for all children, and teacher training in sexuality education differs widely in different parts of Switzerland²³.

25. In some schools, particularly in French-speaking Switzerland, sexuality education is offered in a holistic way, in courses at several school levels, taught by experts. In other schools, it is not comprehensive at all and is reduced to the biological aspects of reproduction or to the negative aspects of sexuality, such as disease or violence. This contradicts the positive approach promoted by the WHO: "Sexual health, when viewed affirmatively, requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence."²⁴ This means that access for all children and adolescents to good quality comprehensive sexuality education, as required by WHO standards, is not guaranteed. Switzerland has been repeatedly reminded of this deficiency in the context of UN monitoring procedures²⁵, more recently by the CEDAW-Committee which expressed concerns towards Switzerland in 2016 in relation to "disparities in the teaching of age-appropriate sexual education across cantons and the resulting risk of teenage pregnancies."²⁶
26. A group of experts was mandated by the Swiss Federal Council to implement a study on sexuality education and the related scientific bases in Switzerland. The expert group presented their results in an extensive report²⁷ which was published by the Federal Council in February 2018²⁸ in response to a parliamentary postulate. The group of experts on sexuality education criticised the lack of equal opportunities to access comprehensive sexuality education. They noted that most children and adolescents acquire basic knowledge about biological reproductive processes, the prevention of HIV and family planning. However, equal opportunities are still not guaranteed in the promotion of relational and social competences and skills in the sense of holistic sexuality education. Particularly in the German speaking part of Switzerland, the quality of sexuality education in schools is still arbitrary to some extent.
27. There are additional barriers for vulnerable target groups, such as children and adolescents with disabilities, who do not have access to sexuality education depending on their school setting. The expert group recommended, among other recommendations, to harmonise the model of comprehensive sexuality education for the German speaking part of Switzerland, and to strengthen the strategic anchoring of school-based sexuality education at the national level.

²² Plan d'Études Romand for the romand cantons adopted in 2009: <https://www.plandetudes.ch/per>; Lehrplan 21 for the German speaking cantons: <https://www.lehrplan21.ch/> and Piano di Studio for the Italian speaking canton: <https://scuolalab.edu.ti.ch/temieprogetti/pds>

²³ IPPF EN and BZgA: Sexuality Education in Europe and Central Asia - State of the Art and Recent Developments, Cologne 2018

²⁴ https://www.who.int/health-topics/sexual-health#tab=tab_1

²⁵ Committee on Economic, Social and Cultural Rights, Forty-fifth session : Consideration of reports submitted by States parties under Articles 16 and 17 of the covenant, Concluding Observations on Switzerland, November 2010

²⁶ CEDAW-Committee, Concluding observations on the combined fourth and fifth periodic reports of Switzerland, November 2016, Art. 38c

²⁷ Report of group of experts on sexuality education, June 2017:

<https://www.bag.admin.ch/dam/bag/de/dokumente/mt/p-und-p/diverses/expertenbericht-sexualaufklaerung.pdf.download.pdf/expertenbericht-sexualaufklaerung.pdf>

²⁸ Press release of the Federal Council in February 2017:

<https://www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-69862.html>

Gender-based violence against women and domestic violence

28. In its last Universal Periodic Review in 2017, Switzerland immediately accepted several recommendations on eliminating all forms of violence against women including domestic violence (10)²⁹ and FGM (2)³⁰. In addition, Switzerland also accepted several recommendations to ratify the Istanbul Convention (6)³¹ and to combat human trafficking (7)³².
29. The statistics demonstrate that action is needed. Based on the information of the Federal Office for Gender Equality (FOEG), domestic violence and stalking are widespread problems in Switzerland. On average, 25 people die every year because of domestic violence, including 4 children (2009-2021)³³. In addition, there is an attempted murder every week, with an average of 50 per year³⁴.
30. In 2021, the police recorded 19,341 domestic crimes³⁵. In the same year, 15 women and one man were killed within a current or former partnership. However, this is only the tip of the iceberg. Many cases remain unreported and the numbers only account for domestic violence, and not gender based violence as a whole. A representative survey on sexual harassment and sexual violence against women conducted by the GFS.Bern, a research institution, on behalf of Amnesty International Switzerland in 2019 revealed that at least one in five women aged 16 and over has experienced a sexual assault, and more than one in ten has suffered sexual intercourse against her will³⁶.
31. Switzerland has demonstrated progress in those areas especially by ratifying the Istanbul Convention, which entered into force in April 2018. Switzerland ratified the *convention of the Council of Europe on preventing and combatting violence against women and domestic violence* on December 2017 and the convention entered into force on April 1th 2018³⁷. On June 18, 2021, Switzerland submitted the first state report³⁸ in the first monitoring cycle on the implementation of the Istanbul convention. Civil society organisations have also submitted an extensive shadow report with numerous recommendations³⁹ in June 2021. Among others, civil society called for the consistent implementation of the convention in all cantons, the necessary financial resources and supracantonal protection. They criticised that current measures against violence and services for victims are not

²⁹ 146.55 (Namibia), 146.76 (Philippines), 146.77 (Russia), 146.78 (Colombia), 146.79 (Nicaragua), 146.80 (Iceland), 146.81(Canada), 146.82 (), 147.47 (Honduras), 147.54 (Costa Rica)

³⁰ 146.83 (Burkina Faso), 146.84 (Timor-Leste)

³¹ 146.1 (Sierra Leone), 146.2 (Georgia), 146.3 (Andorra), 146.4 (Belarus), 146.5 (Spain), 146.6 (Tunisia)

³² Recommendations 146.61 (Thailand), 146.62 (Bosnia and Herzegowina), 146.63 (China), 146.64 (UK), 146.65 (Honduras), 146.66 (Mexico), 146.68 (Republic of Moldova), 147.46 (Kenya)

³³ <https://www.ebg.admin.ch/ebg/en/home/topics/domestic-violence.html>

³⁴ <https://www.ebg.admin.ch/ebg/en/home/topics/domestic-violence.html>

³⁵ The data is based on the police crime statistics for Switzerland in 2021:

<https://dam-api.bfs.admin.ch/hub/api/dam/assets/22164350/master>

³⁶ gfs.bern: Sexuelle Belästigung und sexuelle Gewalt an Frauen sind in der Schweiz verbreitet. Befragung zu sexueller Gewalt an Frauen im Auftrag von Amnesty International Schweiz. Mai 2019:

https://www.amnesty.ch/fr/themes/droits-des-femmes/violence-sexuelle/docs/2019/violences-sexuelles-en-suisse/sexuelle_gewalt_amnesty_international_gfs-bericht.pdf

³⁷

<https://www.ebg.admin.ch/ebg/de/home/themen/recht/internationales-recht/europarat/Istanbul-Konvention.html>

³⁸ Übereinkommen des Europarats zur Verhütung und Bekämpfung von Gewalt gegen Frauen und häuslicher Gewalt (Istanbul-Konvention) Erster Staatenbericht der Schweiz veröffentlicht vom Bundesrat am 18. Juni 2021: https://www.ebg.admin.ch/dam/ebg/de/dokumente/Gewalt/erster_staatenbericht_istanbulkonvention.pdf.download.pdf/Erster%20Staatenbericht%20Schweiz_Istanbul-Konvention_2021.pdf

³⁹ Report of the civil society network Istanbul Convention, published in June 2021:

https://istanbulkonvention.ch/assets/images/elements/Alternativbericht_Netzwerk_Istanbul_Konvention_Schweiz.pdf

accessible for all victims. Based on the law, refugees don't have access to victim support when the violence was committed outside of Switzerland. Therefore an inclusive and non-discriminatory implementation of the Convention is required, which Switzerland is also obliged to do according to Art. 4 IC⁴⁰. This is a key recommendation in the shadow report of the Swiss civil society. A delegation of the Council of Europe's Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) has carried out an evaluation visit to Switzerland from 7 to 11 February 2022. Civil society organisations were also invited to extensive hearings, where they could present their recommendations.

32. Switzerland must maintain and indeed increase its efforts, especially concerning the implementation of the Istanbul Convention without discrimination, concerning victim support and by consistently preventing and combatting violence. The Federal Office for Gender Equality (FOEG)⁴¹ has a mandate to reinforce and complement the existing measures to combat domestic violence and to coordinate the implementation of the Istanbul Convention. In this context, in June 2022 the FOEG published a national action plan for Switzerland for the implementation of the Istanbul Convention 2022-2027 with a wide range of measures⁴².
33. The FOEG also has the mandate to distribute financial contributions and grants to third parties for projects that contribute to the implementation of the Istanbul Convention⁴³. Numerous parliamentary initiatives have been submitted with proposed measures to implement the Istanbul Convention.
34. On April 2022, the Federal Council published a report on sexual harassment⁴⁴ in a response to a parliamentary postulate. The Federal Council acknowledges that sexual harassment is widespread in Switzerland and that it is embedded in structures of power and inequality⁴⁵. The report states, that in 2020, 1435 offences and 1477 victims of sexual harassment were registered in the police crime statistics. In nine out of ten cases, the victim was female, and the age group of 18 to 29 year-olds had the highest rate. The report states that LGBTI+ and disabled persons experience a lot of sexual harassment in public spaces as a result of homophobia and of ableism. The report furthermore highlights that incidences of online harassment of children with sexual intentions has risen significantly in recent years.

⁴⁰ Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210), Art. IC

⁴¹ <https://www.ebg.admin.ch/ebg/en/home.html>

⁴² https://www.ebg.admin.ch/dam/ebg/de/dokumente/haeusliche_gewalt/istanbul-konvention/nationaler_aktionsplan_ik.pdf.download.pdf/Nationaler%20Aktionsplan%20Istanbulkonvention_DE.pdf

⁴³ <https://www.ebg.admin.ch/dam/ebg/de/dokumente/finanzhilfen/finanzhilfengewaltpraevention/richtlinien-hg.pdf.download.pdf/richtlinien-finanzhilfen-gewalt-de.pdf>

⁴⁴ Sexuelle Belästigung in der Schweiz: Ausmass und Entwicklung Bericht des Bundesrates vom 27. April 2022 in Erfüllung des Postulates 18.4048 Reynard Mathias vom 28. September 2018:

<https://www.deepl.com/translator#de/en/Der%20Bundesrat%20nimmt%20zur%20Kenntnis%2C%20dass%20sexuelle%20Bel%C3%A4stigung%20in%20der%20Schweiz%20verbreitet%20und%20diese%20in%20AMacht-%20und%20Ungleichheitsstrukturen%20eingebettet%20ist>.

⁴⁵ The Swiss labour law requires employers to take the necessary measures to protect the personal integrity of employees. Sexual harassment is also punishable under the Criminal Code. However, in practice, it is rarely pursued. #metoo also had effects in Switzerland and cases of harassment for example in workplace are now more often made public.

35. The Federal Council has also published a report on intimate femicide⁴⁶ as a response to a parliamentary postulate. The report identifies risk factors including a separation situation and pre-existing domestic violence in the form of stalking, controlling behaviour, possession of weapons and financial difficulties. The report concludes with several recommendations to reduce homicides against women in the domestic sphere, among them to reduce the availability of firearms, increase the provision of support for victims of violence as well as for perpetrators of violence during the separation phase, taking risk factors into account in prevention measures and increasing research. In 2016, the CEDAW Committee raised concerns regarding violence against women in Switzerland in relation to the high prevalence of unlicensed firearms in private possession.
36. The protection of the rights of female asylum seekers and refugee women to live free from gender-based violence is insufficient in Switzerland. First of all, there are no gender-sensitive standards at all in relation to accommodation of women during the asylum process. In addition, refugee women who have been victims of gender-based violence, do not get the support they need due to a lack and shortage of specialised services. Furthermore, they are discriminated against because many have been victims of violence outside of Switzerland and are excluded from provisions based on the law on victim support, which only provides support to victims of crimes committed in Switzerland or perpetrated on Swiss citizens abroad⁴⁷.

Discrimination against LGBTI+ persons

37. The topic of discrimination was a big area of concern from States in the last review. A large number of countries invited Switzerland to address discrimination by adopting comprehensive anti-discrimination legislation or strategies in order to provide effective protection against different forms of discrimination, including on the grounds of sexual orientation and gender identity (5)⁴⁸. Accepted recommendations include:
- 147.34 Take the necessary steps to put an end to discrimination faced by same-sex couples, in particular, by ensuring they can marry and adopt children (Germany);
 - 146.47 Redouble efforts in all the cantons to avoid discrimination based on race, origin and sexual orientation and gender identity (Colombia)
 - 146.48 Adopt legislation to eliminate the sterility prerequisite for legal change of gender, in conformity with the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) (Sweden);
38. Switzerland accepted all the recommendations concerning discrimination against LGBTI+ persons. In the meantime, several recommendations have been implemented; for example legislation has been adopted to eliminate the sterility

⁴⁶ Tötungsdelikte an Frauen im häuslichen Umfeld: Ursachen und Massnahmen. Bericht des Bundesrates vom 10. Dezember 2021 in Erfüllung des Postulates 19.3618 Graf Maya vom 14. Juni 2019: https://www.ebg.admin.ch/dam/ebg/de/dokumente/haeusliche_gewalt/br_bericht_postulat_graf.pdf.download.pdf/03%20Beilage%20zum%20BRA%20EDI%20T%C3%B6tungsdelikte%20an%20Frauen%20im%20h%C3%A4uslic hen%20Umfeld_%20Ursachen%20und%20Massnahmen_Bericht%20in%20Erf%C3%BCllung%20des%20Po%2019.3618%20Graf_d.pdf

⁴⁷ Federal Victim support Act, para 17: <https://www.fedlex.admin.ch/eli/cc/2008/232/de>

⁴⁸ Recommendation 146.45 (Israel), 146.47 (Colombia), 146.45 (Sweden), 147.32 (Israel), 147.34 (Germany)

prerequisite for the legal change of gender markers.⁴⁹ The new legislation on legal change of gender, which makes it easier to change gender in official civil records, entered into force on the 1st of January 2022⁵⁰. However, a third or non-binary gender option is still not part of the new legislation.

39. Further, the recommendation to put an end to discrimination faced by same-sex couples, in particular, by ensuring they can marry⁵¹ has been implemented: the Swiss electorate approved a corresponding bill in a referendum in September 2021. The new bill entered into force on the 1st of July 2022, with the result that same-sex couples will be able to marry or convert their registered partnership into a marriage⁵².
40. In another referendum on February 9, 2020, the Swiss electorate also clearly confirmed Parliament's decision to adapt the Swiss penal code and to ban discrimination based on sexual orientation. The adapted legislation entered into force on the 1st of July 2020⁵³. However, discrimination against LGBTI+ persons is still widespread.
41. On the other hand, Switzerland rejected categorically all the recommendations for new comprehensive legislation to fight discrimination (12)⁵⁴. In addition, Switzerland rejected recommendations to adopt an action plan against violence and discrimination against LGBTI+ persons (2)⁵⁵, to include trans people into the national statistics (1)⁵⁶ and to provide training on human rights for civil servants on a national level in order to better protect the rights of trans people (2)⁵⁷.
42. LGBT+ persons are regularly victims of physical and psychological attacks because of their sexual orientation, gender identity or gender expression. In 2021, 92 hate crimes were reported to the Swiss helpline LGBT+⁵⁸, which is an increase of 50% compared to the previous year. This means that two hate crimes per week were reported – while the number of unreported cases is considered to be higher. Victims of crimes may feel afraid or ashamed to go to the police. Often they feel that they can't prove the attack, for example hate speech, without other witnesses, or they just want to get out of it and don't know the person who has attacked them. During the campaign in the context of the vote on same sex marriage, the number of hate crimes increased significantly. The majority of hate crimes in 2021 took place in the public sphere. LGBTI+ persons have also a higher risk to be exposed to sexual harassment⁵⁹.
43. Bodily integrity and autonomy are fundamental human rights. For intersex persons, these rights are often severely violated when babies or children, who are born with variations of sex characteristics / development, are subjected to unnecessary surgical or medical treatments, just because their bodies have biological characteristics that do not correspond, or only partially correspond, to

⁴⁹ For more on this see;

<https://www.humanrightspulse.com/mastercontentblog/legal-gender-transition-a-positive-step-by-the-swiss-government>

⁵⁰ <https://www.bj.admin.ch/bj/de/home/gesellschaft/gesetzgebung/geschlechteraenderung.html>

⁵¹ 147.34

⁵² <https://www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-85912.html>

⁵³ <https://www.ejpd.admin.ch/ejpd/de/home/aktuell/news/2020/2020-04-03.html>

⁵⁴ 148.28, 148.29, 148.30, 148.31, 148.32, 148.33, 148.34, 148.35, 148.40, 148.41, 148.42, 147.33

⁵⁵ 148.44, 147.35

⁵⁶ 148.45

⁵⁷ 147.36, 147.37

⁵⁸ Helpline LGBT+: <https://www.lgbt-helpline.ch/>

⁵⁹ Sexuelle Belästigung in der Schweiz: Ausmass und Entwicklung Bericht des Bundesrates vom 27. April 2022 in Erfüllung des Postulates 18.4048 Reynard Mathias vom 28. September 2018: <https://www.deepl.com/translator#de/en/Der%20Bundesrat%20nimmt%20zur%20Kenntnis%2C%20dass%20sexuelle%20Bel%C3%A4stigung%20in%20der%20Schweiz%20verbreitet%20und%20diese%20in%20AMacht-%20und%20Ungleichheitsstrukturen%20eingebettet%20ist>

the binary categories generally used to distinguish between "female" and "male" bodies⁶⁰.

44. In 2012, The Swiss National Advisory Commission on Biomedical Ethics published a statement on the situation of persons with variations in sex characteristics⁶¹, which is still of relevance. The Commission noted that the longtime custom of subjecting babies and young children, who were born with varieties of sex characteristics, to surgical procedures in order to be able to assign them to either the male or female sex category caused much harm and violated their human rights to self-determination and bodily integrity. The Commission made several recommendations to ensure that the human rights of persons with variations in sex characteristics are respected⁶². The Federal Council agreed in a report published in 2016 to a majority of these conclusions of its advisory Commission and also initiated several measures. However, in practice, both in the medical and in the administrative settings, these guidelines are not yet implemented. In November 2016, the CEDAW-Committee raised in its concluding observations to Switzerland the issue of the *harmful practice of intersex mutilation*.⁶³

Recommendations

45. The national authorities and cantons have to develop, adopt and implement, in consultation with experts, a comprehensive national sexual health strategy and a national action plan in order to promote sexual health and rights comprehensively and to ensure availability, accessibility, affordability and acceptability of sexual and reproductive health services for all, based on the principle "leave no one behind".
46. The national authorities and cantons must collect disaggregated data on access to contraception and develop a strategy that ensures that contraception is accessible and affordable for all.
47. Include contraceptives - including emergency contraceptive in the compulsory medical insurance
48. Create a reimbursement scheme for contraception for all persons of reproductive age, in particular ensuring that marginalised groups and adolescents are covered.
49. Develop measures to ensure that marginalised migrant groups have equal access to sexual and reproductive health services, including refugees. Measures should include training for professionals in medical and counselling settings on cultural sensitive and gender sensitive work with their clients. They should also include awareness raising campaigns in relevant languages among migrant

⁶⁰ For definitions and more information see InterAction Suisse. Association Suisse pour les intersexes:

<https://de.inter-action-suisse.ch/definitions>

⁶¹ https://www.nek-cne.admin.ch/inhalte/Themen/Stellungnahmen/NEK_Intersexualitaet_De.pdf

⁶² Also the Committee on the Right of the Child supported the recommendations of the Commission. See: Concluding observations on the combined second to fourth periodic reports of Switzerland, February 2015. Art. 42b; Also the UN Committee against Torture invited Switzerland in 2015 to accelerate efforts to protect the human rights of intersex persons and to make sure that the recommendations of the National Advisory Commission on Biomedical Ethics are implemented. See: Concluding observations of the CAT Committee of Sept 2015, Art. 20

⁶³ CEDAW-Committee: Concluding observations on the combined fourth and fifth periodic report of Switzerland, 18 November 2016

communities on how to access health care services, including sexual and reproductive health services and providing financial resources for transcultural translation services.

50. Ensure that all children in Switzerland, in all regions and cantons, including children and adolescents with disabilities and refugees, have equal access to comprehensive sexuality education based on WHO standards without discrimination.
51. Develop national quality standards, a strategy and a national action plan for comprehensive sexuality education programmes based on WHO standards for Switzerland. Do this together with professional associations and educational institutions and cantons, and implement it in all cantons by anchoring sexuality education in the curricula and monitor the implementation.
52. The Swiss government, the cantons, cities and municipalities must consistently implement the Istanbul Convention without discrimination by strongly investing in prevention and victim protection and support. Gender-based violence and domestic violence have to be addressed in a comprehensive approach by challenging gender stereotypes, power relations and sexism.
53. The Swiss government and cantons must adapt Swiss legislation including the Federal law on victim support and, ensure that all victims of gender-based violence, including migrant and refugee women and victims of human trafficking, are protected and receive the assistance and support they need.
54. Switzerland must close the gaps in terms of legal protection for LGBTI+ persons from discrimination. In addition, the federal, cantonal and municipal authorities have to develop and adopt a comprehensive action plan in order to effectively combat all discrimination based on different grounds including sexual orientation and gender identity with the participation of persons and groups concerned.
55. Support specialised LGBTI+ NGOs by providing adequate funding and human resources to facilitate the provision of professional and easily accessible services such as counselling and legal support. Include LGBTI+ persons and advocates as experts from the beginning in all actions affecting them, especially in regards to law and policy making.
56. The Federal Statistical office should adapt its approach to data collection to include data on non-binary gender identities in national health surveys and registers.
57. Take all necessary legislative, administrative and other measures to protect the bodily integrity, autonomy and self-determination of intersex persons. Ensure that no child has to undergo unnecessary medical or surgical treatment during infancy or childhood and postpone unnecessary and irreversible surgery as long as decisions can be made with the judicious and informed consent of the person concerned. Provide training for medical staff and support for the children and families concerned.