



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of Switzerland and welcome your constructive engagement and that of your Government during the 28th session of the UPR Working Group in November 2017.

As the final outcome report on the review of Switzerland was recently adopted by the Human Rights Council at its 37th session, I am writing to follow up on a number of areas raised in two reports that my Office had prepared for the review – the compilation on Switzerland and the summary of stakeholders' submissions on Switzerland – which I consider in need of particular attention over the next four and a half years until the next cycle of the UPR. In identifying these areas, I have also considered the recommendations and statements made by 108 countries, Switzerland's presentation and responses, and the action taken by Switzerland to implement the 99 recommendations it accepted during the second cycle of the UPR. The areas cover a range of issues and are set out in the annex to this letter.

I would like to highlight that I am particularly encouraged by Switzerland's action to implement recommendations accepted during the second cycle, in particular by becoming a party to a number of important human rights instruments. These include the Convention on the Rights of Persons with Disabilities and the International Labour Organization (ILO) Domestic Workers Convention in 2014; the International Convention for the Protection of All Persons from Enforced Disappearance in 2016; and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure in 2017.

I encourage Switzerland to develop a national human rights action plan in order to achieve concrete results in the areas contained in the annex and to facilitate Switzerland's preparations for the fourth cycle of the UPR. The development of such a national human rights action plan should include consultations with all stakeholders, in particular national human rights institutions and civil society organisations, and, where necessary, the support of international organisations, including the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other United Nations entities.

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I also encourage Switzerland to strengthen its national mechanism for comprehensive reporting and follow up in relation to international and regional human rights mechanisms and treaty obligations. I strongly recommend the use of the practical guide that my Office released in 2016 on this topic and which is available at: http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

Please be advised that I will be sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them to begin implementing recommendations early on, following the review. An important measure that can contribute positively to follow up action is voluntary mid-term reporting. I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the outcome report. In this regard, I encourage Switzerland to submit a mid-term report for the third cycle, by 2020.

As the Secretary-General states in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals."*

I look forward to discussing with you ways in which my Office may assist Switzerland to take action in the areas I have identified.

Please accept, Excellency, the assurances of my highest consideration.

Zeid Ra'ad Al Hussein
High Commissioner for Human Rights

Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Become a party to: the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Optional Protocol to the International Covenant on Civil and Political Rights; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the Optional Protocol to the Convention on the Rights of Persons with Disabilities; the UNESCO Convention against Discrimination in Education; and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention);
- Withdraw reservations to articles 10 (1), 37 (c) and 40 (2) of the Convention on the Rights of the Child and to articles 15 (2) and 16 (1) (h) to the Convention on the Elimination of All Forms of Discrimination against Women;
- Establish a mechanism to guarantee effective coordination between the Confederation, the cantons and civil society in the following up of UPR, treaty bodies and special procedures recommendations;

National human rights framework

- Establish an independent national human rights institution with a broad mandate for human rights protection and adequate human resources and funding, in accordance with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights;
- Introduce an effective and independent mechanism to review and ensure the compatibility of popular initiatives with the country's obligations under international human rights law, and consider ways to ensure the outcomes of popular referendums can be implemented in a manner consistent with the international human rights treaties to which Switzerland is a party;

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Carry out extensive and systematic awareness-raising campaigns to combat stigmatization, generalization, stereotypes and prejudice against non-citizens;
- Adopt and/or adapt legislation at federal and cantonal levels with an aim to creating effective and comprehensive protection against discrimination with explicit provisions for vulnerable groups including LGBTI persons, persons with disabilities, migrants and refugees and others;

Development, the environment, and business and human rights

- Raise its development assistance to the committed level;
- Continue efforts towards establishing a clear regulatory framework and effective mechanisms against corporate abuses by businesses headquartered in Switzerland, especially those that operate abroad to ensure that their activities do not negatively affect human rights or endanger environmental, labour and other standards;

B. Civil and political rights

Right to life, liberty and security of person

- Make torture a specific criminal offence, in terms that fully reflect article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Take steps to ensure strict and effective separation of women and men as well as children and adult prisoners in prisons in all cantons across the country;

Administration of justice, including impunity and the rule of law

- Increase resources to address prison overcrowding, and ensure that therapeutic treatment in appropriate facilities is guaranteed in all cantons for persons with mental disabilities;
- Establish an independent mechanism empowered to receive complaints relating to violence and ill-treatment by law enforcement officers, and conduct timely, impartial and exhaustive inquiries into such complaints;

Prohibition of all forms of slavery

- Assess the impact of the national action plan against trafficking and strengthen coordination between the Confederation, cantons and civil society to ensure a harmonised, and victim-oriented response;
- 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;

Right to privacy and family life

- Take all necessary measures to ensure that surveillance activities in the country comply with Switzerland's international obligations;
- Take the necessary steps to put an end to discrimination faced by same-sex couples, in particular, by ensuring that they can marry and adopt children;

C. Economic, social and cultural rights

Right to an adequate standard of living

- Address the continued challenge of poverty, particularly among vulnerable groups, such as the elderly, single mothers, children, and non-citizens;
- Further strengthen its system of family allowances and benefits with a view to ensuring that all children, including children of refugee, asylum-seeking and migrant parents, have an



adequate standard of living and refrain from authorising restrictions of social welfare, including as a disciplinary sanction, to below a minimum level of existence set by the law;

Right to health

- Continue with measures to prevent suicide, especially among young people and trans people;

D. Rights of specific persons or groups

Women

- Take further action to promote gender equality, including by developing a comprehensive national gender strategy, policy and action plan that addresses the structural factors causing persistent inequalities;
- Take additional measures to promote a better representation of women in politics and the economy;
- Take more effective measures to address the gender pay gap in all areas and ensure equal pay for work of equal value in the public and private sectors, including through the use of temporary special measures;
- Continue efforts to eradicate gender-based violence, including domestic and sexual violence, with a particular attention to women from minority groups and to migrant women whose residence permits depend on their being married, by: raising awareness in society; ensuring that such cases are automatically subject to effective and impartial proceedings and due diligence in the prosecution and trial of perpetrators; and providing relevant training to the competent authorities;

Children

- Prohibit explicitly all practices of corporal punishment in all settings and promote non-violent and participatory forms of child-rearing and discipline;
- Ensure that asylum procedures fully respect the best interests and special needs of unaccompanied children;

Persons with disabilities

- Take the necessary measures to ensure that all the cantons adopt an inclusive approach with regard to the education of boys and girls with disabilities;
- Continue efforts to ensure that children with disabilities have access to early childhood education and care, early development programmes and inclusive vocational training opportunities in all cantons;

Migrants, refugees and asylum seekers

- Strengthen measures for the effective protection of persons living in Switzerland without a valid permit who are vulnerable to abuse;
- Eliminate disproportionate restrictions on the rights of provisionally admitted persons, particularly those who have been in the country for a long time;



- Ensure minimum reception standards in federal and cantonal reception centres for asylum seekers across the country, taking into account the specific needs of refugees and asylum seekers, including unaccompanied or separated children;
- Develop alternatives to administrative detention and use detention only as a last resort, particularly where minors are concerned;
- Ensure the full application of the 1951 Convention relating to the Status of Refugees concerning refugee status determination, in line with current international standards, including with regard to persons fleeing persecution in the context of conflict and violence;
- Take all the necessary measures to ensure an exhaustive analysis of the risk of human rights violations a rejected asylum-seeker could be exposed to before deciding to return them and put in place effective post-return monitoring arrangements for use in the event of refoulement;

Stateless persons

- Establish a formal statelessness determination procedure including procedural safeguards, and apply an inclusive interpretation of the term “stateless person”, in line with the 1954 Convention relating to the Status of Stateless Persons and existing international standards.