



NGO-Report

On Switzerland's combined tenth to twelfth periodic reports to the
UN-Committee on the Elimination of Racial Discrimination
(CERD)

March 2020, Swiss NGO Platform Human Rights

Impressum

This report is submitted to the Committee on the Elimination of Racial Discrimination (CERD) by the Swiss NGO Platform Human Rights. The Platform includes more than 80 organizations.

Currently the core group consists of the following fifteen organizations:

Action by Christians for the Abolition of Torture / Alliance Sud / Amnesty International, Swiss section / Youth resource center on Human Rights CODAP / FIZ Advocacy and Support for Migrant Women and Victims of Trafficking / Fondazione Diritti Umani / Human Rights Foundation / Swiss Church Aid HEKS / humanrights.ch / Inclusion Handicap / National Coalition Building Institute, NCBI / Children's Rights Network Switzerland / NGO Coordination post Beijing Switzerland / Public Eye / Swiss Refugee Council / Swiss Federation of the Deaf (SGB-FSS) / Terre des Femmes Switzerland.

For the list of the member organizations of the platform and further information see:
<https://www.humanrights.ch/en/switzerland/swiss-players/ngo-platform/>

The following organizations participated in the editing process of this report and are responsible for its content:

- humanrights.ch;
- Alliance against Racial Profiling
- Society for Threatened Peoples Switzerland GfbV
- GRA Foundation against Racism and Anti-Semitism
- #NetzCourage
- Swiss Observatory of Asylum and Foreign Nationals Law
- Swiss Peace Council SFR

The following organizations participated with their inputs:

- Amnesty International, Swiss section
- AsyLex
- Map-F
- Platform ZiAB - Civil Society in Federal Asylum Centers
- Centre for Undocumented Migrants Basel
- Swiss Refugee Council
- Solidarity Across Borders
- Solidarity Network Solinetz Zürich
- Terre des Femmes Switzerland

Contact:

humanrights.ch
Hallerstrasse 23
CH-3012 Bern
Phone +41 31 302 01 06
E-mail: info@humanrights.ch

Abstract

Racism is a reality in the lives of different parts of the Swiss population. However, a clear and complete definition of racism and a common understanding of the extent and the manifestations of this reality do not exist in Switzerland, making more difficult to address it and combat it.

This NGO Report is of significant value, as it offers an NGO perspective on the realities of racism in Switzerland based on many sources of data: official, academic and experiential, from the perspectives of those who work directly with those affected. The report lists a number of recommendations at the end of each chapter to address racism, racial discrimination and processes of exclusion that impact the lives of immigrants, minorities and other parts of the Swiss population. The recommendations are specific to the areas discussed in this report: racism and xenophobia in general; anti-racism legislation; policy debate and political discourse; racial profiling; national minorities and flight, asylum and migration.

On a general basis, the following points can be made:

In the past years, there has been an increasing awareness of the importance of the protection against discrimination in Switzerland and the actions of actors of the civil society are increasing the visibility of the problem of racism and its structural components in the society. Therefore, there have been some improvements, such as the establishment of counselling centres for victims of racism; the various publication of substantial reports and studies on racial discrimination; the extension of the anti-racism legislation of the Swiss Criminal Code including discrimination based on sexual orientation; the adoption of a draft law for a National Human Rights Institution; the official recognition of the Yenish and Sinti as national minorities of Switzerland; and the simplification of the access to labor market for refugees, who have been temporarily admitted (F permit).

Despite these positive developments, Switzerland has still a lot work to do to ensure a complete prevention and eradication of racism, xenophobia and related intolerance from its society and institutions (chapter 2). Considering that:

the protection against discrimination is still in Switzerland not sufficiently effective and the existing legal provisions have proven to have gaps, mainly in private law (chapter 3);

far-right parties keep setting the tone of the debate on immigration and continue delivering anti-migrant and anti-minority discourses and policies and racist hate speech with impunity (chapter 4);

not just structural discrimination and racism, but also the racialization of criminality has led to ethnic or racial profiling and police violence, which are still widespread problems in Switzerland (chapter 6);

the Federal Council has still not recognized the Roma as a national minority and their language as a territorial language. In addition, the knowledge of the history and culture of the Yenish, Sinti and Roma remain limited in Swiss

society and there is a generalizing and discriminatory manner of reporting on them, which strongly contributes to the persisting prejudices towards these three minorities (chapter 7.1);

hate speech and bullying on the internet are increasing abruptly and there is a proliferation of verbal abuse and smears rooted in antisemitism (chapter 7.2);

how Muslims are perceived in Switzerland is heavily impacted by representations in the media, and the public discourse, which concentrate merely on the topics of "radicalization" and "terror". Therefore, measures to combat terrorism affect in particular Muslims (chapter 7.3);

different groups of non-citizens in Switzerland are legally discriminated due to their legal status. The rights to family life and to the freedom of movement of refugees who are temporarily admitted are still too restrictively regulated. Further, since the new asylum procedure came into force in March 2019, numerous asylum decisions have been rejected by the Federal Administrative Court, often because the medical facts were not sufficiently clarified. Furthermore, the short deadline for appeal makes it difficult to file a complaint in time. Motives of women who seek asylum are often still not sufficiently considered and there are few concrete provisions to guarantee children's rights in the Swiss asylum system (chapter 8).

Furthermore, the submitting organizations are stating that there was no direct exchange between the Swiss authorities and NGO's in the whole process of submitting the state report. At several occasions, Swiss NGO's have expressed their wish to establish a structural and institutional exchange platform with the Swiss authorities before the next CERD monitoring cycle. Unfortunately, these demands have been denied so far.

Content

Abstract.....	2
1 Introduction.....	5
2 Racism, racial discrimination and xenophobia in Switzerland: General remarks.....	5
Recommendations to Switzerland.....	7
3 Anti-Racism legislation (Concluding observations Par. 6).....	8
Recommendation to Switzerland.....	8
4 Policy debate and problematic popular initiatives (Concluding observations Par. 8).....	9
Recommendation to Switzerland.....	10
5 Independent national human rights institution (Concluding observations Par. 10).....	10
Recommendation to Switzerland.....	11
6 Racial Profiling (Concluding observations Par. 14).....	11
Recommendations to Switzerland.....	14
7 National Minorities (Concluding observations Par. 15).....	14
7.1 Yenish, Sinti, Roma and Antigipsyim.....	14
Recommendations to Switzerland.....	18
7.2 Jewish Community and Anti-Semitism.....	19
Recommendations to Switzerland.....	20
7.3 Muslim Community and the fight against terrorism.....	21
Recommendations to Switzerland.....	23
8 Flight, asylum, migration (Concluding observations Par. 16 and 17).....	24
Recommendations to Switzerland.....	29
9 Appendix.....	30

1 Introduction

The following NGO report does not claim to be a comprehensive parallel commentary to the Swiss State report. The aim of this report is to provide a wide range of crucial information about the situation in Switzerland from the perspective of non-governmental organizations, that work and advocate in different fields and areas of immigration, refugee and asylum and discrimination. Therefore, this report highlights issues that civil society considers important and problematic and thus in need of the Committee's attention. The commitment of different international and national forces, the federal government, organizations in general and the civil society is essential to effectively prevent, combat and eradicate racism.

The first part of this report focuses on general issues that affect different groups of the population, mainly minorities and gives an insight into the general problematic of racism and racial discrimination in Switzerland. From the third chapter on, this report covers issues of the 2012 Concluding Observations by CERD to the Swiss Government and stipulates different recommendations.

2 Racism, racial discrimination and xenophobia in Switzerland: General remarks

In Switzerland, the protection against discrimination has become an important part of social policy at federal, cantonal and municipal level since the implementation of the Cantonal Integration Programs in 2014. At the same time actors of the civil society have been increasingly resisting racism and discrimination, and striving for more visibility of the matter in the society.

Various studies and substantial reports on racism have been published in the last couple of years¹ and give us an insight into the current situation regarding racial discrimination in Switzerland. Various organizations – the Foundation against Racism and Antisemitism (GRA), the Swiss Federation of Jewish Communities (FSCI) and the Inter-Community Coordination against Anti-Semitism and Defamation (CICAD) as well as the Counselling Network for Victims of Racism, among others including the federal Service for Combating Racism (SCRA),² are collecting data on racist incidents. This allows identifying

¹ «Etat des lieux du racisme anti-Noir·e en Suisse» SFM, 2017 https://www.unine.ch/files/live/sites/sfm/files/listes_publicationsSFM/Etudes%20du%20SFM/SFM%20-%20Studies%2067f.pdf; «Anti-Schwarze-Rassismus - Juristische Untersuchung zu Problem und Handlungsbedarf» ZHAW / Universität Basel, 2017 <https://www.zhaw.ch/storage/sml/institute-zentren/zsr/zhaw-studie-anti-schwarze-rassismus-2017.pdf>; «Racial Profiling: Erfahrungen - Wirkungen - Widerstand», Kollaborative Forschungsgruppe Racial Profiling, Rosa Luxemburg Stiftung, Juni 2019.

² <https://www.swissjews.ch/en/antisemitism/reports/>; <https://www.cicad.ch/fr/antisemitisme/rapports>; <http://www.network-racism.ch/fr/rapports/rapport.html>; <https://www.edi.admin.ch/edi/fr/home/fachstellen/frb/rapports-et-monitorage.html>

at least tendencies concerning the victims, the scope and the forms of racism and racial discrimination in Switzerland. However, they also raise innumerable questions on how to continue addressing racism and which measures for prevention and intervention must be implemented. It should be noticed, that we still know far too less about the extent of discrimination in Switzerland, partly due to the number of unreported cases³ and the lack of a uniform monitoring system that provides data in different fields.

The latest annual report of the “Counselling Network for Victims of Racism and racial Discrimination”,⁴ which analyses all cases registered in 24 counselling centres all across Switzerland, records 278 cases reported in 2018.⁵ Racism occurred most frequently in the forms of derogatory or offensive and abusive verbal statements and of degrading and unequal treatment at the work place, in the public space or concerning day-care, schooling and advanced training. Other common affected areas by racism were the neighborhood, housing market,⁶ public administration and the police. Attacks on physical integrity were rather reported. On the contrary, grave racist incidents, such as threats against people, were recorded on a regular basis. Disturbing is the fact, that extreme right-wing demonstrations or meetings are expanding and their propaganda is being distributed. According to the report, immigrants are still the most affected group by discrimination; however, since recent years, the proportion of Swiss people who seek advice from the counselling centres has been increasing, which means, that a good integration and a Swiss passport do not protect against discrimination. Multiple discrimination is also common especially with regard to the category of legal status and gender.

With the implementation of the Cantonal Integration Programs, there has been an increasing awareness of the importance of counselling centres for the legal advice, accompaniment, support and empowerment of victims of racism and discrimination and for their contribution to the documentation of racist incidents. However, in many cantons and regions, counselling centres need yet to be established, and unfortunately since 2017, various counselling centres for victims of racism have had closed or had to be relocated, due to the reduction of cantonal contributions and monetary resources in the area of protection against discrimination. Therefore, counselling centres in Switzerland need constantly to fight for their legitimacy and enough resources to keep their doors open. The fight against racism requires resources and these must be made available by the government on a sustainable basis.

Racist Hate Speech

The racial struggle takes on a new dimension with the rise of the internet and especially social media. The activities in real and virtual worlds interpenetrate. Hence, the virtual space is not merely a representation of the real world but has immediate effects on real life. Like-minded people from across the globe meet on the web to spread hatred and incite people to commit racist acts. These acts

³ There are many reasons for not reporting racist incidents, including ignorance of recourse, distrust to the system, or the insecurity of further prejudice or discrimination. The dominant discourse in Switzerland is that racism is an individual problem but not an institutional issue. In addition, studies and available monitoring data make it clear, that racism occurs regularly on the everyday life in a subtle way. Therefore, fighting racism must focus on the perspective of those affected.

⁴ http://www.network-racism.ch/cms/upload/pdf/Rassismusbericht_18_F.pdf

⁵ The report does not claim to be a complete statistical record and evaluation of all cases of racial discrimination in Switzerland. Rather, it provides an overview of the reported cases to the members of the counselling network.

⁶ Auer, Daniel, Lacroix, Julie, Ruedin, Didier, and Zschirnt, Eva, *Discrimination ethnique sur le marché suisse du logement*. Granges: Office fédéral du logement OFL, 2019.

are documented and can quickly achieve a wide reach. The distance to the victim and anonymity of the perpetrators reduces inhibition, thus, encouraging the dangerous and unlawful development. In fact, the virtual space is often perceived as a legal vacuum where haters may voice their opinion and sympathize with each other's view while shutting down not only victims but also large parts of the society, which fears the hostility. The goal is to oust minorities from the public debate. Our democracy is endangered when people withdraw from the social discourse due to the fear of being exposed in front of a large audience, which tends to be overly judgmental. Furthermore, the current political situation, in particular, the aggressive language and provocative images used online by populist parties and politicians poison the social climate. Racist activities are often promoted under the guise of protecting free speech and become more common while everyday racism gains acceptance by the population (see Chapter 4, for more details). For example, a person of a right-wing party repeatedly made headlines in 2019 by stirring up hatred against people of different origins or beliefs. In January, he expressed in a Facebook post his displeasure at the first newborn in the canton of Schwyz, an offspring of refugee parents from Afghanistan.⁷ Later in June, he condemned in another Facebook post the actions of a primary school teacher who gave a pupil a day off to break Ramadan fast.⁸

To combat racism on the internet raising public awareness is key. Public debate about the responsibilities of media outlets, the government as well as politicians can raise awareness and improve social interaction. The development towards a more inclusive society requires media to assume responsibility for spreading racist statements. Algorithms can help detect racist references, which can be deleted or prevented from being posted. Furthermore, victims, as well as observers of racist hate speech online, should immediately take screenshots, document and report the attack, as well as block the aggressor and report him/her to the operator of the website. Moreover, they should report the incident to the government authorities and press charges. Finally, they should seek support from family, friends and experts to evaluate the next steps.

Recommendations to Switzerland

- Recognize and sensitize the population on the fact that racism is an institutional and structural problem and an issue that affects and must be fought at all private and public levels.
- Take immediate action to ensure that racial discrimination is recognized by all federal and cantonal authorities and organizations as a society-wide structural problem.
- Ensure that enough monetary resources for counseling centres for victims of racial discrimination are available on a sustainable basis and recognize publicly their importance.
- Sensitize the population on the dangers of hate speech and implement measures to protect victims.

⁷ <https://www.20min.ch/schweiz/zentralschweiz/story/Glarner-brueskiert-Eltern-mit-Post-zu-ihrem-Baby-30563089> (22.01.2020).

⁸ <https://www.nzz.ch/schweiz/svp-politiker-glarner-betreibt-online-hetze-obwohl-er-andere-wegen-facebook-posts-selbst-vor-gericht-zieht-ld.1487023?reduced=true> (22.01.2020).

- Enhance pressure on media outlets and social media companies by holding them accountable for allowing and spreading unlawful racists content on their online platforms.

3 **Anti-Racism legislation** (Concluding observations Par. 6)

In Switzerland, the existing provisions to combat racial discrimination have proven to have gaps, particularly in the private sphere (housing, employment, etc.) and on the application of Article 261^{bis} of the Swiss Criminal Code⁹ to public statements as well as to any particular nationality or to the legal status. This confirmed the Swiss Center of expertise in Human Rights (SCHR) in its study from 2015 on the access to justice for victims of discrimination.¹⁰ The study showed that there is no specific provision in private law dealing with racial discrimination. In addition, the low number of court cases indicates that the existing legal instruments are too less known to those affected and that there is a lack of awareness for all actors involved, including judges and lawyers. On the other hand, the procedural obstacles and costs are very high, which means that the protection against discrimination cannot be sufficiently effective.¹¹

Despite the recommendations to optimize the legal protection on racial discrimination in Switzerland, the Swiss parliament rejected an explicit anti-racism legislation in private law. As a result, the legal requirements for a complete protection against all forms of discrimination continue not to be given.¹²

Small steps were taken on February 9 2020 with the extension of the anti-racism legislation the Swiss Criminal Code including discrimination based on sexual orientation. NGOs welcome this extension, but at the same time, we want to stress out, that the anti-racism legislation still does not fulfil the constant recommendation of CERD to adopt "a clear and comprehensive definition of racial discrimination, covering direct and indirect discrimination and covering all areas of law and public life" (Recommendation 6 of 2014).

Recommendation to Switzerland

- Implement a complete and comprehensive law that ensures the protection against racial discrimination covering all areas of public and private life.

⁹ <https://www.admin.ch/opc/fr/classified-compilation/19370083/201709010000/311.0.pdf> (22.01.2020).

¹⁰ Kälin, Walter und Locher, Reto, Rapport de synthèse Accès à la justice en cas de discrimination, CSDH, Berne, Juli 2015 https://www.skmr.ch/cms/upload/pdf/160526_etude_discrimination_rapport_synthese.pdf (20.01.20).

¹¹ Conseil fédéral en réponse au postulat Naef 12.3543, Berne, 2016 <https://www.parlament.ch/centers/eparl/curia/2012/20123543/Bericht%20BR%20F.pdf> (20.01.20).

¹² Conseil fédéral en réponse au postulat Naef 12.3543, Berne, 2016 <https://www.parlament.ch/centers/eparl/curia/2012/20123543/Bericht%20BR%20F.pdf> (20.01.20).

4 Policy debate and problematic popular initiatives

(Concluding observations Par. 8)

During the discussion of the last Swiss report on the implementation of CERD, NGOs, at the request of the Committee, prepared an additional report on “Popular initiatives and international law”,¹³ with a list of “Approved popular initiatives in conflict with international law”. In the meantime, the efforts of circles seeking to undermine international law have not diminished. Anti-constitutional initiatives continue to be submitted to the vote of the population.

With the initiative “Durchsetzungsinitiative” (enforcement initiative), the Swiss People's Party wanted to force the implementation of the “Ausschaffungsinitiative” (deportation initiative) by introducing in the constitution a catalogue of laws, whose violation would lead to the obligatory deportation of foreigners. The adoption by the majority of the voters of the referendum “Masseneinwanderungsinitiative” (mass immigration initiative) in 2014, which aims to limit the number of immigrations into Switzerland by fix numbers and quotas, was a shock and, to a large extent, a wake-up call, especially for young people. With new and original forms of action, they succeeded in mobilizing the population and on February 28 2016, the “Durchsetzungsinitiative” was clearly rejected. Prior to this, the Swiss People's Party had launched the initiative “Selbstbestimmungsinitiative” (self-determination initiative) on February 2015, to place national law above international law – in particular the European Convention on Human Rights. However, this initiative was also clearly rejected by the majority of the voters on November 25 2018.

Other initiatives that affect fundamental freedoms and human rights of minorities keep being promoted, like the initiative of the ban on facial coverings “Verhüllungsverbot”, submitted in 2017. This initiative aims to prevent the visibility of Islamic symbols in public space. The initiative is pending on the Parliament which is elaborating an indirect counter-proposal to the initiative. In 2018, the Swiss People's Party launched another initiative on immigration for the annulation of the bilateral agreement on the free movement of persons with the European Union. The focus is to restrict hardly immigration movements. The initiative will be presented to vote in 2020. With these initiatives, right-wing- parties and groups have been setting the tone of the debate on immigration and securing a platform for anti-migrant, racist and xenophobic ideas in the campaigns preceding the elections. At the same time, xenophobic topics are chosen on purpose in the political discourse with the aim to mobilize majorities. It is a shame that right-wing populism in Switzerland keeps being tolerated, mainstreamed and partly implemented.

Racism is still also present in political propaganda with provocative illustrations, such as the poster on August 2019 from the Swiss People's Party (SVP) that shows a healthy apple eaten by worms with the slogan: "Should

¹³ https://www.humanrights.ch/cms/upload/pdf/140519_Initiatives_populaires.pdf (20.01.20).

leftists and nice people destroy Switzerland?";¹⁴ or the degrading image of Sinti and Roma as a filthy fringe group posted by the Young SVP Berne on Facebook on February 2018 along with the statement: "We say no to transit places for foreign gypsies!".¹⁵ The Association of Sinti and Roma Switzerland, supported by the Society for Threatened Peoples, filed a complaint and, fortunately, the two young politicians from the Swiss People's Party were sentenced for racial discrimination (see more details on Chapter 7.1).¹⁶

As far as we know, special measures to address racist or xenophobic campaigns were rarely taken. Only the anti-racism norm in Article 261^{bis} of the Swiss Criminal Code can be used to combat racial statements or illustrations, when the openly display of racist speech, acts or depictions can be proven. In our opinion an effectively and completely anti-discrimination legislation would prevent the openly display of racist or xenophobic campaigns and statements.

Recommendation to Switzerland

- Implement measures to prevent and condemn racist, anti-migrant and xenophobic propaganda in political discourse and campaigns.

5 Independent national human rights institution

(Concluding observations Par. 10)

On December 13 2019, the Federal Council, the Swiss Government, adopted a draft law for a National Human Rights Institution (NHRI) to be submitted to Parliament. The UN Committee on the Elimination of Racial Discrimination reiterated in its concluding observations that Switzerland consider establishing a NHRI in accordance with the Paris Principles, not least to facilitate the implementation of the Convention on the Elimination of All Forms of Racial Discrimination.

The NHRI, as envisioned by the Federal Council, probably will largely meet international standards: As an association under public law, it will have a solid legal basis, a comprehensive mandate to protect and promote human rights, and independence from the government and state structures is guaranteed.

However, the financial framework proposed by the Federal Council of just one million Swiss francs is very inadequate. This amount is in great contradiction to the institution's broad mandate. Such an NHRI will therefore not be functional and merely fulfil a fig-leaf function. The international recognition as well as the credibility and professionalism of the institution thereby will be endangered. Therefore, the Parliament must provide much more resources for an effective NHRI. The Swiss NGO Platform Human Rights has established a

¹⁴ <https://www.aargauerzeitung.ch/schweiz/die-apfel-kampagne-macht-deutlich-bei-der-svp-ist-der-wurm-drin-135429563> (21.01.2020).

¹⁵ <https://tageswoche.ch/gesellschaft/dieses-bild-wird-eingeklagt/> (21.01.2020).

¹⁶ <https://www.nzz.ch/schweiz/zigeuner-plakat-chefs-der-jsvp-kanton-bern-erneut-verurteilt-ld.1526908> (21.01.2020).

budget of seven million Swiss francs, based on the requirements for the institution as described by the government itself.

Recommendation to Switzerland

- Provide enough resources to meet the established budget of seven million Swiss francs to fulfill the requirements and standards of a National Human Rights Institution (NHRI).

6 Racial Profiling

(Concluding observations Par. 14)

In its Concluding Observations 2014 to Switzerland, paragraph 14, the CERD Committee called on Switzerland to take effective measures against discriminatory police checks; to take effective legal measures against law enforcement officials, who showed racially discriminatory behavior; to establish an independent mechanism in each canton for complaints concerning police officers' misconduct; and to ensure human rights training for police officers in each canton. Unfortunately, Switzerland has not implemented these recommendations so far.

Current situation and recent developments

Racial profiling and police violence are still widespread problems in Switzerland. This is illustrated by the fact that there are several sizeable social movements against racial profiling that have emerged in the past years. The Alliance against Racial Profiling and further organizations such as *À qui le tour?*, *Collectif Jean Dutoit*¹⁷ heavily criticize racial profiling and police violence. Furthermore, recent research confirms the high prevalence of racial profiling and demonstrates the serious effects discriminatory practices have.

The Collaborative Research Group, a subgroup of the Alliance against Racial Profiling, conducted a qualitative study¹⁸ on the experiences of people affected by racial profiling; on the effects of racial profiling on affected people and on resistance strategies. The study shows that Black people and People of Color, Yenish, Sinti and Roma, people read as Muslim, as Asian or as migrants, and sex workers are all subject to discriminatory police practices. However, people are differently affected by racial profiling depending on categories of difference such as gender, age, (ascribed) religion, class, language, citizenship and refugee status as well as spatial differences and the intersection of these categories. Furthermore, the study revealed, that discriminatory police checks have several severe effects: affected people report feelings such as humiliation and shame, fear, feelings of inferiority, despair, and anger, mistrust towards the police, a lack of a sense of security and profound limitations in their ability to use public

¹⁷https://collectifjeandutoit.files.wordpress.com/2019/02/jeandutoitcollective_reportfortherightsandmobility_english_a4_final.pdf (21.01.2020).

¹⁸ Kollaborative Forschungsgruppe Racial Profiling, 2019: Racial Profiling. Erfahrung, Wirkung, Widerstand. Rosa-Luxemburg-Stiftung. Berlin, www.rosalux.de/publikation/id/40493.

space. A further edited volume¹⁹ was published in 2019, collecting scientific, artistic and activist contributions on racial profiling and its effects with a focus on Switzerland, which offer valuable insight into a range of issues in relation to racial profiling.

Despite the fact that racial profiling is widespread, there are only few legal complaint cases. In line with General Recommendation 31, we view this as a sign of lacking access to legal protection and a lack of trust in the judiciary and police. Thus, we see the existing few legal complaints as only the very tip of the iceberg. There is no independent complaints mechanism in place, and access to justice is impeded due to several obstacles such as the lack of information, prohibitive financial costs, the psychologically straining nature of legal proceedings, and the risk of further discrimination without any protection (such as the police officer using authoritarian behavior to restrain the person checked from taking any action). Switzerland has moreover, still not installed an ombudsperson's office in every canton and bigger city, which could offer some remedy to this situation.

As stated above, justice is unaffordable to most. In the case of Mohamed W. B. against racist stop and frisk policies, he has paid more than CHF 50'000 with the help of fundraising. The costs of bringing a case before the court, even without paying a lawyer, are very high. Wilson A. who is being represented pro bono by his lawyer has paid a large sum of money for hearing fees. The cases normally take more time than expected and hence the court fees rise. Therefore, it is not a surprise that, because court proceedings are not only difficult but also expensive, most people do not dare to pursue justice.

Furthermore, there is a structural problem with submitting complaints to the public prosecutor, as its independency is not guaranteed. If a person nevertheless decides to fight the issue legally, the accusations are investigated in preliminary proceedings by the public prosecutor and the police. This means that a complaint about an offence committed by police officers will normally be dealt with by individuals and officers whose everyday work relies upon good cooperation with the accused or their superiors. There are strong reasons to assume that colleagues protect each other and collude on what to say, or that the public prosecutor does not investigate systematically enough. Criminal proceedings are rarely, if ever, initiated following the preliminary proceedings. Furthermore, lawyers report that during interrogations the translation is frequently done by officials themselves and the written record is prepared in consultation with the police officers involved. Lawyers also say that in critical cases the statements made by officers are reworked by the internal police legal service, which practically gives the police the sole power of definition when it comes to assembling the facts of the case that form the basis for later proceedings.

Switzerland still does not collect sufficient statistical data on racism, and specifically on racial profiling. The very low number of offences in the police crime statistics that Switzerland mentions in its State Report of 2018 (para. 78) indicates, again in accordance with General Recommendation 31, that there is no sufficient access to justice, and conversely does not indicate an actual absence of such cases.

¹⁹ Wa Baile, Mohamed / Dankwa, Serena O. / Naguib, Tarek / Purtschert, Patricia / Schilliger, Sarah (Hg.), 2019: Racial Profiling. Struktureller Rassismus und antirassistischer Widerstand. Bielefeld, <https://www.transcript-verlag.de/978-3-8376-4145-5/racial-profiling>.

Despite these obstacles, a rising number of legal actions have been taken, partially thanks to the support of committed lawyers and activists. These are two examples of such cases:

Wilson A. versus city of Zurich police

Wilson A. experienced racial profiling and police violence on October 19 2009 in the course of a discriminatory police check. According to the indictment against three police officers, Wilson A. was beaten, forced to the ground and pepper-sprayed at point-blank range by the accused police officers. This occurred even though Wilson A. behaved cooperatively and had made the police officers aware that he had recently undergone heart surgery and was thus subject to high health risks. On April 18 2018, the Zurich District Court finally handed down a verdict: acquittal for the three police officers. A disappointing verdict, which was only reached after protracted legal disputes, as the public prosecutor's office wanted to discontinue the proceedings twice despite clear evidence and had to be forced to continue the proceedings by the Swiss federal court. Wilson A.'s lawyer has appealed against the verdict of not guilty. The case was supposed to be heard by the Zurich Supreme Court (Obergericht) in December 2019, but was postponed.

City of Zurich police versus Mohamed W. B.

On February 5 2015, 7 a.m., Mohamed W. B. was commuting from his place of residence, Bern, to Zürich, where he worked at the time. Whilst in the concourse at Zurich Main Station he was requested by a Zurich city police officer to identify himself. W. B. asked if a Black person was wanted for an offence, and on hearing that this was not the case, refused to show the police officers his Swiss passport. Instead, he informed the two male and one female police officers that he considered the check to be racial profiling, whereupon they fined him for refusing to identify himself. On November 7 2016, Zurich District Court sentenced W.B. to a fine of CHF 100 because he refused to comply with a police directive from a member of Zurich City Police to produce his identity document. The police officer justified having stopped him because he averted his gaze and was thus suspicious. However, in the police report he wrote "dark-skinned male who looked suspicious". The accused lodged an appeal, but on August 25 2017, the Zurich Cantonal Supreme Court confirmed the conviction of W. B. This ruling was confirmed by the Federal Supreme Court on March 7 2018. Currently, the case is pending before the ECHR.

In the State Report 2018 (para. 79), Switzerland describes measures taken with regards to police training. We emphasize that up to writing this report, there is no universal and obligatory training for police and border patrol officers on racism and racial profiling. In our view, the mentioned trainings on the management of diversity and on raising awareness of different cultures and ethnic minorities do not equal training on (institutional and structural) racism and racial profiling. Furthermore, in cases where trainings take place, there is no control mechanism in place to ensure the trainings have an effect. In addition to this, several high-ranking police officials denied that racial profiling is a problem at all or reduce it to a few regrettable individual cases.²⁰

²⁰ Wanner, Christine: Haben wir ein Problem mit «Racial Profiling»? SRF, 2.12.2016, available from: <https://www.srf.ch/news/schweiz/haben-wir-ein-problem-mit-racial-profiling>, SRF: Basler Polizei sensibilisiert Personal für

Recommendations to Switzerland

- Examine effectively the possible discriminatory effects of the routines, leadership styles as well as the distribution of resources and the communication activities of the police and the border patrol authorities.
- Introduce statutory prohibitions against racial profiling and discrimination in federal laws and require or encourage the introduction of such laws in cantonal and communal police laws.
- Develop and implement a system of independent and ongoing monitoring.
- Enact and implement legislation or other measures to bring about transformation within the police and border patrol authorities.
- Encourage and facilitate the introduction of a system of receipts or pilot programs of such a system, which requires police officers to issue a receipt for every check of a person containing general information regarding the check.
- Improve access to justice in cases involving racial profiling. Permanent independent investigative bodies should be created at the federal and/or cantonal levels and in major cities.

7 National Minorities

(Concluding observations Par. 15)

In Paragraph 15 of its Concluding Observations, the CERD Committee recommends that Switzerland strengthen its efforts to promote and protect the rights of national minorities, particularly with regard to access to education, preservation of language and culture. Furthermore, it calls upon the State party to ensure that laws and policies do not have any discriminatory impact on the rights of members of national minorities. The Committee also encourages the State party to raise awareness among the public about the history and characteristics of different national minorities and to take appropriate and effective measures to avoid generalizations and stereotypes in the media.

7.1 Yenish, Sinti, Roma and Antigipsyim

In 2014, two parliamentary initiatives were issued concerning the situation of Yenish, Sinti and Roma in Switzerland. The motions called for the elaboration of concrete measures to improve the situation of the three minorities. As a result, a working group consisting of representatives of the minority organizations and representatives of the authorities started to work on elaborating an Action Plan in 2015, which covers the following areas: halting sites and permanent sites, education, social insurance, culture and identity. While the strategic aims of the Action Plan are welcomed, concrete measures, which go beyond questions concerning transit sites and permanent sites, remain rather superficial and vague. Furthermore, no additional financial

Racial Profiling, 25.09.2019, available from: <https://www.srf.ch/news/regional/basel-baselland/gegen-rassismus-basler-polizei-sensibilisiert-personal-fuer-racial-profiling>.

means are proposed to implement those measures. A first draft was published at the end of 2016²¹ and a progress report in 2018.²² In its fourth report on Switzerland on the implementation of the framework convention for the protection of national minorities, the Council of Europe Advisory Committee is calling upon Switzerland to adopt the forthcoming Action Plan as soon as possible and immediately implement its measures.²³ Unfortunately, no further developments were officially and directly communicated towards the organizations of Yenish, Sinti and Roma since.

To conclude, the situation of the Yenish, Sinti/Manuches and Roma has not significantly improved during the reporting period. Positive developments are that the use of the word “travellers” has been abolished at the federal level and that the Yenish and Sinti were officially recognized as national minorities of Switzerland. Unfortunately, however, the Federal Council did not recognize the Roma, contending that they lack proof of historical ties with Switzerland as well as that they do not have a shared culture.²⁴

Preservation of itinerant lifestyle

There is still a severe lack of appropriate halting sites. According to the latest report of the foundation “Protecting the Future of Swiss Travellers”,²⁵ there are only 15 official permanent sites where prolonged stays are permitted and 38 official stopping sites in Switzerland. In contrast, estimates indicate that 40 permanent sites and 80 transit sites are in fact needed.

The report also shows that the existing sites are lacking in basic requirements, and that two thirds are inadequate or usable only to a limited degree. Almost half of the present official transit sites are regular parking lots with limited access and/or a lack of necessary infrastructure. Only nine of the transit sites are open throughout the whole year, 11 are open from spring to autumn and the rest are open depending on other uses.²⁶

Many cantons provide separate halting sites for “Swiss Travellers” and “foreign Travellers” and only permit “Swiss Travellers” to make use of permanent sites. The situation of “foreign Travellers” is an issue of concern. According to the report, less than half of the existing transit sites are open to “foreigners”, and even among those, there are many where they are only barely tolerated. According to the foundation “Protecting the Future of Swiss Travellers”, there are only seven transit sites for so called “foreign Travellers”. According to the status report, at least ten large transit sites would be necessary to satisfy the needs of the “foreign Travellers” alone.

²¹ Groupe de travail « Amélioration des conditions de vie nomade et promotion de la culture des Yéniches, des Manouches et des Roms » Rapport et plan d'action, Office Fédérale de la Culture, 21.12.2016.

²² Etat de la mise en oeuvre du plan d'action (2018)

« Amélioration des conditions de vie nomade et promotion de la culture des Yéniches, des Manouches et des Roms » Berne, Office fédérale de la culture, Décembre 2018
Berne, décembre

²³ ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES Restricted ACFC/OP/IV(2018)003 Fourth Opinion on Switzerland-adopted on 31 May 2018

²⁴ <https://www.admin.ch/gov/fr/accueil/documentation/communiqués.msg-id-70977.html> (9.1.2020).

²⁵ Status Report 2015 of the foundation «Protecting the future of Swiss Travellers»: https://www.stiftung-fahrende.ch/admin/data/files/section_asset/file/118/fahrende_standbericht2015_161213.pdf?lm=1545308754 (9.1.2020)

²⁶ These statistics focus on the needs of the Swiss groups and do not include the four larger transit sites used mostly by foreign itinerant groups.

Even when efforts are made to establish new halting sites, the sedentary population often opposes the sites because of their distrust of the itinerant minorities. In the canton of St. Gallen, for example, a new halting site was discussed in Thal, but the plans were stopped by the municipality out of fear that people would take legal action against the construction of the site. Nevertheless, in February 2020, the population of the Canton of Bern voted for the construction of a site for “foreign” travellers.²⁷

Preservation of language

While Yenish is officially recognized as a national minority language in Switzerland, the Federal Council rejected the request to recognize Romani – the language of the Sinti and Roma – as a non-territorial language according to the European Charter for Regional or Minority Languages in December 2018. It argued²⁸ that the languages of migrants are not recognized as non-territorial languages in general as well as that Romani could not be recognized because the Roma are not recognized as a national minority. However, these reasons are unsatisfactory given that the Sinti, who also speak Romani, are a national minority as well as that the Federal Council has admitted that the Roma have at least some historic ties to Switzerland as well.²⁹ In its seventh report – adopted by the Committee of Ministers of the Council of Europe in November 2019, the Committee of Experts of the European Charter for Regional or Minority Languages is calling upon Switzerland to review its decision. According to the Committee, there are strong indications of a traditional presence of Romani in Switzerland.³⁰

By not recognizing Romani as a non-territorial minority language, Switzerland disregards the need of the cultural and linguistic assets of the Sinti and Roma to be preserved, promoted and handed down to future generations.

Lack of awareness of the history of the Yenish, Sinti and Roma among the general public

Knowledge of the history and culture of the Yenish, Sinti and Roma remain limited in Swiss society. This lack of knowledge strongly contributes to the persisting prejudices towards and discrimination of these three minorities. The possibilities for teachers to impart knowledge about the Yenish, Sinti and Roma in Switzerland are limited and require extra efforts on their part. Unfortunately, such endeavors are not integrated into the cantonal curricula and teaching materials and therefore lack the necessary support.

Moreover, teachings about the Holocaust do not always include information about the Holocaust committed against the Roma, Sinti and Yenish or the role Switzerland played by turning refugees away at the border. The Sinti and Roma Holocaust should, however, be made an explicit and integral part of the teachings on the Holocaust.

²⁷ <https://www.rts.ch/info/regions/berne/11079730-creation-d-une-place-de-transit-pour-les-gens-du-voyage-a-wileroltigen-be-.html> (10.3.2020).

²⁸ <https://www.parlament.ch/fr/ratsbetrieb/suche-curia-vista/geschaef?AffairId=20195107> (9.1.2020).

²⁹ The seventh Periodic Report of Switzerland on the implementation of the European Charter for Regional or Minority Languages, 7. December 2018, p. 18.

³⁰ https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168098ae68, Paragraph 18, p.

Discrimination through laws and policies

There is still a deep distrust among the majority population of the Yenish, Sinti and Roma and when laws and policies that concern these minorities are being drafted, they are not consulted. Recently, two new, seemingly neutral laws have come into force:

In Berne, the new police law includes an article that contains discriminatory provisions that directly target itinerant Yenish, Sinti and Roma. Disguised by the term "illegal camping", the article stipulates that persons who stay on a plot of land without the permission of the owner may be evicted within 24 hours.³¹ Even though this is only admissible if a transit area is available, the provision is highly problematic since there are not enough adequate halting sites in Berne. A complaint before the Federal Supreme Court against this law is still pending.³²

In the canton of Neuchatel, the *Loi sur le stationnement des communautés nomades* (LSCN) regulates the stationing of caravans and the transit of travelling groups in the canton. The LSCN contains neither regulations to promote the culture or education of the travelling minorities nor any measures to facilitate the creation of new halting sites or the improvement of the condition of the one existing temporary halting site in Neuchatel. Instead, it significantly restricts various fundamental rights of members of the respective groups.³³

Two Yenish individuals as well as two organizations that support the rights of the Yenish, Sinti and Roma contested the law at the Federal Supreme Court. However, the Federal Supreme Court ruled that the LSCN does not violate any cantonal, national or international law. In its decision, the Court also remarked that the cantons and municipalities do not have an obligation to create halting sites for *foreign* itinerant groups and that the resulting unequal treatment of foreign and Swiss itinerant groups does not constitute discrimination.³⁴ Such a ruling blatantly ignores the international obligations Switzerland and the cantons have. For example, according to the General Recommendation 27 of the Committee on the Elimination of Racial Discrimination (CERD), states should "take the necessary measures, as appropriate, for offering Roma/nomadic groups or Travellers camping places for their caravans, with all the necessary facilities".³⁵ It was on this ground that an individual complaint against the LSCN was filed with CERD.³⁶

It is important to note that the ruling of the Swiss Federal Supreme Court on the LSCN has already been taken advantage of to legitimize the discrimination and segregation of itinerant Roma communities. A far-right political party from the canton of Ticino used the decision as the basis of an interpellation that asked why cantons should have to open more sites for foreign groups as well as requested the above-mentioned foundation to stop protecting the interests of

³¹ <https://www.belex.sites.be.ch/frontend/versions/1278?locale=fr> (9.1.2020).

³² <https://www.gfbv.ch/de/medien/medienmitteilungen/bern-beschwerde-polizeigesetz/> (9.1.2020).

³³ <http://rsn.ne.ch/DATA/program/books/20186/htm/7272.htm> (9.1.2020).

³⁴ https://www.bger.ch/ext/eurospider/live/fr/php/aza/http/index.php?lang=fr&type=show_document&highlight_docid=aza://13-02-2019-1C_188-2018 (9.1.2020).

³⁵ CERD, General recommendation XXVII on discrimination against Roma, para. 32.

³⁶ <https://www.gfbv.ch/fr/medias/communiqués-de-presse/loi-neuchateloise-uno/> (9.1.2020).

“foreign Travellers”.³⁷ The interpellation is also problematic because it claims that the children of foreign groups are not attending school and supposedly live in unhygienic conditions. This request is especially disturbing given Switzerland’s history of taking children away from their families to “save” them from the itinerant lifestyle.

Generalizations and stereotypes in the media and politics

The generalizing and discriminatory manner of reporting on the Roma, Sinti and Yenish has great influence on the public perception of these minorities.³⁸ A quantitative research study undertaken by the Federal Commission against Racism (FCR) compiled media articles published during the research period on the Yenish, “Travellers” and the Roma.³⁹ The results of the study are striking: Half of the analyzed articles were found to make generalizations, and worse still, every eighth article was classified as discriminatory.

Nevertheless, the Swiss Press Council rejected five out of six complaints that were submitted by organizations representing Roma, Sinti and Yenish communities between 2011 and 2019.⁴⁰ This shows the Press Council’s lack of understanding of the harmful prejudices these minorities face.

Meanwhile, politicians use the negative stereotypes that exist about the Yenish, Sinti and especially the (foreign) Roma to gain votes in elections. For example, in early 2019, the two presidents of the right-wing political party Young SVP Berne were charged with racial discrimination for a poster that bore the slogan “Vote for Young SVP Berne – We say no to halting sites for foreign gypsies” by the supreme court of the canton of Berne.⁴¹ As the two presidents have appealed against that decision, the case is now pending at the Swiss Federal Supreme Court. The party continues to fight the construction of the same halting site in canton Berne in order to gain votes.

Recommendations to Switzerland

- Recognize Roma as a national minority and Romani as non-territorial minority language.
- Adopt the forthcoming Action Plan to improve the situation of Yenish, Sinti and Roma in Switzerland as soon as possible and immediately implement its measures by providing additional financial means. Establish an effective monitoring mechanism, include the affected communities in the evaluation process and ensure regular transparent communications.
- Take immediate action to provide sufficient permanent and halting sites for all itinerant communities.

³⁷ https://www.parlament.ch/fr/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20193797&fbclid=IwAR19PZwSYwdgn52vePMaa4r1BQqDktRDICGCMLi-HJC50X7eoeIVrfk2j_U (9.1.2020).

³⁸ Rapport sur la discrimination raciale en Suisse, Service ,de lutte contre le racisme, 2018 <https://www.edi.admin.ch/edi/fr/home/fachstellen/frb/rapports-et-monitorage/rapport.html> (9.1.2020) .

³⁹ Study on antigypsism in Swiss media 2013: http://www.foeg.uzh.ch/dam/jcr:00000000-29c3-e2d0-0000-00000bd1196d/Qualitaet_Berichterstat-tung_Roma.pdf

⁴⁰ 2011: <http://presserat.ch/29520.htm>; http://www.presserat.ch/_68_2011.htm; 2012: http://presserat.ch/_59_2012.htm; 2014: http://www.presserat.ch/_32_2014.htm; 2016: http://www.presserat.ch/_26_2016.htm

⁴¹ <https://www.laliberte.ch/news-agence/detail/condamnation-de-deux-jeunes-udc-du-canton-de-berne/545416> <https://www.gfbv.ch/fr/medias/communiqués-de-presse/jeunes-udc-racisme/>

- Stop banning and segregate “foreign” itinerant communities from transit sites.
- Ensure that laws and policies do not have any discriminatory impact on the rights of members of Yenish, Sinti and Roma communities.
- Guarantee systematic political representation in elected bodies and participation in decision-making for representatives of Yenish, Sinti and Roma communities at federal, cantonal and communal level.
- Recognize antigypsyism as a specific form of racism and officially condemn racism against Yenish, Sinti and Roma.
- Take comprehensive action to combat antigypsyism in the media.
- Integrate the history and cultures of Yenish, Sinti and Roma into Swiss school curricula and cantonal teaching materials.
- Recognize and commemorate the Roma, Sinti and Yenish victims of the Holocaust as a signal against the persistent discrimination of these communities.

7.2 Jewish Community and Anti-Semitism

The term anti-Semitism has various definitions. What they all essentially refer to is a hostility towards Jewish representatives or institutions, which manifests itself in more or less open ways. Very few people who have internalized anti-Semitic prejudices have ever met "a Jew" in everyday life or know anything about Judaism and its history. The problem with anti-Semitism is that it functions without real people. It builds on conceptions about "Jews". Anti-Semitism in Switzerland thus (as in other countries) manifests itself in different ways and functions independently of the behavior of Jewish people; it is a projection of those who are anti-Semitic.

However, Switzerland adopted the working definition of the International Holocaust Remembrance Alliance IHRA, to which 31 European states belong, and implemented it as a working document. The IHRA defines anti-Semitism as follows: *"Anti-Semitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities"*⁴². This working definition is practice-oriented and is used by NGOs, but also by governments, to enable the recording of anti-Semitic incidents and to formulate legislative measures⁴³.

In the past few years, Switzerland has seen virtually no severe physical assaults perpetrated against Jewish people. The same cannot be said of other European countries, however, the tragic nadir of this trend being the attack in Halle, Germany in 2019. This demonstrates with perfect clarity that police and intelligence services should in no way underestimate the threat posed by far-right extremism.

As can be gleaned from the annual Antisemitism Report produced by the Swiss Federation of Jewish Communities (SIG) and the Foundation against Racism

⁴² <https://www.holocaustremembrance.com/working-definition-antisemitism>

⁴³ cf. in Switzerland <https://www.gra.ch/fr/> and www.antisemitisme.ch

and anti-Semitism (GRA), Switzerland has also seen a proliferation of verbal abuse and smears rooted in anti-Semitism. The number of cases is likely larger than those recorded, as many cases go unreported and as such cannot be collected.

The largest platform for anti-Semitism in Switzerland remains the internet, specifically social media, such as Twitter and Facebook. Here, those who insult and threaten Jewish people do so with virtual impunity and are able to exchange abstruse anti-Semitic conspiracy theories. Central topics on these platforms include traditional anti-Semitism (familiar stereotypes), denial and trivialization of the holocaust and Israel-related anti-Semitism. The latter is increasingly encountered today and confirms the theory of a "chameleon hatred of the Jews" – that is, antisemitism which adapts itself to current circumstances.

Anti-Semitism in Switzerland today increasingly manifests itself as a hatred of Israel or within conspiracy theories, as opposed to traditional anti-Semitic prejudices, which were more dominant in the past. Online anti-Semitism comes from all possible social strata.

Fact is that words are followed by deeds. For certain people, even the most absurd and confused anti-Semitic conspiracy theories seem true. Accordingly, their actions derived from them can be irrational. The increasing spread of conspiracy theories and their resonance in apparently harmless discourses gives them further credibility and legitimacy, which in turn leads to a greater spread.

Anti-Semitism in Switzerland often goes unchallenged. This is partly because it is present in virtually all sections of Swiss society: in far right and far left groups, among Muslims, among radical animal rights activists, but also in mainstream society. It is precisely this mainstream or "sophisticated" anti-Semitism, presented as an ostensibly "moral form of anti-Semitism" – often camouflaged as a criticism of Israel – which must not be underestimated. If unchecked, this hostility normalizes and legitimizes anti-Semitic prejudices. The bar for socially acceptable speech is becoming ever lower in Switzerland. This is an unsettling and dangerous development, the growth of which must be halted, be that through direct counter-speech online, through preventative measures and projects in schools and educational institutions, through political engagement or through the civic courage of individuals.

In 2020, the Institute of Delinquency and Crime Prevention of the Department of Social Work at the ZHAW Zurich University of Applied Sciences is carrying out a Switzerland-wide survey in collaboration with the GRA of Jewish people regarding their experiences of anti-Semitism. The purpose of the survey is to compile a database on anti-Semitism, which can be compared with the results of other European studies. A corresponding foundational data set has thus far been lacking in Switzerland.

Recommendations to Switzerland

- Ensure that teachers, politicians and private citizens alike be reached out to and be sensitized on the matter of anti-Semitism. Even seemingly, "soft" prejudices and stereotypes feed and strengthen

anti-Semitic ideology, affording its social respectability in Switzerland.⁴⁴

- Make available more public funds and corresponding financial support through direct communal, cantonal and federal channels for educational work and projects concerning the protection against discrimination and the transmission of fundamental values such as respect and tolerance.⁴⁵

7.3 Muslim Community and the fight against terrorism

Hate crimes and violence against Muslims, but also immigrants more generally, has been increasing with the rise of populist discourse and the mushrooming of white supremacist theories and groups in Europe. The recent attack in Hanau represents the latest escalation of this trend. In a recently published survey, 14% of 3000 randomly selected permanent residents of Switzerland said they held a negative view of Muslims.⁴⁶ In 2013, the federal Council published a report on the situation of Muslims in Switzerland. Although it recognized that hostility against Muslims is a problem, it decided not to adopt any measures to fight discrimination.⁴⁷

Muslims in the media

The Muslim community in Switzerland has received considerable public attention in recent years. How Muslims are perceived in Switzerland is heavily impacted by representations in the media, and the public discourse. According to a 2018 report commissioned by the Federal Commission against Racism (FCR)⁴⁸, the variety of thematic contexts in which reports on Muslims in Switzerland are made is comparatively high. Since 2015, however, there has been an increasing concentration on the topics of "radicalization" and "terror" (54% in total in 2017), in contrast to the topics of "successful integration" (2%) and of "everyday life" (2%), which reflects, that the life of the majority of Muslims in Switzerland remains marginal.

A new anti-terrorism bill

A new anti-terrorism bill⁴⁹ is currently being discussed in the Swiss Parliament, which would give the Federal Office of Police (fedpol) exhaustive powers to

⁴⁴ The GRA and its partner organizations and other NGOs offer contacts, discussion partners and projects for providing information about and raising awareness of antisemitism. The GRA conducts this work with project partners from Germany and Austria and in so doing strives to work in a cost and resource-efficient manner. You can find an overview of the current projects here: <https://www.gra.ch/en/education/education-overview/>

⁴⁵ Alongside the publication of the annual antisemitism report (see above), the GRA and its partner organizations conduct other important work and projects concerning the protection against discrimination. This directly reduces the burden on public authorities. Consequently, it would be desirable if more public funds were made available for this work.

⁴⁶ Office fédéral de la statistique, Enquête sur le vivre ensemble en Suisse (VeS): Résultats 2018, Neuchâtel, 21 February 2019, available on <https://www.bfs.admin.ch/bfs/fr/home/actualites/quoi-de-neuf.assetdetail.7466705.html>.

⁴⁷ Rapport du Conseil fédéral sur la situation des musulmans en Suisse, eu égard en particulier à leurs relations plurielles avec les autorités étatiques, en réponse aux postulats 09.4027 Amacker-Amann du 30 novembre 2009, 09.4037 Leuenberger du 2 décembre 2009 et 10.318 Malama du 1er mars 2010, p. 26 and 92, available on <https://www.ejpd.admin.ch/dam/data/sem/aktuell/news/2013/2013-05-08/ber-f.pdf>.

⁴⁸ Patrik Ettinger, La qualité de la couverture médiatique des musulmans de Suisse, une étude mandatée par la Commission fédérale contre le racisme CFR, Berne, 2018, available on https://www.ekr.admin.ch/pdf/Studie_Qual_Berichterst_F.pdf

⁴⁹ Draft of the Federal Law on Police Measures to Combat Terrorism (PMT), available on <https://www.parlament.ch/fr/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20190032>

target “potential terrorist offenders”, including children as young as 12 years old, by ordering preventive administrative measures, such as house arrest, travel bans, obligations to report at the police station, prohibition of contact with specific persons, and electronic surveillance. The measures could be applied with few, if any, effective safeguards against abuse. Several human rights organizations have criticized the proposed law and warned that it would unlawfully limit a person’s liberty, movement, expression, association, privacy, family life and right to work simply based on a vague notion that they might - in the future - pose a threat to national security.⁵⁰

According to CERD measures to combat terrorism should be in accordance with international human rights and humanitarian law, of which the prohibition of racial discrimination is a peremptory norm from which no derogation is permitted. States and international organizations should ensure that counter-terrorism measures do not discriminate in purpose or effect on grounds of race, color, descent, or national or ethnic origin, and monitor the potentially discriminatory effects of legislation and practice in its work.⁵¹ The Swiss draft law could, however, target in particular Muslims or persons of Arab descent – as has been the case with other counter-terrorism measures - and could lead to an environment of suspicion around the Muslim community, and encourage the rise of stigmatizing or discriminatory acts. Furthermore, this law could severely restrict their fundamental rights in violation of Switzerland’s international human rights obligations.

Forfeiture of nationality for security reasons

According to Article 42 of the Federal Act on Swiss Citizenship,⁵² “the SEM may, with consent of the authority in the canton of origin, revoke the Swiss, cantonal and communal citizenship of a person holding dual nationality if his or her conduct is seriously detrimental to the interests or the reputation of Switzerland”. According to Article 30 of the Ordinance on Swiss Citizenship, this is the case if the person has committed a serious crime in connection with terrorist activities or violent extremism.⁵³

In recent years, the Swiss government has had several cases in which it proposed revoking citizenship from those with multiple nationalities based on the citizenship law effective since 1953 and applied for the last time after World War II. In September 2019, it withdrew the Swiss citizenship from a Swiss-Turkish man who had been sentenced in 2017 to several years in prison for carrying out propaganda and recruiting fighters for an Islamist terrorist organization.⁵⁴ In October 2019, the SEM removed Swiss nationality from a woman who is also a citizen of France and Tunisia. The woman has reportedly been living in precarious conditions in internment camps in northern Syria

⁵⁰ Amnesty International, Press release of 15 January 2020, available on <https://www.amnesty.org/en/latest/news/2020/01/switzerland-draconian-counter-terrorism-laws-would-target-people-without-charge-or-trial/>, Humanrights.ch, Press release of 30 October 2019, available on <https://www.humanrights.ch/fr/portrait/impressum/internes/terrorisme-lois-federales-droits-humains>

⁵¹ Committee on the Elimination of Racial Discrimination, Statement on racial discrimination and measures to combat terrorism, U.N. Doc. A/57/18 (Chapter XI)(C.) (Statement), 01/11/2002.

⁵² Federal Act on Swiss Citizenship (RS 141.0) of 20 June 2014, available on <https://www.admin.ch/opc/en/classified-compilation/20092990/index.html>

⁵³ Ordonnance sur la nationalité suisse (RS 141.0), available on <https://www.admin.ch/opc/fr/classified-compilation/20153117/index.html>

⁵⁴ SWI swissinfo.ch, Dual national stripped of Swiss citizenship for first time, September 13, 2019, available on https://www.swissinfo.ch/eng/terrorism_dual-national-stripped-of-swiss-citizenship-for-first-time/45221270.

with her three children since the beginning of 2019.⁵⁵ Since the whereabouts of the women were unknown, the SEM published its decision in the Federal Gazette on December 31, 2019.⁵⁶ Being held in a detention camp abroad, it is questionable whether she was able to exercise her right to appeal.

Citizenship deprivation constructs a hierarchy in which the formal equality of legal citizenship is hollowed out by the creation of a classification that draws a distinction between the ‘good’, tolerated’ and ‘failed’ citizen.’ Naturalized and dual citizens are tolerated citizens, and their citizenship is conditional upon good behavior. It reinforces the false and xenophobic discourse that holders of only one nationality are “real citizens” and ought to be distinguished from dual nationals who therefore become second-class citizens. It also suggests that only foreigners are associated with terrorism. Furthermore, it doesn’t allow people of different national origin or certain racial/ethnic/religious groups to enjoy their human rights on an equal footing with citizens who only hold one nationality. The forfeiture of nationality contributes to a climate in which certain groups of immigrants and others with certain national origins may be discriminated against, regardless of their beliefs or behavior, and whether they are dual citizens or not. Furthermore, there are often little procedural safeguards during the process of citizenship revocation. For instance, if a person is abroad at the time of the decision of withdrawal, it might render the exercise of the right to access to an effective remedy excessively difficult. Furthermore, the access to the information/evidence on which the decision on deprivation of nationality is based is often restricted.

Article 5, paragraph (d)(iii) of the International Convention on the Elimination of Racial Discrimination guarantees the rights to nationality without distinction as to race, colour, or national or ethnic origin. Thus, each State party should be guided by the principle of non-discrimination among its nationals, whether they are nationals at birth or have acquired their nationality subsequently.

Recommendations to Switzerland

- Refrain from enacting any anti-terrorism bill that threatens to violate the Swiss international human rights obligations and ensure that the application of any counter-terrorism law will not lead to negative consequences for ethnic and religious groups, refugees, and asylum seekers, particularly as a result of racial profiling.
- Ensure that no distinction will be made between a person who obtained citizenship at birth and a person who obtained citizenship through naturalization, in accordance with the principle of non-discrimination.

⁵⁵ SWI swissinfo.ch, Swiss revoke mother’s citizenship over suspected Islamic State links, January 2, 2020, available on https://www.swissinfo.ch/eng/nationality_swiss-revoke-mother-s-citizenship-over-suspected-islamic-state-links/45468312

⁵⁶ Federal Gazette, Notification by the Swiss State Secretariat, December 31, 2019, available on <https://www.admin.ch/opc/fr/federal-gazette/2019/8286.pdf>

8 Flight, asylum, migration

(Concluding observations Par. 16 and 17)

The CERD Committee called in its Concluding Observations 2014 on Switzerland to eliminate any indirect discrimination and undue obstacles for persons granted provisional admission status to enjoy their basic human rights. It recommended that the State party eliminate disproportionate restrictions on the rights of provisionally admitted foreigners by enabling them to move freely within the State party and by facilitating the process of family unification and access to employment, educational opportunities and health care (par. 16). Furthermore, the CERD Committee called on Switzerland to take effective measures to eliminate discrimination against non-citizens, in particular migrants, undocumented persons, asylum seekers and refugees, and to ensure that any restriction on their rights is based on a legitimate aim and is proportionate to the achievement of the aim (par. 17). Unfortunately, these recommendations still have to be implemented by Switzerland.

Legal status

In Switzerland, different groups of persons are legally discriminated due to their legal status.

Provisionally admitted foreigners (F permit) have an officially recognized need for protection and usually remain long term in Switzerland. It is appreciated that labor market integration has been facilitated. The authorization procedure no longer applies; they simply need to give notice that they have found a job.⁵⁷ However, family reunification is still regulated too restrictively (e.g. waiting periods of 3 years, among other problems).⁵⁸ Travelling abroad is restricted severely; additional restrictions on the rights to family life and to the freedom of movement of provisionally admitted foreigners are planned with the intention of introducing a general ban on travelling abroad.⁵⁹ When receiving social assistance, in various cantons provisionally admitted foreigners do not have a free choice of residence.⁶⁰ Depending on the municipality, they are further discriminated within the canton. This implies that in the same canton persons with the same status have different rights regarding state support. There are no minimal standards for asylum assistance. Provisionally admitted foreigners receive less social assistance than Swiss residents and recognized refugees who are granted asylum (B permit). However, in January 2020 the federal council has announced that they are planning to restrict social assistance for third-country nationals, which is highly problematic.⁶¹ Art. 23 of the Refugee Convention requires that “the contracting states shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals”. Furthermore, provisionally admitted foreigners who would like to obtain a B permit are required to be financially self-sufficient. However, this criterion is particularly

⁵⁷ https://www.sem.admin.ch/sem/en/home/themen/aufenthalt/nicht_eu_efta/ausweis_f__vorlaeufig.html (27.11.2019).

⁵⁸ <https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/ff/hb-f7-f.pdf> (27.11.2019).

⁵⁹ <https://www.sem.admin.ch/dam/data/sem/aktuell/news/2019/2019-08-21/vn-ber-d.pdf> (août 2019) (27.11.2019), <https://www.amnesty.ch/fr/pays/europe-asie-centrale/suisse/prises-de-position/docs/2019/asile-restriction-des-voyages> (27.11.2019).

⁶⁰ <https://www.refugeecouncil.ch/asylum-law/legal-status/temporary-admission-of-foreigners.html> (27.11.2019).

⁶¹ <https://www.ejpd.admin.ch/ejpd/fr/home/aktuell/news/2020/2020-01-151.html> (16.01.2020).

difficult to fulfil for provisionally admitted foreigners who have been in Switzerland for a long time and who are not able to get a B permit because of their financial situation.

A further problem concerns people in the asylum procedure and temporarily admitted refugees. The results of a survey among Swiss banks show that for a person with an N or F permit, it is very difficult to open a bank account at any of the requested banks. Only a few banks actually offer bank accounts without restrictions to this group of people. As might have been predicted, access to financial services to rejected asylum seekers and sans-papiers is most burdensome, or often impossible. The lack of access to financial services hampers the (economic) integration of refugees significantly.⁶²

Sans-papiers, too, are confronted with various problems such as restrictive regularization practice, data protection, insufficient access to fundamental human rights such as health, education, family life and labor law, no access to justice and inadequate protective measures for victims of human trafficking and violence. Stateless children born in Switzerland have no possibility of acquiring Swiss nationality at birth, and can only become Swiss citizens when they have legally resided in Switzerland for at least 5 years. There is, however, no entitlement to naturalization, and since naturalization is subject to numerous conditions, the authorities have a great deal of leeway.⁶³

Asylum procedure

Under the revised Asylum Act in force since March 1 2019, around 80% of the asylum procedures are completed within 140 days.⁶⁴ Asylum applications submitted before March 1 2019 are still processed under the previous version of the Asylum Act. In May 2019, around 11,000 asylum applications submitted before March 1 2019 were still pending, dating back as far as 2015.⁶⁵ It is highly problematic that especially people who are very likely to stay in Switzerland on the long run usually have to wait for more than 2 years for their asylum decision – for example people from Syria or Afghanistan. Families (e.g. from Syria) and minors waiting for the asylum decision for 3 years are no exception. According to the jurisprudence of the Federal Administrative Court,⁶⁶ the inactivity of the State Secretariat for Migration (SEM) for 2 years constitutes a delay of justice and thus a violation of fundamental procedural rights.⁶⁷ However, according to the new strategy for processing asylum requests of the SEM, asylum applications by persons from countries with good chances of staying are still not prioritized.⁶⁸

Since the new asylum procedure came into force, numerous asylum decisions taken by the SEM have been rejected by the Federal Administrative Court. The medical facts were not sufficiently clarified (30 in the French part of

⁶²file:///C:/Users/work12/AppData/Local/Temp/Temp1_Re_%20Fwd_%20CERD%20Schattenbericht_%20Inputs%20zu%20Flucht_%20Asyl_%20Migration%20bis%2018.10.%20(1).zip/Financial%20Inclusion%20of%20Refugees%20in%20Switzerland.pdf (27.11.2019).

⁶³ https://www.unia.ch/uploads/media/Sans_Papiers_Brosch_A7_fr_03.pdf (27.11.2019).

⁶⁴ <https://www.sem.admin.ch/sem/fr/home/aktuell/news/2020/2020-02-06.html> (06.02.2020).

⁶⁵ <https://www.sem.admin.ch/sem/fr/home/aktuell/news/2019/2019-05-09.html> (27.11.2019).

⁶⁶ See for instance the judgement of the Federal Administrative Court of 13 November 2019 (D-5071/2019).

⁶⁷ <https://beobachtungsstelle.ch/news/attendre-attendre-desespoir-chez-les-personnes-concernees/> (27.11.2019).

⁶⁸ <https://www.sem.admin.ch/dam/data/sem/aktuell/news/2019/2019-05-09/behandlungsstrategie-sem-2019-f.pdf> (27.11.2019).

Switzerland, 7 in the region of Ticino/Central Switzerland).⁶⁹ Another problem in the new asylum procedure is the short deadline for appeal consisting of 7 working days.⁷⁰ Thus, the accelerated procedures make it more difficult to file a complaint in time. In federal administrative proceedings according to the Administrative Procedure Act, on the other hand, the appeal period is 30 days.

In practice, motives for seeking asylum specific to women are still often not sufficiently considered. Thus, refugee women in the asylum system regularly do not have female contact persons (social work, security, asylum interviews, health, interpreting, etc.).⁷¹

The Dublin Regulation continues to be applied restrictively. Switzerland does not often apply the sovereignty clause for persons with relatives in Switzerland or vulnerable persons, e.g. suffering from traumata. Furthermore, people affected by violence are deported under the Dublin procedure to countries without any functioning supporting structures.⁷²

Administrative detention under the Federal Act on Foreign Nationals and Integration (FNIA) is disproportionate and seriously affects individual fundamental rights. Too often, there is no separate accommodation for women and no women-specific care by female staff.⁷³ Some cantons still keep children in administrative detention (accompanied children together with their parents, and unaccompanied minors from the age of 15 and up).⁷⁴

Credibility and trauma

The requirements to substantiate the reasons for asylum are particularly disadvantageous for traumatized asylum seekers, as they are often unable to provide detailed, chronological and consistent information. One difficulty is to recognize the needs of traumatized persons at an early stage and to meet their needs, especially within the short procedural deadlines in the accelerated procedure. Furthermore, access to and capacity of specialized medical/psychological services are difficult to obtain for people with trauma or other psychological problems.⁷⁵ A reliable mechanism to recognize particularly vulnerable persons such as traumatized or LGBTIQ persons is missing.

So far, the Istanbul Protocol has been insufficiently implemented. If there are sufficient indications of torture, which are not considered credible by the SEM, the SEM has to examine the case further and commission an investigation in accordance with the Istanbul Protocol. This procedure has seldom been

⁶⁹ <https://www.srf.ch/play/radio/popupaudiooplayer?id=62cb577a-92ce-41cc-8e91-831d61a57239&fbclid=IwAR36if20Uk8cInYV4cqfFJVszuZhHMVZlq2ZmeVnQYaDseKlf29plGEScQg>, <https://lecourrier.ch/2019/11/03/suicide-aucentre-de-requerants/> (27.11.2019).

⁷⁰ <https://www.sem.admin.ch/dam/data/sem/asyl/beschleunigung/infoveranstaltungen/themen/2-asylverfahren-f.pdf> (27.11.2019).

⁷¹ <https://beobachtungsstelle.ch/news/femmes-fuite-asile/> (27.11.2019), https://www.terre-des-femmes.ch/images/docs/2011_Bericht_Frauen_im_Asylverfahren_f.pdf (27.11.2019).

⁷² <https://www.osar.ch/news/archives/2019/italie-une-prise-en-charge-toujours-insuffisante.html> (27.11.2019), <https://www.osar.ch/news/dossiers-medias/dublin.html> (27.11.2019).

⁷³ https://www.skmr.ch/cms/upload/191016_Analyse_Situation_Fluechtlingsfrauen.pdf (27.11.2019).

⁷⁴ <https://www.humanrights.ch/fr/droits-humains-suisse/interieure/groupes/enfants/administrativhaft-jugendliche-schweiz> (27.11.2019), https://www.tdh.ch/sites/default/files/tdh_plaidoyer-ch_201811_fr.pdf (27.11.2019).

⁷⁵ <https://beobachtungsstelle.ch/news/la-vraisemblance-dans-la-procedure-dasile/> (27.11.2019).

applied. Further training of the SEM staff and of the medical staff is urgently needed.⁷⁶

Access to victim assistance according to the Victim Assistance Act only applies to crime scenes in Switzerland; in case of crimes abroad, it only applies to people who have a right to stay in Switzerland.⁷⁷ If a person experienced violence abroad, they do not receive any support during the asylum procedure, in case of a decision to dismiss an asylum application or a negative asylum decision or if they are sans-papiers. Victims of human trafficking do not receive any victim protection, neither if the crime scene was abroad, nor is their recovery and reflection period granted.⁷⁸

Minors

The best interest of the child must be given priority in all decisions and measures affecting a child (Art. 3 CRC). This is often insufficiently implemented in Swiss asylum practice. In general, there are few concrete provisions to guarantee children's rights in the Swiss asylum system; in particular, there are hardly any provisions on accompanied children.⁷⁹ There are even major cantonal differences in the concrete implementation in many areas, e.g. in representation of unaccompanied minors or in accommodation.

If unaccompanied minors are accommodated in large collective centres, such as federal asylum centres, necessarily separated architectural and care structures are required. The cantons do not have any minimum standards for the accommodation and care taking of unaccompanied minors. There are still some precarious conditions, and mostly no control mechanisms; as funding is low, the quality of care is poor.⁸⁰ Compared to children's and youth homes for local children and young people, there is a two-class system, which constitutes discrimination.

In the asylum procedure, scientific findings about age estimation procedures are largely not taken into account. Age estimation is usually based on bone analysis that is unreliable. The medical examinations for age estimation must be viewed critically, since the methods are scientifically controversial and there is no scientific method to accurately determine the age of a 15-20-year-old.⁸¹ In case of doubt, it should be assumed that the concerned person is a minor.

Statistics: There is no systematic data collection on the number of children missing. In contrast to the procedure for the disappearance of resident adolescents, the disappearance of unaccompanied asylum seeking minors is not systematically reported to the authorities.⁸² The data available on underage victims of human trafficking is insufficient, and there are no

⁷⁶ <https://www.humanrights.ch/fr/droits-humains-suisse/interieure/poursuite/torture/petition-protocole-istanbul> (27.11.2019), <https://www.parlament.ch/fr/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20193899> (27.11.2019).

⁷⁷ <https://www.admin.ch/gov/de/start/dokumentation/medienmitteilungen/bundesrat.msg-id-76715.html> (27.11.19).

⁷⁸ https://www.fiz-info.ch/images/content/news/2019/WOZ_MHASYL_280319.pdf (27.11.2019).

⁷⁹ <https://www.osar.ch/droit-dasile/procedure-dasile/mineurs.html> (27.11.2019).

⁸⁰ https://www.ssi-suisse.org/sites/default/files/2019-01/Übersicht%20Kantone_Mapping%20Update%202018.pdf (27.11.19).

⁸¹ https://www.swiss-paediatrics.org/sites/default/files/3-4_2.pdf (27.11.2019).

⁸² http://www.sarahoberson.org/images/upload/FuguesValais/2017ugues_en_sol_valaisan-rossard__orard_-.pdf (27.11.2019).

guidelines/protocols in place to specifically address and target this issue. There are general guidelines against trafficking, but they mostly concern women.⁸³

In July 2019, a LOIPTR (List of issues prior to reporting) has been submitted to the CRC (Committee for the Rights of the Child).⁸⁴ The CRC's latest Recommendations issued to Switzerland consisted of 77 points, which shows impressively the amount of measures needed in order to effectively protect and implement the Rights of the child in Switzerland.⁸⁵

Accommodation

For asylum seekers, the stay in federal asylum centres (up to 140 days) is characterized by a lack of privacy, restricted freedom of movement, boredom and isolation from the outside world. Certain federal asylum centres are geographically remote. Remote centres must be accessible by means of regular transport in a way that the isolated location does not in fact amount to imprisonment. The centres are generally not open to public and residents are allowed to move freely between 9.00 and 17.00 outside the accommodation only. In the centres, more security than care taking staff is present. Basic medical care is not guaranteed in all cases and the flow of information between health professionals, legal representatives and SEM staff is insufficient. Psychological care does barely exist. One positive innovation compared to the previous reception and process centres is that school-aged children have gained access to education.⁸⁶

In some cantons underground accommodations exist: "emergency accommodations" for rejected asylum seekers, accommodation for asylum seekers, but also federal centres (underground accommodation as annex to the federal asylum centre in Chiasso).

Various reports show that women are not safe in these accommodations. The situation in emergency accommodations and administrative detention is particularly precarious. Sanitary facilities are still not consistently gender-separated and access to them is often not safe. Asylum centres do not have any concepts regarding protection against violence or regarding accommodation (in contrast to homes for Swiss residents), which is contrary to Art. 60 Para. 3 of the Istanbul Convention.⁸⁷ The lack of interpreters in the communication between migrants and authorities or social workers/ security/ medical staff leads to a lack of adequate access to support services such as medical aid, psychological services etc.

⁸³ <https://www.ksmm.admin.ch/dam/data/fedpol/aktuell/news/2017/2017-04-13/nap-2017-2020-d.pdf> (27.11.2019).

⁸⁴ http://www.netzwerk-kinderrechte.ch/fileadmin/nks/aktuelles/Veranstaltungen/communique_presse_Reseau_suisse_droits_de_l_enfant_190701.pdf (27.11.2019).

⁸⁵ http://www.netzwerk-kinderrechte.ch/fileadmin/nks/aktuelles/ngo-bericht-UN-ausschuss/Concluding_Observations_CRC_2015_e.pdf (27.11.2019).

⁸⁶ <https://www.admin.ch/opc/fr/classified-compilation/20181375/index.html> (27.11.2019). Plan d'exploitation Hébergement (PLEX) (15.10.2018), Secrétariat d'Etat aux Migrations (SEM) ; <https://www.nkvf.admin.ch/dam/data/nkvf/Berichte/2018/bundesasylzentren/zusammenfassung-bundesasylzentren-f.pdf> (27.11.2019).

⁸⁷ <https://www.sem.admin.ch/dam/data/sem/aktuell/news/2019/2019-10-16/ber-sem-fluechtlingsfrauen-f.pdf> (27.11.2019), https://www.skmr.ch/cms/upload/191016_Analyse_Situation_Fluechtlingsfrauen.pdf (27.11.2019), <https://www.terre-des-femmes.ch/fr/40-d/medienmitteilungen/731-mm-appell-fr> (27.11.2019).

Federal Act on Foreign Nationals and Integration (FNIA) and Integration Agenda

The revised Federal Act on Foreign Nationals and Integration came into force on 1 January 2019. In addition to some improvements, there have been several aggravations of the law. The granting of a B or C permit is subject to stricter requirements, and integration criteria are given greater weight. The permit B can be revoked; the permit for settled foreign nationals (permit C) can be downgraded and replaced by a permit B.

Even before the revision of the law, several persons were deprived of their permit B because of receiving social assistance, although it was not self-inflicted. Pursuant to the law in force before January 2019, foreigners who were holders of a permit C and had been residing in Switzerland for more than 15 years without interruption and in an orderly manner could no longer have their permit revoked due to receipt of social assistance. This timeframe was abolished with the revision of the law. The fact that persons who have been living in Switzerland for more than 20 years are potentially forced to leave Switzerland is disproportionate and discriminatory.⁸⁸

The Integration Agenda, which entered into force on 1 May 2019, generally only applies to provisionally admitted foreigners and recognized refugees, but not to persons in the asylum procedure and rejected asylum seekers.⁸⁹

In the area of integration, refugee women are discriminated as they are granted less access to programs for labor integration, language courses and leisure activities. There are only a few women-specific support programs. Childcare services are often lacking or not financed, which makes participation in integration services de facto impossible, especially for mothers.⁹⁰

Recommendations to Switzerland

- Eliminate any direct and indirect discrimination and undue obstacles for all non-citizens, in particular migrants, refugees, provisionally admitted persons, asylum seekers, rejected asylum seekers and sans-papiers
- Facilitate the process of family reunification, access to employment, educational and training opportunities and health care
- Eliminate disproportionate restrictions on basic human rights such as restrictions on freedom of movement. Guarantee fundamental human rights such as access to justice, procedural rights, social assistance, access to financial services and appropriate and safe accommodation.
- Pay special attention to particularly vulnerable persons such as victims of human trafficking and violence, victims of torture, traumatized persons, women and minors, among others.
- Implement increased training for the staff of the authorities as well as for medical, social and security staff.
- Provide professional interpreters

⁸⁸ <https://beobachtungsstelle.ch/news/integration-letat-serre-les-boulons/> (27.11.2019).

⁸⁹ <https://www.sem.admin.ch/dam/data/sem/integration/agenda/faktenblatt-integrationsagenda-f.pdf> (27.11.2019).

⁹⁰ https://www.skmr.ch/cms/upload/191016_Analyse_Situation_Fluechtlingsfrauen.pdf (27.11.2019), http://map-f.ch/wp-content/uploads/2019/04/Bericht-map-F_Kinder-und-Jugendliche-3.pdf (27.11.2019).

9 Appendix



https://www.svp.ch/wp-content/uploads/F4_Apfel_de_ohne_Schnittzeichen_high.pdf (3.3.2020)



Wir sagen NEIN zu Transitplätzen für ausländische Zigeuner!

<https://tageswoche.ch/wp-content/uploads/2018/02/jsvporiginal.jpg> (3.3.2020)



<https://www.verhuellungsverbot.ch/> (3.3.2020)