



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination

### Concluding observations on the combined tenth to twelfth periodic reports of Switzerland\*

1. The Committee considered the combined tenth to twelfth periodic reports of Switzerland<sup>1</sup> at its 2839th and 2840th meetings,<sup>2</sup> held on 16 and 17 November 2021. At its 2856th meeting, held on 29 November 2021, it adopted the present concluding observations.

#### A. Introduction

2. The Committee welcomes the State party's appearance before it on this fifth occasion and its submission of its combined tenth to twelfth periodic reports. The Committee expresses its appreciation for the constructive dialogue held with the State party's delegation. It thanks the delegation for the information provided in the course of its consideration of the reports and for the supplementary information submitted after the dialogue.

#### B. Positive aspects

3. The Committee welcomes the State party's ratification of or accession to the following international human rights instruments:

(a) The Optional Protocol to the Convention on the Rights of the Child on a communications procedure, on 24 April 2017;

(b) The International Convention for the Protection of All Persons from Enforced Disappearance, on 2 December 2016;

(c) The International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189), on 12 November 2014;

(d) The Convention on the Rights of Persons with Disabilities, on 15 April 2014.

4. The Committee also welcomes the following legislative, institutional and policy measures taken by the State party:

(a) The amendment made on 1 October 2021, pursuant to Act FF 2021 2325, to the Federal Act on Measures pertaining to Civil Peace Support and the Promotion of Human Rights, concerning the establishment of a national human rights institution;

(b) The amendment made on 30 September 2016, pursuant to Act RO 2018 531, to the Swiss Citizenship Act, concerning the simplification of naturalization procedures for third-generation foreign nationals as from 15 February 2018;

\* Adopted by the Committee at its 105th session (15 November–3 December 2021).

<sup>1</sup> CERD/C/CHE/10-12.

<sup>2</sup> See CERD/C/SR.2839 and CERD/C/SR.2840.



(c) The adoption of the Swiss Integration Agenda in 2018 with a view to facilitating the integration of refugees and persons granted temporary admission to the country;

(d) The amendment made on 15 November 2017, pursuant to Act RO 2017 6545, to Asylum Ordinance No. 2 on Financial Matters to repeal the special 10 per cent income tax for asylum seekers and persons granted temporary admission to the country as from 1 January 2018;

(e) The implementation by the Republic and Canton of Geneva of Operation Papyrus in 2017 and 2018 for the regularization of undocumented migrants;

(f) The political initiative taken by the cantonal and municipal authorities of Geneva to hold dialogues and consultations with African persons and persons of African descent following the events arising in connection with the Black Lives Matter movement.

## C. Concerns and recommendations

### Application of the Convention under national law

5. The Committee regrets that, the recommendation included in its preceding concluding observations<sup>3</sup> notwithstanding, the State party has not adopted a federal law setting out a definition of direct and indirect racial discrimination that is fully in accordance with article 1 of the Convention. In the light of the increase in the number of incidents of racial discrimination in the State party and the rarity of legal action taken in that regard, the Committee is deeply concerned at the absence of legislation that would clearly prohibit racial discrimination and at the lack of sufficient, accessible remedies for victims under, inter alia, the civil and administrative legal regimes and in the areas of education, employment and housing. In addition, the Committee reiterates its concern at the fact that the Criminal Code does not specifically classify racist motives as an aggravating circumstance (arts. 1, 2, 4 and 6).

6. **The Committee reiterates its recommendation that the State party should:**

(a) **Adopt a clear and comprehensive definition of racial discrimination, including direct and indirect discrimination, covering all areas of private and public life that is fully in accordance with article 1 of the Convention;**

(b) **Introduce an overarching provision in its civil and administrative legal order prohibiting both direct and indirect racial discrimination in all areas of private and public life; provide useful, accessible remedies to victims of such discrimination, including in the areas of education, employment and housing; and ensure that those victims are able to obtain satisfaction or redress for all instances of prejudice against them;**

(c) **Include a provision in article 47 of the Criminal Code that explicitly states that a racist motive for the commission of an offence constitutes an aggravating circumstance in order to enhance the clarity and strengthen the applicability of the legal framework concerning that matter.**

### Reservations

7. While taking note of the information supplied by the State party concerning its practice of regularly reviewing the reservations that it has entered, the Committee regrets that the State party has maintained its reservations to article 2 (1) (a) and article 4 of the Convention (arts. 2 and 4).

8. **Recalling the recommendation included in its preceding concluding observations, the Committee encourages the State party to withdraw its reservations to article 2 (1) (a) and article 4 of the Convention.**

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<sup>3</sup> CERD/C/CHE/CO/7-9.

### National human rights institution

9. The Committee applauds the adoption of a law on the establishment of a national human rights institution by the Federal Assembly of the State party on 1 October 2021. Nevertheless, the Committee regrets that this institution does not have a mandate to receive and deal with individual complaints. It is also concerned by reports that this institution does not have sufficient financial resources to fulfil its mandate effectively (art. 2).

**10. The Committee recommends that the State party take the necessary steps, in consultation with civil society and other stakeholders, to bring the national human rights institution fully into conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). It also recommends that the State party issue a mandate for this institution to receive and deal with individual complaints, including complaints regarding racial discrimination, and allocate sufficient human and financial resources to it so that it may fulfil its mandates.**

### Institutional framework

11. The Committee takes note of the information supplied by the State party regarding the mandate and activities of the Federal Commission against Racism. However, the Committee is concerned at the failure to allocate adequate financial resources to the Commission so that it can effectively fulfil its mandate and carry out activities such as a nationwide sensitization campaign (art. 2).

**12. The Committee reiterates its recommendation that the State party assign appropriate financial and human resources to the Federal Commission against Racism to enable it to combat racial discrimination effectively on a fully independent basis, without detracting from the adoption of the necessary measures in respect of the national human rights institution or the allocation of adequate resources to that institution. The Committee also recommends that the State party ensure that the Federal Commission against Racism and the new national human rights institution work together effectively on issues relating to racial discrimination and reinforce each other's efforts.**

13. The Committee notes that, under the cantonal integration programmes that are in place, all the cantons have set up advisory centres for victims of racism that keep a record of racist incidents and provide victims with assistance and basic legal advice. The Committee is concerned, however, at reports that the funding and human resources available to these centres are limited, as well as varying from one canton to another, and that several of them have had to close their doors as a result. The Committee is also concerned at the fact that the absence of a clear legal framework for combating racial discrimination and the lack of sufficient and effective remedies for victims significantly limit the impact of the legal advisory services furnished by these centres (arts. 2 and 6).

**14. The Committee recommends that the State party take steps to guarantee a sustained flow of financial and human resources for the operation and maintenance of legal advisory centres for victims of racism in all the country's cantons.**

### Racist hate crimes and speech

15. The Committee is very concerned by reports of a growing number of incidents, which have intensified during the coronavirus disease (COVID-19) pandemic, involving racial hate speech directed, in particular, at Yenish, Sinti/Manush and Roma persons, non-citizens, including refugees and asylum seekers, persons of African descent and persons of Asian origin, and of incidents involving ethnic/religious hate speech directed at Jews and Muslims on, inter alia, the Internet and social media and on the part of public figures and persons in political posts. The Committee is concerned at the fact that the registration of crimes motivated by racism is not carried out on a uniform basis and is not mandatory, which acts as a constraint on the effective monitoring of racist offences in the State party (art. 4).

16. **Recalling its general recommendations No. 7 (1985), No. 8 (1990), No. 15 (1993), No. 30 (2004), No. 31 (2005) and No. 35 (2013), the Committee recommends that the State party:**

(a) **Take steps to prevent, condemn and combat racial hate speech directed at the groups that are the most at risk of racial discrimination, including such speech when it is conveyed over the Internet and social media and used by public figures and persons in political posts, and ensure that all reported cases of racial hate speech are investigated effectively and, if so warranted, are prosecuted and that the perpetrators are punished;**

(b) **Step up its efforts to stop the spread of racial hate speech over the Internet and social media in close cooperation with Internet service providers, social media platforms and the population groups that are the main targets of racial hate speech;**

(c) **Conduct public sensitization campaigns with a view both to putting an end to prejudice and disinformation concerning the Yenish, Sinti/Manush, Roma, non-citizens, persons of African descent, Muslims, Jews and persons of Asian origin and to promoting respect for diversity and the elimination of racial discrimination;**

(d) **Take steps to make it mandatory for uniform records to be kept by the police on offences motivated by racism and adopt measures to establish a system for compiling data on offences by category and type of motive, on the demographic characteristics of victims and aggressors, and on the time and place of the commission of such offences as a basis for the development of an effective policy for their prevention.**

#### **Racially motivated police violence**

17. The Committee is concerned at allegations of deaths occurring as a result of police action, particularly in the case of persons of African descent, and of violence and ill-treatment inflicted by police officers upon non-citizens, Yenish, Sinti/Manush, Roma persons and persons of African descent. It is also concerned by reports that very few cantons have independent bodies empowered to deal with complaints of police violence. It is, furthermore, concerned at the fact that there remain few cases in which the courts have found in favour of the complainant and that victims encounter a number of obstacles when seeking justice, such as a lack of information and prohibitive procedural fees and charges (arts. 2, 4 and 6).

18. **Recalling its general recommendation No. 31 (2005), the Committee recommends that the State party take steps to ensure that prompt, thorough and impartial investigations are carried out into all racist incidents caused by or involving the police, ensure that the persons responsible for such acts are prosecuted and appropriately punished, and provide adequate reparation, as appropriate, to victims or their families. The Committee wishes to reiterate and underscore its recommendation that the State party establish in all the cantons an independent mechanism, outside the framework of the police and the public prosecutor's office, to investigate complaints of police misconduct, particularly when it involves racially motivated abuse. The Committee also recommends that the State party take steps to help victims gain access to justice, including by supplying information about complaints mechanisms and reducing procedural fees and charges.**

#### **Racial profiling**

19. The Committee reiterates its concern regarding the persistence of racial profiling by the police and the lack of a law explicitly prohibiting that practice. It is also concerned by reports that the State party is not collecting sufficient statistics on racial profiling. While taking note of the information provided by the State party on the inclusion of some aspects of racial discrimination in police training, the Committee is nevertheless concerned at reports that this training is insufficient to effectively prevent racism and racial profiling by police officers (arts. 2, 4 and 5).

20. **Recalling its general recommendation No. 36 (2020), the Committee urges the State party to redouble its efforts to effectively counter the use of any and all practices**

by law enforcement officers that are based on racial profiling and to put an end to such practices by, in particular:

(a) **Incorporating an explicit prohibition of racial profiling into its legislation, taking into account general recommendation No. 36, and adopting operational measures for that purpose, such as the introduction of forms on which the reasons for an identity check or any other police operation must be stated and the provision of information to victims on the available remedies;**

(b) **Formulating an action plan to combat racial profiling in consultation with the population groups most at risk of becoming victims of that practice with a view to preventing and countering it effectively by means of a range of measures that include the following:**

(i) **Strengthening of initial and ongoing training for police officers and members of other law enforcement agencies on the issues of racism and racial profiling;**

(ii) **Follow-up at the cantonal and federal levels of operational measures implemented to combat racial profiling and of regular audits conducted with the help of independent experts to address gaps in policies and organizational practices;**

(iii) **The introduction of an independent system for processing complaints related to racial profiling;**

(iv) **The compilation of disaggregated data on racial profiling, the regular publication of those data and their inclusion in the next periodic report.**

21. The Committee has some concerns about the bill that would amend the Federal Act on the Use of DNA Profiles in Criminal Proceedings and for the Identification of Unknown and Missing Persons, which allows the police to use DNA phenotyping techniques at crime scenes, as this could pose a risk of profiling, discrimination and stigmatization of persons on the basis of their race, skin colour, descent, or ethnic or national origin (arts. 2, 4 and 5).

22. **Recalling its general recommendation No. 36 (2020), the Committee calls upon the State party, in the course of its assessment of the above-mentioned bill, to consider the risks that could be posed by the use of DNA analysis in terms of profiling, discrimination and stigmatization of persons on the basis of their race, descent, skin colour, or ethnic or national origin. It recommends that the State party ensure that an inclusive, in-depth assessment of the amendments is undertaken in consultation with civil society, including members of minority groups, at all stages of the legislative process. In addition, the Committee recommends that the State party entrust an independent mechanism with monitoring the implementation of the legislation once it is adopted into law in order to ensure that it is in accordance with the State party's human rights obligations.**

#### **Yenish, Sinti/Manush and Roma persons**

23. While noting the information supplied by the State party on the measures adopted to guarantee the rights of national minorities, the Committee remains concerned at the obstacles encountered by members of the Yenish, Sinti/Manush and Roma communities, in particular:

(a) The insufficient number of permanent and transit sites, the fact that many of them lack adequate infrastructure, such as drinking water and electricity access points, and the fact that Roma persons who do not have Swiss nationality are often prohibited from using these sites;

(b) The discriminatory effects of apparently neutral laws and policies on the rights of persons belonging to the above-mentioned communities in such areas as itinerant commerce, the parking of caravans and activities carried out in order to overcome inhuman situations and substandard conditions;

(c) The adverse impact of the COVID-19 pandemic on the enjoyment of the economic, social and cultural rights of members of these communities;

(d) The reportedly insufficient implementation of the plan of action to improve living conditions for travellers and promote the culture of the Yenish, Sinti/Manush and Roma communities, and the prejudice and discrimination that persist against all members of those communities, including those who have a sedentary way of life;

(e) The widespread criminalization and alleged ill-treatment of Roma persons who resort to begging (art. 5).

**24. The Committee recommends that the State party:**

**(a) Increase the number of permanent and transit sites for Yenish, Sinti/Manush and Roma travellers, upgrade the infrastructure in existing sites and authorize their use for non-Swiss Roma persons;**

**(b) Ensure that apparently neutral laws and policies do not have a discriminatory effect on Yenish, Sinti/Manush and Roma persons;**

**(c) Develop and launch targeted strategies at all levels of government for mitigating the social and economic impacts of the COVID-19 pandemic on these communities while guaranteeing their participation in the formulation, implementation and monitoring of those strategies;**

**(d) Set up an effective mechanism for monitoring the implementation of the plan of action to improve living conditions for travellers and promote the culture of the Yenish, Sinti/Manush and Roma communities, provide adequate resources for its implementation and ensure the participation of the Yenish, Sinti/Manush and Roma communities in all relevant decision-making processes;**

**(e) Review and, if necessary, amend laws that criminalize begging, and take other appropriate measures.**

**Situation of non-citizens, in particular migrants, refugees, asylum seekers and stateless persons**

25. While taking note of the information provided by the State party on the steps taken to safeguard the rights of non-citizens, the Committee is concerned about:

(a) Reports that security personnel in federal asylum centres have committed acts of violence against asylum seekers, including child asylum seekers, and the absence of effective and impartial complaint and investigative mechanisms;

(b) The fact that the Foreign Nationals and Integration Act of 2019, which establishes the right of victims of marital violence to remain in the country, is not enforced unless the level of violence reaches a certain threshold of severity or is systematic, which discourages non-Swiss victims of marital violence from lodging a complaint for fear of losing their residence permit, thereby leaving them without any actual, effective protection such as that afforded to victims of Swiss nationality;

(c) The restrictions on the freedom of movement of persons holding a temporary visa (an "F" permit) limit their ability to move their residence from one canton to another and to travel abroad, while asylum seekers housed in federal asylum centres are subject to very strict curfews;

(d) Reports that, despite legal provisions establishing the right to a free basic education for all children living in the State party, in practice unaccompanied migrant children are refused the right to enrol in school without any legal basis for that refusal;

(e) Reports that nationals of countries outside the European Union do not apply for social assistance because their residence permit could be withdrawn, thereby putting them at risk of expulsion, and that this situation has grown worse during the COVID-19 pandemic;

(f) The fact that stateless children born in the State party do not have the possibility of acquiring Swiss nationality at birth and that the acquisition of Swiss nationality at a later date is not guaranteed.

26. **The Committee recommends that the State party:**

(a) **Strengthen measures to prevent the commission of acts of violence upon persons residing in federal asylum centres and ensure their effective implementation, set up effective, impartial complaint and investigative mechanisms, punish the perpetrators of such acts and offer adequate reparation to the victims of such acts;**

(b) **Ensure that private security personnel employed in federal asylum centres do not resort to violence and that they are under the State party's effective oversight, in order to prevent all acts of violence, to combat such actions by private security personnel and not to evade its responsibility for the protection of people in its custody;**

(c) **Ensure that victims of marital violence are allowed to remain in the State party under the terms of article 50 of the Foreign Nationals and Integration Act without having to overcome excessive procedural obstacles which, in practice, would leave them without real, effective protection;**

(d) **Guarantee the right to free movement for persons who have been temporarily admitted to the State party and for persons residing in federal asylum centres by lifting the disproportionate restrictions in that regard;**

(e) **Strengthen measures to guarantee access to a basic education for all unaccompanied migrant children without discrimination;**

(f) **Ensure that foreign nationals from countries outside the European Union can gain access to social assistance without being discriminated against on the basis of their nationality or origin;**

(g) **Provide the possibility for all stateless children born in the State party to acquire Swiss citizenship at birth and facilitate access to Swiss citizenship for all other children born in Switzerland, regardless of their residency status.**

#### **Education and training to combat racial discrimination**

27. While taking note of the measures adopted by the State party to sensitize the public about racial discrimination, the Committee observes with concern that, according to the data compiled by the Federal Statistics Office in 2020, one third of the Swiss population might be bothered by the presence of persons whom they regard as "different". The data also reflect negative attitudes and stereotypes towards foreigners, travellers, Muslims, Jews and persons of African descent. The Committee is also concerned at the fact that there is no centralized arrangement for providing training to justice system personnel on racial discrimination and that the training that is made available is optional.

28. **The Committee recommends that the State party increase its efforts to sensitize the general public to the importance of tolerance and of combating racial discrimination and racial prejudices and stereotypes, and that it promote an active policy on opening up institutions to a diverse population, including persons subject to racial discrimination. The Committee reiterates its recommendation to the State party to sensitize the staff of the justice system to international standards that prohibit racial discrimination, including by establishing mandatory training courses on that subject.**

## **D. Other recommendations**

### **Ratification of other treaties**

29. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Committee encourages the State party to accede to the Convention on the Reduction of Statelessness.**

### **Follow-up to the Durban Declaration and Programme of Action**

30. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, in its implementation of the Convention, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference held in Geneva in April 2009. The Committee requests that the State party include specific information in its next periodic report on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

### **International Decade for People of African Descent**

31. In the light of General Assembly resolution 68/237, in which the General Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and General Assembly resolution 69/16 on the programme of activities for the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies in collaboration with organizations and peoples of African descent. The Committee requests that the State party include in its next periodic report precise information on the concrete measures adopted within that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

### **Consultations with civil society**

32. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

### **Dissemination of information**

33. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly made available to all State bodies entrusted with the implementation of the Convention, including the cantons and communes, and publicized on the website of the Federal Department of Foreign Affairs in the official and other commonly used languages, as appropriate.

### **Common core document**

34. The Committee encourages the State party to update its common core document, which dates from 2017, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006.<sup>4</sup> In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

### **Follow-up to the present concluding observations**

35. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 16 (a) and (b) (racist hate crimes and speech), 20 (b) (racial profiling) and 26 (a), (d) and (e) (situation of non-citizens) above.

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<sup>4</sup> [HRI/GEN/2/Rev.6](#), chap. I.



**Paragraphs of particular importance**

36. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 6 (application of the Convention under national law), 10 (national human rights institution) and 18 (racially motivated police violence) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

**Preparation of the next periodic report**

37. The Committee recommends that the State party submit its thirteenth to sixteenth periodic reports, as a single document, by 29 December 2025, taking into account the reporting guidelines adopted by the Committee during its seventy-first session<sup>5</sup> and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.

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<sup>5</sup> [CERD/C/2007/1](#).