

## UPR 28: SWITZERLAND November 2017

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### FACTSHEET

### DISCRIMINATION

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#### BACKGROUND

Despite repeated recommendations by UN treaty bodies, Switzerland does not have a comprehensive legislation on discrimination. To this day, the only grounds for discrimination recognized in the criminal code are racial, ethnic, or religious belonging. There is a parliamentary initiative currently pending to add sexual orientation and gender identity.

A 2016 study of the Swiss Center of Expertise in Human Rights (SCHR) on access to justice shows a number of gaps and deficits in Swiss anti-discrimination law. A motion in parliament for a plan of action based on this study was rejected in spring 2017 by a random decision through the casting vote of the president of the parliament.

In 2017, in the concluding observations on Switzerland, the UN Human Rights Committee again expressed its concern by the absence of a complete legislation on discrimination. It called for legislation that offers a definition of discrimination and its motives as well as a clear prohibition; legislation that provides victims with efficient civil and administrative protection.

#### THE PROBLEM

A general law on discrimination is sorely lacking, with the consequence that Switzerland can neither remove the reservation to Art. 26 of the ICCPR nor ratify optional protocol no. 12 to the ECHR. This lack of a legal provision means, in particular, people belonging to vulnerable groups often lack protection from informal discrimination, especially from private individuals.

The problem especially concerns discrimination related to sexual orientation and gender identity, discrimination of women (inter alia in the labour market), of disabled people (inter alia the lack of information on their rights), of people of color (inter alia by ethnic profiling), of migrants (inter alia of rejected asylum seekers in social welfare), and of Yenish, Sinti, and Roma.

#### UPR CONCERN

Switzerland has rejected several recommendations during the UPR 14 by countries such as Australia, Brazil, Cambodia, Canada, France, Greece, India, Iran, Ireland, Norway, Uzbekistan.

The situation of vulnerable groups continues to show the necessity of an anti-discrimination law. At the same time, the academic as well as political initiatives show the opportunities for a breakthrough towards an improved legislation. Therefore continuous recommendations in the UPR process are fundamental.

#### PROPOSED RECOMMENDATION

Switzerland is encouraged to produce policy proposals leading to a bill of law to parliament introducing a general law on equal treatment. Such a law must take into explicit consideration the interests of LGBTI minorities, disabled people, migrants and other vulnerable groups.