



NGO-Report

On the recommendations 2 §7 and 9 §75 from the report on Switzerland's sixth monitoring cycle of the European Commission against Racism and Intolerance (ECRI)

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Impressum

Following observations regarding the recommendations 2. §7 and 9. §75 from the report on Switzerland's sixth monitoring cycle of the European Commission against Racism and Intolerance (ECRI) adopted on 10 December 2019 is submitted to the European Commission against Racism and Intolerance (ECRI) by the organizations humanrights.ch and Swiss Observatory of Asylum and Foreign Nationals Law.

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1 Recommendation 2 (§7)

The recommendation states:

2. (§ 7) ECRI strongly recommends that the Counselling Centres for Victims of Racism are strengthened by increased funding (from a budget separate from the Cantonal Integration Programs) and human resources.

In the considerations leading up to the recommendation in question, the report states that ECRI is particularly concerned about the situation of counselling centers for victims of racism, which are under financial constraints and are understaffed.

On a general basis, there has been an increasing awareness in the past years 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. With the implementation of the Cantonal Integration Programs, the establishment of counseling centers in each canton was encouraged. Since 2019 there have been some improvements, such as the establishment of counselling centres for victims of racism in every canton. At the end of 2019 had 21 cantons a counseling offer, since then the missing cantons have established a new counselling center or are using the services of an experienced and already established counseling center from a nearby canton, which is good accessible. All this counselling centers are members of the national Network of Counselling Centers for Victims of Racism, which strengthen the quality of the work of the associated counselling centers through support, networking, further training, and monitoring.

All cantonal counselling centers document their cases of racial discrimination in the national monitoring system DoSyRa (Dokumentationssystem Rassismus), which shows in the past three years an increase of the documented cases of racial discrimination. In 2019 were 352 incidents, in 2020 572 incidents and in 2021 630 incidents registered in DoSyRa.¹ This does not necessarily mean a general increase of racial discrimination in Switzerland, but it shows an increased willingness of victims to speak out and seek counsel. Furthermore, this illustrates that the counselling centers are necessary and relevant and that both the centers and the national Network of Counselling Centers have an increasing rise of additional work.

Unfortunately, the structure and financing of the different counselling centers varies still from one canton to another. Some counselling centers are established on the structure of the cantonal administration on the base of the integration specialist unit. Other centers are external organizations or NGOs, which are co-financed with a service contract with the cantons, but also who struggle for enough financial and personal resources and need to find them by crowdfunding to keep their doors open.

Additionally, the funding comes from the budget of the Cantonal Integration Programs. We would like to affirm, that the fight against racial discrimination

¹ Rapports annuels sur la discrimination raciale en Suisse établi sur la base des données du système de documentation et de monitoring du racisme DoSyRa: Incidents racistes recensés par les centres de conseil en 2019, 2020 et 2021. <https://network-racism.ch/fr/rapports-sur-le-racisme/rapport.html>

is not just a subject related to the integration of immigrants. An increased number of Swiss citizens are also affected by racial discrimination and seek advice from the counselling centers. Therefore, the funds for the protection against discrimination should not just be based on the budget of the Cantonal Integration Programs.

Currently, there is an ongoing dialogue with the counseling centers, the national Network of Counselling Centers, and the Federal Service for Combating Racism for the development of the Cantonal Integration Programs for the period between 2024 and 2028. We are expecting that there would be improvements in the funding of counselling centers and of the national Network of Counselling Centers.

It is important that the national and cantonal authorities are aware of the importance of counselling centers for the legal advice, accompaniment, support, and empowerment of victims of racism and discrimination and for their contribution to the documentation of racist incidents and ensure that the necessary resources are made available so that the counseling centers can fulfill their task efficiently.

We strongly recommend that ECRI renew its recommendation and makes the Swiss government aware that the fight against racism requires resources and these must be made available by the government on a sustainable basis.

2 Recommendation 9 (§75)

The recommendation states:

9. (§75) ECRI strongly recommends that the authorities grant a regular residence status to persons who cannot be returned to their country of origin after a maximum period of six years.

In the considerations leading up to the recommendation in question, the report states that ECRI is particularly concerned about the situation of asylum seekers who have seen their applications rejected. The following examples will show that these considerations remain true today.

On a national level there hasn't been any changes in legislation that would suggest that Switzerland is considering a time limit for automatic regularization. The yearly reports on persons who rely on emergency aid according to the Swiss constitution show that the issue of people who are left in legal and social limbo is still unresolved.² Although there have been some local and regional initiatives for regularization – most notably the one in the Canton of Geneva³ - there has been no common approach to give the persons affected a way out of the hardship described by the ECRI report of 2019. The effects of the new, accelerated asylum procedure, introduced nationwide in 2019, on the number of people affected remain to be analyzed.

² Reports on the effects of the withdrawal of social assistance, https://www.sem.admin.ch/sem/fr/home/publiservice/berichte/monitoring_sozialhilfestopp.html (in French).

³ Opération Papyrus: bilan final, <https://www.ge.ch/document/19690/telecharger> (in French).

In a report published at the end of 2020 the Federal Council has drawn different conclusions on the situation of persons without legal status, naturally including those with a rejected asylum application.⁴ According to the report and the official statement, the government of Switzerland doesn't see any need to adjust the system regarding the persons without legal status. On the question of a possible liberalization of the different hardship clauses in the legislation regarding foreigners⁵ there were differing views expressed by members of civil society who were invited to follow the development of the report, but there nothing to suggest that an automatic time limit was discussed. However, there is a parliamentary initiative that proposes a collective regularization for all persons who had their asylum procedure rejected before the implementation of the new, accelerated asylum procedure.⁶

Regarding the economic, social and health situation of persons who have seen their asylum application rejected, there have been several reports on the gravity of this issue in the past couple of years. A recent report shows that the situation of people in emergency aid centers in the canton of Berne do not comply with the UN Convention on children's rights.⁷ This question has also caught the attention of the Federal Commission on Migration, which published a general report in 2019 and is currently working on the specific issue if children's rights as well.⁸ Last but not least civil society has also contributed to the discussion by focusing on issues such as social isolation, mental health and access to education and the labor market.⁹

In summarizing we strongly recommend that ECRI renew its recommendation regarding the necessity of granting legal status to persons who cannot return to their country of origin. Moreover, we would encourage ECRI to ask of the Swiss Federal Government on what measures are planned in the follow-up to the aforementioned report on persons without legal status. The ongoing debates show that steps need taken to relief the affected group of the legal and social restraints and liberalize the existing hardship clauses.

⁴ Pour un examen global de la problématique des sans-papiers, <https://www.admin.ch/gov/fr/accueil/documentation/communiqués.msg-id-81688.html> (in French).

⁵ Cas de rigueur, <https://www.sem.admin.ch/sem/fr/home/publiservice/statistik/auslaenderstatistik/haertefaelle.html> (in French).

⁶ Pour une mesure humanitaire exceptionnelle en faveur des personnes vivant de l'aide d'urgence après avoir été déboutées de leur demande d'asile en vertu de l'ancien droit, <https://www.parlament.ch/en/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20213187> (in French).

⁷ La Commission est préoccupée par les conditions de vie des enfants et des jeunes dans les centres de retour, <https://www.nkvf.admin.ch/nkvf/fr/home/publikationen/mm.msg-id-87123.html> (in French).

⁸ Personnes sortant du système d'asile : profils, échappatoires, perspectives, <https://www.ekm.admin.ch/ekm/fr/home/aktuell/news/2019/2019-12-18.html> (in French).

⁹ Étude sur la privation de liberté et la restriction de liberté dans les procédures d'asile, <https://www.skmr.ch/frz/axes/restrictions-liberte/sous-projet-privation-restriction-liberte-ressortissants-etranagers.html> (regarding asylum seekers rather than rejected asylum seekers, in French and German); Das Nothilfesystem für abgewiesene Asyl-Suchende - ein Bericht zu den psychischen Gesundheitsfolgen, <https://www.wo-unrecht-zu-recht-wird.ch/de/Hintergrund/Psychische-Gesundheit> <https://www.wo-unrecht-zu-recht-wird.ch/de/Hintergrund/Psychische-Gesundheit> (in German); Accéder à l'éducation indépendamment du droit de séjour, <https://beobachtungsstelle.ch/news/rapport-acceder-a-leducation-independamment-du-droit-de-sejour/> (in French).