Berne, le 31 mai 2023

**Réponse de la Suisse à l’appel à contributions de l’office du Haut-Commissariat des Nations Unies aux droit de l’homme en vue du rapport *on human rights challenges in addressing and countering all aspects of the world drug problem* resolution 52/24 du Conseil des droits de l’homme**

The Swiss drug policy is based on four pillars. The revision of the [Narcotics Act (NarcA](https://www.fedlex.admin.ch/eli/cc/1952/241_241_245/en)) in 2008 embedded the four-pillar drug policy strategy in law and was developed to address the heroin epidemic of the 1990s. The first pillar relates to health promotion, prevention and early detection and includes prompt access to support when needed. The second relates to therapy and counseling, ensuring access to treatment when prescribed by health professionals. The third relates to harm reduction and risk minimization and the fourthpillar to regulation and enforcement against the illegal trafficking in drugs. The [National Strategy on Addiction 2017-2024](https://www.bag.admin.ch/bag/en/home/strategie-und-politik/nationale-gesundheitsstrategien/strategie-sucht.html) focuses on promoting a supportive environment for health, while providing, as much as possible, the necessary assistance to people vulnerable to dependency, while promoting social integration and community involvement; while [Switzerland's foreign health policy](https://www.bag.admin.ch/bag/en/home/strategie-und-politik/internationale-beziehungen/schweizer-gesundheitsaussenpolitik.html) 2019-2024 promotes an addiction policy based on a holistic approach based on health and human rights. These policies and strategies are designed around fundamental human rights’ principles and obligations.

This submission highlights practices, programs and legal provisions implemented in Switzerland referring to human rights and drug policy. The examples presented are not an exhaustive list of Switzerland’s action in this domain.

**Human dignity**

* There are several contact centers for people who use drugs in Switzerland, some including supervised consumption rooms (Geneva, Basel, Zurich, Bern, Bienne, Schaffhouse, Lausanne, Lucerne, Soleure). The contact centers state that “moving users off stigma goes hand in hand with the concern to recognize them as human beings”. Moreover, they “approach people from a perspective that values them and promotes their dignity”. Eventually, some of those centers are “offering respectful and warm accommodation allowing beneficiaries to regain the dignity previously affected by stigma and labelling linked to living conditions in homelessness, and to recognize them in their singularity and citizenship.” *(source: addictionsuisse.ch ; GREA).*

**Equality and non-discrimination**

* The second pillar related to treatment works towards maintaining social integration, stating that avoiding social marginalization is a major objective in order to reduce both individual and collective consequences.
* Harm reduction measures implemented in nightlife settings use a supportive approach towards young people consuming drugs, in order to prevent and counter isolated sanctions that could lead them to exclusion and stigma.
* On the enforcement dimension, Swiss law makes no distinction between those arrested for drug-related offences and those arrested for other reasons. This means that the same law applies to everyone, regardless of the nature of the offence.

**Meaningful participation**

* The participation of every stakeholder is fundamental and when evaluating a new strategy or evaluating an existing one, all stakeholders are invited to participate, not only the various governmental actors. *[The stakeholder are the federal and cantonal level, civil society, NGO and association, community representatives, health and social workers. For a detail list, please see page 6 of the National Strategy on addiction 2017-2024.*
* The National Strategy on addiction 2017-2024 includes an early support approach with effective dependency assistance aiming at “regenerating health and promoting social integration, involving family and friends, as well as other social contacts through leisure activities, work and school.” *(source: p. 17, national strategy on addiction 2017-2024).*

**Right to the highest attainable standard of health (harm reduction, harm reduction services, access to treatment services and to controlled substances medicines, on a voluntary basis)**

* The Federal Act on Narcotics and Psychotropic Substances states that one of its objectives is to protect people against the negative health-related and social consequences of mental and behavioral disorders associated with dependency.
* The core of the Swiss drug policy is based on health promotion, prevention, therapy and harm reduction.
* The right to the free choice of treatment is respected and compulsory treatment for people who use drugs does not exist in Switzerland, for adults as well as minors.
* In terms of harm reduction and as stated above, there are various centers that includes supervised consumptions rooms, with injection and inhaling material provided. Prevention and care measures are also implemented by various association such as Groupe Santé Genève, Fondation Le Levant and many others. In the context of nightlife, there are also various associations focusing on prevention, providing information about psychoactive substances and risks of consuming them, as well as drug testing to promote safe consumption.

*Prison settings*

* All incarcerated people, including foreign detainees in administrative detention, have the right to unconstrained medical care.
* According to the principle of equivalence of care, people undergoing substitution treatment have the right to receive treatment for their illness in prison.
* In Switzerland, needle and syringe exchange as well as opioid agonist therapy are provided to people incarcerated.

**Right to benefit from scientific progress and its applications**

* One example related to how the Swiss drug policy is based on scientific evidence is cannabis. Growing, importing, producing and selling cannabis for non-medical use is prohibited in Switzerland. Despite this ban, consumption is widespread, the illegal market is thriving, and consumers’ safety is not guaranteed. On 15 May 2021, an amendment to the Federal Narcotics Act has come into force to create the possibility, for a limited period of ten years, to test the impact of new regulatory approaches to cannabis. The new legislation allows pilot trials to be conducted on non-medical cannabis use in adults. These pilot trials are not being conducted by Federal authorities but, for example, by private or public organizations such as universities, local authorities, research institutes, associations or foundations. A recognized research institute must always be involved in each pilot trial. The aim is to provide a sound scientific basis for possible decisions on the need or not for novel cannabis regulations. The outcome of the decisions will be based on scientific evidence and findings.
* As of 1 August 2022, the Swiss Parliament Chambers have decided to lift the ban on medical cannabis by reviewing the concerned legislation. An exceptional authorization from the Federal Office of Public Health (FOPH) is no longer required for medical prescriptions. Treating physicians must submit treatment data to the FOPH for the first two years of therapy. This will allow to observe the evolution of the prescription of these medicines and to obtain more evidence on their effects.
* The national strategy on addiction 2017-2024 recognizes that individuals and their environment, circumstances and ability to shape the world they live in are key to dealing with dependency. Therefore, strengthening individual health literacy is an important part of prevention and dependency assistance.

**Right to life**

* The Swiss Constitution forbids the use of the death penalty. Capital punishment was abolished in civil courts in 1942, and in military courts in 1992. No execution has been carried out since the Second World War.

**Freedom from torture and other cruel, inhuman, or degrading treatment or punishment**

* The [National Commission for the Prevention of Torture](https://www.nkvf.admin.ch/nkvf/fr/home.html) (CNPT) is an independent interdisciplinary commission, composed of twelve expert members and implemented following the entry into force of the UN Optional Protocol against Torture (entry into force of the Commission: 1 January 2010, art. 4 and 5 of the [Federal Law on the Commission for the Prevention of Torture](https://www.admin.ch/opc/fr/classified-compilation/20092626/index.html)). The Commission is mandated by law to carry out regular visits to establishments where people are deprived of their liberty in order to ensure that the rights of persons deprived of their liberty are respected and that the measures restricting their liberty are in conformity with human rights and fundamental rights. The CNPT may visit these places without prior notice. It also has access to all information relevant to its task.

**Freedom from arbitrary arrest and detention**

* The [Swiss Code of Criminal Procedure](https://www.admin.ch/opc/fr/classified-compilation/20052319/index.html) (CCP) does not differentiate between persons arrested for drug-related offences and persons arrested for other reasons *(for more details, see right to a fair trial).*
* In accordance with Article 19(3) of the Narcotics Law (NarcA), the court may, at its discretion, reduce the sentence if the offender is dependent (to the narcotic drug in question) and if the offence should have been committed to fund their own consumption. Furthermore, according to Art. 19a (2), in minor cases the competent authority may suspend the proceedings, waive the sentence or issue a reprimand.
* According to Art. 19a (3) NarcA, charged may be dropped if the offender is under medical supervision or if they are certain to be under such supervision because of the use of drugs. Criminal proceedings will be initiated if the offender withdraws from care or treatment

**Right to a fair trial**

* The procedural guarantees of the [Swiss Code of Criminal Procedure](https://www.admin.ch/opc/fr/classified-compilation/20052319/index.html) (CCP) are applicable to proceedings concerning drug-related offences. Art. 301 paragraph 1 of the CPP: Everyone has the right to report offences to a criminal prosecution authority, either in writing or orally (art. 301 §1). The procedural safeguards of the CPC are also applicable to proceedings concerning drug-related offences. See in particular the following articles: Art. 212 ff (Deprivation of liberty, pre-trial detention and detention on security grounds); for legal remedies see e.g. Art. 222, 228, 233.
* As far as minors are concerned, a more social, educational and preventive orientation is in place, in order to follow an early intervention logic. When sentenced for crimes, minors will be judged by a juvenile court and sent to juvenile prisons, adapted to their age.