

**Submission to the Committee on Economic, Social and Cultural Rights**  
**- 66<sup>th</sup> Session**  
**(30 September – 18 October)**

**SWITZERLAND**

06 September 2019

*Reporting organisations*

**Harm Reduction International (HRI)** is a leading NGO dedicated to reducing the negative health, social and legal impacts of drug use and drug policy. We promote the rights of people who use drugs and their communities through research and advocacy to help achieve a world where drug policies and laws contribute to healthier, safer societies.

The **Geneva Platform on Human Rights, Health and Psychoactive Substances (Geneva Platform)** is an initiative to bring together civil society organisations – NGOs, academia and networks representing affected communities – operating in the field of health, human rights and drug policy to share information between relevant actors and ensure the promotion of health and human rights in all drug-related questions addressed in Geneva.

## Introduction

1. HRI and the Geneva Platform welcome the opportunity to submit information to the Committee on Economic, Social, and Cultural Rights ahead of its review of the periodic report of Switzerland, at its 66<sup>th</sup> Session.
2. This submission will address the right to health (para. 27, List of issues) with a focus on people who use drugs in Switzerland, providing information on the availability and accessibility of harm reduction services between regions and within prisons.

## Harm reduction as a component of the right to health

3. Harm reduction has been recognised as a fundamental component of the right to health.<sup>1</sup> Harm reduction has been explicitly endorsed as an essential measure for people who use drugs on numerous occasions by this Committee,<sup>2</sup> as well as by the UN General Assembly,<sup>3</sup> the Human Rights Council,<sup>4</sup> the Committee on the Rights of the Child,<sup>5</sup> the Committee on the Elimination of Discrimination against Women,<sup>6</sup> the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health<sup>7</sup> and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.<sup>8</sup>
4. The International Guidelines on Human Rights and Drug Policy clarify States' obligations under the right to health pertaining to harm reduction. These include:
  - a. Ensuring the availability and accessibility of harm reduction services, including by ensuring these are adequately funded, appropriate for the needs of vulnerable groups, and compliant with fundamental rights;
  - b. Removing age restrictions on access to harm reduction services.<sup>9</sup>
5. The World Health Organization, UNAIDS and UNODC recognise Needle and Syringe Programs (NSPs) and Opioid Substitution Therapy (OST) as key components of an effective HIV and viral hepatitis response for injecting drug use.<sup>10</sup> These interventions have also been endorsed by the UN General Assembly,<sup>11</sup> the Economic and Social Council,<sup>12</sup> and the Commission on Narcotic Drugs (CND). The CND has highlighted the importance of these interventions to meet SDG targets to end AIDS and tuberculosis, and combat hepatitis by 2030.<sup>13</sup>
6. Other key harm reduction interventions include:
  - a. Drug Consumption Rooms (also known as Safe Injecting Sites), healthcare facilities supervised by medical staff where individuals can reduce the risks associated with drug consumption in a non-judgmental environment;<sup>14</sup>
  - b. Overdose prevention and reversal. Naloxone is an opioid reversal medication proved to be safe, cost-effective, and life-saving.<sup>15</sup>
  - c. Heroin-Assisted Treatment, a version of drug substitution and maintenance therapy whereby pharmacological heroin is administered in a clinical setting and under strict control. These programs are targeted at those who have failed in other opioid substitution therapies and have proven positive outcomes.<sup>16</sup>

## Background

7. There are currently an estimated 42,000 people who inject drugs in Switzerland. HIV prevalence among this population is 5 -12%, while hepatitis C prevalence is 42.1%.<sup>17</sup>
8. Switzerland has been a pioneer in advancing harm reduction as part of a humane drug policy based on evidence and concern for public health and human rights. Since the early 1990s, when faced with soaring rates of drug-related deaths and the highest HIV prevalence in Western Europe, the country has offered a wide range of harm reduction services for people who use and inject drugs, including

needle and syringe programmes (NSPs), opioid substitution therapy (OST), drug consumption rooms, and Heroin-Assisted Treatment (HAT).

9. As a result, significant positive health outcomes have been achieved over the past two decades. For example, the overall number of drug-related deaths decreased by 64% from 376 in 1995 to 136 in 2016.<sup>18</sup> The number of new HIV infections has also dropped significantly. In 1986, more than 3,000 people tested positive for HIV in Switzerland, while in 2017, there were fewer than 500 new positive tests in a country of 8.4 million.<sup>19</sup>
10. While these achievements are commendable, there remains some room for improvement, particularly with regard to disparities in availability and accessibility of harm reduction services between regions and within prisons.

### Availability and accessibility of harm reduction services in Switzerland

11. Fulfilling the right to health of people who use drugs requires that a sufficient quantity of harm reduction services and facilities, essential medicines, trained medical and professional personnel, as well as the underlying preconditions of health, be available to all without discrimination.<sup>20</sup> It also requires that harm reduction services be physically and financially accessible to everyone on a non-discriminatory basis, paying particular attention to stigmatised and excluded populations.<sup>21</sup>
12. Some obligations relating to the right to health are of immediate effect and are accordingly subject to neither progressive realisation nor resource constraints – these are known as “core obligations”. One of these core obligations is a requirement that harm reduction goods, facilities and services are equitably distributed and ensured on a non-discriminatory basis.<sup>22</sup> Research by Harm Reduction International, however, reveals that existing harm reduction services in Switzerland are unequally geographically distributed, while certain vulnerable and excluded populations face specific obstacles to accessing services.
13. Despite having been available in Switzerland since the mid-1990s, access to Heroin-Assisted Treatment is not granted on an equitable basis.<sup>23</sup> Currently, HAT facilities operate in only half (13) of the 26 cantons and facilities are generally centred around the major cities of Basel, Bern and Zurich.<sup>24</sup> In total, 23 facilities exist that are authorised to distribute diamorphine for substitution purposes.<sup>25</sup> Until 2018, only one of the facilities (in Geneva) was in the French-speaking part of Switzerland, with a further facility in the bilingual city of Biel/Bienne. In June 2018, a facility began operating in French-speaking Lausanne; however, HAT remains considerably less accessible in the French-speaking cantons.<sup>26</sup> Currently, no HAT facilities operate in the Italian-speaking region.<sup>27</sup>
14. Drug consumption rooms (DCR) are similarly geographically concentrated in Switzerland. Only eight of the 26 Swiss cantons have a DCR.<sup>28</sup> Only two are found in French-speaking cantons, and there are none in the Italian-speaking region. Four are located in the city of Zurich alone, though one is reported to be closing in the near future.<sup>29</sup>
15. While coverage of NSPs has remained stable over recent years and the availability of sterile injecting equipment is reportedly high, a 2015 study estimated that 24% of people who inject drugs did not engage with NSPs.<sup>30</sup> This could be because access to NSPs is geographically uneven. For example, NSPs in the Italian-speaking canton of Ticino are largely limited to hospitals and emergency rooms.<sup>31</sup>
16. Around 70-80% of people who use opioids are currently enrolled in OST in Switzerland, representing one of the world’s highest levels of coverage.<sup>32</sup> Access to oral agonist treatment appears to be generally satisfactory: General Practitioners can prescribe methadone, buprenorphine, and long-acting morphine, and have access to information and training through local networks and a national website.<sup>33</sup>

17. Certain populations still face barriers to access. For example, age thresholds prevent people under the age of 18 from accessing the service,<sup>34</sup> and according to Swiss civil society, people without health insurance, such as undocumented migrants, are prevented from accessing OST in Switzerland.<sup>35</sup>
18. Despite Switzerland being successful in substantially reducing the number of drug-related deaths between 1995 and 2010, the trend has stalled and figures have since been stable.<sup>36</sup> Additionally, the decline in drug-related deaths from 1995 to 2016 among women (51%) was less pronounced than the decline among men (68%).

### Harm reduction in Swiss prisons

19. Prisoners retain their right to health while incarcerated, which includes the right to harm reduction and preventive health services. Denial of these services in prison settings has also been found to contribute to, or even constitute, conditions that meet the threshold of ill treatment.<sup>37</sup>
20. It is now widely accepted that providing harm reduction services to the general public but not to prisoners is a flagrant violation of international human rights law.<sup>38</sup> This stems from the core obligation to “ensure the right of access to health facilities, goods and services, on a non-discriminatory basis, especially for vulnerable and marginalised groups”<sup>39</sup> and, closely related to this, the obligation to provide a standard of care that is at least equivalent to that available in the broader community, commonly known as the “principle of equivalence.”
21. In Switzerland, drug policy is based on a four pillar strategy: prevention, health promotion, and early detection; treatment and counselling; harm reduction and minimisation of risk; regulation and enforcement. Only the latter refers to criminal sanctions and policing.<sup>40</sup> While possession of all drugs except fewer than ten grams of cannabis remains subject to legal prosecution, the cantons have discretion over policing of drug use and personal possession is punished in most cases by an administrative fine rather than a prison sentence.<sup>41</sup> Nevertheless, 22% of Swiss prisoners are incarcerated for drug offences.<sup>42</sup>
22. The Swiss Epidemics Act 2016 obliges penal institutions to make safe injecting equipment available to prisoners<sup>43</sup> However, civil society organisation report that prisoners remain a key population left out of NSP provision:<sup>44</sup> only 14% of Swiss prisons offer NSPs (15 out of 106), making sterile injecting equipment available to just 21% of people incarcerated in the country.<sup>45</sup> This is despite prison-based NSPs having been shown several times, including by Swiss studies, to be an unproblematic harm reduction intervention.<sup>46</sup>
23. OST remains completely unavailable in 30% of Swiss prisons, and a lack of awareness and training among prison health staff has been identified as a key barrier to OST implementation in places of detention.<sup>47</sup>
24. While HAT is available at 23 sites across Switzerland, it is only available in one prison - the Realta/Cazis prison in Grisons - where access is limited by strict enrolment criteria.<sup>48</sup>

### Conclusions and recommendations

25. In light of these findings, HRI and the Geneva Platform invite the Committee on Economic, Social and Cultural Rights to recommend Switzerland:
  - a) Undertake a comprehensive assessment of current geographic distribution of harm reduction services and take urgent steps to ensure that services are available where people use drugs throughout the country and accessible on a non-discriminatory basis;

- b) Undertake a comprehensive assessment on the accessibility of harm reduction services and work to remove any unnecessary barriers, such as age thresholds and insurance criteria;
- c) Take urgent steps to ensure that overdose prevention services are available and accessible to the most vulnerable populations of people who use drugs, including women.
- d) Scale up provision of harm reduction services in prison settings as a matter of priority to ensure non-discriminatory access and equivalence of care to prisoners;
- e) Consider fully decriminalising all possession drug offences;
- f) Implement and fund a programme for the roll-out of the International Guidelines on Human Rights and Drug Policy at the domestic level, including training for policymakers, healthcare professionals, and service providers.

---

<sup>1</sup> Among others, see: Paul Hunt, 'Human rights, health, and harm reduction', 8; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover (2010) A/65/255, para. 55; CESCR, Concluding Observations on the combined initial and second periodic reports of Thailand, UN Doc. E/C.12/THA/CO/1-2; CEDAW, Concluding Observations on the combined fourth and fifth periodic reports of Georgia (2014), UN Doc. CEDAW/C/GEO/CO/4-5, para. 31(e); Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, Mission to Poland (2010) A/HRC/14/20/Add.3, para. 86; CESCR, 2016, Concluding Observations on the sixth periodic report of Sweden. UN Doc. E/C.12/SWE/CO/6.

For more information, see: International Centre on Human Rights and Drug Policy, UNAIDS, UNDP and WHO, International Guidelines on Human Rights and Drug Policy (2019), 1.1.

<sup>2</sup> In E/C.12/RUS/CO/5, E/C.12/LTU/CO/2, E/C.12/EST/CO/2 and E/C.12/UKR/CO/5.

<sup>3</sup> In its resolution 65/277.

<sup>4</sup> In its resolution 12/27.

<sup>5</sup> See the Committee's general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health.

<sup>6</sup> In CEDAW/C/GEO/CO/4-5 and CEDAW/C/CAN/CO/8-9.

<sup>7</sup> In A/65/255.

<sup>8</sup> In A/HRC/22/53.

<sup>9</sup> International Centre on Human Rights and Drug Policy, UNAIDS, UNDP and WHO, International Guidelines on Human Rights and Drug Policy (2019), 1.1

<sup>10</sup> WHO, UNODC and UNAIDS, WHO, UNODC, UNAIDS Technical Guide for Countries to Set Targets for Universal Access to HIV Prevention, Treatment and Care for Injecting Drug Users: 2012 Revision (Geneva: WHO, 2012).

<sup>11</sup> Political Declaration on HIV/AIDS: Intensifying our Efforts to Eliminate HIV/AIDS (General Assembly resolution 65/277, annex).

<sup>12</sup> Economic and Social Council resolution 2009/6.

<sup>13</sup> CND Resolution 60/8; Promoting measures to prevent HIV and other blood-borne diseases associated with the use of drugs, and increasing financing for the global HIV/AIDS response and for drug use prevention and other drug demand reduction measures (2017)

<sup>14</sup> Stone K, Shirley-Beavan S, Global State of Harm Reduction 2018. (London: Harm Reduction International, 2018), 21.

<sup>15</sup> Strang J, McDonald R (eds.), Preventing Opioid Overdose Deaths with Take-Home Naloxone (Lisbon: EMCDDA, 2016)

<sup>16</sup> Drug Policy Alliance, Heroin-Assisted Treatment (HAT), (2016). Available at:

[http://www.drugpolicy.org/sites/default/files/DPA%20Fact%20Sheet\\_Heroin-Assisted%20Treatment\\_%28Feb.%202016%29.pdf](http://www.drugpolicy.org/sites/default/files/DPA%20Fact%20Sheet_Heroin-Assisted%20Treatment_%28Feb.%202016%29.pdf)

<sup>17</sup> Stone K, Shirley-Beavan S, Global State of Harm Reduction 2018. (London: Harm Reduction International, 2018)

<sup>18</sup> Federal Office of Statistics (2017) Nombre de Décès Liés à la Drogue, Par Âge (1995-2016) (downloadable spreadsheet). Sucht Monitoring. Available at: <https://www.suchtmonitoring.ch/fr/3/7.html?opioidesmortalite>.

<sup>19</sup> AIDS-HILFE SCHWEIZ. Statistics on HIV/AIDS. Available at: <https://www.aids.ch/en/faq/hiv-test/statistics.php>

<sup>20</sup> UN Committee on Economic, Social and Cultural Rights, General Comment 14, UN Doc. E/C.12/2000/4, 2000, para. 12(a).

<sup>21</sup> Ibid., paras 12(b) and 43.

- <sup>22</sup> Ibid., para 43(e)
- <sup>23</sup> Uchtenhagen A, 'The role and function of heroin assisted treatment at the treatment system level.' *Heroin Addict Relat Clin Probl* 19(2) (2017)
- <sup>24</sup> Stone K, Shirley-Beavan S, *Global State of Harm Reduction 2018*. (London: Harm Reduction International, 2018)
- <sup>25</sup> Federal Office of Public Health *Traitement avec Prescription de Diacétylmorphine (Héroïne)*. (Bern: Swiss Confederation, 2019). Available from: <https://www.bag.admin.ch/bag/fr/home/gesund-leben/sucht-undgesundheitsuchtbearbeitung-therapie/substitutionsgestuetzte-behandlung/heroingestuetzte-behandlung.html>.
- <sup>26</sup> Schori D (2018) *Global State of Harm Reduction 2018 survey response*.
- <sup>27</sup> Schumacher J (2019) *Global State of Harm Reduction 2018 survey response*.
- <sup>28</sup> Schori D (2018) *Global State of Harm Reduction 2018 survey response*.
- <sup>29</sup> Shirley-Beavan S, *The State of Harm Reduction in Western Europe 2018* (Harm Reduction International: London, 2019).
- <sup>30</sup> Bruggmann P, Blach S, Deltenre P, Fehr J, Kouyos R, Lavanchy D, et al. (2017) 'Hepatitis C virus dynamics among intravenous drug users suggest that an annual treatment uptake above 10% would eliminate the disease by 2030.' *Swiss Med Wkly* 147(4546); Schori D (2018) *Global State of Harm Reduction 2018 survey response*.
- <sup>31</sup> Schumacher J (2019) *Global State of Harm Reduction 2018 survey response*.
- <sup>32</sup> Schori D (2018) *Global State of Harm Reduction 2018 survey response*; Simon O (2018) *Global State of Harm Reduction 2018 survey response*.
- <sup>33</sup> [www.practicien-addiction.ch](http://www.practicien-addiction.ch)
- <sup>34</sup> Windelinckx T (2018) *Global State of Harm Reduction 2018 survey response*; Schori D (2018) *Global State of Harm Reduction 2018 survey response*; Rego X (2018) *Global State of Harm Reduction 2018 survey response*.
- <sup>35</sup> Simon O (2018) *Global State of Harm Reduction 2018 survey response*; Windelinckx T (2018) *Global State of Harm Reduction 2018 survey response*.
- <sup>36</sup> Stone K, Shirley-Beavan S, *Global State of Harm Reduction 2018*. (London: Harm Reduction International, 2018)
- <sup>37</sup> Sander G, Lines R, "HIV, Hepatitis C, TB, Harm Reduction and Persons Deprived of Liberty: What Standards Does International Human Rights Law Establish?" *The International Journal of Health and Human Rights* (2017)
- <sup>38</sup> See for example, A. Grover, UN Special Rapporteur on the Right to the highest attainable standard of physical and mental health, Report of the UN Special Rapporteur on the Right to the highest attainable standard of physical and mental health, UN Doc. A/65/255 (August 6, 2010) para. 60.
- <sup>39</sup> UN Committee on Economic, Social and Cultural Rights, General Comment 14, UN Doc. E/C.12/2000/4, 2000, para 43(a).
- <sup>40</sup> The Federal Council (2017) *National Strategy on Addiction and Action Plan 2017-2024*. Bern: Swiss Confederation.
- <sup>41</sup> Federal Assembly of the Swiss Confederation (2013) *Loi Fédérale sur les Stupéfiants et les Substances Psychotropes*. Bern: Swiss Confederation; Csete J, *From the Mountaintops: What the World can Learn from Drug Policy Change in Switzerland* (New York: Open Society Foundations, 2010)
- <sup>42</sup> UNODC Special Data Collections on Persons held in Prisons (2010-2014) (Vienna: United Nations Office on Drugs and Crime, 2015). Available from: <https://www.unodc.org/unodc/en/data-and-analysis/crime-and-criminal-justice.html> (downloadable spreadsheet)
- <sup>43</sup> Junod V, Wolff H, Scholten W, Novet B, Greifinger R, Dickson C, et al. (2017) 'Methadone versus torture: the perspective of the European Court of Human Rights.' *Heroin Addict Relat Clin Probl* 20(1):31-6.
- <sup>44</sup> Baumberger P (2018) *Global State of Harm Reduction 2018 survey response*.
- <sup>45</sup> Bize R, Samitca S (2017) 'Syringe-exchange program in Swiss prisons: two decades later.' *Eur J Public Health*. Available from: [https://academic.oup.com/eurpub/article/27/suppl\\_3/ckx187.422/4556388](https://academic.oup.com/eurpub/article/27/suppl_3/ckx187.422/4556388); Schori D (2018) *Global State of Harm Reduction 2018 survey response*.
- <sup>46</sup> Bize R, Samitca S (2017) 'Syringe-exchange program in Swiss prisons: two decades later.' *Eur J Public Health*. Available from: [https://academic.oup.com/eurpub/article/27/suppl\\_3/ckx187.422/4556388](https://academic.oup.com/eurpub/article/27/suppl_3/ckx187.422/4556388).
- <sup>47</sup> Schori D (2018) *Global State of Harm Reduction 2018 survey response*; Simon O (2018) *Global State of Harm Reduction 2018 survey response*.
- <sup>48</sup> Schori D (2018) *Global State of Harm Reduction 2018 survey response*; and Federal Office of Public Health, *Traitement avec Prescription de Diacétylmorphine (Héroïne)*. (Bern: Swiss Confederation, 2019). Available from: <https://www.bag.admin.ch/bag/fr/home/gesund-leben/sucht-undgesundheitsuchtbearbeitung-therapie/substitutionsgestuetzte-behandlung/heroingestuetzte-behandlung.html>.