

**Switzerland's Responsibility for the Impacts of Cross-border
Tax Abuse on the Realisation of Women's and Girls'
Economic, Social and Rights.**

**Submission to the Committee for the Convention on the
Elimination of All Forms of Discrimination Against Women
(CEDAW)**

Written input to the State Party's Report

83 Session (10 Oct 2022 - 28 Oct 2022)

**Submitted on 12 September 2022 by Alliance-Sun, the Center for Economic and Social
Rights (CESR) and the Tax Justice Network.**

In this submission, we argue that Switzerland’s financial secrecy practices violate the country’s obligations to respect, protect and fulfil women’s rights beyond their borders. They do this by depriving governments (especially in the Global South) of the opportunity to progressively raise tax revenues and maximise all available resources by which they can both realise the economic and social rights of women and girls and strengthen substantive gender equality. This submission builds on a submission at Switzerland’s last review by CEDAW in 2016, and the Committee’s recommendations to the government at that time. We show that the Swiss government has not taken meaningful action to address those recommendations.

Switzerland has consistently been near the top the Tax Justice Network’s Financial Secrecy Index since its inception. This infamous spot in the index means that, in practice, Switzerland continues to be one of the jurisdictions that is most complicit in helping individuals and corporations to hide their finances from the rule of law. In 2015, Switzerland was ranked second out of 105 jurisdictions as being one of the largest suppliers of financial secrecy. Jurisdictions worldwide have more recently implemented policy and legal changes which represent positive steps towards greater transparency. In particular, these include the implementation of beneficial ownership frameworks, and the implementation of automatic exchange of information between tax authorities. Switzerland has lagged behind by failing to make similar significant progressive steps, particularly in the area of transparency of legal persons and arrangements. For that reason, after seven years the country continues to be one of the world’s biggest suppliers of financial secrecy, second only to the United States.¹

Countries such as Switzerland supply financial secrecy when they “intentionally create regulation for the primary benefit and use of those not resident in their geographical domain that is designed to undermine the legislation or regulation of another jurisdiction and that, in addition, create a deliberate, legally backed veil of secrecy that ensures that those from outside the jurisdiction making use of its regulation cannot be identified to be doing so.”²

The impact of this industrial scale financial secrecy exacerbates tax abuse and facilitates the flow of illicit finance out of jurisdictions into, or as a conduit jurisdiction, through Switzerland. The impact is to deny governments, especially low-income governments, the opportunity to progressively raise tax revenues and maximise all available resources by which they can both realise the economic and social rights of women and girls and strengthen substantive gender equality.

In 2016, a written joint submission was presented to the 65th Session Geneva **October 24 - November 18, 2016 in connection with the combined fourth and fifth periodic reports of Switzerland** by Alliance Sud, Center for Economic and Social Rights, the Center for Human Rights and Global Justice at New York University School of Law, Public Eye and Tax Justice Network.³ This submission explained that the *“the action or inaction of the Swiss government in the coming years will have a direct impact upon the ability of developing countries to resource efforts to combat discrimination and guarantee substantive equality for women.”* (Para. 6.3).

¹ Tax Justice Network, *Financial Secrecy Index 2022 – Tax Justice Network*, FSI (UK, 18 May 2022) <<https://fsi.taxjustice.net/>> [accessed 12 August 2022].

² Alex Cobham, Petr Janský and Markus Meinzer, ‘The Financial Secrecy Index: Shedding New Light on the Geography of Secrecy’, *Economic Geography*, 91/3 (2015), 281–303.

³ Alliance Sud and others, *Swiss Responsibility for the Extraterritorial Impacts of Tax Abuse on Women’s Rights*, 2 November 2016 <https://taxjustice.net/wp-content/uploads/2020/07/switzerland_cedaw_submission_2nov2016-1-1.pdf> [accessed 22 August 2022].

Since that time, we have monitored the steps taken by the state party in response to the CEDAW's Committee's recommendations and find that **almost six years later there has been little meaningful progress**. Moreover, the risks to women and girls' full enjoyment of economic, social and cultural rights continue to be ignored.

Consistent with the obligations set forth in CEDAW Article 2, our [2016 submission](#) urged the Committee to recommend that Switzerland ensure that its financial secrecy and tax policies do not impinge upon other governments' ability to mobilize resources for the fulfilment of women's rights. In its Concluding Observations⁴, the Committee expressed concern about:

- "The State party's financial secrecy policies and rules on corporate reporting and taxation having a potentially negative impact on the ability of other States, in particular those already short of revenue, to mobilize the maximum available resources for the fulfilment of women's rights"

Accordingly, the Committee recommended that Switzerland:

- "Undertake independent, participatory and periodic impact assessments of the extraterritorial effects of its financial secrecy and corporate tax policies on women's rights and substantive equality, ensuring that such assessments are conducted impartially, with public disclosure of the methodology and findings"
- "Strengthen its legislation governing the conduct of corporations registered or domiciled in the State party in relation to their activities abroad."

The important focus on extraterritorial obligations was further underlined by the CEDAW Committee in their List of Issues Report in 2019.⁵ In response in December 2020 the State Party reported that the State's Federal Council had adopted an action plan based on the UN Guiding Principles on Business and Human Rights (para 29). However, there is no evidence to indicate that this comprised of an any form of extraterritorial impact assessment on the rights of women or substantive gender equality in 'neighbouring' jurisdictions. The action plan comprised of approximately thirty training sessions on business and human rights and the publication of "a document on human rights due diligence for small and medium-sized enterprises".⁶ The State Party does not refer to the most egregious tax and secrecy conduct of large multinational companies within their jurisdiction, nor the known impact of corporate activity on the rights and substantive gender equality of women and children in in other jurisdictions.

The intention to implement impact assessments on the financial secrecy and corporate tax policies , as requested by the Committee in 2016, were incorporated into a national action plan.⁷ It is important that the results of these are published for public scrutiny.

⁴ CEDAW/C/CHE/CO/4-5f

⁵ CEDAW, *List of Issues and Questions Prior to the Submission of the Sixth Periodic Report of Switzerland** (Geneva and New York, 18 November 2019)
<https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW%2fC%2fCHE%2fQPR%2f6&Lang=en> [accessed 23 August 2022].

⁶ CEDAW, *Sixth Periodic Report Submitted by Switzerland under Article 18 of the Convention, Due in 2020* (Geneva and New York, 17 March 2022)
<https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW%2fC%2fCHE%2f6&Lang=en> [accessed 23 August 2022].Para. 29.

⁷ Eidgenössisches Departement des Innern EDI, Eidgenössisches Büro für die, and Gleichstellung von Frau und Mann EBG, 'Roadmap zur Umsetzung der CEDAW-Empfehlungen 2017-2020' (2019)

Given the lack of progress made to reform its financial secrecy practices and meaningfully act on its obligation to uphold women's rights overseas, this submission respectfully urges the CEDAW Committee to re-iterate the critical questions directed to the state party in 2016. After consideration of the damning assessment of Switzerland's' current (as at 17 of May of 2022) financial secrecy laws and policies in the Financial Secrecy Index 2022 where Switzerland is ranked at number 2, the CEDAW Committee's scrutiny is timely and necessary.⁸

We respectfully request that the CEDAW Committee put, again, the following questions:

- 1 Does the State party intend to conduct an independent study of its own responsibility for those tax abuses, by assessing the impacts of its tax and financial secrecy policies on the resources available for the fulfilment of women's rights and substantive equality overseas, in line with its obligations under CEDAW and as recommended by the Committee in 2016?
- 2 How will reforms to financial secrecy and corporate tax policies in Switzerland further the realization of women's rights and substantive equality overseas, particularly in developing countries? More specifically, what efforts are being made to ensure that the countries hardest hit by cross-border tax abuse, with the greatest deficits in terms of resources available for women's rights and gender equality, are among those entitled to exchange of taxpayer information with Switzerland?
- 3 What is Switzerland doing to improve the transparency of legal persons and arrangements and thus to guarantee the existing financial framework of policies and laws are not used for channelling illicit financial flows?

<https://www.ebg.admin.ch/dam/ebg/de/dokumente/cedaw/2018%2009%2028%20CEDAW-Empfehlungen_Roadmap_Stand_2018%2006.pdf.download.pdf/2018%2009%2028%20CEDAW-Empfehlungen_Roadmap_Stand_2018%2006.pdf> [accessed 8 September 2022].

⁸ Tax Justice Network, *Financial Secrecy Index 2022 – Tax Justice Network*.

Annex: the FSI and its methodology

The Financial Secrecy Index 2022 has thoroughly evaluated Switzerland's financial and legal systems to identify the size of its supply of financial secrecy to the rest of the world. The index identifies the laws and policies that governments can change to reduce their contribution to financial secrecy.⁹ Since 2018, the secrecy score of Switzerland, a measure that captures how much scope for financial secrecy the jurisdiction's laws allow, decreased from 76 to 70. The change is mainly related to the implementation of the automatic exchange of information through the Common Reporting Standard and to some (limited) improvements in country-by-country reporting¹⁰. Improvements in these areas, however, contrast with other indicators, where the appetite for moving towards greater financial transparency seems *extremely limited*. Out of twenty indicators that compose the Secrecy Score, Switzerland maintains the worst possible score in eight¹¹. This underperformance is particularly worrying in the area of transparency of legal persons and arrangements, where improvements have been almost non-existent, especially when compared to other countries' tendencies. The failure of Switzerland in this area is particularly concerning considering the scale of the financial services it provides to residents of other countries.

In 2022, the Financial Secrecy Index analysed 141 jurisdictions. Out of those, 92 require some registration of beneficial ownership information with authorities, be it only for legal persons, or covering also legal arrangements. In addition, in a recently published paper, we indicate that 65 countries require at least some trusts to register beneficial ownership information¹². Switzerland not only does not have a beneficial ownership registration framework, but it also does not require all legal persons to report their accounts to authorities, and even the registration of legal ownership information is very limited for most legal vehicles¹³. This opacity concerning the registration and reporting of legal persons provides unabated scope for wealth and income to escape taxation and thereby to undermine governments' ability to maximize available resources needed for the enjoyment of women 's and girls' rights.

The transparency of legal vehicles in general, and beneficial ownership transparency in particular is crucial for curtailing illicit financial flows, corruption and tax evasion¹⁴. In the absence of improvements towards transparency in these areas, it is not clear how the country can guarantee that corporations (and other legal vehicles, for that matter) registered and domiciled in Switzerland

⁹ Tax Justice Network, 'Financial Secrecy Index Methodology 2022' (2022)

<<https://fsi.taxjustice.net/fsi2022/methodology.pdf>> [accessed 14 June 2022].

¹⁰ In particular, the country started to publish country-by-country reporting aggregates pursuant to OECD BEPS Action 13 (improving secrecy indicator 16), and is now requiring Swiss extractive companies working in oil, gas and minerals to disclose payments they make to governments around the world (improving Secrecy Indicator 9). Other indicators that saw slight improvements include a Secrecy Indicator 17, related to money laundering, Secrecy Indicator 1, on Banking Secrecy, and Secrecy Indicator 10, which covers the domestic use of the Legal Entity Identifier.

¹¹ These are Trusts and Foundations (Secrecy Indicator 2); Recorded Company Ownership (Secrecy Indicator 3); Limited Partnership Transparency (Secrecy Indicator 5); Transparency of Company Ownership (Secrecy Indicator 6); Public Company Accounts (Secrecy Indicator 7); Corporate Tax Disclosure (Secrecy Indicator 9); Avoids Promoting Tax Evasion (Secrecy Indicator 13); and Tax Court Secrecy (Secrecy Indicator 14). See country profile in <https://fsi.taxjustice.net/country-detail/#country=CH&period=22>

¹² <https://taxjustice.net/wp-content/uploads/2022/07/Trusts-FATF-R-25-1.pdf>

¹³ Information valid as of 17 May 2022.

¹⁴

<https://www.factipanel.org/docpdfs/FACTI%20BP4%20Asset%20and%20benficial%20ownership%20registries.pdf>

are not misused, and thus it is not clear how it will respond to concerns raised by the CEDAW Committee and more broadly by civil society.