

"Justification was not provided": Visa inequalities and the violation of the rights of Global South activists to representation at the United Nations in Geneva, 2023-2024

Submission in conjunction with the follow-up report of Switzerland at the 90th Session of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)



Submitted by International Women's Rights Action Watch Asia Pacific (IWRAP Asia Pacific) and the Sexual Rights Initiative

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IWRAP Asia Pacific is an international women's rights, feminist organisation committed to the full realisation of women's human rights through the pursuit of equality. It supports the CEDAW Committee and OHCHR in facilitating participation of women's rights organisations in the CEDAW review process. Its programme 'Interrogating Borders and their Impact on Women's Human Rights' examines the human rights violations incurred through border controls and how intersecting forms of oppression are compounded by the presence of Borders.

The Sexual Rights Initiative (SRI) is a coalition of national and regional organisations based in Canada, Egypt, India and Argentina, and with an office in Geneva that has been advocating for the advancement of human rights in relation to gender and sexuality in the UN human rights system since 2006. The SRI combines feminist analysis with important advances in the recognition of human rights of women, all marginalized communities, and young people. As NGO participation in the UN human rights system remains largely dominated by organisations based in the Global North, the SRI seeks to provide a more global point of view based on the experiences of SRI partner organisations.

Introduction

This document is a follow-up to the shadow report submitted by IWRAP Asia Pacific in September 2022 for Switzerland's review during the 83rd CEDAW session. Titled 'Switzerland as Gatekeeper: The impact of visa application processes on Global South civil society representation at the United Nations',¹ the report addressed Switzerland's unique position as host to the United Nations in Geneva, and the disproportionate obstacles faced by Global South citizens in accessing the UN. These obstacles include visa fees, time spent on applications, non-refundable expenses, and the emotional burden of having to prove one's eligibility and, essentially, respectability.

Regrettably, more than two years since the report submission, it remains the case that almost every CEDAW session sees the exclusion of Global South women's rights activists due to visa rejections and/or excessive barriers which prevent resolution within the necessary timeframe.

Discriminatory visa application processes

A preoccupation with wealth persists in decision making on visa applications. Those who do not meet a certain income threshold and/or who work in the informal sector are among those applicants who may be deemed ineligible. This emphasis on financial capital and invisible bias towards certain forms of work as a measure of eligibility for admission perpetuates inequalities and impedes the presence at the UN of working-class and low-income activists, reducing the likelihood that their communities' issues will be sufficiently represented. It can be argued that women may be disproportionately affected, given the economic discrimination that they already frequently face.

It should be noted that when the previous report was submitted, Schengen visa applications cost USD 35 for citizens of Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Moldova, Serbia and Ukraine, and USD 80 for other applicants. The fees have since been raised to USD 39 for the former group and USD 100 for the latter group.²

Filing an appeal against a visa rejection by Switzerland costs CHF 200 (approximately USD 221)³ - another high barrier for low-income applicants, especially when they have already purchased flight tickets, accommodation, and travel insurance, as required by the application process. This fee is all the more striking given that visa rejection appeals to other Schengen

¹ Available at <https://www.iwraw-ap.org/resources/switzerland-as-gatekeeper-cedaw83-shadow-report/>

² Swiss Confederation, "Schengen Visa Fees", available at <https://www.eda.admin.ch/countries/usa/en/home/visa/entry-ch/up-90-days/fees-schengen.html> (accessed 3 January 2025).

³ State Secretariat for Migration, "FAQ - Entry", 2.12 "How can I appeal against a visa refusal?", available at <https://www.sem.admin.ch/sem/en/home/themen/einreise/faq.html#-621080516> (accessed 13 January 2025).

countries may be free (for example Norway or Sweden) or comparatively affordable (EUR 43, in the case of Croatia).⁴

Engagement of private-sector companies

State parties, including Switzerland, increasingly outsource visa processing to private-sector companies such as TLSContact and VFS Global. This constructs an additional barrier between applicants and representatives of the countries to which they apply.

In a 2020 blog post, TLSContact claims that benefits of outsourcing visa processing include data security, flexibility to handle volume, and improved customer service.⁵ However, complaints about such companies can be found in abundance. They describe waiting times of more than three months for an appointment;⁶ appointment slots being booked en masse by bots, allowing third parties to subsequently sell them to desperate applicants;⁷ expedited processes for a higher fee, creating a two-tier system;⁸ reduced options for communication, resulting in less flexibility;⁹ obstacles in accessing refunds for cancelled visa appointments;¹⁰ and data breaches.^{11,12}

Switzerland's obligations under CEDAW

As outlined in the previous report, discriminatory visa requirements, particularly regarding access to capital, mean that Switzerland falls short of its obligations under CEDAW Article 15, which promises equal rights to men and women with regard to the law relating to the movement of persons. This has a spillover effect on other articles of the Convention,

⁴ Kadriu, A. "‘We are in a real ghetto’: Kosovars grow weary of the EU’s isolating visa regime", 9 February 2023, *Kosovo 2.0*, available at <https://kosovotwopointzero.com/en/we-are-in-a-real-ghetto/> (accessed 6 January 2025).

⁵ TLSContact, "Why outsource visa processes?", 3 February 2020, available at <https://www.tlscontact.com/en/insights/managing-change/benefits-visa-processes-outsourcing/> (accessed 7 January 2025).

⁶ Schengenvisum.info, "Long waiting times at VFS Global for Schengen visa application", 28 June 2022, available at <https://schengenvisum.info/en/long-waiting-times-vfs-global-application-for-schengen-visa/> (accessed 6 January 2025).

⁷ Malekmian, S. "As the Dublin embassies of some European countries outsource Schengen visa services, non-EU immigrants find travelling there harder", 24 May 2023, *Dublin Inquirer*, available at <https://dublininquirer.com/2023/05/24/as-the-dublin-embassies-of-some-european-countries-outsource-schengen-visa-services-non-eu-immigrants-find-travelling-there-harder/> (accessed 13 January 2025).

⁸ Kadriu, A.

⁹ Ibid.

¹⁰ Malekmian, S.

¹¹ de Silva, H. "Report of the Committee on Public Finance on outsourcing online visa and passport application services between the Consortium and the Department of Immigration and Emigration of Sri Lanka", 12 July 2024, available at <https://www.parliament.lk/uploads/comreports/1720771221058053.pdf#page=1> (accessed 7 January 2025).

¹² Malekmian, S.

impeding women's human rights activists from making interventions in multilateral spaces to demand action on the issues affecting their constituencies.

CEDAW General Recommendation No. 23 on women in political and public life notes that “While democratic systems have improved women's opportunities for involvement in political life, the many economic, social and cultural barriers they continue to face have seriously limited their participation.” Switzerland has a particular responsibility in this context to provide women with “the encouragement and support of all sectors of society to achieve full and effective participation, encouragement which must be led by States parties to the Convention, as well as by political parties and public officials.”

The opportunity to participate in the work of international organisations is threatened by Schengen visa processes which hinder and block access to the United Nations in Geneva. This barrier is implemented both by Switzerland itself and by other Schengen member states which handle visa applications in the absence of a Swiss embassy. As well as remedying its own discriminatory procedures, Switzerland should, in compliance with its extraterritorial obligations, ensure that other parties acting on its behalf refrain from engaging in discrimination.

The CEDAW Committee's Concluding Observations on Switzerland's review in 2022 noted that:

19. [t]he Committee welcomes the State party's efforts to provide visas to women participants of international conferences in Geneva. It regrets, however, that many women, particularly from the global South, face costly and cumbersome visa application procedures, which pose a considerable obstacle to the representation of women in marginalized situations.

20. **The Committee recommends that the State party facilitate the visa application procedure to enable women from all geographic regions to participate in international conferences.**

We observe continued non-compliance with this recommendation.

Visa barriers to CEDAW participation, 2023-2024

IWRAW Asia Pacific supports NGOs from around the world to engage with the CEDAW review process at each session in Geneva. With almost every session comes the discovery that a Global South women's rights activist has been prevented from travelling, whether due to outright visa rejection or due to cumbersome visa application processes which make heavy financial demands and/or fail to reflect the time-sensitive nature.

The following cases were recorded since the 83rd CEDAW session at which Switzerland was last reviewed.

Case number	CEDAW session	Details	Nationality of applicant	Relevant embassy or consulate
1	84th	No interview slots were available within the timeframe	Mauritania	Switzerland in Mauritania
2	84th	The application was rejected because the applicant had requested to remain in the Schengen area for a few extra weeks following Mauritania's CEDAW review	Mauritania	Switzerland in Mauritania
3	85th	The application was rejected based on doubts over the veracity of her application. The applicant was a student who was scheduled to assist IWRAW Asia Pacific as an intern during the CEDAW session. Supporting documentation had been provided	India	Switzerland in USA
4	87th	The application was rejected because "justification for the purpose and conditions of the visit was not provided". A support letter had been provided by an international NGO, non-refundable flight tickets had been purchased, and an interpreter had been arranged	Central African Republic	France in Central African Republic
5	87th	The applicant's visa was approved, but it was not possible to get her passport back from the embassy in a third country in time to travel	Tajikistan	Switzerland in Kazakhstan
6	89th	Both of these applications were rejected. Reasons cited were that there was unclear justification of the purpose of visit (full documentation had been provided, including UN approval letter and support letters from two international NGOs); condition of stay (accommodation had been booked and confirmed); and that intention of return could not be established. Additionally, Applicant 8 was reportedly asked "very odd questions" during her interview, and she was questioned about her English proficiency	Nepal	Switzerland in Nepal
7	89th		Nepal	Switzerland in Nepal

8	89th	The application was rejected because an expired US visa was seen in the applicant's passport, even though she had a current one. She was told that she would have to start the process all over again, which would not be possible given the timeframe	Kenya	Lithuania in USA
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In the case of applicants 6 and 7, filing an appeal was considered but rejected due to the tight timeframe. The supporting NGOs had already poured many hours into preparing the application, and as the initial application had included submission of all relevant documents, it was also unclear how an appeal might lead to a different outcome. An NGO staff member remarked, "What would be useful when they deny visas is to know more about the grounds of denials so that we can supplement the application during appeal. We did not get any substantial information on this from the embassy."

Recommendations

- All parties processing visa applications on behalf of the state party should be obliged to take a proactive approach to applications relating to participation in United Nations meetings
- Data should be collected and published on rejections of visa applications relating to access to the United Nations, aggregated by gender, nationality, and location of embassy or visa processing centre
- The state party should report on the steps it has taken to address the issue of Global South activists' access to the United Nations following the recommendation made by the CEDAW Committee at its last review
- Visa application requirements should be standardised among all parties handling visa applications on behalf of the state party, to ensure greater and more egalitarian access to the United Nations, particularly for women from the Global South
- All parties processing visa applications should be easily contactable by and responsive to applicants
- Appointment slots for visa applications should be made available within a reasonable timeframe, and urgent steps should be taken to resolve any obstacles to this
- The financial burden of visa application procedures should be minimised, including through:
 - equalising the cost of all visa applications regardless of whether applicants are from Europe or elsewhere;
 - a zero-tolerance approach to profiteering from the current scarcity of visa appointment slots, including by private-sector companies to whom Schengen visa processing is outsourced;
 - reducing the number of times an applicant must attend physical interview for a single application, by permitting online submission of any additional

- documentation requested, and providing the option for virtual interviews if follow-up is needed;
- removing requirements for applicants to provide a copy of flight reservations, given the higher cost of refundable tickets and the expenses incurred should the application be rejected;
 - removing or significantly reducing the cost of appeals, taking into consideration the far lower fees charged by other European countries
 - Flexibility should be allowed regarding requirements for supporting documentation, acknowledging the structural barriers that may prevent some applicants from obtaining a business licence, accessing a pension, or demonstrating other financial support
 - Evisas should be made available to applicants, to prevent additional costs and loss of travel opportunities due to waiting for physical documentation
 - Anti-discrimination training, covering discrimination on the grounds of gender, race, nationality, class, income, profession (including sex work), language proficiency, sexual orientation, gender identity and sex characteristics, should be provided on a mandatory basis to all staff handling visa applications on behalf of the state party, particularly those having direct contact with applicants
 - Clear reasoning should be provided in the event of a visa rejection
 - Clear information should be shared with all visa applicants on how to submit a complaint, together with a guarantee that submission of a complaint will not lead to reprisals in the form of future visa denials.

Note: An earlier version of this report included a case under 'Visa barriers to CEDAW participation, 2023-2024' in which the applicant faced significant hurdles to procuring a visa but was ultimately able to travel to Switzerland for Malawi's CEDAW review. This case has been removed from this version to focus on cases where applicants were completely prevented from travelling to Switzerland for their respective reviews.