



### Early surgery on intersex children:<sup>1,2,3,4,5,6</sup>

- Are still performed in Switzerland, even if they are not medically necessary (art. 36 al. 3 Fed. Cst.) and irreversible.<sup>6</sup>
- Are done without the consent of the affected child, which is a gross violation of their autonomy and physical integrity, i.e. is violating their rights under the Swiss Constitution.
- Can cause physical harm –such as pain, infertility, incontinence, and loss of sexual sensation– and psychological harm.
- Are focused on the parents' wishes only who very often regret (up to 60%) their consent later.\*
- Do not consider the fact that intersex children might have a gender identity, opposite to the surgical interventions that take place in childhood.\*\*
- Consider these irreversible interventions as a purely private issue between parents and medicine, instead of Switzerland fulfilling its obligations of constitutional law.
- Many individuals upon whom these procedures were performed have come forward as adults to share their dissatisfaction and health complication.

\* Katrina Roen. Hypospadias surgery: understanding parental emotions, decisions and regrets. *International Journal of Impotence Research*. 2023(35): 67-71.

\*\* Hedi L. Claahsen-Van Der Grinten/et al. Congenital Adrenal Hyperplasia — Current Insights in Pathophysiology, Diagnostics, and Management. *Endocrine Reviews*. 2022(43/1): 91-159.

### “Intersex” (innate variations of sex characteristics) is not an illness<sup>1,2,3</sup>

- “Intersex” refers to the up to 1.7 percent of the population born with a range of bodily traits that do not fit stereotypical expectations of male or female.
- Their biological sex characteristics, such as chromosomes, gonads, or genitals, may differ from above all medical expectations.

# Prohibition of non-consensual medical treatment of intersex children

### Instead of surgeries without consent, social support, visibility, and destigmatization is key to support intersex people.

We consider the following issues as crucial for the decision of the Council of States on the 18 and 20 of December 2023:

- Social science and critical medical literature regularly report on the serious consequences that irreversible modifications of sex characteristics can have on children with an innate variation of sex characteristics.
- Medical guidelines (SAMW/ASSM) do not guarantee that medicine will advise parents against clinically doubtful decisions or that surgeries will no longer be performed (Timmermans et al., 2018). There is a high prevalence of parental decision regret (65.2 %). Parental decision-making conflicts can lead to interventions that do more harm than good to the child in the long term (Vavilov, 2020). Lifelong hormone replacement therapy is associated with early osteoporosis. Even with [Mo. 23.3967](#), there is a high probability that parents will regret their decision (Roen, 2023). With [Mo. 22.3355](#), these risks are largely avoided because both doctors and parents have clear guidance.

### Several medical associations and several legislative bodies warn against non-proportionate (art. 36 al. 3 Fed. Cst.) medical interventions:<sup>2</sup>

- They recommend a deferral of medically unnecessary surgery until the child can actively participate in the decision-making process:
  - American Academy of Family Physicians (AAFP)<sup>8</sup>
  - Human Rights Watch<sup>9</sup>
  - Physicians for Human Rights<sup>4</sup>
  - United Nations<sup>5</sup>
  - World Health Organization<sup>2</sup>
- More than 50 countries call for a better protection of intersex people<sup>10</sup>.
  - This reflects what national and international intersex advocates such as Interaction Switzerland and Zwischengeschlecht in Switzerland have been demanding for decades<sup>6,7,11</sup>.

### Therefore, Switzerland should support prohibited medically deferrable surgeries on intersex children.

- Based on this scientific evidence and the recommendations by several medical associations and several legislative bodies, Switzerland should create a clear policy in support of the human rights and bodily autonomy of intersex youth and prohibit medically deferrable surgeries on intersex children.\*
- We urge the Council of States to **vote in favor of the Motion 22.3355** and **reject the Motion 23.3967**.

\* See InterAction Switzerland - Bern, March 30, 2022 (page 2, accompanying measures to a legally binding ban: Switzerland must protect intersex children like all other children (<https://www.inter-action-suisse.ch/de/aktuelles/strafrechtliches-verbot>).



<sup>1</sup> Free&Equal. United National for LGBT equality (2017). Fact Sheet Intersex. <https://www.unfe.org/wp-content/uploads/2017/05/UNFE-Intersex.pdf> <sup>2</sup> Mulkey, N., Streed Jr, C. G., & Chubak, B. M. (2021). A Call to Update Standard of Care for Children with Differences in Sex Development. *AMA Journal of Ethics*, 23(7), 550-556. <sup>3</sup> Carpenter, M. (2018). Intersex Variations, Human Rights, and the International Classification of Diseases. *Health Hum Rights*. 2018 Dec;20(2):205-214. PMID: 30568414; PMCID: PMC6293350. <sup>4</sup> Physicians for Human Rights (2017). Unnecessary Surgery on Intersex Children Must Stop. <https://phr.org/news/unnecessary-surgery-on-intersex-children-must-stop/> <sup>5</sup> In 2021, the UN Committee on the Rights of the Child recommended Switzerland to ban medical and surgical treatments for intersex children if it is safe to postpone them; in 2022, the UN Committee on the Elimination of Discrimination against Women recommended a criminal law ban and in 2023, the UN Committee against Torture also addressed clear words to Switzerland; United Nations Human Rights (2019). Background Note on Human Rights Violations against Intersex People. <https://www.ohchr.org/en/documents/tools-and-resources/background-note-human-rights-violations-against-intersex-people> <sup>6</sup> Regierungsratsbeschluss Nr. 125/2022 zum Postulat 394/2021 im Kantonsrat Kanton Zürich: Statistics have been confirmed in the canton of Zurich at the Zurich Children's Hospital (2022): 85-135 genital surgeries are performed there annually on children with variations in sex characteristics. <sup>7</sup> InterAction (2023). <https://act.campax.org/petitions/auch-intergeschlechtliche-kinder-haben-das-recht-uber-ihren-korper-selbst-zu-entscheiden-1> <sup>8</sup> American Academy of Family Physicians (2018). Genital Surgeries in Intersex Children. <https://www.aafp.org/about/policies/all/genital-surgeries.html> <sup>9</sup> Human Rights Watch (2018). US Medical Association Stands Against Unnecessary Intersex Surgeries. <https://www.hrw.org/news/2018/09/17/us-medical-association-stands-against-unnecessary-intersex-surgeries> <sup>10</sup> United National Human Rights Council (2021). 48th session Joint Statement on the Human Rights of Intersex Persons. <https://www.bmeia.gv.at/oev-genf/speeches/alle/2021/10/united-nations-human-rights-council-48th-session-joint-statement-on-the-human-rights-of-intersex-persons/> <sup>11</sup> Zwischengeschlecht (2020). STOP Intersex-Genitalverstümmelungen in Kinderkliniken! <https://zwischen-geschlecht.org/> <sup>12</sup> Hässler, T. & Eisner, L. (2022). Swiss LGBTIQ+ Panel - 2022 Summary Report. <https://www.doi.org/10.31234/osf.io/whfe7>