

YOUR RIGHTS

refugees



This brochure was elaborated for inhabitants of the canton of Bern. Therefore, most of the listed counseling centers are based in the region of Bern. If you live in another canton, you will find a corresponding counseling center in your region. Apart this, most of the contents of this brochure apply in the whole of Switzerland.

YOUR RIGHTS

refugees



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COUNSELING CENTERS

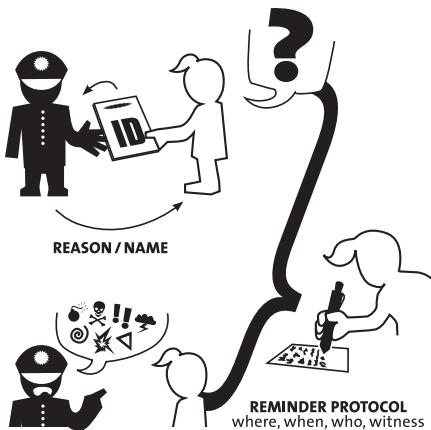
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YOUR RIGHTS

for asylum seekers

This brochure is intended for asylum-seekers, persons with a provisional admission, recognized refugees, and those without a regular residence status. It contains information about the rights related to encounters with the police, the asylum procedure, and life in an asylum shelter. Since these topics are not fully covered in this brochure, you can find a list of counseling centers at the end of this document to help you.

Further information and a digital version of this brochure can be found on www.rights-asylum.ch.



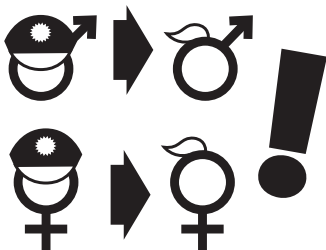
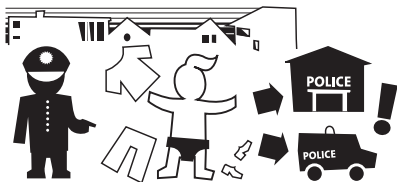
POLICE CHECKS AND DETENTION

Police and identity checks

- The police have the right to check your identity. Although you are not obliged to have an ID with you, to avoid trouble or lengthy checking, it is always better to take it with you.

- Always ask for the reason for the identity check. The police must be able to give you a reason when you ask.
- Police officers must give you their name upon request. Police officers in plain clothes must identify themselves with a badge.
- In the case of police assault (such as violence or verbal abuse) or discriminatory controls (e.g., police checks due to your skin color), note names of the police officers, location, date, time, and addresses of people who have observed the incident. This is important for a complaint or criminal charge against the police. At the end of this brochure, you will find addresses you can contact.
- As soon as possible, write down the incident as you remember it so you do not forget important things. (Download or request a form from augenauf Bern, www.augenaufbern.ch).

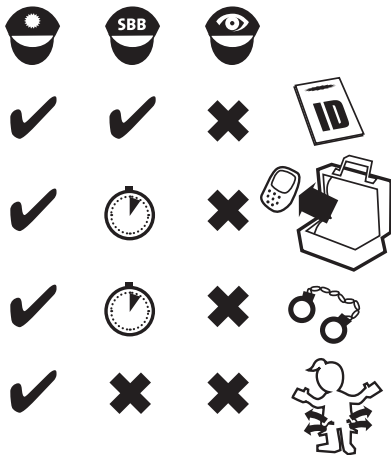
- If you have observed an assault, also write the information down immediately and send it to the person concerned.



Searches by the police

- The police are allowed to search your baggage if they deem you suspicious of a criminal offense. Always ask what crime you are being searched for. Ask why you are suspected of this offense.
- Extended personal searches (strip-search, for example) are not permitted in public. Emptying pockets or palpation, however, is allowed.
- In case of extended searches, insist the police search you in their car or at the police station.
- Only doctors or physicians are allowed to examine body openings.
- Insist that, as a woman, you be searched by women, or, as a man, by men.
- If you consider refusing a search, you should know that this may result in a criminal charge.

- The police are allowed to take a DNA sample from you (oral smear). In general, law enforcement and courts are entitled to order this. However, the prosecution or the court of justice are responsible for arranging the analysis and creating a DNA profile.
- If you get a summons from the police for DNA collection, it does not mean that you are obligated to do so.
- **After a DNA extraction, or upon receiving a summons to a DNA extraction, please always report to one of the counseling centers in the address section in chapter “Human rights/Repression” on page 53.**
- Recognition measures can be ordered by the police, the prosecution, or the courts. This usually includes determination of the body characteristics of a person and taking prints of body parts. If you refuse such police orders, the prosecution decides.



Train station / railway police

- Many things are forbidden at Bern central station. (Note the prohibition signs) The railway police enforce these rules. The SBB railway police can check your ID, arrest you temporarily, or hand you over to the police. In addition, the railway police are allowed to confiscate items. Private security services, such as Securitas, are not permitted to do so. According to the law, however, the railway police must hand over confiscated items and temporarily arrested persons “as quickly as possible to the police.”
- The authority of the railway police is limited to railway stations and trains.
- Pay attention to the kind of uniform people wear.

Private security guards

- In addition to the police, more and more uniformed personnel are also involved who are not police officers. They are employees of private security companies (e.g. “Protectas” or “Securitas”). They have no more rights than you have.
- If private security guards catch you while committing a criminal offense, they are allowed to arrest you. However, they must hand you over to the police immediately. They are not authorized to request an identity card, ask and search you, scan you, search your pockets, ask you for name and place of residence, or take things from you.



Confiscation

- If the police want to confiscate something – take your phone away, for example – always ask for a receipt. Confiscation is only allowed if an object can be used as evidence regarding a criminal offense or if it constitutes a threat to the public order. If confiscated objects are legal and are not being used as evidence, you can reclaim them later (with the receipt).
- If you are an asylum seeker in asylum proceedings, do not carry more cash on you than you absolutely need. Sometimes the police confiscate large amounts of cash. If they do so, do ask for a receipt.
- **You can contact one of the legal counseling center in the address section in chapter “Foreigners” on page 51 or “Human rights/Repression” on page 53.**



The right to remain silent

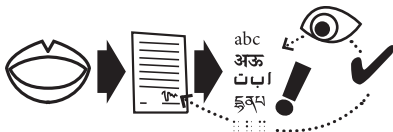
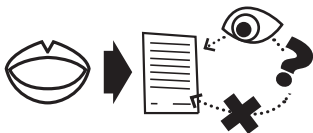
- If you are taken to the police station and questioned, you have the right to remain silent. This is not a trick but your right as being accused. This is useful when you or an acquaintance of you are accused of a criminal offense.



- You only have to give the following information:
 - Surname
 - Given name
 - Address where you are registered
 - Date of birth
 - Profession (not the employer)
 - Name of parents
 - Nothing else!
- Answer to all other questions with “No statement” or “I refuse to answer the question,” even if they want to talk with you only “about the weather.” Every statement endangers you and others.
- Do not sign anything you do not understand or disagree with.

In certain situations, however, it may be useful to make a statement to defuse the situation. If you decide to make statements, then consider the following:

- Please make sure that your statements are recorded correctly. (Are the recorded statements your own or those of the police?)
- Read the protocol carefully before signing.
- You are not obligated to sign protocols.



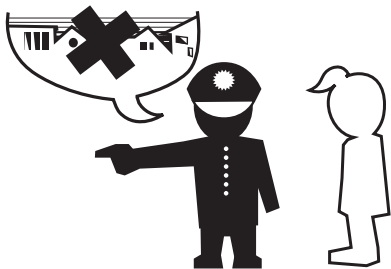
Translation

- It is your fundamental right to request a translator when with the police, immigration services (“Fremdenpolizei”), or other authorities. You are strongly advised to use this right. If you are requested to sign a protocol, insist on a transcript in a language you understand well.
- **Do not sign anything you do not understand.**

Expulsion / restrictions

- The police can expulse you from a place or detain you, e.g. if “there is reason to suspect” that you endanger public security and order, or that you hinder or disrupt the police in their work.

- This allows the police to forbid you to enter a certain area (station, city center, etc.) or leave a specific area (e.g., a canton). A breach of such an arrangement may have criminal consequences or consequences in the asylum procedure.
- You have the right to due process against such measures.
- **Contact a legal adviser listed in the address section under “Foreigners” on page 51 or “Human rights/Repression” on page 53.**



Arrests

Administrative Detention ("Administrativhaft")

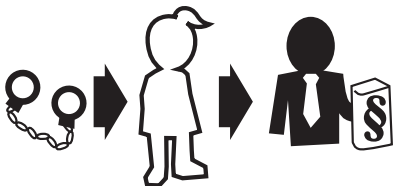
- Information about administrative detention ("Administrativhaft"), detention pending deportation ("Ausschaffungshaft"), etc. are found below in section "Mandatory measures and deportation."

Rights during imprisonment (because of a criminal offense)

- The police can hold you for a maximum of 24 hours (or 48 hours on weekends), after which they have to send you to an investigator.

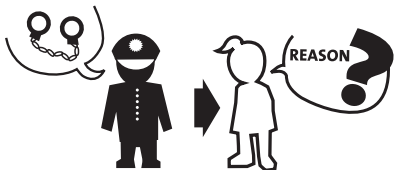


- The police must let you go after identification if there is no reason for a provisional arrest and no order to be sent to the judge. If you are accused of a crime, you have the right to a lawyer.



- If you are held for more than 24 (or 48) hours, demand a lawyer immediately. If you cannot afford a lawyer, you have the right to free legal aid (“unentgeltliche Rechtsflege”). It will then be checked whether you are eligible for free legal aid. Demand information.

- Always ask for the reason for the arrest. Ask about the offense of which you are suspected. Ask which behavior made you a suspect.



- If you are a minor, demand that your parents or your legal representative is contacted.
- If you have received a definitive removal decision and the deadline for your departure is exceeded, mandatory measures may result. The enforcement authorities can keep you short-term, restrict or expulse, as well as order preparation detention, immigration detention, or enforcement detention.

- Vulnerable people, minors, and families can insist to be accommodated separately.
- **Always contact a legal counseling center! Check the address section of this brochure under “Foreigners” on page 51 or “Human rights/Repression” on page 53.**

Attacks and injuries



- If you were a victim of an attack or you have been injured during detention, always demand that this is recorded in the interrogation protocol.

- Take a picture of visible injuries.
- After your release, always visit a doctor and have a medical certificate issued.
- **Addresses can be found under “Medical issues” on page 60.**

ASYLUM PROCEDURE

Engaging with the authorities

- If you receive a letter from the authorities as part of the asylum procedure, always immediately inquire about the matter. You can do this at the asylum shelter or at a legal counseling center. Make sure that you really understood what is ordered or asked in the letter.
- Keep every letter from the authorities and take your entire file with you when you ask someone for advice. Always make copies of your documents.
- If you receive an asylum decision, you must act very quickly. The deadlines for appealing against a decision are very short.



- **Always contact a legal counseling center in the address section under “Foreigners” on page 51.**

Questioning grounds for asylum

- You applied for asylum. By doing this, you say that you (you personally) are at risk or in a life-threatening situation in your home country.
- You have the obligation to demonstrate or make credible that you are at risk. Financial or economic reasons are not accepted.
- You also are obligated to cooperate in verifying your identity. However, you cannot be forced to contact the authorities of your home country.
- The authorities usually question you twice. During both interviews, you must be able to convince the authorities that you are threatened in your home country.

- Prepare very carefully for these interviews. Try to put together pieces of evidence (arrest warrants, periodicals, etc.) in advance of the interview. Get in touch with people who can help you.
- Remember exactly what you said at the first interview. Contradictions between your statements can have negative consequences for you.
- Often pieces of evidence (for example an arrest warrant) do not exist. In this case, you do not need to prove anything, but the credibility of your information is examined in depth. You must appear authentic.
- You will be asked about the persecution, your journey to Europe, your life in your home country, etc. Always try to answer as precisely as possible, do not come up with exaggerations or simplifications.

- Make sure that the interviewers have really understood your report. If you sense distrust, try to explain your story as accurately as possible.
- If you have the impression that the translation is not correct or not in your favor, let them know.
- If you are a minor, make sure that your age is recorded correctly. If the authorities do not record your real age, **please contact a legal adviser in the address section under “Foreigners” on page 51.** As a minor, you receive more protection than an adult.

Mandatory measures and deportation

- If you receive a letter from the authorities giving you a time limit for leaving the country or announcing a deportation

(“Wegweisungsvollzug”), always contact a legal counseling center in the address section under “Foreigners” on page 51.

- If your asylum application has been rejected, you are obliged by law to leave Switzerland. However, you have the option to request a re-evaluation of your application (“Wiedererwägungsgesuch”). For such an admission, strict requirements apply.
- If you want to leave Switzerland voluntarily, you can claim return assistance and return programs.

TIME LIMIT FOR LEAVING A COUNTRY/ ANNOUNCING A DEPORTATION



CONTACT A LEGAL COUNSELING

**REQUEST A RE-EVALUATION OF
YOUR APPLICATION**

CLAIM RETURN ASSISTANCE

STAY IN CH

RISK

- If you stay in Switzerland after the deadline is expired, you risk mandatory measures, a complaint of an illegal stay, and an entry ban for Switzerland.

Preparatory detention ("Vorbereitungshaft")

To keep you from escaping a deportation, preparatory detention for a maximum of six months can be ordered. Preparatory detention is permissible if

- you refuse to disclose your identity or follow official orders,
- you violate an exclusion or restriction,
- enter the territory of Switzerland despite an entry ban and cannot be immediately expelled,
- you apply for asylum after a residence permit has been withdrawn or has not been renewed because of a threat to public security and order,

- you apply for asylum after you have been expelled,
- you apply for asylum to avoid an imminent expulsion,
- you have been convicted or prosecuted because you are seriously threatening other persons or lives,
- you have been convicted of a crime.

Detention pending deportation ("Ausschaffungshaft")

As soon as your expulsion is ordered by the State Secretariat for Migration (SEM) or by a criminal court, detention pending deportation can be ordered. Such an order is permitted if

- you are already in preparatory detention,
- the law concerning foreigners ("Ausländergesetz") applies (as under preparatory detention),
- it is indicated that you want to escape the deportation,

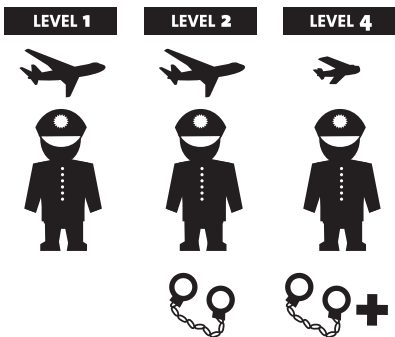
- your previous attitude suggests rejection against official orders,
- the definitive removal decision is issued in a federal center for asylum seekers and the deportation is foreseeable. In this case detention may not exceed 30 days.

Detention pending deportation is also permissible if an enforceable decision has been made, the deadline has expired without you leaving Switzerland, and the cantonal authority must get travel documents for you. In this case, detention may not exceed 60 days.



Deportation can take place on 3 different levels:

- In level 1, the police will escort you to the plane. The deportation is carried out without handcuffs or police assistance.
- If you refuse, a level 2 deportation is carried out. You are handcuffed and escorted by a police officer on a regular flight.
- If this form is not possible due to your behavior, the deportation is carried out on level 4 with stronger restraints and with a special flight. This can already be the case if you do not cooperate with the authorities regarding your leave.
- Note that level 4 deportations are not conducted to all countries. **Please contact a legal counseling center in the address section under “Foreigners” on page 51.**



- Families with children enjoy special protection under the Children's Rights Convention. If detention pending deportation is ordered for you or your family, insist that you and your family are not placed separately. **Please contact a legal counseling center in the address section under "Foreigners" on page 51.**



Detention in the Dublin procedure

- If you have come to Switzerland via a Dublin state, and if Switzerland denies responsibility for processing your application for asylum, you are subject to the Dublin procedure.
- In this case, you may only be arrested if there is a considerable risk of escaping, if detention is appropriate, and less restrictive measures cannot be applied effectively. Imprisonment may be ordered already during the preparation of the decision.
- The maximum length of Dublin custody depends on many conditions. Please, get some advice on this matter.
- Unlike the forms of detention discussed above, the Dublin custody does not need to be automatically reviewed by a court. You yourself must ask, in writing, for a review of detention. This appeal is free of charge and does not entail any disadvantages for you.

Coercive detention ("Durchsetzungshaft")

- If a legally binding expulsion cannot be carried out – for example because you are resisting or if detention pending deportation is legally not possible – coercive detention can be ordered.
- Coercive detention can last one month and may repeatedly be extended by a two months period with the consent of the judicial authority.

Maximum length of detention

- Preparatory detention, detention pending deportation, or detention in the Dublin procedure all together may not exceed 6 months. However, with cantonal legal consent this period may be extended by another 12 months (six months for minors). You must be released after a maximum of 18 months.

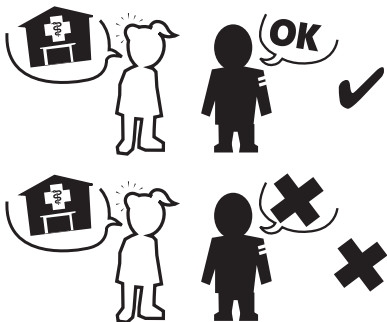
YOUR RIGHTS IN COLLECTIVE CENTERS

Health

- If you need medical assistance, make sure the staff center knows. Be very clear about this.
- If the staff refuses to arrange a doctor's appointment, let them know that this might be criminal offense.

If medical attention is refused:

- You always have the right to visit the emergency room (hospital, "City-Notfall").
- **Always contact a legal counseling center in the address section under "Human rights/Repression" on page 53, or, in the case of medical emergencies, contact one of the numbers in the section "Medical issues" on page 60.**



Problems with other residents or with staff

- The staff of the center has a duty of care regarding problems between residents. This means that they must intervene in the case of conflicts among residents and, if necessary, protect residents from threats or danger.

IN THE ASYLUM CENTER

PROBLEMS



ALWAYS CONTACT



THE STAFF OR A LEGAL COUNSELING CENTER

- In case of bullying, theft, discrimination, or other problems, always contact the staff.
- If the staff does not act in case of conflicts, or if you have mental or physical health problems due to the conditions in the center, please contact the organization responsible for the center (for example the Salvation Army's refugee center).
- Regardless of the kinds of problems with other residents, always contact the staff. There are no taboos.
- If you have any problems with the center staff, please contact a counseling center.

- If the problems persist: **contact a legal counseling center from the address section under “Foreigners” on page 51 or “Human rights/Repression” on page 53.**

Room searches in the center

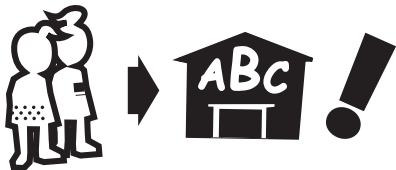
- Room searches in asylum centers occur frequently. When the police arrive in your room and you are not the target of the search, let the officers know which boxes and items belong to you.
- If you hinder the search, this can have criminal consequences.
- If objects are confiscated by the police, always demand a receipt.
- Confiscation by the center staff is not permitted.

Particularly vulnerable people

- Always insist that women and families get a room separate from men.
- If you feel pressured for any reason, please contact the staff or the relevant counseling center in the address section.



- Asylum-seeking children have the right to attend school until the end of compulsory education (9th grade in Switzerland). Likewise, they have the right to go to secondary schools, or to begin an apprenticeship. Unfortunately, asylum-seeking children do not always get enrolled in school, the cantons seem to manage this issue differently.





Social allowance

- If your social benefits are confiscated by the police, ask for a receipt from them to reclaim the money later.
- Go to the center management and ask for confirmation that you have been paid social allowance and when.



- Never have more than CHF 400 on you since the police can take it from you.
- **Contact a legal counseling center in the address section under “Foreigners” on page 51 or “Human rights/Repression” on page 53.**



Sans-Papiers

- If you live and work in Switzerland without a residence permit and if you have questions about health, work, school education or housing, **you can contact the Sans-Papiers office, in the address section under “Foreigners” on page 51.**



**HEALTH
WORK
EDUCATION
HABITATION**



**ADVISORY
CENTER FOR UN-
DOCUMENTED
MIGRANTS /
SANS-PAPIERS**

For further information visit
www.rights-asylum.ch

COUNSELING CENTERS

FOREIGNERS

Asylhilfe Bern

(support for asylum seekers and refugees)

Bahnhöheweg 44, 3018 Bern

031 382 52 72

www.asylhilfe.ch

info@asylhilfe.ch

Berner Beratungsstelle für

Sans-Papiers (counseling for sans papiers)

Effingerstrasse 35, 3008 Bern

031 382 00 15

www.sanspapiersbern.ch

beratung@sans-papiers-contact.ch

Berner Rechtsberatungsstelle

für Menschen in Not (legal support)

Eigerplatz 5, 3007 Bern

031 385 18 20 (asylum seekers)

031 385 18 27 (Sans-Papiers)

www.rechtsberatungsstelle.ch

rbs.bern@bluewin.ch

FASA – Fachstelle Sozialarbeit der
kath. Kirche Region Bern, Asylbereich
(catholic church's center for social work)
Mittelstrasse 6a, 3012 Bern
031 300 33 65/66
www.kathbern.ch
fasa.bern@kathbern.ch

isa – Informationsstelle für Ausländerinnen
und Ausländerfragen
(information center for foreigners)
Speichergasse 29, 3011 Bern
031 310 12 72
www.isabern.ch
beratung@isabern.ch

Kirchliche Anlaufstelle
(christian center mandatory measures)
Zwangsmassnahmen Kanton Bern
Postfach, 3001 Bern
031 332 00 50
www.refbejuso.ch
mathias.tanner@refbejuso.ch

Kirchliche Kontaktstelle für
Flüchtlingsfragen KKF
(christian contact center for refugee problems)
Effingerstr. 55, 3008 Bern
031 385 18 11
www.kkf-oca.ch
info@kkf-oca.ch

Solidaritätsnetz Sans-Papier Bern
(solidarity network)
Bümplizstrasse 23, 3027 Bern
031 991 39 29
www.sans-papiers-be.ch
info@solidaritaetsnetzbern.ch

HUMAN RIGHTS/REPRESSION

Amnesty International
Speichergasse 33
3001 Bern
031 307 22 22
www.amnesty.ch

AntiRep Bern (anti-repression activists)
Postfach 2038, 3001 Bern
www.antirep-bern.ch
info@antirep-bern.ch

Demokratische Juristinnen
und Juristen Bern (djb) (democratic jurists)
Postfach 5850, 3001 Bern
www.djs-jds.ch
djb@djs-jds.ch

Menschenrechtsverein augenauf Bern
(Human Rights organisation)
Quartiergasse 17, 3013 Bern
031 332 02 35
www.augenauf.ch
bern@augenauf.ch

VICTIM SUPPORT

Frauenhaus Bern (women's refuge)
Postfach 2126, 3001 Bern
031 332 55 33
www.frauenhaus-bern.ch
info@frauenhaus-bern.ch

Lantana – Fachstelle
Opferhilfe beisexueller Gewalt
(center for support of victims of sexual
assault)

Aarberggasse 36, 3011 Bern

031 313 14 00

www.lantana-bern.ch

info@lantana-bern.ch

Opferhilfe Bern (victims assistance)

Seftigenstrasse 41, 3007 Bern

031 370 30 70

www.opferhilfe-bern.ch

beratungsstelle@opferhilfe-bern.ch

PARTNERSHIP AND FAMILY

Ehe- und Familienberatung Bern, Fachstelle
für Beziehungsfragen des Kantons Bern
(counseling for marriage and family, canton-
al center for relationship issues)

Aarberggasse 36, 3011 Bern

031 312 10 66

www.eheundfamilienberatung-bern.ch

info@eheundfamilienberatung-bern.ch

frabina – Beratungsstelle für
Frauen & binationale Paare
(center for women and binational couples)

Kapellenstrasse 24, 3011 Bern

031 381 27 01

www.frabina.ch

info@frabina.ch

WOMEN

Infra Bern – Information centre for women

Zentrum 5

Flurstrasse 26b, 3014 Bern

031 311 17 95

www.infrabern.ch

Terre des femmes Schweiz

Standstrasse 42, 3014 Bern

031 311 38 79

www.terre-des-femmes.ch

info@terre-des-femmes.ch

CHILDREN AND TEENAGER

Kinderanwaltschaft Schweiz

(legal support for children)

Löwenstrasse 17, 8001 Zürich

043 344 61 71

www.kinderanwaltschaft.ch

info@kinderanwaltschaft.ch

LEGAL COUNSELING

hab – homosexuelle Arbeitsgruppen Bern
(lgbt groups in Bern)

Villa Stucki, Seftigenstrasse 11, 3007 Bern

031 311 63 53

www.ha-bern.ch

info@ha-bern.ch

Humanrights.ch – Rechtsberatungsstelle für
Menschen im Freiheitsentzug (Legal advice
centre for people under arrest)

Hallerstr. 23, CH-3012 Bern

031 302 01 61

info@humanrights.ch

www.humanrights.ch

Kirchliche Gassenarbeit Bern
(christian street work)

Speichergasse 8, 3011 Bern

031 312 38 68

www.gassenarbeitbern.ch

mail@gassenarbeitbern.ch

Ombudsstelle der Stadt Bern (ombudsman's office in Bern)

Gemeindeaufsichtsstelle für den Datenschutz (center for data protection)

Junkerngasse 56, Postfach 537, 3000 Bern 8
031 312 09 09

ombudsstelle@bern.ch

Pink Cross Schwulenorganisation Schweiz (national gay organization)

Monbijoustrasse 73, 3007 Bern

031 372 33 00

www.pinkcross.ch

office@pinkcross.ch

Queeramnesty

Postfach CH, 3001 Bern

www.queeramnesty.ch

Transgender Network Switzerland

Monbijoustrasse 73, 3007 Bern

www.tgns.ch

legal@transgender-network.ch

SEX WORKERS

XENIA – Fachstelle Sexarbeit
(support for sex workers)
Maulbeerstrasse 14, 3011 Bern
079 511 97 20
www.verein-xenia.ch
info@xeniabern.ch

MEDICAL ISSUES

Schweizerisches Rotes Kreuz
Ambulatorium für Folter- und Kriegsopfer
(ambulatory for torture and war victims)
Werkstrasse 16, 3084 Wabern
058 400 47 77
www.redcross.ch

City Notfall Bern
The doctor's office for emergencies
Schanzenstrasse 4A, 3008 Bern
031 326 20 00
www.citynotfall.ch

Gynecological hospital Bern
Friedbühlstrasse 19, 3010 Bern
031 632 10 10
www.frauenheilkunde.insel.ch

Schweizerisches Rotes Kreuz
Gesundheitsversorgung für Sans-Papiers
(medical support for sans papiers)
Werkstrasse 16, 3084 Wabern
058 400 47 77
www.redcross.ch
gesundheit-sanspapiers@redcross.ch

Inselspital Notfall (emergency room in Bern)
Freiburgstrasse 16, 3010 Bern
031 632 24 02
www.insel.ch

Kriseninterventionszentrum KIZ
(crisis intervention centre)
Murtenstrasse 21, 3008 Bern
031 632 88 11
www.upd.ch

Notfallzentrum für Kinder und Jugendliche NZKJ
(emergency room for children and teenagers)

Freiburgstrasse, 3010 Bern

031 632 92 77

www.kinderkliniken.insel.ch

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