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CEDAW – List of Issues Prior to Reporting (LoIPR) for Switzerland

Report by the Swiss Federal Commission for Women's Issues

This input for the LoIPR was drawn up by the Swiss Federal Commission for Women's Issues FCWI. The FCWI is a federal extra-parliamentary standing commission which was appointed by the Swiss government in 1976. The FCWI is classified as an NHRI. This submission may be posted on the CEDAW website.

Art. 2 CEDAW: independent National Human Rights Institutions (NHRI)

Switzerland still does not have an independent human rights institution in accordance with the Paris Principles, although such an institution would be very important for the implementation of women's rights. In 2011, the Swiss Centre of Expertise in Human Rights (SCHR) was founded on the initiative of the Swiss federal government and with the participation of cantonal universities. However, the SCHR is a temporary pilot project that does not comply with the Paris Principles. The Federal Commission for Women's Issues considers it very important that the legislative work for a genuine NHRI is finally completed. What is needed is a solid legal basis, a broad mandate, clear independence for the institution from both the federal government and the cantons and universities, sufficient funding, and the participation of civil society.

The FCWI demands

- *the setup of an independent human rights institution in accordance with the Paris Principles.*

Art. 7 CEDAW: political and public life

Political participation

As we approach the federal elections on 20 October 2019, it is obvious that much still needs to be done to raise the representation of women in federal politics. The Council of States (46 members) comprises only 13 per cent women, and the National Council (200 members) 33 per cent. A similar picture can be seen in the cantonal parliaments (proportion of women 29%) and governments (25%). As a result of continuous lobbying and pressure by women's organisations, the proportion of women in the Federal Council (government) has again risen to 43 per cent (3 women, 4 men) following the elections (by the parliament) of 5 December 2018.

As in the 2011 and 2015 elections, the FCWI and a broad coalition of women's organisations has joined together to campaign for more women in parliament in the 2019 elections, particularly by motivating women to run for political office and urging political parties to put more women on their ballots. (See video spot and campaign entitled *halbe-halbe/moitié-moitié* ('fifty-fifty'), available at www.comfem.ch). As a result, an average of more than 40 per cent women – more than ever before – are running for the 2019 elections. (See study by Werner Seitz, 2019, available at www.comfem.ch). Hopefully, this will translate into a significantly increased number of female MPs in the next term.

The FCWI demands

- *measures to increase the number of women in politics, in particular by promoting better representation on party lists and more balanced media reporting.*

Art. 11 CEDAW: employment

Equal pay

Although 23 years have passed since the introduction of the Federal Gender Equality Act (GEA) in 1996, there is still no wage equality between men and women. After a revision of the law, the updated GEA will enter into force on 1 July 2020.

Until now, under the GEA it was left to victims of wage discrimination to file a lawsuit against their employer – a high barrier that prevents many of the affected from doing so. The revised Gender Equality Act now obliges companies with more than 100 employees to carry out wage analyses every four years. The high threshold means that only one per cent of companies and just 46 per cent of employees in Switzerland profit from this. There are no sanctions for companies who do not comply with the principle of equal pay. Companies are not required to continue their wage analysis once it indicates compliance with equal pay standards. In addition, wage analyses are only a preliminary measure, and will end in twelve years' time.

Another structural inequality lies in the continuous and systemic undervaluation of professions predominantly carried out by women. Although the principle of equal pay for work of equal value is enshrined in Article 8 paragraph 3 of the Swiss Constitution, this is not being put into practice. As public measures are not sufficient to realise equal pay, it is currently left to civil society to uphold the pressure and rally for equality.

The FCWI demands

- *an extension of the reach of wage analyses to include more companies and employees, the enactment of effective sanctions for non-compliant companies, the elimination of the exemption from further analyses for companies which have demonstrated compliance, and the continuation of wage analyses until the gender pay gap is closed.*
- *the launch of an in-depth public discussion on the value of work (what is meant by work of equal value?) and equal pay (e.g. in the form of a campaign).*

Reconciling work and family life / parental leave

Evidence shows that starting a family is the time in couples' lives when gender roles are most likely to revert to the traditional. That is why the FCWI is convinced that a gender-sensitive model of paid parental leave will help bring an end to role stereotyping in families and in the labour market. In 2014, the FCWI did a survey among the political parties to ascertain their current position on this matter. In 2015, jointly with the Federal Coordination Commission for Family Affairs FCCF, the FCWI organised a kick-off event on parental leave for Members of Parliament and organisations interested in promoting this crucial issue. Further cross-party meetings have been held since then. As a reaction to a popular initiative launched by civil organisations, Swiss Parliament has recently approved a paternity leave of two weeks. However, up to now, it has not been possible to secure a legal right to parental leave (in addition to the conceptually distinct birth related maternity/paternity leave).

See the FCWI position paper entitled *Elternzeit – Elterngeld* ['Parental leave – parental benefits'] (2011), available in German, French and Italian:

<http://www.ekf.admin.ch/dokumentation/00441/index.html?lang=de>

Frauenfragen Review 2014: *Elternurlaub* ['Parental leave'], contributions in German, French and Italian: www.ekf.admin.ch/dokumentation/00507/00648/index.html?lang=de

The FCWI demands

- *legislation which, in addition to the existing 14-week birth-related maternity leave (and to the proposed 2-week fathers' leave approved by parliament in September 2019), allows for paid parental leave of at least 24 weeks, a fair proportion of which must be set apart for the father.*

Social security / pension reform

In 2017, Swiss citizens rejected the 'pension reform 2020' proposal at the ballot box. A key argument against the reform was the increase in the retirement age for women. Shortly afterwards, the 'AHV 21' reform plans were presented. Surprisingly, these plans also include an increase in the retirement age for women to 65 years. The FCWI rejects the increase in the retirement age for women as long as women are being discriminated against in working life while also carrying the main burden of unpaid care work. The planned reforms must take into account the special situation of women, who continue to bear the brunt of such care work and who, in caring for the family, are often only able to take on part-time employment. Disadvantages in working life (whether as a result of low-level education, low-paid work in low-paid jobs, career breaks, part-time work or persistent wage discrimination) lead to a worse position at retirement age. Unpaid care work in the form of caring for children as well as adults in need of care is a social necessity and is predominantly performed by women. As a result, women suffer significant losses in their pension savings compared with men. Furthermore, it is important to eliminate or at least significantly reduce the 'coordination deduction' in second-pillar occupational pension plans. This is the only way for women who work part-time to achieve access to this social insurance.

See the FCWI's consultation statement (2018) on the 'AHV 21' proposal:

<https://www.ekf.admin.ch/ekf/de/home/dokumentation/vernehmlassungsstellungennahmen.html>
(available in German and French)

The FCWI demands

- *that appropriate consideration be given to care work in the 'AHV 21', and that the retirement age for women is not raised as long as wage discrimination and inequalities in the working world persist.*
- *that the 'coordination deduction' is eliminated or significantly reduced.*

Poverty

There are currently some 675,000 people affected by poverty in Switzerland. Of these, 360,000 are women. A further 300,000 women are at risk of poverty. Not only is the poverty risk for women higher than that for men, but it has also been rising steadily since 2013. The main reason for this is that social security is inherently linked to employment salaries. Those who work part-time or concentrate on caring for children and relatives in need of care bear a higher risk of poverty. Women after divorce or separation carry the greatest poverty risk. One in four single mothers in Switzerland depends on social benefits. After implementing the 'National Programme to Combat and Prevent Poverty' together with the cantons, communes and civil society, which began in 2014, the federal government again reduced its commitment to poverty policy in 2018. The Federal Council has refrained from regular poverty monitoring which measures and analyses developments. Binding poverty reduction targets are still lacking. At the same time, cantonal efforts to combat poverty have also been scaled back, and Swiss guidelines for granting social security benefits have been tightened. This affects women disproportionately.

The FCWI demands

- *a reduction in poverty in Switzerland. To this end, the federal government, together with the cantons and communes, must formulate a binding Swiss strategy for poverty reduction which pays special attention to improving the situation of women.*
- *a national poverty monitoring programme which measures and analyses developments and derives measures on a regular basis. Women's poverty needs to be a specific focus in this at all times.*

Management positions in business

The FCWI notes that all voluntary efforts on the part of companies to increase the share of women on boards of directors and management bodies have had inadequate results. Switzerland is below the European average in terms of the number of women in management positions. Recent changes to the Code of Obligations require publicly traded companies to feature at least 30 per cent of each gender on the board of directors. The executive board must include each gender to at least 20 per cent. Only about 200 companies

will be affected by this law. There are no sanctions in case of non-compliance. Indeed, companies must only state the reasons for their failure to reach the benchmark value, and the efforts and measures they want to undertake to improve under-representation. Technically, this does not qualify as an actual quota, but only as a non-binding target value, and is therefore unfit for purpose.

The FCWI demands

- *actual, binding quotas, including sanctions and increased target values.*

Art. 16 CEDAW: marriage and family life

Child allowance / sharing of income deficit in the event of separation or divorce

The Swiss Civil Code provisions on maintenance obligations have been amended and came into effect in 2016. Child support is now redefined as a claim on the part of the child themselves. This means that all children have the same rights whether their parents are married or not – an amendment much welcomed by the FCWI, for it creates an incentive for parents to share childcare tasks more equitably and helps establish this as the new norm. Child support is now given priority above other family law obligations, alternating custody is mentioned in the law, and debt collection assistance is to be uniformly regulated at ordinance level.

However, parliament has failed to set a minimum level of maintenance and to remedy a situation deemed discriminatory by the Federal Supreme Court as far back as 2008. If, following a separation or divorce, the joint income of the two partners is insufficient for two households, the maintenance creditor – in most cases the woman and mother, who is primarily responsible for childcare and does unpaid care work, and who therefore has a lower income than the man – has to bear the entire deficit and apply for social welfare. This matter thus needs to be addressed more urgently than ever. The FCWI has been campaigning since 2006 for greater fairness between men and women in cases of income deficits, and for a minimum level of child maintenance to be set.

See study by Freivogel (2006): *Nachehelicher Unterhalt – Verwandtenunterstützung – Sozialhilfe* ['Postmarital maintenance, recourse to family members, social welfare']:

<http://www.ekf.admin.ch/dokumentation/00441/index.html?lang=de> and

the FCWI's arguments on the amendment of the law on child maintenance (2014)

<http://www.ekf.admin.ch/dokumentation/00441/index.html?lang=de>).

(available in German, French and partly in Italian)

The FCWI demands

- *gender-equitable regulation of the economic consequences of separation or divorce in terms of maintenance and child support, in particular that any income deficit should be borne by both partners.*
- *the reconsideration of a minimum child maintenance level.*
- *the partial revision of child maintenance law with respect to the above two points.*