



Bern, November 2021

Report of the Federal Commission for Women's Issues FCWI to the UN Committee on the Elimination of All Forms of Discrimination against Women (CEDAW)

with regard to the sixth periodic report submitted by the Swiss government in
November 2020

Art. 2 CEDAW: Policy of eliminating discrimination against women

1) National human rights institution (NHRI)

With regard to the implementation of Article 2 CEDAW and the aim of pursuing a policy that combats all forms of discrimination against women in the States Parties using all appropriate means, the role played by a national human rights institution (NHRI) could be considered of the utmost importance. With this in mind, the Federal Council set up the Swiss Centre of Expertise in Human Rights (SCHR) in 2011 as a pilot project intended to run for a limited period of time. Because the SCHR (on whose advisory board the FCWI is represented) does not satisfy the requirements of the Paris principles, the FCWI has continually called for the creation of an authentic NHRI [see [Response of the Federal Commission for Women's Issues FCWI to consultation on the Federal Act on the funding of the national human rights institution HRIA \(September 2017\)](#) (in de, fr)]; this presupposes a sound legal basis, a broad mandate, independence from the federal and cantonal authorities as well as from the universities, the securing of sufficient funding and the participation of civil society. The Swiss Parliament finally agreed to the establishment of an NHRI – i.e. the transformation of the SCHR into an NHRI – at its 2021 autumn session. The FCWI considers the tight budgetary constraints to be critical, as well as the conclusive description of its competencies and responsibilities.

The FCWI calls for:

- the NHRI to be provided with sufficient financial resources to enable it to perform its gender equality mandate.

Art. 7 CEDAW: Participation in political and public life

2) Political participation

Due in part to the FCWI's considerable involvement, alongside civil society, in the political parties and the election campaign [see <https://www.ekf.admin.ch/ekf/fr/home/themen/droits-civils-et-politiques/droits-politiques.html>, in de, fr, it] both the number of female candidates and their statistical chance of being elected increased markedly in the 2019 parliamentary elections. This meant that the hope of significantly increasing the number of women in parliament, as expressed in the list of issues prior to reporting (LOIPR) shortly before the elections, has been partly met. The percentage of seats held by women in the People's Chamber (i.e. National Council) has risen from 32% to 42%. Representation is above average among left-wing parties and below average among right-wing parties. Nevertheless, with one exception, all parties now have a higher proportion of female representatives. The cantonal differences are just as big as those between the political parties. The low proportion of women in the Council of States (the chamber in which the cantons are represented), which had fallen steadily since the start of the new millennium, also rose but remains at a lamentable 26%. Apart from the Greens, no other party has a majority of female members of parliament.

And although the representation of women in the cantonal and municipal governments and legislatures is also improving, progress is excruciatingly slow and currently stands at around a quarter (in the cantonal governments) and just over a third (in the municipal parliaments) [see [Werner Seitz: Women in the 2019 federal elections: A great step forward – in the Federal Palace \(June 2020\)](#) (in de, fr, it)]. Much still needs to be done, therefore, to achieve a state of parity.

One major obstacle is the continued under-representation of female candidates in media coverage in the run-up to the elections, as confirmed by a study commissioned by the FCWI [see [Stephanie Fiechtner/Manuel Puppis/Philomen Schönhagen: «Gender and media in the run-up to the 2015 federal elections» - Final report for the Federal Commission for Women's Issues \(FCWI\), the Federal Office of Communications \(OFCOM\) and SRG SSR \(2016\)](#) and the FCWI Comment [«Election coverage: gender stereotypes disappear, but female candidates remain underrepresented»](#) (both in de, fr, it)].

There has been very little research into other factors that prevent women from becoming politically engaged and running for political office, such as the way in which politics is conducted in a manner skewed decidedly towards male lifestyles (making it difficult to reconcile political activity and family life) and the high level of aggression to which politically active women are exposed on social media.

The FCWI calls for:

- an unflinching commitment by all levels of government, political parties and the media to the equal political participation of women;
- research into the structural and cultural factors that deter women from becoming politically engaged, and a targeted approach to eliminating these factors.

Art. 10 CEDAW: Equal rights in education

3) Education

Baccalaureate schooling (the most demanding level of upper secondary education, which entitles students to study at university) is regulated by a 'core syllabus' (*Rahmenlehrplan*; RLP), which can remain in effect for a considerable period of time (the current RLP dates back to 1994); therefore, the scope and impact of this key document cannot be overestimated, especially as it sets out, among other things, principles on how to address societal challenges. The Conference of Cantonal Education Ministers has now launched a consultation on an update to the RLP in which it is disconcertingly apparent that, in contrast to other fundamental issues such as sustainable development, it fails to attach any significant importance to gender issues and the multifaceted and multi-layered problems of gender discrimination (which can hardly be said to no longer pose a societal challenge). Although gender equality is a constitutional right, it is also well-known that women in Switzerland mostly tend to start experiencing the full force of discrimination when they enter into a partnership or decide to start a family. Because of their subtle or latent nature, many forms of discrimination are not viewed as such by girls and young women, but instead seen as their own personal, individual problem or failure. This makes it all the more necessary to raise awareness of gender issues in all their many shapes and manifestations among baccalaureate students – and of course their teachers – and to empower them to analyse the underlying concepts.

In addition, a strong leaky pipeline can still be observed at Swiss universities. Women more often drop out of their scientific careers and only a few work in academic management positions. The lowest share of women is to be found at the level of full professorships and is lowest of all in the STEM disciplines.

The FCWI calls for:

- appropriate weight to be attached to gender equality issues and gender discrimination in the core syllabus for baccalaureate schools.
- the federal government to link financial contributions to higher education institutions and the awarding of third-party funding to gender equality policy standards in future.

Art. 11 CEDAW: Employment & work

4) Equal pay principle

Even now, 25 years after the Federal Gender Equality Act first entered into force, persistent gender-based wage discrimination remains a perennial issue. The revised version of the Act, which came into effect on 1 July 2020 and obliges companies to conduct a periodic equal pay analysis, is an important step in the right direction given the ineffectiveness of purely voluntary approaches. However, this – actually only temporary – measure has turned out to be modest in scope (see [FCWI response to the consultation on the preliminary draft of changes to the Federal Act on Gender Equality \(2016\)](#), in de, fr); it merely covers the one

per cent of companies that employ at least 100 people and thus affects less than half of Switzerland's workforce, it does not provide for sanctions and once a company has demonstrated that its wages are non-discriminatory it no longer needs to be repeated.

Known weaknesses that significantly hinder the effectiveness of the Gender Equality Act must be addressed urgently: Plaintiffs are insufficiently protected from reprisals (up to and including dismissal) by the employer they are suing; there is no right of action by the authorities (the courts are not even obliged to invite the Federal Office for Gender Equality to state its position on a case); associations are permitted to seek a declaratory judgment but not to take action for performance; lastly, the reduced burden of proof that applies to the plaintiff under the Act is repeatedly disregarded by the courts.

Along with its many advantages, the Swiss education system has the disadvantage of requiring young people to make their career choices at an age when they are particularly vulnerable to gender stereotypes. This is one reason for the particularly high level of horizontal segregation in Switzerland's workforce, which in turn favours indirect wage discrimination among members of occupations that are identified as typically 'female'. Work in these occupations, which mostly form part of the care economy, tends to be valued rhetorically but not in real terms and is therefore undervalued and underpaid. The coronavirus pandemic has shed a glaring light on the fact that many systemically important jobs are female dominated and in the low-wage sector (retail trade, nursing, early childcare and cleaning, to name but a few). On the other hand, well-paid technical occupations in the 'STEM' field are mainly taken up by boys because gender stereotypes shape career choices (girls go into nursing and care, boys into technical professions) and because the STEM disciplines do not obviously appear to be compatible with care work.

The FCWI calls for:

- the requirement to conduct a wage analysis to be extended to a greater number of companies, effective controls and sanctions to be introduced for non-compliant companies, periodic wage analyses to be made compulsory regardless of the result of the investigation, and the time limit for the relevant statutory provisions to be abolished.
- an in-depth public discussion (e.g. in the form of a large-scale campaign) about the gap between the monetary and social value of work (keyword: system relevance), based on the constitutional principle of «equal pay for work of equal value».
- a 50% increase in the proportion of women in STEM occupations by 2030, by raising awareness at all levels to reduce gender stereotypes and improve the compatibility of these professions with care work.

5) Reconciling work and family life / parental leave

Evidence shows that women in Switzerland do not experience the full force of gender discrimination until they start a family. This is the point in their lives when gender roles are most likely to revert to the traditional stereotypes. These combine with structural factors –

gender-segregated work, wage discrimination, widespread part-time work, poorly developed but expensive childcare outside the family and school – to force women and families (back) into traditional patterns: the man retains or even increases his work-time percentage, while the woman reduces hers, either temporarily or permanently, or gives up work completely in order to take on most of the childcare and housework. The coronavirus pandemic has further reinforced these patterns (it has also demonstrated the vital importance of stable and affordable childcare being available outside the family). Taking all this into consideration, a gender-sensitive model of parental leave based in law could play a decisive role in mitigating these factors (and should be clearly distinguished both as a term and concept from maternity leave and paternity leave, which are purely birth-related). Parental leave boosts the relationship between the child and *both* its parents, makes it easier to take decisions that ensure a balanced and fair distribution of tasks between the parents and has a positive impact on the employment of mothers and thus also on the loss of the investment made in their education, [see [FCWI position paper on the introduction of 24 weeks' parental leave \("parental leave"\)](#)(2016); ["Frauenfragen" magazine 2014: Parental leave](#); [Press release 2020 «Now is the time for parental leave – for everyone's benefit»](#), published following the [referendum on paternity leave](#) (all in de, fr, it)].

The FCWI calls for:

- legislation which provides for paid parental leave of at least 24 weeks, in addition to the existing birth-related maternity/paternity leave, a fair proportion of which must be reserved for the father.
- a huge increase in the availability of generally affordable childcare places outside the family, accompanied by an improvement in the working conditions of childcare staff and the quality of care.

6) Social security/pension reform

The majority of unpaid care work is performed by women; it is mainly women who work part-time or (have to) give up work temporarily or permanently in order to care for children or sick or dependent relatives – or because working conditions do not allow them to work full-time until retirement age. It is mainly women who work in the low-wage sector and experience direct or indirect wage discrimination in all sectors of the economy. All of which means that women are significantly worse off in terms of their pension provision than men. Women's situation with regard to occupational pensions is further worsened by the 'coordination deduction', which means that only income above a certain level is taken into account as pensionable income. Nevertheless, no attempt has been made by the political establishment to reform, modernise or restructure pension provision without also attempting to raise the retirement age for women or to align it with that of men on the pretext of equal treatment, [see [Federal Commission for Women's Issues FCWI position paper on occupational pension reform \(2020\)](#) (in de, fr, it)]; in this document the FCWI also reiterated its long-term call to strengthen the first pillar (AHV/AVS), which, unlike occupational pension provision, benefits all women; see also [Federal Commission for Women's Issues \(FCWI\) consultation statement on stabilising the AHV/AVS \(AHV/AVS 21\) \(2018\)](#) (in de, fr, it)].

The FCWI calls for:

- the retirement age for women not to be raised until those factors that prevent pension equality (wage discrimination, labour market segregation, unequal distribution of unpaid care work) have been eliminated.
- the coordination deduction to be eliminated or significantly reduced.
- the cumulative insurance of part-time work and consideration to be given to lowering the entry threshold for the second pillar.
- priority to be given to strengthening the first pillar (AHV/AVS).

7) Poverty

There are currently 735,000 people affected by poverty in Switzerland, and that number is rising. The majority of these – 386,000 – are women. Almost 400,000 more women are at risk of poverty. The risk factors are highly gender-specific: lack of earned income, part-time employment and precarious forms of work or low-paid work, with corresponding long-term consequences for women on reaching retirement age. Divorce and separation remain a poverty trap. One in four single mothers is dependent on social assistance, and almost two-thirds of those drawing social assistance are female. At the same time, the social assistance system is under pressure to make savings. After the Federal Council began scaling back its commitment to combating poverty, both chambers of parliament adopted a parliamentary procedural request tasking the government with setting up a five-year monitoring cycle for the prevention and combating of poverty and reporting the results to parliament every five years.

The FCWI calls for:

- special attention to be paid, when designing poverty monitoring mechanisms and drawing up poverty reduction measures, to how women and children are affected by poverty and to gender-specific poverty factors.

8) Management positions in business

After all voluntary efforts to increase the share of women in management positions in business had failed, parliament finally amended company law to ensure that women make up at least 30% of the board of directors of listed companies with more than 250 employees and at least 20% of their executive management bodies. However, only around 200 companies fall within the scope of this much fought-over and hard-won legislative revision. There are no sanctions in the event of non-compliance with these targets; companies are merely required to state the reasons for their failure to comply and to present the measures planned to achieve the minimum representation required by law.

The FCWI calls for:

- the scope of the law to be expanded significantly, quotas to be increased considerably and made binding, and effective sanctions to be introduced for non-compliance.

9) Digitalisation

The state's periodic CEDAW report does not address the gender-specific impact of digitalisation – whether already observed or to be expected. In 2018, the Federal Council adopted its «Digital Switzerland» strategy (along with the associated action plan), which is to be updated every two years in dialogue with the relevant stakeholders. The FCWI devoted last year's issue of its journal «Frauenfragen» to this complex issue [<https://www.ekf.admin.ch/ekf/fr/home/dokumentation/fachzeitschrift--frauenfragen-/frauenfragen-2020.html>] (in de, fr, it)] because, like any form of technological change, digitalisation, with its capacity both to exacerbate existing inequalities and help reduce them, presents opportunities as well as risks. In June, the FCWI published a [position paper on making digitalisation gender-neutral](#) (in de, fr, it), with a focus on the world of work. It identifies the following key action areas:

- Women should play an equal role in shaping the digital transformation.
- Training must be strengthened.
- Digitalisation should be used to promote the reconciliation of work and family life.
- The 'platform economy' should be made subject to social security and the risk of casualisation averted.

The FCWI calls for:

- the gender perspective to be taken into account explicitly *and specifically* in the next revision of the Digital Switzerland strategy (2022). Concrete targets and measures must be defined, evaluated and adjusted as necessary. If need be, studies should provide the required gender-specific knowledge.
- the proportion of women among the producers of digital infrastructure to reach 50% by 2030.
- regulations which ensure that the use of algorithms and artificial intelligence does not involve any discriminatory effects by gender or other social differentiation categories.
- the institutionalisation of continuing professional development in the sense of everyone having the right to (paid) advanced training.
- positive effects of new forms of employment (such as working from home and the platform economy) to be promoted and negative effects prevented.

Art. 16 CEDAW: Marriage and family life

10) Right to maintenance and income-deficit sharing

As outlined previously, one in four single mothers receives social assistance; in other words, separation and divorce entail a high risk of poverty for women. Despite a clear ruling by the Federal Supreme Court in 2008, authorities and legislators are steadfastly refusing to abolish obvious (indirect) discrimination against women with regard to regulating the financial consequences of separation or divorce [see [Elisabeth Freivogel: Postmarital maintenance, recourse to family members, social assistance' \(2007](#) in de, fr, it) and the [FCWI's recommendations for a gender-equitable distribution of the economic consequences of separation and divorce](#) (in de, fr, it)]: If the income of the two partners is not sufficient to ensure their livelihood, the shortfall is not divided between them, but has to be borne unilaterally and in full by the partner entitled to maintenance. In most cases, this is the woman or mother, who is primarily responsible for childcare and therefore (in addition to all the other work-related forms of discrimination mentioned above) earns a lower income. She may be forced to claim social assistance and get herself into debt. This matter, which is recognised as unconstitutional, needs to be addressed more urgently than ever. Opponents argue that the required legislation entails coordination with public social assistance law, for which, however, the cantons are responsible rather than the federal legislators. This argument fails to convince, especially since the intention of protecting the person liable for maintenance against constant debt enforcement claims could be achieved by means of a corresponding revision of the Debt Enforcement And Bankruptcy Act (SchKG). The SchKG lies in the legislative competence of the federal government: therefore, it would indeed be possible to regulate cases of income deficiency and solve any resulting problems by revising the SchKG.

The revised Swiss Civil Code provisions on maintenance contributions entered into force in 2016. Since then, the child maintenance contribution has been redefined as an independent legal right on the part of the child themselves, and child maintenance has been given priority over all other obligations under family law. Nevertheless, the Federal Council did not take the opportunity to set a minimum level of maintenance for each child under family law. Here, too, it is argued that this would undermine the cantons' right to provide social assistance (via advance child support payments), as set out in the Constitution. However, making the maintenance contribution dependent on the liable party's ability to pay or making the ability to pay a measurement criterion would violate both the Convention on the Rights of the Child and Art. 285 of the Swiss Civil Code.

The new Federal Supreme Court case law on the right to maintenance confirms a departure from various safeguard clauses in spousal maintenance law. It will have serious consequences for women who work part-time and who reduced their work-time percentage (and thus their career opportunities and prospects of a better income) on the birth of their first child. The maintenance contributions awarded to divorced women will become lower and lower and/or be awarded for shorter periods. This change will further exacerbate the financial situation of divorced women, both now and in old age. The extent of this development cannot be gauged at the moment as the courts are not currently required to collect data.

The FCWI calls for:

- non-discriminatory regulation of the financial consequences of separation or divorce with regard to maintenance contributions, in particular by ensuring that any shortfall is borne equally by both partners (income-deficit sharing).
- the establishment of a minimum child maintenance level.
- the systematic collection of data on maintenance decisions under family law, in particular on the existence, amount and duration of the specified maintenance contributions in the categories of spousal, post-marital and child maintenance, as well as on pension compensation, property law and assumptions regarding income and expenditure