



Bern, December 2015

## **Statement by the Swiss Federal Commission for Women's Issues FCWI to the UN Committee on the Elimination of Discrimination Against Women (CEDAW)**

### **Concerning Switzerland's combined fourth/fifth state report to the Committee**

In occasion of the 65<sup>th</sup> session of the CEDAW Committee to be held in Geneva (24 Oct – 18 Nov 2016)

#### **1. General assessment of developments in women's and gender equality policy in the period 2009–2015**

Since the presentation of the third Swiss state report to the CEDAW in 2009, there have been some improvements in the area of the law and in other respects. These include the following:

- the explicit prohibition of female genital mutilation in the penal code, which came into force on 1 July 2012, and improvements in prevention and awareness-raising
- the equality of spouses in cantonal and communal citizenship legislation and in marital name law, which came into effect on 1 January 2013.
- the withdrawal of Switzerland's reservation to CEDAW Art. 16 para. 1 (g) (concerning marital and name law)
- the Federal Act on Measures against Forced Marriage, which came into force on 1 July 2013, and the 2013–2017 federal programme against forced marriage
- the extension of funding for external child-care service to 2019 (federal act).

Gender stereotyping is still a widespread phenomenon in the workplace, at school and in vocational training, as well as in the family. In their role as parents, men and women quickly find themselves faced with discriminatory structural barriers: The frequently proclaimed 'freedom of choice' in Switzerland is illusory when the framework necessary to combine work, parenthood and involvement in civic society does not exist.

This means that traditional role models become more engrained and gender stereotypes are reproduced. Widespread sexism towards women and girls is expressed in many ways, it occurs in particular in the public sphere in sexist advertising and in the media. The conditions for combining work and family life are unsatisfactory and paid parental leave for both mothers and fathers is not yet regulated in law. It is particularly worrying that women still suffer from pay discrimination and that there is still unequal treatment of the spouses in relation to maintenance and social assistance debts in cases where the incomes of the parties are not sufficient to cover the costs of both households in the case of separation or divorce (so called 'Mankoteilungsproblem'). Finally, women and men are still not equally represented in business and politics.

A further issue is that sex-segregated data are not collected in all sectors in Switzerland, therefore, in some areas, it is difficult to identify and prove structural discrimination. Efforts today should focus on the less visible structural and indirect discrimination, overcome institutional inertia and proactively implement and enforce legal and other measures to create a situation of de iure and de facto equality. This is the main focus of the FCWI.

## **2. Work and positioning of the FCWI**

### **2.1 New FCWI appointment decree issued by Swiss Federal Council**

The FCWI is a federal extra-parliamentary standing commission which was appointed by the Swiss government in 1976. On 5 December 2014 the Swiss government issued a new appointment decree for the FCWI, which did not alter the Commission's status or core mandate.

This decree is available in German, French and Italian at:

<http://www.ekf.admin.ch/org/00450/00477/index.html?lang=de>

The FCWI's budget for 2016 is CHF 190,700 (2015 annual budget: CHF 194,000). The Commission's secretariat employs 1.5 FTEs shared between three persons, as in previous years. The FCWI has asked for its mandate to be strengthened and for an increase in resources – as seen in its statement to the CEDAW Committee in 2009 – but the Swiss government has not responded positively to this demand.

### **2.2 FCWI working topics**

To mark its fortieth anniversary, in November the FCWI issued a range of publications:

- Frauenfragen/magazine on women's issues: "Viel erreicht – neu herausgefordert. 40 Jahre EKF – 40 Frauenfragen" ["Much achieved – new challenges. Forty years of the FCWI – 40 women's issues"])
- "40 Jahre EKF – 40 Fakten" ("40 years of the FCWI – 40 facts") poster
- Online documentation: Frauen Macht Geschichte [Women Power History], updated to 2015 (available in German, French, Italian)

All reports, statements and media releases issued by the FCWI since it was set up can be found at:

[www.frauenkommission.ch](http://www.frauenkommission.ch) > Documentation

### **2.3 Raising awareness of and implementing the CEDAW**

In order to raise awareness of the CEDAW and ensure its implementation, the FCWI has issued a guideline for interested lawyers and legal advice services containing practice examples and the key information on the UN convention on women's rights. The aim of the guideline is to familiarise legal specialists with this international instrument and to demonstrate, using model examples, how it can be used as legal argument in the Swiss courts. The various sections of this online tool were last updated on 1 August 2015. It is available in German and French and can be accessed free of charge at:

<http://www.ekf.admin.ch/dokumentation/00596/index.html?lang=de>

### **3. FCWI's position on selected topics**

Due to limited resources, the FCWI is not able to express an opinion on all relevant issues. Therefore, the Commission focuses on selected areas that demonstrate the clear need for action.

## **Art. 7 CEDAW: Political and public life**

### **Political participation**

Even after the federal elections held on 18 October 2015, much could still be done to raise the representation of women in federal politics. The Council of States (46 members) comprises only 15.2 per cent women (2011: 19.6%), and the National Council (200 members) 32 per cent (2011: 31%). Following the Federal Council election of 9 December 2015, the proportion of women in the Swiss government is now only 28.5 per cent (2 women, 5 men). A similar picture can be seen in the cantonal parliaments and governments.

The FCWI and a broad coalition of women's organisations joined together to campaign for more women in Parliament in both the 2011 and 2015 elections, with the involvement of a large number of female members of parliament. See the 'Frauen wählen! – Votiez femmes! – Votate donne!' ('Vote for women!') project, available in German and French:

<http://www.frauen-waehlen.ch/de/home/index.html>

This project was received positively. However, the results of the elections show that such activities fail to reach the decision-makers in the political parties and the voters to a sufficient extent.

Media presence is an important factor in electoral success. A further FCWI project therefore addresses the media presence of female candidates prior to elections. The FCWI is currently conducting a study on this issue with the Federal Office of Communications OFCOM and the Swiss Broadcasting Corporation (SRG). This study analyses how often and on what topics candidates of both sexes expressed themselves,

and how often the candidates were mentioned in the media in the last four weeks of the election campaign. The study considers both print and online media and the SRG broadcasts. The results will be available in summer 2016.

<i>The FCWI demands</i>
<ul style="list-style-type: none"> <li>measures to increase the number of women in politics, in particular by promoting better representation on party lists and more balanced media reporting</li> </ul>

## Art. 11 CEDAW: Employment

### Equal pay

Although twenty years have passed since the introduction in 1996 of the Federal Act on Gender Equality Act (EqA), there is still no real wage equality between men and women. On 18 November 2015, the Swiss federal government issued the draft amendment to the Gender Equality Act for consultation. The FCWI will hand in proposals to the Federal Council in the consultation process by 3 March 2016.

The FCWI states that the Federal Gender Equality Act, being in force for 20 years, clearly does not have a sufficiently preventive impact, based as it is on private law. It is left to victims of wage discrimination to claim for equal pay measures, and at the same time, the barriers faced by employees in bringing a lawsuit over pay are too high. The project 'equal pay dialogue' – an initiative to encourage large companies to carry out an equal pay 'self-check' – has not had the impact that was hoped for. For equal pay to be achieved, accompanying state measures are therefore required.

Furthermore, typical 'women's professions' continue to be undervalued. 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.

<i>The FCWI demands:</i>
<ul style="list-style-type: none"> <li>binding and effective legal measures to enforce equal pay, including appropriate controls and the possibility of imposing sanctions</li> </ul>
<ul style="list-style-type: none"> <li>the launch of an in-depth public discussion on the value of work (what is meant by work of <i>equal value</i>?) and equal pay (e.g. in the form of a campaign)</li> </ul>

### Reconciling work and family life / parental leave

In recent years none of the proposals for legal regulation of paid parental leave have managed to secure a political majority, and so in summer 2014 the FCWI conducted a survey among the political parties to establish their current position on this issue. In January 2015 the FCWI and the Federal Coordination Commission for Family Affairs FCCF organised an 'impulse event' on parental leave for members of parliament and relevant organisations. Further cross-party meetings were held during 2015. A number of

parliamentary motions are currently pending. The FCWI is convinced that a progressive model of parental leave will help to bring an end to role-stereotyping in the labour market and in families with small children.

See FCWI 2011 position paper Elternzeit – Elterngeld [Parental Leave – parental benefit], available in German, French and Italian

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

Frauenfragen magazine 2014: Elternurlaub [Parental Leave], contributions in German, French and Italian

[www.ekf.admin.ch/dokumentation/00507/00648/index.html?lang=de](http://www.ekf.admin.ch/dokumentation/00507/00648/index.html?lang=de)

*The FCWI demands:*

- legislation which, in addition to the 14-week maternity leave awarded following the birth of a child, allows for paid parental leave of at least 24 weeks, a fair proportion of which must be reserved for the father

### **Social security / pension reform**

Under the planned 'pension reform 2020', the Federal Council and the Council of States propose raising the retirement age for women to 65, the same as for men. The FCWI rejects this proposal and calls on Parliament to ensure that men and women receive genuine equal treatment after retirement age. The planned reforms must take into account the special situation of women, who continue to bear the brunt of unpaid care work and who, in caring for the family, are often only able to take on part-time employment. For example, it must be ensured that people who have looked after relatives in need of care and who have therefore had to reduce their working hours or give up paid employment entirely are granted reduced penalties for early withdrawal in order to afford taking early retirement as well. Furthermore, the 'coordination deduction', a part of one's salary on which no social insurance is paid in the so called second pillar company pension plan, should be reduced.

See FCWI's consultation statement (2014) on the 2020 pension reform,

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

FCWI's critical interim statement (2015) on the 2020 pension reform

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

*(publications available in German and French)*

*The FCWI demands:*

- that appropriate consideration be given to care work in the 2020 pension reform
- that the 'coordination deduction' be reduced

### **Social security / discrimination in the invalidity assessment for part-time employees**

In July 2015, the Federal Council published a report in response to the parliamentary postulate Jans (12.3960, Discrimination in invalidity insurance against part-time employees, 28 September 2012), demonstrating that part-time employees suffer huge disadvantages when invalidity insurance is assessed and that it is almost exclusively women who are affected. However, the report argued that this discrimination could not be addressed as this would lead to additional costs of CHF 35–40 million and would therefore be incompatible with Parliament's mandate to financially consolidate the system of invalidity insurance.

Until now, the FCWI has unsuccessfully campaigned for the necessary legislative measures to be introduced to eliminate this indirect discrimination against women.

*The FCWI demands:*

- legal measures to eliminate discrimination against part-time employees – principally women – in invalidity insurance

### **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. The FCWI therefore demands that, in the forthcoming modernisation of company law and changes in this area to the Code of Obligations, gender quotas in the private sector should become a legal requirement.

FCWI statement available at:

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

*(available in German and French)*

*The FCWI demands:*

- a law with effective control mechanisms and efficacious sanctions that can be applied when target quotas are not met

## **Art. 16 CEDAW Marriage and Family Life**

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

On 1 July 2016 the new provisions on maintenance obligations in the Swiss Civil Code will come into effect. Under the revised law, child support is redefined as a claim on the part of the child. This means that the children of unmarried parents will have the same rights as those of married parents. The FCWI welcomes this urgently required amendment. It creates an incentive for parents to share child-care tasks more equitably and helps to 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, in the new provisions Parliament has not set a minimum level of maintenance nor addressed the issue of income deficit. This matter still needs to be addressed urgently. In 2008 the Swiss Federal Supreme Court also noted that current legislation creates an unsatisfactory situation with regard to such cases: if, following a separation or divorce, there is too little income for two households, the maintenance creditor – usually the woman and mother, who is primarily responsible for child-care and does unpaid care work, and who therefore has a lower income than the man – has to bear the entire deficit and apply to social services for support. According to the Federal Supreme Court, the legislator needs to find a non-discriminatory solution.

Since 2006 the FCWI has been campaigning for greater fairness between men and women in cases of income deficit and for a minimum level of child maintenance to be set.

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

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

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

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

*(available German, French and, partly, in Italian)*

<i>The FCWI demands:</i>
<ul style="list-style-type: none"><li>• 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</li></ul>
<ul style="list-style-type: none"><li>• the reconsideration of a minimum child maintenance level</li></ul>
<ul style="list-style-type: none"><li>• the partial revision of child maintenance law in respect of the above two points</li></ul>