



NGO-Koordination post Beijing Schweiz • Coordination post Beijing des ONG Suisses  
Coordinazione post Beijing delle ONG Svizzere • Coordinaziun post Beijing dallas ONG Svizras  
NGO-Coordination post Beijing Switzerland



**Shadow Report**  
**by NGO-Coordination post Beijing Switzerland**  
**on Switzerland's 4th/5th CEDAW Country Report 2014**

Published  
by NGO-Coordination post Beijing Switzerland

Berne, June 2016

## **NGO-Coordination post Beijing Switzerland**

### **Editors:**

Vivian Fankhauser-Feitknecht, President/Board NGO-Koordination post Beijing Switzerland, Board alliance F  
Meike Sahling, Vicepresident/Board NGO-Koordination post Beijing Switzerland, Director PeaceWomen  
Across the Globe

### **Translation:**

Rebekah Smith

### **Layout:**

Lakritza Communications, Judith Niederberger

[www.postbeijing.ch](http://www.postbeijing.ch) / [info@postbeijing.ch](mailto:info@postbeijing.ch)

### **Contributions:**

The following organisations and individual persons provided written input to the NGO Shadow Report. We are very grateful for their valuable work.

### **Authors/Organisations**

adf-svf – Schweizerischer Verband für Frauenrechte  
alliance F – Bund Schweizerischer Frauenorganisationen  
avanti donne – Interessenvertretung von Frauen mit Behinderung in der Schweiz  
cfd – Die feministische Friedensorganisation/The feminist Peace Organisation  
DAO – Fédération des maisons d'accueil de la Suisse et du Liechtenstein  
EFS – Evangelische Frauen Schweiz  
FARAH – Femmes en Agriculture Responsables et Autonomes en complémentarité avec les Hommes  
FemWiss – Verein Feministische Wissenschaft Schweiz  
FIZ – Fachstelle Frauenhandel und Frauenmigration/Advocacy and Support for Migrant Women and  
Victims of Trafficking  
FrAu – Frauenrat für Aussenpolitik  
Friedensfrauen Weltweit/PeaceWomen Across the Globe  
IG Frau und Museum  
Juristinnen Schweiz/Women Lawyers Switzerland  
KOFF – Kompetenzzentrum Friedensförderung/Centre for Peacebuilding  
LOS – Lesbenorganisation Schweiz, groupe Santé PluriELLE  
mws – Ärztinnen Schweiz/medical women switzerland  
SAJV – Schweizerische Arbeitsgemeinschaft der Jugendverbände/Swiss National Youth Council  
SBLV – Schweizerischer Bäuerinnen und Landfrauenverband  
SEXUELLE GESUNDHEIT Schweiz  
SGB-Frauenkommission – Schweizerischer Gewerkschaftsbund  
SKF – Schweizerischer Katholischer Frauenbund  
SP Frauen Schweiz  
SSM – Schweizer Syndikat Medienschaffender  
SVAMV – Schweizerischer Verband alleinerziehender Mütter + Väter  
SVIN – Schweizerische Vereinigung der Ingenieurinnen / Swiss Association of Women Engineers  
swiss peace – Schweizerische Friedensstiftung/Swiss Peace Foundation  
TERRE DES FEMMES Schweiz/Switzerland  
TGNS – Transgender Network Switzerland  
Verband Wirtschaftsfrauen Schweiz/Swiss Business Women  
WIDE Switzerland – Women in Development Europe  
Zwangsheirat – [zwangsheirat.ch](http://zwangsheirat.ch), die Fachstelle

## Contents

1	<b>Summary</b> .....	4
2	<b>Introduction</b> .....	5
3	<b>Articles 1- 4: General commitments to combating discrimination and to the advancement of women</b> .....	5
3.1	Enhanced political commitment .....	5
3.2	Ongoing work of equality institutions.....	5
3.3	Gender mainstreaming.....	6
3.4	Taxation.....	6
3.5	Gender budgeting.....	6
3.6	Combating discrimination against foreign women and other categories of women.....	7
4	<b>Article 4: Temporary special measures</b> .....	8
5	<b>Article 5: Stereotypes</b> .....	8
6	<b>Article 6: Trafficking in women and exploitation of prostitution</b> .....	9
6.1	Trafficking in persons .....	9
6.2	Measures taken in sex industry and in particular the status of foreign cabaret dancers .....	10
6.3	Combating violence against women .....	10
6.4	Domestic violence .....	11
6.5	Forced marriage .....	12
6.6	Genital mutilation.....	12
7	<b>Article 7: Political and public life</b> .....	13
8	<b>Article 8: Representation and participation at the international level</b> .....	13
9	<b>Article 10: Education</b> .....	14
10	<b>Article 11: Working life (thematic priority)</b> .....	15
10.1	Professional activity and employment status .....	15
10.2	Equal pay for equal work.....	16
10.3	Work/family balance / social security .....	16
11	<b>Article 12: Health</b> .....	18
12	<b>Article 13: Other areas of economic and social life</b> .....	19
12.1	Equality and poverty.....	20
12.2	Businesses and human rights – the responsibility of companies for human rights .....	21
13	<b>Article 14: Rural women</b> .....	21
14	<b>Article 16 Issues arising from marriage and family relations</b> .....	22
14.1	Changing family forms.....	22
14.2	New features relative to the consequences of divorce .....	22

# 1 Summary

Obtaining equal rights for men and women remains an issue in Switzerland, in spite of the many efforts made in this area over the last few years. Women are disadvantaged or discriminated against in a wide variety of areas, be it in relation to everyday, legal or structural matters. The last shadow report published in April 2008 already established that it is thus essential to continually raise awareness of these issues within the authorities and the institutions responsible and also among the general public. This shadow report aims to help achieve this goal by putting forward its views on necessary improvements and recommending courses of action.

Various institutions dedicated to promoting equality are being downgraded at national or cantonal level as a result of funding or staff cuts, among other factors. Although demands for equal opportunities are constantly growing and are clearly reflected in gender mainstreaming or gender budgeting concepts, not enough has been done to put theory into practice.

The problem of **gender stereotypes** continues to be widespread in Switzerland. There is still a lack of strategic involvement from the media on this matter and the topic does not receive sufficient attention in schools. The media and schools have a wide-ranging impact and a chance to create a different, alternative image to the classic role models.

**Career choices** are still very much determined by patterns that are influenced or prescribed by society. Although a Vocational and Professional Education and Training Act which addresses this issue has been in place for some time, the Confederation has yet to launch a project clearly dedicated to promoting equality at all levels of education.

Furthermore, gender equality is still not adequately enshrined in the educational acts of many cantons.

Another area where women face discrimination is the **world of work**. Women continue to be under-represented in top management positions.

There is inequality of pay and more than half of women are employed in part-time positions, putting them at a disadvantage when it comes to further training and social security. In addition, many women have employment relationships in low-wage sectors that lack job security.

Inequality of pay is a very important issue, as it also has a detrimental impact on women's position in the social security system. This is because – unlike men – their working lives are characterised by unpaid work, career interruptions or part-time work. The social security system in Switzerland is still failing to take this into account.

Shortcomings regarding childcare are another important factor: In spite of the introduction of a national minimum standard several years ago, in practice there are still a range of deficits regarding both maternity pay and the debate surrounding paternity leave, which is still only in its initial stages. All in all, what is needed here is a shift in society's understanding of work and the necessary measures to raise the awareness of the general public.

Another important point is that reconciling family and work entails massive financial disadvantages for many women in Switzerland.

**Poverty** is also a female issue in Switzerland, as it disproportionately affects single mothers, elderly women and families with a large number of children. This is compounded by various provisions in laws concerning children and divorce, which often have a negative impact on women.

Although equal participation in **politics** has been a key topic for many years, it has yet to become a reality at cantonal and national level. Measures that have been under discussion for years, such as a quota system – which would certainly be an option within the scope of the CEDAW – could help resolve this situation. Here too, however, these measures would need to be allocated the necessary resources.

Gender-based violence – i.e. **violence against women** – continues to be a widespread problem in Switzerland. This is not so much the case at judicial level, as a great deal has been achieved here over the last few years; the issue is more about putting this into practice. There continues to be a lack of women's shelters and funding is insufficient – to mention just one point of the many this broad topic entails.

Trafficking in women is an issue and will remain so. Trafficked women continue to be exposed to legal uncertainties, face arbitrary decisions from authorities and a lack of certainty concerning their residence status.

Women are particularly affected when it comes to migration, as a disproportionate number of **female migrants** have no choice but to settle for jobs for which they are over-qualified. Furthermore, the training certificates they acquired in their country of origin are not recognised.

From a legal perspective, these women are often in a defensive position, be it regarding domestic violence or their residence status.

A section of this report addresses the situation of women who are victims of forced marriage.

For the first time, this report takes a comprehensive look at the factors which discriminate against trans women and discusses the legal implications and recommendations.

There is still too little knowledge of the **CEDAW Convention** in Switzerland – both among experts and within authorities.

## 2 Introduction

In this report, Swiss non-governmental organisations critically assess and put forward their views on the 4th/5th Swiss CEDAW country report. Thirty-two organisations and umbrella associations (see list) have contributed their expert knowledge and experience. Rather than providing a critique of the entire 4th/5th country report, this document aims to highlight priority areas. In each of the sections, the participating NGOs pinpoint areas or issues that received no or too little attention in the official report and point out where action needs to be taken.

The items cited in this document are those used in the abridged Swiss country report. The shadow report was coordinated and edited by the NGO-Coordination post Beijing Switzerland. The individual contributions do not, however, necessarily reflect the views of the NGO-Coordination post Beijing Switzerland or its member organisations.

Editor:

NGO-Coordination post Beijing Switzerland

## 3 Articles 1- 4: General commitments to combating discrimination and to the advancement of women

### 3.1 Enhanced political commitment

It is problematic that the federal government has granted such meagre financial resources to the Federal Office for Gender Equality (FOGE), meaning that the FOGE's scope for action continues to be severely limited.

Another point that deserves criticism is the decision to merely monitor developments concerning increases in the number of women on corporate administrative boards rather than accelerate this by introducing other measures, even though companies have been very slow to voluntarily increase the number of female staff for many years. More effective controls and measures are required in this area.

### 3.2 Ongoing work of equality institutions

The federal government is very much narrowing the focus of its activities to promote gender equality and its allocation of financial support in line with the Gender Equality Act onto the world of work and the issues of equal pay, equality rights and domestic violence.

Furthermore, the amount of funding available to gender equality institutions in the various cantons and municipalities varies a great deal and is generally always insufficient. This situation has even resulted in the closure of renowned institutions.

The FOGE must be tasked with placing equal value on the following four areas in its strategy: promoting women in gainful employment, encouraging more men into part-time work, inspiring men to take on family tasks and encouraging women to share responsibility for family tasks. Furthermore, it must view its strategic focus of “work” in a broader sense as “the reconciliation of work and family life”.

#### Recommendations

It is necessary to evaluate how the allocation of financial support in line with the Gender Equality Act can accommodate this broader focus. The relevant FOGE guidelines must be revised; the provision on financial support in line with the Gender Equality Act has solely comprised procedural aspects to date. In future, it should be expanded to include focal points priority issues as well.

### **3.3 Gender mainstreaming**

#### **Gender-neutral language**

The usage of gender-neutral language is regulated by Switzerland's language legislation since 2007. The Federal Chancellery's guidelines contain very clear instructions in German on the usage of gender-neutral language in the federal administration. This language involves, first and foremost, making women and men visible or using forms that can be applied to both sexes. The Romance languages have only made limited use of the experiences gained with German gender-neutral language. The guidelines for French and Italian are not designed to prescribe the usage of gender-neutral language. They fall short of the recommendations of both of the most populous French-speaking cantons and the guidelines of Switzerland's French-speaking equality bodies. Use of the generic masculine form is permitted in Italian to avoid duplication – it is even obligatory in the case of legal texts.

### **3.4 Taxation**

The taxation of married couples is problematic insofar as the wife's generally lower, additional part-time income is taxed at a disproportionately high rate – in spite of certain adjustments related to progressive rates – or she does not work at all for this very reason (item 26 and following of the country report).

In spite of tax cuts for families with children, the system still has shortcomings. Firstly, married couples with two incomes are still at a disadvantage compared to cohabiting couples, as they file a joint tax return. Working parents are at a disadvantage because childcare costs – unlike the costs of driving a car, for example – are only taken into account up to a certain amount, even though childcare is necessary in order to earn an income.

In some cantons, parents who do not even pay for childcare are able to deduct a certain amount, highlighting another shortcoming in the system. These parents are better off financially than those who actually have expenses.

#### Recommendations

The taxation system must be adapted to eliminate negative financial incentives affecting the employment of women (individual taxation, recognition of employment-related childcare costs as business expenses).

### **3.5 Gender budgeting**

The lack of financial resources in the area of equality is a recurring theme. The decision not to introduce gender budgeting is therefore a regrettable one.

Recommendation no. 22 formulated by the CEDAW Committee in 2009, which proposed the use of gender-differentiated budget analyses with effective monitoring and accountability mechanisms in all state organisations, has yet to be implemented.

In Switzerland, gender budgeting is important in the area of human security. The security of women will suffer as a result of the shifting line between civil and military security. Gender budgeting must be used to identify the implications of these shifts in budget, the increased scope for action beyond constitutional monitoring mechanisms and the deterioration of social security.

### Recommendations

Switzerland must establish what impact the arms trade and arms legislation have on the situation of women and their rights. More pressure must be put on SECO (State Secretariat of Economic Affairs) to meet its obligation to implement CEDAW and Resolution 1325 when dealing with negotiations/export permits for munitions.

According to the study, among others from the NGO Berne Declaration, to the transaction tax which has been handed over to the CEDAW Committee in March 2016, the state has to examine the effects of these cash flows on gender equality and women's rights.

Switzerland must be held accountable with regard to the impact of implementing CEDAW and Resolution 1325 on women's rights and structurally safeguarding gender-specific social security.

## **3.6 Combating discrimination against foreign women and other categories of women**

### **Refugee women**

Although the CEDAW Committee extensively specified the states' obligations in General Recommendation no. 32, Switzerland's report does not mention the situation of refugee women and women going through asylum procedures.

### Recommendations

Binding quality guidelines concerning infrastructure and support must be drawn up for property or land that is provided to the federal or cantonal governments for the purpose of housing asylum seekers. Compliance with the guidelines must be monitored.

### **Women with disabilities**

One in ten women in Switzerland is living with a disability. Rather than alleviating gender-related discrimination, having a disability exacerbates it. Far fewer women than men with disabilities participate in the primary labour market and, as part-time workers, they are disadvantaged by current social security legislation, putting them far more at risk of poverty in their old age. Furthermore, women with disabilities are up to three times more likely to be affected by violence than women without disabilities.

The Swiss Federal Law on Equal Opportunities for the Disabled which was introduced in 2004 does not provide any protection against gender-related discrimination. The federal government's policy on gender equality does not take into account the needs and difficult living conditions of the some 400,000 women living with disabilities.

### Recommendations

The federal and cantonal governments must systematically review their action plans and measures to create equality between men and women to establish what impact they have on men and women with disabilities. This must be followed by a report to provide the public with details of the findings (Disability Impact Assessment).

The federal and cantonal governments must investigate discrimination against women who have no or little access to employment and the disadvantages they face. They should then use these findings to develop measures aimed at promoting equal opportunities for these women, in particular specific, gender-sensitive measures to increase the employment rate of women with disabilities.

The federal and cantonal governments must ensure that publicly funding measures to prevent and combat all forms of physical and psychological violence are designed in a way that includes women with disabilities.

### **LGBTI people**

Neither the federal or cantonal constitutions nor legislation make explicit references to trans people and the topic of "gender identity". This lack of protection is in striking contrast to the reality of their lives which are marked by discrimination, stigmatisation and violence. What is lacking is a comprehensive and coordinated approach.

There are very few studies on the situation of LGBTI people in Switzerland. Compared to gay men, lesbian women are clearly under-represented in the media, pushing them even further into obscurity.

## 4 Article 4: Temporary special measures

Representation of women in Switzerland is significantly below the European average. The under-representation of women in top management positions can no longer be attributed to a lack of qualifications. It is the result of social value judgements and stereotypes, which continue to discriminate against women.

All voluntary attempts to increase the number of women on administrative and executive boards have failed to have the desired effect. Measures are discussed briefly, but never implemented in a sufficiently systematic manner. This is also illustrated by the reform of the legislation on companies limited by shares, which merely aims to see a minimum of 30% of either gender on the board of directors of major listed companies and only 20% at executive board level and does not go far enough, as it does not stipulate obligatory quotas or the option of imposing sanctions. If companies deviate from these guidelines, all they need to do is explain why (comply or explain approach). Binding ratios are the only way to achieve gender equality and to speed up a change in mindset.

### Recommendations

Both genders must be represented equally at all management and decision-making levels in companies listed on the stock exchange, in companies with more than 250 employees, in state-owned enterprises or in companies with public shareholders.

Compelling control mechanisms must be introduced to achieve these goals and effective legal sanctions (ranging from fines to the dissolution of the body in question [administrative or executive board]) must be imposed if companies fail to achieve them in order to speed up the process of implementation.

## 5 Article 5: Stereotypes

Prevailing stereotypes are one of the fundamental problems that still stand in the way of gender equality in Switzerland. This is illustrated by the fact that it is still difficult to reconcile work and family life, that women still have to deal with multiple responsibilities and that the majority of women who are in employment work part-time and/or in the low-wage sector. There are increasing numbers of women and men in gender-atypical professions. However, when it comes to who is primarily responsible for family-related tasks or who assumes a leading role in working or political life, the stereotypes still ring true.

When combating gender-specific violence, it is also essential to address the roots of the gender hierarchy. Gender stereotypes and the associated social norms must be changed in order to eradicate gender-specific violence in the long term. Tackling stereotypes in education, career choices and the media will remain key to breaking down fundamental inequalities in society.

Gender stereotypes and the consequences they have can either be tackled by changing policy or attitudes. Changing policy is likely to be the more effective and faster solution because it does not require a general change in mindset across society to have an impact. It can, however, bring about a change in attitudes.

### **Media**

Equality between women and men in the media in Switzerland is still lacking in structural terms and in terms of content. This is problematic, as advertisers and the media play a decisive role in cementing gender stereotypes.

Just 3% of news reports depict atypical role models; the other 97% convey traditional role models. Men are still mainly depicted as subjects, stakeholders and experts in the fields of economy and politics, whereas women are mainly typecast in family-related roles or as celebrities. The declining number of female media professionals is a worrying development. Women are also outnumbered in editorial departments (30%). There is a particularly striking discrepancy between the large numbers of Swiss women in employment and the images of working women in the media.

Recommendation no. 34, proposed by the CEDAW Committee to Switzerland in 2009, which aimed to promote a balanced representation of women and men, has not been implemented and the 4th/5th country report does not address this demand. Little or no action was taken in response to an additional recommendation to support programmes and projects aimed at communicating non-stereotypical gender images of women and men (recommendation item 26).

The possibilities described in the country report fall short (item 43 country report). The principles of the Swiss Commission of Fair Trading are far too general and the current procedure to lodge complaints is complicated, unsatisfactory and ineffective. The Independent Complaints Authority for Radio and Television (ICA) decided, for example, that a medium would have to visibly and audibly degrade women to justify infringing the basic right to freedom of the press. Failing to include women is only viewed as discrimination if it is done in a systematic manner. This would mean, for example, consistently ignoring women on all television channels over a period of many years.

There is no mention of women (or gender equality) in either the recently amended Federal Act on Radio and Television or the broadcasting license issued to the Swiss Broadcasting Corporation, SRG, although this license requires the SRG to take a host of other matters into account. It is also important to ensure equal participation when deciding on the content and developing the programmes on SRF.

### Recommendations

In order to avoid communicating stereotypical role models, an information and education strategy for media professionals is needed, comprising guidelines, quality criteria, professional rules and other monitoring mechanisms for gender-neutral media coverage.

Schoolbooks and the media must consistently ensure that they present women and men in a way that does not foster stereotypes.

The media and advertising must break with gender stereotypes and refrain from using sexist advertisements. In addition to the existing commission, other institutional instruments are required.

When developing programmes, selecting images and using language on television and radio, both gender perspectives must be taken into account with the aim of consciously avoiding stereotypes.

Developing gender competence and raising awareness of gender issues must be made mandatory components of training and further training programmes for media and advertising professionals – particularly in the case of picture editors.

The Federal Act on Radio and Television must contain more specific statements regarding the depiction of genders and must explicitly refer to the representation of women.

A centre to monitor the portrayal of women in the media must be created.

Intensive measures must be continued to promote equal representation of women in all areas and at hierarchical levels of the media. It is particularly important to introduce specific female quotas (min. 33%) in all administrative, programming, supervisory and regulatory bodies.

## **6 Article 6: Trafficking in women and exploitation of prostitution**

### **6.1 Trafficking in persons**

Trafficking in women for sexual exploitation is a key topic in Switzerland. Trafficked women frequently continue to fight for recognition, have uncertain residence status or no rights of residence at all and barely any avenues open to them to demand their rights. Victims can only exercise their rights if Switzerland grants them protections afforded by resident status, meaning that they are permitted to legally reside in Switzerland and thus have access to support and protection. A further weak point in victim protection is the lack of adequate accommodation facilities for victims.

Switzerland has not followed recommendation no. 30 proposed by the CEDAW Committee, which involved not only tracking down and punishing human traffickers, but also ensuring protection of victims and subsequently considering the option of extending temporary residence permits and other measures. The way in which the Swiss legal system is designed still places a clear emphasis on criminal law. This also continues to be standard practice in the administration, the judiciary and the police, thus impeding the implementation of the CEDAW recommendation.

Contrary to the situation described in the unabridged country report (item 48), laws to combat undeclared labour cannot be viewed as effective instruments to tackle human trafficking for labour exploitation. In its current form, the ongoing amendment to the law also misses the opportunity to improve protection for workers and help identify victims of human trafficking. It fails to make it the express legal duty of workplace inspectors to check for and report violations of article 182 of the Swiss Criminal Code.

### Recommendations

Switzerland must introduce binding standards for all cantons to ensure that identification and protection of victims is not handled differently from canton to canton.

Switzerland must provide long-term funding to support the work of specialised victim-protection centres for victims of human trafficking.

Switzerland must place greater importance on victim protection and increase the protections afforded by resident status, in particular by granting residence permits to enable victims to take part in protective and rehabilitation measures, by granting and interpreting the recovery and reflection period with the benefit of the victim in mind, and by granting residence permits to all victims regardless of criminal proceedings and their level of cooperation.

Switzerland must provide funding for a victim protection programme that offers a full spectrum of services, such as adequate accommodation facilities and suitable integration measures.

International guidelines concerning victim protection and human trafficking must also be integrated into and applied to Swiss asylum law. If cases fall under the Dublin regulation, the jurisdiction of Switzerland is responsible for substantiating its suspicion of human trafficking.

## **6.2 Measures taken in sex industry and in particular the status of foreign cabaret dancers**

While human trafficking and forcing women and girls into prostitution is a crime and serious human rights violation, (voluntary) sex work is a legal trade in Switzerland.

Women without legal residence permits are particularly affected by multi-dimensional exclusion and structural violence. Anyone who is made illegal or criminalised is wary of the police and other authorities, does not seek help and is powerless when faced with exploitation and violence. Most sex workers see social exclusion and stigmatisation as their main problems. The resulting psychological burden is huge and can have an impact on their health.

The increase in regulations in the sex industry over the last few years has not achieved its goal of creating greater protection for women. Instead, it has led to more repression and pressure. The obstacles that must be overcome in order to legally work as a prostitute are so high that it is practically impossible to do so. This drives prostitutes underground, which makes their work more dangerous, more difficult and more precarious, and means that they may be dependent on large-scale brothels or social welfare.

The Federal Council's report does not contain any specific proposals to improve the rights of sex workers and to improve working conditions.

Switzerland has not followed CEDAW recommendation no. 32, which proposed introducing provisions that would enable women to leave the adult entertainment industry and find work in other areas.

### Recommendations

Should sex workers choose to leave the sex industry, the state must offer them affordable ways to find employment in other sectors, and subsequently make it possible for them to gain legal resident status and work legally in Switzerland.

## **6.3 Combating violence against women**

In spite of the numerous measures that have been taken, violence towards women/domestic violence in Switzerland continues to make up around half of the violent crimes reported to the police. The measures taken to date often fall short. The lack of political will to finance women's shelters and the lack of a national action plan are also problematic.

Women should play an important role in political dialogue in the field of disarmament. However, this does not appear to be a clear goal when it comes to raising awareness and capacity building concerning gender, masculinity and femininity.

A problematic point is the failure of Swiss policy-makers to refer to UN Resolution 1325 when, for example, trading in and exporting munitions, even though this resolution could also be used as an instrument in Switzerland.

### Recommendations

In order to comply with international obligations to tackle stereotypes and violence in line with CEDAW (articles 5 and 10) and the Istanbul Convention (articles 12 and 14), a complaints authority for issues related to sexism and gender stereotypes must be established as well as one – or several – competence centres for issues related to discrimination in this field.

Furthermore, steps must be taken to make UN Resolution 1325 more widely known in Switzerland as a comprehensive set of arguments that highlight the international dimensions of military action on women or to raise awareness in Switzerland that security, protection of women in conflict situations as well as the participation in post-conflict situations for women is an international issue on which Switzerland shares responsibility; be it at the political level through relationships with certain countries or economically by small arms trade, or lack of intervention in the trafficking of women.

## **6.4 Domestic violence**

The objections raised in the 2008 shadow report are still valid: political will to finance women's shelters and a national action plan to combat domestic violence are both lacking. The responsibility is delegated to the cantons.

An analysis conducted by the cantonal social directors (SODK) in June 2015 showed that safeguards to ensure the protection of women (and their children) who are victims of violence in Switzerland are insufficient. In 2013 300 women who were victims of violence had to be turned away.

The phenomenon of stalking affects a large number of victims of domestic violence and there is a very high risk of them being killed. The violent behaviour of the stalkers places a strain on the women and children affected as well as the staff at the women's shelters. In these cases, exclusion orders are often not enough. The other measures available to victims are limited and the financial penalties for the perpetrators too low for them to change their behaviour.

It can be difficult to organise visitation rights to maintain the father-child relationship, while also ensuring that the child is protected. Failure to take into account the dynamics in families affected by violence, the traumas of the injured parties and perpetrator profiles can have grave consequences. Furthermore, the violence suffered by the victims is still often played down.

A national action plan would help make authorities aware of these issues, enable the development of measures against the perpetrators and boost the networking activities of the authorities, with the aim of improving protections for women and detecting weak points in the process of intervention.

### Recommendations

A national action plan must be drawn up and the necessary funds made available to tackle domestic violence.

A specific law must be passed to combat stalking and to significantly enhance the rights and the protection of victims.

Financing for women's shelters must be secured and sufficient places must be guaranteed for women (and their children) who are victims of violence.

Switzerland must ratify the Istanbul Convention.

The federal government must assume complete responsibility for the area of domestic violence.

### **Right of residence irrespective of marital status (article 50 Foreign Nationals Act - FNA)**

Foreign victims of domestic violence still face a host of de facto obstacles when trying to claim an independent right of abode. The law's definition of domestic violence, in particular, is too ambiguous. In many cases, the provision is interpreted in a way that impedes the protection of victims of domestic violence, who do not dare to leave their partners.

### Recommendations

The CEDAW Committee's recommendation from 11<sup>th</sup> May 2010 remains as valid as ever: female migrants must be able to seek protection without having to fear that they will lose their residence status.

Foreign victims of domestic violence must be able to remain in Switzerland after they have separated from their violent spouses (article 50 paragraph 1 b FNA) – if they are able to provide credible evidence that they were the victim of a violent act.

The obligation to provide proof of the “severity” of the violent act and the systematic intention of the perpetrator to control the victim must be abolished.

It must be ensured that the cantonal authorities and the Federal Office for Migration systematically make use of the opportunities made possible by amending article 50 FNA. There is an urgent need to train staff to meet this requirement.

## 6.5 Forced marriage

On 1<sup>st</sup> July 2013 a legislative package came into effect in Switzerland to combat forced marriage (item 67 and following of the country report). Forced marriage is now viewed by criminal law as criminal offences in their own right and the provisions have been tightened (article 181a of the Criminal Code). It is the responsibility of the law enforcement authorities to initiate criminal proceedings. The new federal law does not, however, cover women who have been prevented from getting divorces and have been facing situations of coercion and violence for many decades as a result.

It is important for departments from authorities with various responsibilities to cooperate on an official level and pool their expertise. It would make sense to set up a national competence and coordination centre. This would also help clarify questions regarding expertise and responsibilities. The creation of a stronger institutional framework for specialist knowledge on forced marriage in the form of a national competence centre would consolidate the process of adapting and standardising regulatory structures and pool the expertise of NGOs.

To date, the approach to dealing with under-age marriages between the ages of 16 and 18 that are concluded abroad in line with foreign law involves weighing up the various interests of the parties affected (article 105 paragraph 6 of the Civil Code). It would be more beneficial for those affected if the marriages of minors over the age of 16 years were automatically recognised and could subsequently be annulled. Following the annulment, victim protection and the right of abode must take precedence. In the case of marriages concluded abroad, the marriageable age (article 94 of the Civil Code) should be brought into line with the age of majority of 18, thus ensuring the equal treatment of marriages of Swiss citizens and foreign nationals.

Foreign nationals currently lose their right of residence in Switzerland and thus their right to return if they spend an uninterrupted period of over six months abroad (art. 61 par. 2 FNA). This can happen to women who are taken on holiday and then forced to marry. In many cases, having the right to stay in Switzerland is also important for those involved because they could be stigmatised in their countries of origin if they were to divorce or separate from their husbands.

### Recommendations

To ensure that women who manage to escape their forced marriage abroad also have the right to return to Switzerland after spending six months out of the country, Switzerland must introduce a ten-year right of return.

The scope of the existing law must be extended to include those already living in a forced marriage.

As the federal programme will only run for a limited period, it is important to establish a firm foundation and guarantee financial support to enable the federal government to develop long-term, sustainable activities.

## 6.6 Genital mutilation

Many specialists (health specialists, teachers, child minders, child and adult protection agencies, asylum seeker support services, social workers etc.) have too little or no knowledge about the reasons for FGM, are not able to recognise those who are (potentially) at risk and do not know how to act if such a case arises. Furthermore, girls and women who have already been circumcised still do not receive adequate care (health and psycho-social) across Switzerland.

There has been no coordinated, comprehensive national strategy to date to eliminate FGM in Switzerland. On the one hand, the financial resources available are insufficient; on the other, the federal government is not meeting its responsibilities in terms of coordination, leadership and monitoring. There is a tendency to depend too much on the work done by civil society organisations.

### Recommendations

The federal government must do more to prevent and raise awareness about FGM and must also develop and implement a national strategy.

The federal government, the cantons and the municipalities must make more financial resources available.

It is particularly important to improve access to FGM-specific care for female migrants who have an uncertain resident status.

FGM must be recognised as a gender-specific reason for fleeing in practice as well as on paper.

There must be greater awareness among specialists and in institutions to ensure that FGM is increasingly viewed as a form of child exploitation or domestic violence and treated as such. The topic must feature more strongly on syllabuses. Further training and coaching schemes are also required for specialists and institutions.

See also the recommendations of the UN Committee on the Rights of the Child to Switzerland in February 2015.

## **7 Article 7: Political and public life**

A look at the statistics highlights severe discrepancies with regard to gender representation in the Swiss parliament: Just seven of the 46 seats in the Council of States are held by women (= 15.2%). In April 2016 women occupied 65 of 200 seats in the National Council (32.5%). The fact that eight out of 26 cantons have no female representative in Bern is particularly regrettable. In the cantons in April 2016, women account for just 24% of the members of cantonal governments. Neither the federal government nor the cantons have so far shown much willingness to develop measures aimed at achieving gender parity in parliament.

A study conducted in 2009 showed that women are also underrepresented in NGOs. The proportion of women in executive positions is just 39%, although women make up 65.1% of the employees. The higher the employment level or a hierarchical position, the lower the proportion of women.

### Recommendations

The recommendations of the committee from 2003 and 2009 must be renewed.

Switzerland must adopt long-term measures – legal or otherwise – comprising benchmarks and specific time frames to increase the representation of women in public offices that are filled by election or appointment, in political parties, in the diplomatic service and in the judiciary.

Measures must be taken to step up awareness campaigns about the necessity of ensuring unrestricted and equal participation of women in political and public life.

Switzerland must continue to encourage the media to give female candidates and elected representatives the same visibility as their male counterparts, in particular in the run-up to elections.

To ensure equality in politics, a minimum quota must be set, requiring a certain proportion of female candidates on electoral lists and for parliamentary seats.

## **8 Article 8: Representation and participation at the international level**

It remains as important as ever to ensure that women and men are equally represented in the diplomatic service and in delegations at international conferences.

### **Protection of female human rights activists**

In many places, women who publicly fight for women's and human rights (FHRD, Female Human Rights Defenders) are particularly exposed to gender-specific forms of violence. Their work not only makes those in power uncomfortable, but is also viewed by many societies as a deviation from the role expected of them or as detrimental to their culture and identity, and thus condemned. FHRD suffer from verbal, physical and sexual violence, are falsely accused of crimes, arrested and put behind bars for many years. In the last few

years, FHRD in many countries have come under ever greater pressure as a result of laws that are hostile to NGOs and anti-terror laws.

In 2013 Switzerland issued its “Guidelines on the Protection of Human Rights Defenders”. Nevertheless, there do not appear to be sufficient guarantees in place to ensure that all of Switzerland's foreign policy actors – namely at Switzerland's diplomatic missions abroad – are adequately aware of these guidelines, that the protection of FHRD is a priority among the numerous courses of action outlined in the guidelines, and that the various actors will receive training enabling them to proactively address the situation of FHRD, which is influenced by gender-specific issues.

#### Recommendations

Switzerland must recognise the need for and urgency of special measures to protect FHRD and civil society actors who are fighting for women's rights and against gender-specific violence.

A monitoring system must be introduced and FHRD must be provided with support.

## **9 Article 10: Education**

The situation regarding vocational education and stereotyped career choices remains almost unchanged. The new professional qualifications which have been introduced in the field of care and nursing since the mid-90s are a contributing factor here, as they have reduced the minimum level of qualifications to “secondary level II” (vocational training after nine years of schooling). The resulting low wages in part explain why it is still almost exclusively women who enter these professions.

Gender stereotypes are reflected in women's career choices and the subjects they choose to study. Women are, for example, under-represented in technical and scientific disciplines and professions.

To ensure that girls really do have equal access to all professions, far more information and role models are required.

Parents or legal guardians and other carers have an essential lack of awareness and gender competence. The subject must thus be made part of teacher training programmes and promoted at educational policy level.

#### Recommendations

Gender roles and stereotypes must be addressed at all levels of education.

Gender-sensitive teaching materials must be produced throughout Switzerland, and the subject must be made part of teaching training programmes.

Schools and careers advisors must provide adequate information on gender-atypical professions.

Young people must be given the chance to learn about gender-atypical professions and these opportunities must be open to everyone.

Parents, carers, advisors and teaching staff of all grades must encourage boys and girls to pursue their interests in toys, sports, leisure activities, school subjects, courses of study and professions, even if they are viewed as “untypical” for one gender or the other.

In cooperation with professional associations, a further training programme must be developed for teachers and careers and course advisors, explaining what professions in the fields of technology and natural sciences entail. This further training programme must be mandatory for all teachers and careers and course advisors.

In particular, the promotion of women in STEM careers must be further intensified, and federal decrees on career choices and schooling must be put into practice.

#### **Equal opportunities at Swiss universities**

The first federal programme to promote equal opportunities between men and women at Swiss universities was launched in 2000 with the aim of increasing the number of female professors and eradicating existing discrimination. The federal programme 2013 - 2016 has shifted its focus to bringing about cultural and structural change and no longer exclusively aims to promote women's rights.

New appointments and the total number of professors vary greatly depending on the type of chair and the institution. The goals set by the action plan will not have been reached by the end of 2016. Furthermore,

female scientists still face discrimination (keywords: leaky pipeline and gender bias). In light of this, it is all the more surprising that swissuniversity's strategic planning includes cuts to funding for equal opportunities schemes at universities. What is more, this funding may only be allocated to innovative measures. This puts existing projects – which are not yet supported by the universities themselves and thus not part of institutional structures – in a precarious financial situation. There are also concerns about job cuts within university equality bodies.

## **10 Article 11: Working life (thematic priority)**

### **10.1 Professional activity and employment status**

As already mentioned in the last shadow report, more and more women in Switzerland are in employment, which correlates with their increased level of education. The number of women in part-time employment is increasing faster than women in full-time positions – the number of men working part-time, on the other hand, is only rising slowly. 78% of part-time employees are women. 43% of part-time employees work hours that amount to less than 50% of a full-time position, which puts their financial independence and old-age pension at risk.

Women are also under-represented in top management positions in technical and scientific professions in relation to their numbers in the lower echelons. This either means that women with a good education are not choosing the classic career ladder or that it is not available to them. The environment within a company often poses barriers and obstacles to women's career progression if it is not gender-neutral or insufficiently so. As long as company culture is geared towards men, it is more difficult for women to get a foothold and climb the career ladder in these companies. As long as women are under-represented in these professions and companies, the culture and the occupational profile will remain male. It is not only engineering professions that are influenced by the notion that particular occupations are carried out by a particular gender. This is also present in the culture of technology companies.

Companies must be given support to bring about change. It is important to set targets and to check progress using performance indicators. An important performance indicator would be the proportion of women in middle and top management in relation to the number of women working in the company overall.

#### Recommendations

Women and men must be represented equally in all professional fields and at all hierarchical levels. The federal government must impose a quota, as the private sector and its associations have failed to implement their promises to date.

In their annual reports, companies listed on the stock exchange must be required to cite the proportion of women in middle and top management in relation to the number of women working in the company overall as a performance indicator.

In order to promote equality and equal opportunities, managers must accept that these areas are their responsibility.

Companies and administrative bodies operating in the technical and scientific fields or IT must prove that they are taking steps to promote women.

It must be mandatory for all companies and administrative bodies to provide information on performance indicators concerning the proportion of women at all levels, including the executive and administrative boards. If the distribution of genders at the top of a company differs from the lower echelons, corrective measures must be taken.

#### **Bullying**

In spite of the existing legal foundations and the fact that many companies have developed clear rules on workplace relations and introduced relevant measures to prevent the violation of personal integrity, cases of bullying are on the rise in Switzerland.

Bullying at first-level and middle-level management is a further problem. The attacks are extremely subtle, but specifically aim to discredit, humiliate and ostracise the person affected.

Women are often subject to bullying at top-level management. They generally expect their company to be managed in a fair and friendly manner and that their professional achievements will be noticed and suitably

acknowledged. Furthermore, the majority of women are often at a loss when faced with changing power relations and notice far too late that they, too, could be affected by them. They focus on their work and often lack an early warning system, which would make them aware of possible dangers and enable them to react in a timely manner. Their incorrect assessment of the situation means that they often overestimate the importance of their own professional skills and underestimate the success of the strategic approach taken by their male colleagues. Furthermore, most women have little awareness of power politics and thus reject power games.

If a woman in a management role with this disposition then becomes the target of attacks which can be categorised as bullying, she finds herself trapped. Experience has shown that bullying at the highest level of management goes unpunished, regardless of whether the perpetrator is the CEO or one of their direct subordinates. Systematically clamping down on such behaviour would cause huge inconveniences for the company. Making a new appointment at senior management level is an extremely costly business. Executive staff employees often have complex employment contracts, which can also be expensive to terminate. As a result, it is often the female executive who loses her job.

#### Recommendations

Employers must conduct regular reviews of the company culture, the organisational structure, the working atmosphere and conditions to prevent bullying behaviour.

In order to stop situations escalating, employers must offer conflict analysis, mediation and conflict monitoring and, where necessary, impose sanctions on perpetrators.

## **10.2 Equal pay for equal work**

Work to promote gender equality has seen some success. However, it has not been possible to bring about major changes to the core of unequal gender relations: the unequal distribution of power and money, of paid and unpaid work. Women in Switzerland still earn less than men for equal work. Women are affected by unequal pay as soon as they enter the world of work. These inexplicable differences in pay for women entering the world of work are clearly pure discrimination; career breaks and performance are not plausible reasons. Even explicable differences in pay can involve discrimination against women. When they start a family, this situation is exacerbated by the classic trap: women work less and men work more. A wage gap thus emerges which is then impossible to close.

As was established by the last shadow report, the awareness-raising measures taken to date have had little impact. Successes are still only visible in those areas where the state imposes mandatory measures (wage monitoring in the case of tenders).

#### Recommendations

Companies must be required by law to carry out wage monitoring and publish the results.

All companies and administrations must prove that men and women are equal in terms of their pay. If pay equality does not exist, corrective measures and penalties must be defined.

A tripartite wage commission that carries out spot checks must be appointed. The steps must be the same as with the Competition Commission (COMCO): monitor, investigate, impose penalties. The aim is to achieve equal pay and transparency in pay-related matters.

Specific steps must be taken to actively raise the status of professions in the field of care and nursing, which are undervalued and – above all in the field of long-term care – becoming increasingly casualised.

Additional wage structure models, career models and educational programmes must be developed and promoted. These models must take into account the working lives of people with care responsibilities and place as much value on unpaid care work as professional paid work.

Standardised rules for recognition procedures for foreign diplomas are required, as many care workers come from abroad.

## **10.3 Work/family balance / social security**

Existing wage models and career paths are geared to the traditional working life of a man/breadwinner working full-time without any care responsibilities, which makes it difficult to achieve equal pay or access to managerial positions for women. Basic conditions are required that bid farewell to the breadwinner model,

enable equality in action and eradicate negative incentives (e.g. in taxation or social policy). The central idea must be that both men and women are essentially economically independent.

Only a few fathers are able to take paid paternity leave or adoption leave; paid parental leave is non-existent. Efforts to reconcile family and work focus on childcare and often overlook the fact that caring for relatives is also increasingly becoming an issue. There is a lack of support from infrastructure and labour law legislation for these cases, making the situation even more unsatisfactory. As a result, many women cut back their hours or give up their jobs completely when faced with this situation.

It is often not possible to earn a living wage with part-time work, either because the workload and/or rates of pay are too low. Other disadvantages of part-time work compared to full-time work are that part-time workers are not eligible for paid further training programmes and pension fund payments are relatively low. It is above all mothers who are affected by underemployment (item 96 of the country report). Women are also more likely to do a job for which they are overqualified. This particularly applies to first-generation female migrants (item 110 of the unabridged country report).

Care work done on a voluntary basis is indispensable to society, but the responsibility is not shared equally by men and women. Women do most of the unpaid domestic and family tasks. This limits the ability of women to participate in the labour market and affects their career opportunities, which has serious consequences for their financial security and independence into old age. As a result, they are at a much higher risk of facing poverty in old age.

Other solutions are the statutory reduction of a person's workload while guaranteeing the same pay if they have to carry out unpaid work, or the stipulation of a mandatory amount of unpaid work for all adult people who are able to do such work.

Mothers are particularly affected here. Most fathers look after their family outside of their working hours and do not accept any loss of pay for this care work. This discrimination on the labour market has a particularly profound effect when couples separate or divorce (see articles 13 and 16 below). There is often pressure to maintain the traditional distribution of parental tasks after separation or divorce to avoid further exacerbating the financial risks and jeopardising the reliable care provided for the children.

Social security, in particular old-age pensions, is linked to gainful employment. In the case of unpaid care work, however, social security cover is lacking.

There is evidence to show that if households organise their care activities using their private income instead of doing so via state channels, this fosters gender-specific inequalities.

In order to document the precarity of households, it is essential to also include unpaid work and the time taken to do this work. A shortage of time can, after all, be just as dangerous as a shortage of money – households that lack both are particularly under pressure. From a gender policy perspective, it is questionable to assume that households are available at all times to provide care for their members, and it is irresponsible to free the state of its responsibility. Private care also frequently results in exploitative working conditions for migrant women who are casually employed by better off households. It is the responsibility of the state to ensure that care can also be provided in private households without the pressure caused by a shortage of resources or time.

### Recommendations

The federal government must promote the provision of high-quality, comprehensive and affordable day-care facilities for children from the first year onwards, including pre-schools and schools, and also outside of regular working hours.

All parents must be granted the right to work flexible hours in line with the model proposed by the Federal Personnel Ordinance (the right to reduce working hours by 20% after becoming a parent), while making sure that the resulting reduction in income is acceptable for all income groups.

Parental leave must be introduced, as this promotes equality.

The federal and cantonal governments must create the basic conditions required to promote a fair distribution of unpaid work between men and women.

Ways must be found to relieve the burden on single parents, without increasing the risk of poverty in old age. Unpaid work must be fairly credited when calculating pension payments.

Women doing paid care work must be offered fair working conditions.

Legal provisions and infrastructure are required for people in employment who are caring for relatives.

The world of work must undergo a long-lasting transformation to replace the prevailing, outdated model of the “worker” with the modern concept of the “carer-worker”, in order to give women and men equal opportunities on the labour market, while also ensuring adequate care for children and support for relatives in need of

care. All ways of life and types of family must be taken into account and not only the two-parent family model.

Family-friendly working models (in particular working time and working organisation models) must be developed and promoted, which account for the concerns of people in employment with care obligations, regardless of their gender. Unpaid care work must be compatible with full-time employment, as part-time work often fails to provide a living wage.

In addition to maternity leave, paid paternity leave of at least 20 days must be introduced after the birth of a child to foster an early bond between father and child and to involve the father in the care of the child from the outset.

Old-age pension plans must take into account the working lives of people doing unpaid care work – who are mostly women – to avoid poverty in old age. The value of parenting and childcare credits, which help provide for old age, must be increased. Raising the retirement age for women from 64 to 65 must be combined with advances in equal pay to avoid further discrimination against women.

### **Sexual harassment at the workplace**

As part of their duty of care, employers are obliged to protect their staff from sexual harassment by superiors, colleagues and third parties (article 328 Swiss Code of Obligations). Employers can be obliged to pay compensation as per the Gender Equality Act (article 5 GEA). It is the responsibility of the employers to prove that they have taken steps to prevent discrimination. However, it is often difficult for employees to provide evidence of discriminatory behaviour.

### Recommendations

The burden of proof must be lessened for employees.

## **11 Article 12: Health**

Sexual education is taught at schools across the whole of Switzerland. It is part of the syllabus in cantons in western Switzerland, which have a specific curriculum setting out when specialists should teach which topics. German-speaking Switzerland does not have a standardised system. It varies according to the school and teaching staff. Furthermore, sexual education is taught by the staff themselves. The Canton of Ticino has a mixed system, in which the staff is coached to give the sex education classes.

Unlike abortions, the costs for contraceptives are not covered by mandatory health insurance, putting female migrants in a vulnerable position. The same applies to access to reproductive health services. Efforts to improve the health of this especially vulnerable section of the population are thus extremely important because women from migrant backgrounds are often socially isolated and dependent on their husbands or relatives both financially and in terms of language. In addition to socio-economic factors, language difficulties and the lack of information available in many languages play a key role. A low level of education, more demanding working conditions and possibly an uncertain residence status are all factors which can worsen the health of mothers and children from migrant backgrounds. Steps must thus be taken in both out-patient and in-patient medical care to promote the involvement of professional, intercultural interpreters who are able to grasp the fine subtleties of the foreign language as well as help the patients understand the particular cultural implications of a diagnosis or treatment. This could help lower the number of medical consultations and technical examinations and raise people's health awareness.

In addition to a number of initiatives to promote the psycho-social well-being of young LGBT people, the federal and cantonal governments have largely focussed on measures in the area of HIV and sexually transmitted diseases, which only affect gay men, men who have sex with other men and recently – to a far lesser extent – trans people. Municipal centres do not, for example, direct their services at lesbian or bisexual women.

Another problem is that there is little record of the health of lesbian and bisexual girls and women. Alongside other factors such as age, gender, nationality or level of education, sexual orientation does not feature on health surveys and registers. A monitoring programme in 2014 concerning addiction which was launched as

part of a pilot project was the first to enquire about sexual orientation and gender identity. However, it would seem that there has been no specific analysis of this point to date.

### Recommendations

In order to ensure that all children are able to exercise their rights to access knowledge and education, it is important to guarantee comprehensive provision of sex education at schools all over Switzerland, and this requires a legislative basis, the acceptance of quality standards and the availability of resources.

The costs for contraceptives must be covered by health insurance companies, above all to ensure that people affected by poverty also have access to contraceptives.

In order to document the health of lesbian and bisexual women and teenagers, questions on sexual orientation must be included in national surveys and the findings must then be analysed.

Healthcare for lesbian and bisexual women must be integrated into training programmes to ensure that non-heterosexual women have better access to respectful care that is adapted to their needs.

## **12 Article 13: Other areas of economic and social life**

The current country report does not address the dimension of freedom, although the last shadow report highlighted how important this area is for the participation of women and girls. They still represent not only a large proportion of those taking part in leisure activities, but are also active as volunteer managers and assistants. Nevertheless, women and girls are still under-represented in leadership roles in voluntary work within institutions. Gender-stereotypical labels are also reproduced in open and association-based youth work. The associations and organisations are, however, aware of this situation and offer activities and projects to combat these stereotypes and to enable all young people to enjoy meaningful leisure time that is suited to their requirements and gender-neutral. Nevertheless, these activities are often partly dependent on the provision of financial resources.

Plans to make cuts to youth and sport funding by the Confederation in the area of popular sports are not, therefore, acceptable. There has been evidence in the past that in the case of youth and sport funding, proportionately larger amounts of money are allocated to male-dominated sports. As a result, cuts to funding for popular sports could have a multiple impact on women and girls.

It is important for leisure facilities to continue creating gender-neutral spaces that enable girls and young women to familiarise themselves with the gender roles ascribed to them and the expectations placed on them and allow them to explore these issues. Programmes must be developed in this area for women and girls from migrant backgrounds or with disabilities, as the issues of gender and sexuality often do not feature in their lives.

One of the main obstacles preventing trans people from exercising their human rights and participating in social and economic life are the judicial practices regarding the changing of names and official genders. Without these changes, they are not able to obtain any documents that reflect the gender they identify with in their everyday lives. As a mandatory requirement for making these legal changes, the courts demand proof of the (irreversible) inability to reproduce and the diagnosis of “transsexualism”, which is classified as a psychological and behavioural disorder by the ICD-10. Apart from one or two positive examples that deviate from the norm, this common practice by the judiciary violates the physical integrity and autonomy of trans people and plays an active role in excluding them from many areas of economic and social life.

### Recommendations

Financial support must be provided to the associations and organisations involved in open and association-based youth work to enable them to organise activities and projects aimed at combating stereotypes.

It is essential to maintain youth and sports funding and to conduct a more in-depth analysis of the distribution of funding from a gender-specific viewpoint (different allocation formula, for example). If necessary, changes must then be made to the distribution.

## 12.1 Equality and poverty

Poverty still affects more women than men, especially when they are single parents (item 160 of the country report). As was the case with the previous country report, the current report fails to mention that the ongoing discrimination in child maintenance law is specifically responsible for the poverty of single mothers and their children. Although the link between the shortcomings in maintenance law and poverty were not called into question, in its amendment to child maintenance finalised on 20<sup>th</sup> March 2015 in the Civil Code, legislators did not introduce the issue of income deficit (a rule that would require the shortfall in income to be equally distributed between the parents if their earnings are not enough to live on after separation or divorce), as proposed by the CEDAW Committee in 2009. As a result, the person responsible for caring for the children – which is generally the mother – must continue to bear the burden of this shortfall on its own and, if necessary, apply for social welfare. The assistance those people receive is viewed as a loan and must be paid back if their financial situation improves. Furthermore, studies indicate that the person making the maintenance payments is not at an increased risk of poverty. The situation for the person dependent on social assistance is made even worse by the fact that the cantons and municipalities are under increasing pressure to make cuts to social welfare.

The Federal Council also rejected the introduction of a minimum maintenance payment for a child after its parents separate or divorce and an increase in alimony advances. Alimony advances are currently only granted if the person required to pay maintenance fails to do so. When setting the maintenance payments in the event of a shortfall, however, the person obliged to pay alimony must be ensured a minimum basic standard of living. Their ability to pay is thus the sole criteria when calculating alimony. The person who owes maintenance should at least owe an amount that covers the basic care of the child. At the same time – as with all other debtors – their basic standard of living should only be safeguarded if enforcement action is actually taken against them.

Alimony advances, which vary greatly from canton to canton (item 163 of the country report), still do not provide single parents and their children with sufficient protection from poverty and dependency on social welfare. They are still viewed as welfare payments and not as legal protection for the person entitled to maintenance.

It is essential to make proper use of all available instruments to enforce the child's claim to maintenance. Those who fail to meet their obligations to pay alimony must be advised in such a way that they are subsequently prepared to make regular payments and are aware of the negative impact of neglecting to pay child maintenance on the well-being of their child and on the child-parent relationship.

Maintenance payments for minors are taxed as income, which ultimately increases the single parent's tax burden, thus overstressing the limited financial resources of the one-parent family. This also results in higher nursery fees and the like, and means the loss of financial relief, such as contributions to health insurance premiums.

### Recommendations

After the separation or divorce of its parents, each child has the right to receive a minimum level of maintenance from the parent who is not the primary carer. If the person required to pay needs financial support in order to do so, society as a whole should make up the shortfall to ensure the minimum maintenance payment.

The means-tested child allowance proposed by the Federal Council must be introduced as quickly as possible and designed in such a way that it replaces the missing child maintenance if the earnings of one parent are not enough to live on after separation or divorce, thus alleviating the one-sided burden of the shortfall on the single parent.

The Federal Council must quickly develop and bring into force its regulation on child maintenance collecting agencies.

The recommendations made by the Swiss Conference of Cantonal Ministers of Social Affairs (SODK) in 2013 on how to design the system of alimony advances when a parent neglects its obligations to provide child maintenance must be recognised and implemented as a minimum standard in all cantons.

Social welfare bodies across Switzerland must waive the obligation for people to pay back support they receive when facing financial difficulties due to family commitments.

Maintenance obligations in line with family law vis-à-vis persons not living in the same household must be accounted for in the budget of the social welfare recipient.

Measures must be taken to help single mothers integrate into the world of work. This requires a shift to the modern “carer-worker” model, which accounts for all ways of life and types of family and not only the two-parent family model (see article 11 above).

## **12.2 Businesses and human rights – the responsibility of companies for human rights**

Time and again, the activities of multi-national companies lead to massive human rights violations and damage to the environment, which, in turn, results in violations of human rights. Voluntary targets set by companies do not go far enough; binding legal instruments which address these problems are also necessary.

The human rights violations committed in connection with the activities of economic stakeholders abroad have a specific impact on women: first of all, directly through labour exploitation, lack of health protections for pregnant women, sexual assaults and rape, promotion of trafficking in women; second, indirectly due to their social roles as, for example, wives who suddenly have to earn the income for their entire families, or as carers for other victims, or as those responsible for entire families who have been driven off their land and must build a new home for themselves.

Many multi-national companies have their headquarters in Switzerland. There have, however, been no laws to date which have produced a clear and binding definition of the responsibilities of these companies with regard to human rights – also when doing business abroad – and their obligations concerning prevention, accountability and compensation. Laws such as these would play a key role in preventing gender-specific discrimination and violence against women.

### Recommendations

Switzerland must legally define the due diligence obligations of Swiss companies – including their activities abroad – and must make them commit to protecting human rights and the environment in all of their business operations.

## **13 Article 14: Rural women**

The situation facing divorced female farmers has not improved in any significant way since the last report. Many of the affected farms are not in a financial position to pay a reasonable sum to the female farmers who are forced to leave. In addition, advisors feel that the most important issues are securing the farm and ensuring that it can continue to operate. A particular burden for divorced female farmers is that their children often remain behind on the farm. This means that, in addition to losing their jobs, the women also lose a purpose in life and their social network.

The fact that the vast majority of rural women do not benefit from a wage or the social security that goes with it should not be ignored. They are also very poorly integrated into the political and social life of the farming world. Even though some women would be very interested in getting involved, men rarely think of offering them any of the positions on the numerous agricultural committees that exist. The women who organise the many activities happening on the farm, arrange the children’s education and do the housekeeping rarely find opportunities to organise time to continue their own education or take leave from the farm.

Men hold all of the positions on most of the boards and administrative councils of agricultural buyers’ organisations and associations. This means that the course of the agricultural industry is primarily decided by men, even though more and more women are taking over farms and working as farmers. Many female farmers also make such a large contribution – via their extensive help on the farm, the parts of the business they run on their own, or the jobs that they do on the side – that the farms would not survive without them.

The current situation facing female farmers should change through an increasing awareness of the value of women’s work in agriculture (in particular the work that they do on the side), through agricultural consultants, and through political work done by women to achieve recognition for the status of women in agriculture and to allow women to have a share in their partner’s business.

### Recommendations

Rural women working in agriculture need to be better informed about their marital and social status.

Cover needs to be organised for the female farmers so that they have time to continue their education and engage in political activities.

## **14 Article 16 Issues arising from marriage and family relations**

### **14.1 Changing family forms**

The exclusion of same-sex couples also affects trans people.

### **14.2 New features relative to the consequences of divorce**

Under the amended rules on parental responsibility which came into force on 1<sup>st</sup> July 2014, all parents who divorce or separate are automatically given joint custody, unless a different solution is necessary to ensure the child's welfare. Under the new article 296 paragraph 1 of the Swiss Civil Code (ZGB), parental responsibility exclusively serves the well-being of the child (see also article 16 (1) (d) CEDAW).

Although the amendment makes both parents equal from a legal perspective, many mothers either do not work or are in part-time work that amounts to less than 50% of a full-time position and therefore do not earn enough to live on. The decline of the breadwinner model mentioned under item 170 of the country report must therefore be qualified. Since mothers are poorly anchored in employment, they usually continue to provide most of the childcare after a separation or divorce and must therefore shoulder the loss of earnings that this entails (see article 11 above).

If one parent wants to move to a different part of Switzerland with the child, it must obtain the agreement of the other parent if the move will have a significant impact on exercising parental responsibility and (contrary to what is stated under item 173 of the country report) on access. This requirement is problematic because it primarily intervenes in the life of the parent with whom the child lives – usually the mother. It can, for instance, prevent the mother from taking up in good time a better-paid job that would require her and her child to move.

The amendment aims to make both parents take responsibility for their children. However, given the lack of equality when it comes to actually caring for the child, equality in parental decision-making powers risks fueling conflicts and complicating the day-to-day work involved in bringing up and caring for the child. This can mean that joint parental responsibility as the norm can also pose a risk to the well-being of the affected children. Whether the opportunities outweigh the risks or vice versa depends on the way in which the new rules are applied in practice. In a first judgement, Switzerland's Federal Supreme Court reinforced the primacy of the child's well-being by ruling that if the parents are engaged in a serious, ongoing conflict or are persistently unable to communicate, this could warrant awarding custody to just one parent.

The amendment to the rules on parental responsibility also aims to put families with married and unmarried parents on an equal footing. Unmarried parents now only need to declare that they are prepared to take joint responsibility for the child and that they agree on custody and access or the share of childcare duties, and on the child maintenance contributions. Therefore, for many children of unmarried parents, a child maintenance agreement is only concluded or a maintenance judgement only issued when problems arise. If married parents separate, the parent primarily responsible for childcare – usually the mother – is guaranteed direct access to child maintenance because the courts can settle all child-related issues, including that of maintenance, in a single proceeding. In the case of unmarried parents, however, a protection agency is not the only body involved. If conflicts arise, the parents must contact the child protection agency, which is not, however, responsible for settling disputes over child maintenance. If the parents cannot agree on establishing or changing maintenance contributions, they must be referred on to the courts. This leads to delays and duplications.

The amendment to child maintenance that was finalised on 20<sup>th</sup> March 2015 did not introduce the issue of income deficit. This means that single parents – primarily mothers – and their children will continue to be put at a serious disadvantage, and this is one of the main reasons why single-parent families face an extremely high risk of poverty (see article 13 above).

Furthermore, the new law explicitly mentions the relationship of the child to both parents, and alternating custody as the only custody model. By contrast, the child's fundamental right to financial security and optimal

care, which has repeatedly been stated as the main aim of the amendment, is not explicitly mentioned. This could result in these matters being neglected in practice.

Fortunately, the revised rules on child maintenance include measures for securing retirement assets if a parent neglects its child maintenance obligation. However, they can only be claimed via the child maintenance collection agency and not directly by the parties concerned.

#### Recommendations

The child's right to financial security and optimal care must be given priority. The training and skills of employees at the authorities responsible for handling children's matters must therefore meet high, legally binding requirements.

Before unmarried parents declare joint custody, the registry office must provide them with factually correct, comprehensible information about joint and sole custody and about the rules on financially supporting the child.

The ways in which the new rules on parental responsibility impact the living situation of single parents and their children must be reviewed. In particular, figures must be gathered on the financial situation of the parties concerned, and the filing and approval of maintenance agreements for children of unmarried parents must be given a legal framework if necessary.