

# Making Gender Work:

*The International Dimensions of Labour  
Market Inequality in Switzerland*

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Programme Gender

International surveys on economic competitiveness have ranked Switzerland at the top nine years in a row. However, these positive outcomes often stand in opposition with rankings on gender equality in the labour market, which tend to give Switzerland a low score. Indeed, in 2016, the Committee for the Elimination of All Forms of Discrimination Against Women (CEDAW) remarked several shortcomings with regards to the implementation of women's rights to work in Switzerland. The current publication departs from the CEDAW Committee's recommendations and offers ten policy proposals to ensure gender equality in the world of work in Switzerland. It first analyses structural aspects of the Swiss political system that influence the discrepancy between Switzerland's international and national commitments. We propose four remedies in this regard: the intersectoral preparation, realization, and follow-up of the CEDAW review involving public actors from every level; the action of the Swiss government to ensure policy coherence by harmonizing foreign and domestic policy; the training of the judiciary, attorneys, and university professors on the correct application of gender equality law; and the dissemination of information on international obligations and gender equality issues through close collaboration with the mainstream media. The second section discusses measures needed to ensure workplace fairness. Firstly, we propose that companies with more than twenty-five workers must publish their employees' salaries regularly and are penalised if they fail to reach pay equity within a transitional period. Secondly, we suggest the adoption of an International Charter for Women in Economic Leadership within the WTO and the ILO and thirdly, a nationwide survey on sexual harassment and the development of training modules for its prevention should be undertaken. The third section proposes family-friendly work policies, such as the introduction of public-private partnerships for the establishment of employer-provided childcare as well as the introduction of 38 week statutory parental leave. We conclude by providing a list of precise strategic recommendations on our ten policy solutions.

# Executive Summary/English

**W**ährend neun Jahren in Folge war die Schweiz die Nummer Eins in internationalen Umfragen zum wirtschaftlichen Wettbewerb. Diese Resultate stehen jedoch im Gegensatz zu Rankings der Geschlechtergleichstellung im Arbeitsmarkt, bei welchen die Schweiz regelmässig schlecht abschneidet. Der Bericht des Komitees zum Übereinkommen zur Beseitigung jeder Form von Diskriminierung der Frau (CEDAW) von 2016 hat mehrere Mängel bei der Implementierung der Rechte der Frau auf Arbeit festgestellt. Ausgehend von den Empfehlungen des CEDAW-Komitees, bietet die vorliegende Publikation zehn politische Handlungsempfehlungen, welche die Geschlechtergleichstellung in der Schweizer Arbeitswelt gewährleisten sollen. Die vorliegende Studie analysiert in einem ersten Schritt strukturelle Aspekte des schweizerischen politischen Systems, welche die Diskrepanz zwischen den internationalen und nationalen Verpflichtungen beeinflussen. Aufgrund dessen schlagen wir folgende vier Gegenmassnahmen vor: die intersektorale Vorbereitung, Umsetzung und Nachbereitung der CEDAW-Review, welche öffentliche Akteure auf mehreren Ebenen involviert; die Sicherstellung von Kohärenz in der Politik durch die Schweizer Regierung, wobei Innen- und Aussenpolitik aufeinander abgestimmt werden; eine Schulung für Angestellte des Gerichtswesens, AnwältInnen und UniversitätsprofessorInnen zur korrekten Anwendung des Gesetzes zur Geschlechtergleichstellung; sowie die Diffusion von Informationen über internationale Verpflichtungen und Geschlechtergleichstellungsfragen anhand enger Kollaboration mit den Medien. Der zweite Teil behandelt die notwendigen Massnahmen zur Gewährleistung von Fairness am Arbeitsplatz. Erstens schlagen wir vor, Unternehmen mit mehr als 25 Mitarbeitenden zur regelmässigen Veröffentlichung der Löhne ihrer Angestellten zu verpflichten, wobei eine Nichterfüllung der Lohnleichheit innerhalb einer gegebenen Übergangsfrist sanktioniert wird. Zweitens empfehlen wir die Übernahme einer internationalen Charta für Frauen in wirtschaftlichen Führungspositionen innerhalb der WTO und der ILO. Drittens soll eine nationale Umfrage zu sexueller Belästigung durchgeführt und Bildungsmodule für die Prävention entwickelt werden. Der dritte Teil empfiehlt familienfreundliche Arbeitsregulierungen, wie die Einführung von öffentlich-privaten Partnerschaften zur Etablierung von Kinderbetreuung durch den Arbeitgeber sowie die Einführung eines gesetzlich geregelten 38-wöchigen Elternschaftsurlaubs. Abschliessend stellen wir eine präzise Liste strategischer Handlungsempfehlungen zu unseren zehn Lösungsvorschlägen bereit.

Les enquêtes internationales sur la compétitivité économique placent la Suisse dans le peloton de tête pour la neuvième année consécutive. Toutefois, ces résultats positifs contrastent souvent avec les classements sur l'égalité entre les genres sur le marché du travail, qui attribuent à la Suisse un faible score. En 2016, lors de l'évaluation de la situation helvétique, le Comité pour l'élimination de toutes les formes de discrimination à l'égard des femmes (CÉDEF) a relevé plusieurs lacunes de la Suisse concernant la mise en œuvre du droit des femmes au travail. Basée sur les recommandations du Comité CÉDEF, la présente publication énonce dix propositions politiques pour assurer l'égalité entre les genres dans le monde du travail en Suisse. Cette étude analyse d'abord les aspects structurels du système politique suisse qui influencent l'écart entre les engagements internationaux et nationaux de la Suisse. Nous proposons alors quatre remèdes : la préparation intersectorielle, la réalisation et le suivi de l'examen de la CÉDEF avec la participation d'acteurs publics à tous les niveaux ; l'action du gouvernement suisse pour assurer la cohérence politique en harmonisant la politique étrangère et intérieure ; la formation des juges, des avocat·e·s et des professeur·e·s d'université à la bonne application du droit en matière d'égalité entre les genres ; la diffusion d'informations sur les obligations internationales et les questions d'égalité entre les genres grâce à une collaboration étroite avec les grands médias. La deuxième section traite des mesures nécessaires pour assurer l'équité en milieu professionnel. Premièrement, nous proposons que les entreprises de plus de vingt-cinq travailleur·euse·s publient régulièrement les salaires de leurs employé·e·s et soient pénalisées si elles n'atteignent pas l'égalité salariale dans une période transitoire. Deuxièmement, nous suggérons l'adoption d'une Charte internationale pour les femmes dans le leadership économique au sein de l'OMC et de l'OIT. Troisièmement, une enquête nationale sur le harcèlement sexuel ainsi que l'élaboration de modules de formation pour sa prévention devraient être entreprises. La troisième section propose des politiques d'entreprise favorables à la famille, telles que l'introduction de partenariats public-privé pour l'établissement de services de garde d'enfants fournis par l'employeur·euse ainsi que l'introduction d'un congé parental légal de 38 semaines. Pour conclure, nous présentons une liste de recommandations stratégiques précises de nos dix solutions politiques.

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## **Disclaimer:**

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Gender matters everywhere in the world. This recent assertion by acclaimed author Chimamanda Ngozi Adiche is not new. Many social scientists have been arguing for decades that no spheres of life - and, consequently, no sector of politics - are immune to gender biases. Although often ignored, gender aspects of foreign politics are multiple and influence any given field of foreign politics, be it trade law or migration politics. With the formation of the Gender Programme in May 2017, *foraus* recognized that these gender aspects are under-researched from a foreign policy perspective, but worth studying since policy action can have adverse consequences for gender equality. We are delighted that our first extensive research project follows a particularly innovative approach which brought together the brain-power of ten authors and editors. This study is the result of a collaboration between the *foraus* Gender Programme and Dr. Malu Gatto from the Department of Political Science of the University of Zurich along with her students. By drawing on research from the field of comparative and international politics, seven students drafted concrete policy solutions addressing the recommendations on labour market inequalities that the Committee for the Elimination of All Forms of Discrimination Against Women (CEDAW) provided to Switzerland in 2016. The policy proposals were reworked into one comprehensive study by the two Heads of the *foraus* Gender Programme, Lena Holzer and Maria Isabelle Wieser.

# Foreword

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# 1. Introduction

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In 2018, the Economist's «Glass Ceiling Index» once again ranked Switzerland behind most other OECD countries as regards gender equality in the labour market.<sup>1</sup> Placed in the bottom four of all countries rated and beating out only Turkey, Japan, and South Korea, Switzerland performed badly in almost all aspects of labour market participation that were considered, in particular sections concerning the costs of childcare, parental leave, and women-to-men ratio of completed tertiary education.<sup>2</sup> Switzerland's poor performance in providing adequate conditions for women's<sup>3</sup> incorporation in the labour force and the consequential gender-gap in employment participation persist despite the country's long history of supporting international commitments concerning gender equality.

The most prominent among these commitments is the Convention on the Elimination of the Discrimination against Women (CEDAW), which Switzerland ratified in 1997.<sup>4</sup> Article 11 of the CEDAW explicitly protects women's right to work by demanding gender equality in employment opportunities including promotions and

trainings, remuneration, social security (e.g. retirement, unemployment) and working conditions. In 2016 – almost 20 years after ratifying the treaty – the CEDAW Committee, a UN body composed of 23 experts on women's rights from all around the world, reviewed the extent of Switzerland's compliance to the Convention and remarked several shortcomings with regards to the implementation of women's right to work in the country. The Committee therefore issued a list of recommendations that Switzerland should follow in order to resolve the identified gaps and problems.

The aim of this report is to concretise the measures that Switzerland could undertake in order to implement the CEDAW Committee's recommendations on women's right to work provided in 2016. Comparative perspectives on policy solutions employed in other countries help us in this endeavour. Implementing the CEDAW recommendations is

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<sup>1</sup> As per the Economist's Glass Ceiling Index. See: «The Glass-Ceiling Index»

<sup>2</sup> European Institute for Gender Equality, Eurostat, MSCI ESG Research, GMACILO, Inter-Parliamentary Union, OECD national sources, The Economist, «Glass Ceiling Index. Environment for Working Women, 2017 or Latest,» The Economist, accessed March 9, 2018, <https://infographics.economist.com/2018/glass-ceiling/>.

<sup>3</sup> On a general note, the authors of this paper stress the social construction of gender categories, such as women and men. We use the term *woman* to include all persons who identify as such, which might differ from definitions used by many policy and legal instruments discussed in this paper.

<sup>4</sup> Other international commitments applicable to women's right to work include the European Convention on Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the 1972 ILO Equal Remuneration Convention (No. 100) and the 1961 ILO Discrimination (Employment and Occupation) Convention (No. 111).

not only a matter of justice and human rights but also of economics: research shows that women's equal inclusion in the labour market profits a country's overall economy.<sup>5</sup> For example, a study by the St. Gallen Chamber of Commerce revealed that Switzerland has invested around 5.75 billion Swiss francs in the university education of 50'000 women who are currently staying at home to take care of family responsibilities.<sup>6</sup> Hence, the Swiss economy is losing out if women face structural barriers to access the paid labour market on an equal footing with men.

The topics discussed in this report follow the Committee's recommendations on the right to work provided in 2016 and structural obstacles posed by the Swiss political system for the implementation of the CEDAW. This also explains our focus on formal paid work, since the CEDAW Committee largely ignored the relevance of unpaid work in its 2016 review.<sup>7</sup> The lack of inclusion of labour rights challenges specifically concerning LGBTIQ workers (e.g. the non-recognition of family relationships and genders identities for the purpose of work benefits) in this study stems from the Committee's exclusion of these specific groups in its discussion on gender inequalities in the world of work. We also regret that there is no specific focus on the right to work of

women migrants and women with disabilities in Switzerland but hope that future *foraus* publications will address these fields more explicitly. It is further worth highlighting that we mainly direct our policy proposals to Swiss authorities but at times also address the roles of private companies and the international community in promoting gender equality in the Swiss employment sector.

This report is divided into four main sections. Even though we discuss specific policy solutions one by one, we would like to stress both their interdependence and the importance to address gender inequality with a holistic and comprehensive strategy, including all sectors of society and policy-making. The first section examines the structural and institutional aspects of the Swiss political system that have led to the discrepancy between Switzerland's international obligations and its domestic situation. In section 2, we tackle measures to improve workplace fairness by discussing ways to reduce the gender wage gap, enhancing the representation of women in leadership positions, and preventing sexual harassment. Section 3 is looking at family-friendly working policies, such as the provision of childcare and parental leave. Finally, section 4 concludes by summarizing and providing strategic recommendations.

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5 Julia Dawson, Richard Kersley, and Stefano Natella, «The CS Gender 3000: Women in Senior Management» (Credit Suisse, 2014); Jonathan Woetzel et al., «The Power of Parity: How Advancing Women's Equality Can Add \$12 Trillion to Global Growth» (McKinsey & Company, 2015).

6 Anja Burri, «Ernsthaft: Wir müssen darüber reden!», Tages-Anzeiger, July 28, 2016, sec. Schweiz, // [www.tagesanzeiger.ch/schweiz/standard/ernsthaft-wir-muessen-darueber-reden/story/17536194](http://www.tagesanzeiger.ch/schweiz/standard/ernsthaft-wir-muessen-darueber-reden/story/17536194).

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7 CEDAW Committee, «Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Switzerland,» 2016, paras. 37(d), 42(a). The CEDAW Committee mentioned unpaid work in the sections discussing the rights of women experiencing poverty and the new retirement scheme in the 2016 Concluding Observations on Switzerland. The Committee recognized the relevance of unpaid work elsewhere, such as by stating «that unpaid work constitutes a form of women's exploitation» in General Recommendation 16 and urging states to measure and value unremunerated (domestic) activities and include them in the calculation of national economic accounts, such as the gross domestic product, in General Recommendation 17.

## 2. The discrepancy between Swiss foreign and domestic politics

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The Directorate of International Law of the Federal Department of Foreign Affairs (FDFA) is generally responsible for the correct interpretation and implementation of international treaties by Swiss authorities.<sup>8</sup> However, when it comes to CEDAW, the Federal Office for Gender Equality (FOGE) coordinates the work of different state departments to implement the treaty and organises Switzerland's review process in front of the CEDAW Committee. The FDFA, nevertheless, supports and advises FOGE in the review process by ensuring communication and cooperation with the Committee.<sup>9</sup> This collaboration of the FOGE, a body of the Swiss Federal Department of Home Affairs, and the FDFA in the CEDAW review points to the fact that Swiss foreign and domestic politics are closely inter-linked. The FDFA stressed this point in its *Strategy on Gender equality and Women's rights* (2017) by stating that: «Switzerland strives to maintain coherence of its domestic and foreign policies, given that gender equality and women's

rights are integral components of the domestic political agenda.»<sup>10</sup> The Sustainable Development Goals (SDGs), which were adopted in 2015 and which the above-mentioned Swiss strategy aims to implement, further recognize the importance of harmonizing foreign and internal politics, such as Goal 10 which calls upon states to reduce not only global inequalities but also inequalities within their own borders.<sup>11</sup> Despite these promises to ensure consistency between foreign and internal policies, the last CEDAW Concluding Observations to Switzerland shed light on the fact that some of Switzerland's international commitments are yet to become reality.

Scholars have shown that compliance with international treaties often depends on domestic political systems and the specific configuration of political actors mobilized in support of the treaty.<sup>12</sup> Structural and institutional factors such as the distribution of power between different political actors and decision-making bodies, the function of political and legislative

8 Swiss Federal Council, «Organisationsverordnung Für Das Eidgenössische Departement Für Auswärtige Angelegenheiten (OV-EDA)» (2011) Art. 8.2(a).

9 Andrea Binder Osner (FOGE), «Fragen Zur Umsetzung Der CEDAW in Der Schweiz,» April 6, 2018.

10 Federal Department of Foreign Affairs, «FDFA Strategy on Gender Equality and Women's Rights» (Switzerland, 2017), 9.

11 «Reduce Inequality within and among Countries,» United Nations Sustainable Development (blog), accessed February 7, 2018, <http://www.un.org/sustainabledevelopment/inequality/>.

12 Olga Avdeyeva, «States' Compliance with International Requirements: Gender Equality in EU Enlargement Countries,» *Political Research Quarterly* 63, no. 1 (March 1, 2010): 203–17.

institutions, and the dominant political discourse influence the way in which international law is implemented.<sup>13</sup> In the following section, we focus on two specific features of the Swiss political system that impact the implementation of CEDAW: federalism and direct democracy.

## 2.1. Federalism and subsidiarity

The Swiss federalist system, whereby state powers are divided between the Confederation, the cantons, and the communes, makes it arguably more complicated to adopt nationwide legislation and policies that foster gender equality for *all* workers in Switzerland. In addition, Switzerland is a monist country, which means that international law is directly applicable to all state institutions and must not necessarily be transformed in domestic legislation.<sup>14</sup> All federal, cantonal, and communal organs are therefore bound by the CEDAW and it is up to them to interpret the meaning of the Convention in specific cases if relevant federal law does not exist. Thus, the system of federalism and monism creates the possibility to have quite heterogeneous policies and laws that promote gender equality among different administrative units in Switzerland.<sup>15</sup>

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13 Michelle Beyeler and Claire Annesley, «Gendering the Institutional Reform of the Welfare State: Germany, the United Kingdom, and Switzerland,» in *Gender, Politics and Institutions*, Gender and Politics Series (Palgrave Macmillan, London, 2011), 87–88.

14 Claude Schenker, «EDA Praxisleitfaden Völkerrechtliche Verträge» (Direktion für Völkerrecht, 2015), paras. 177–178; Federal Department of Foreign Affairs, «The relationship between national and international law,» accessed April 5, 2018, <https://www.eda.admin.ch/eda/de/home/aussenpolitik/voelkerrecht/einhaltung-und-foerderungdesvoelkerrechts/verhaeltnisvoelkerrechtlandesrecht.html>.

15 Gesine Fuchs, Andrea Leitner, and Sophie Rouault, «Comparing Governance Regimes for Equal Opportunities: Federal Administrations as Employers in Switzerland, Germany and Austria,» in *Gender Equality in Context: Policies and Practices in Switzerland*, ed. Birgit Sauer, Brigitte Liebig, and Karin Gottschall (Opladen, Germany; Toronto: Barbara Budrich Publishers, 2018), 21–42.

For example, since the regulation of childcare facilities is almost entirely the competences of the cantons and communes, the availability and costs of day-care vary significantly among different places in Switzerland.<sup>16</sup> Compared to the five day-care places that exist per 1,000 inhabitants in the canton of Aargau, only 0.6 places are available for the same number of inhabitants in Appenzell-Innerrhoden.<sup>17</sup> Day-care in the francophone part of Switzerland is also greatly financed by public funds, while in the German and Italian parts of the country parents pay most expenses related to childcare out of their own pocket.<sup>18</sup> Not only is the regulation of childcare highly heterogeneous in Switzerland, but entitlement to paternity leave also differs greatly from canton to canton with Geneva providing two weeks but Solothurn only two days.<sup>19</sup> Since education is also mostly regulated and funded by cantons, it is difficult to adopt a holistic strategy to mainstream gender-inclusive approaches in all curricula and trainings for teachers. Indeed, the CEDAW Committee remained concerned about the disparities in the implementation of the Convention across different cantons and communes which persist despite Switzerland's commendable step to establish

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16 The Federal Foster Child regulation (PAVO) only requires that all day-care facilities looking after children below the age of 12 get an official license and are regularly, at least every two years, inspected by cantonal or communal authorities. See: Swiss Federal Council, «Verordnung Über Die Aufnahme von Pflegekindern (Pflegekinderverordnung, PAVO),» Pub. L. No. 211.222.338 (1977) Art. 13(1)(b), 19(1).

17 kibesuisse Verband Kinderbetreuung Schweiz and Netzwerk Kinderbetreuung Schweiz, «Kinderbetreuung in Der Schweiz. Eine Übersicht,» 2015, 4.

18 kibesuisse Verband Kinderbetreuung Schweiz and Netzwerk Kinderbetreuung Schweiz, 4, 5.

19 Republique et Canton de Genève, «Etat Employeur. 03.03.04 Congés Parental et Paternité,» n.d., <http://ge.ch/etat-employeur/directives-miope/03-gestion-temps/03-conges/030304-conges-parental-paternite>; Solothurn, «Gesamtarbeitsvertrag (GAV),» Pub. L. No. 126.3 (2004), para. 114(3).

an interdepartmental working group for the implementation of CEDAW recommendations.<sup>20</sup>

### **We therefore propose...**

#### **Solution 1: The intersectoral preparation, realization and follow-up of the CEDAW review**

In order to tackle the regional disparities in implementing the CEDAW, we propose that the Swiss government systematically includes parties of all cantons, and if possible, a diverse number of communes in the review process at CEDAW. Cantons are currently represented with one representative of the Swiss Conference of Gender Equality Delegates in the interdepartmental working group and were equally represented by the head of the Gender Equality Office of the canton Berne in the constructive dialogue with the Committee in 2016.<sup>21</sup> This involvement of cantons in the implementation of CEDAW is already commendable, but it could be strengthened by encouraging other cantonal bodies whose focus is not necessarily on gender equality, to participate in the working group. This measure could support the mainstreaming of gender equality issues in the cantons' daily activities and improve their understanding of the significance of gender equality measures. However, the cantons would need to become

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<sup>20</sup> CEDAW Committee, «Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Switzerland,» para. 10.

<sup>21</sup> Schweizerische Eidgenossenschaft, Mission permanente de la Suisse auprès de Office des Nations, «List of Delegation,» October 20, 2016, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download).

<sup>22</sup> Schweizerische Eidgenossenschaft, Bundesamt für Sozialversicherungen, «Bundesrat Lehnt Volksinitiative Für Einen Vaterschaftsurlaub Ab,» accessed March 2, 2018, <https://www.bsv.admin.ch/bsv/de/home/publikationen-und-service/medieninformationen/nsb-anzeigeseite.msg-id-68457.html>.

active themselves and intensify their commitment to reach CEDAW's goals. Moreover, while the close collaboration with all communes is certainly difficult due to their large number, they are crucial actors in the concrete realization of CEDAW recommendations. Thus, we propose that FOGE should develop a strategy in order to involve communes in the tasks of the working group, the preparation of Switzerland's sixth state report to CEDAW (due in 2020), and the next constructive dialogue.

#### **Solution 2: The need for policy coherence**

Swiss foreign policy has a reputation of advocating for the protection of human rights. A great example showing the commitment of the Swiss government to implement international agreements on gender equality is the FDFA's *Strategy on Gender equality and Women's rights*, which aims to realize Goal 5 of the SDGs. However, with its political system working by means of concordance, political decisions by the Federal Council are not always coherent with international standards. This has been the case when the Swiss Federal Council recommended the Parliament to reject the popular initiative proposing the introduction of a paternity leave of four weeks, not long after the adoption of the aforementioned gender strategy in 2017.<sup>22</sup> This rejection contradicts not only the government's own FDFA strategy, which stipulates that «Switzerland supports [foreign policy] initiatives to reduce the burden of unpaid care and domestic work on women»<sup>23</sup> and «to encourage the sharing of household and family responsibilities»,<sup>24</sup> but

also the last CEDAW Concluding Observations recommending the introduction of paternity leave.<sup>25</sup> Such contradictions between foreign policy strategy and recommendations received by CEDAW should be avoided in order to maintain a reliable and coherent image.<sup>26</sup>

**Solution 3: Training courses for the judiciary, attorneys and university professors on the application of CEDAW and GEA**

In its 2016 review, the CEDAW Committee expressed concern about the limited knowledge on the Convention among the judiciary and the legal profession and recommended capacity-building programmes for judges, attorney and prosecutors.<sup>27</sup> We thus propose that that FOGE supports the Swiss Association of Judges in the training of the judiciary and attorneys to «eliminate gender stereotyping and incorporate a gender perspective in all aspects of the justice system».<sup>28</sup> In addition, FOGE should consult with the Swiss University Conference and the universities to integrate lessons domestic gender equality law, notably the 1995 Federal Act on Gender Equality (GEA) and international law on gender equality, such as CEDAW, in the mandatory curriculum of all bachelor's degrees in law. These measures shall address the results of a study carried out by the University of

Geneva on behalf of the Swiss Federal Office for Gender Equality in 2017, which revealed that lawsuits alleging gender discrimination are rarely successful in Switzerland and that there is a lack of knowledge on the application of GEA among judges and attorneys.<sup>29</sup> For example, general law such as labour law is often given preference in cases concerning discriminatory dismissals instead of applying specific anti-discrimination law like the GEA.<sup>30</sup>

**2.2. Direct democracy and the lack of societal support**

Another specificity of the Swiss political system that could hinder the implementation of policies fostering equality is the strong importance of direct democracy in determining the adoption of new laws. Several times a year, the Swiss population is asked to vote on decisions made by the federal parliament and can use instruments such as popular initiatives, optional referenda, and mandatory referenda to influence Swiss laws and policies. Past voting behaviour has shown that the Swiss population has historically and consistently opposed feminist policies, illustrated by the rejection of women's suffrage in 1959, the late introduction of paid maternity leave in 2005, and the dismissal of paternity leave in more recent years.<sup>31</sup> Consequently, the lack of popular support for gender equality measures, deeply conservative beliefs about the division of labour held by a large

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23 Federal Department of Foreign Affairs, «FDFA Strategy on Gender Equality and Women's Rights,» 11.

24 Federal Department of Foreign Affairs, 11.

25 CEDAW Committee, «Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Switzerland,» para. 37(c).

26 The FDFA already states in its own strategy for human rights that there is a lack of coherence in the application of human rights in general. See: Swiss Federal Department of Foreign Affairs, «FDFA Human Rights Strategy 2016 – 2019» (Berne, 2016), 5.

27 CEDAW Committee, «Concluding Observations

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28 Committee on the Elimination of Discrimination against Women, «General Recommendation on Women's Access to Justice,» 23 July 2, para. 29(a).

29 Karine Lempen and Aner Voloder, «Analyse Der Kantonalen Rechtsprechung Nach Dem Bundesgesetz Über Die Gleichstellung von Frau Und Mann (2004-2015)» (Eidgenössisches Büro für die Gleichstellung von Frau und Mann, 2017).

30 Lempen and Voloder, 31.

share of the population, and high costs associated with running a campaign for referenda present further obstacles to the implementation of measures against gender discrimination in the workplace.

International legal bodies such as the CEDAW Committee have stressed the obligation of the Swiss government to ensure that all segments of society, including official authorities, receive information on the importance of gender equality and the implementation of the Convention and the Committee's recommendations.<sup>32</sup> Thus, even if the Swiss government cannot surpass the direct democratic system and is restricted in its means to intervene in the political affairs of other political actors, it is still compelled to find ways of informing the Swiss population and all federal, cantonal and communal bodies about their international obligations with regards to gender equality. The current FDFA Human Rights Strategy holds in this regard that Switzerland «contributes to the dissemination of knowledge concerning human rights, making use of, and providing support for, such instruments as

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31 Schweizerische Eidgenossenschaft, «Warum Konnten Die Frauen In Der Schweiz Erst Ab 1971 Abstimmen, Wählen Und Gewählt Werden?», accessed March 2, 2018, <https://www.ch.ch/de/wahlen2015/zum-50-mal/warum-konnten-die-frauen-in-der-schweiz-erst-ab-1971-abstimm/>; Bundesamt für Sozialversicherungen, «Mutterschaft», accessed March 2, 2018, <https://www.bsv.admin.ch/bsv/de/home/sozialversicherungen/eo-msv/grundlagen-und-gesetze/mutterschaft.html>; «Erneutes Scheitern Der Mutterschaftsversicherung», Geschichte der Sozialen Sicherheit in der Schweiz, accessed March 2, 2018, <https://www.geschichtedersoziensicherheit.ch/synthese/#c983>; «Das Scheitern Des Sofortprogramms Für Die Krankenversicherung», Geschichte der Sozialen Sicherheit in der Schweiz, accessed March 2, 2018, <https://www.geschichtedersoziensicherheit.ch/synthese/#c980>.

32 Human Rights Committee, «Consideration of Reports Submitted by States Parties under Article 40 of the Covenant. Concluding Observations of the Human Rights Committee. Switzerland,» 2001, para. 6; CEDAW Committee, «Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Switzerland,» paras. 10, 11, 52.

cultural events, film, and human rights education».<sup>33</sup>

In addition, policy-makers should also be made aware of the variety of positive impacts that gender equality has on the Swiss society in general. Current gender inequalities not only harm women but also negatively impact other stakeholders, including men and private companies. Gender equality measures can thus increase companies' profits,<sup>34</sup> positively influence the Swiss economy – as previously mentioned – as well as increase the well-being of parents and couples.<sup>35</sup>

### **We therefore propose...**

#### **Solution 4: The dissemination of information on international commitments and the positive impacts of gender equality on society in general through innovative tools and close cooperation with leading media**

The FOGE and the FDFA should develop strategic partnerships with leading media outlets to disseminate information on Switzerland's international human rights obligations, most notably gender equality issues, and the most recent recommendations received by UN Treaty Bodies and the UN Universal Periodic Review. Apart from the already existing manuals and formal exchanges of information between FOGE and different political bodies as well as civil society, innovative tools tailored to specific

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33 Swiss Federal Department of Foreign Affairs, «FDFA Human Rights Strategy 2016 – 2019,» 23.

34 Woetzel et al., «The Power of Parity: How Advancing Women's Equality Can Add \$12 Trillion to Global Growth.»

35 Ge Qian, «The Effect of Gender Equality on Happiness: Statistical Modeling and Analysis,» Health Care for Women International 38, no. 2 (February 1, 2017): 75–90.

stakeholders (e.g. civil society, state authorities, private companies) should be created. Possible examples could be computer games, quizzes, and webinars for educational purposes in schools, video clips and tutorials that raise awareness for structural and societal discrimination of women, and templates with information that traditional

media outlets can use. To ensure that issues pertaining to CEDAW recommendations are appropriately covered, these templates should cover official data and reports on the status of gender gaps in the employment sector as well as the existing laws in place to tackle gender-based discrimination.

# 3. Workplace fairness

## 3.1. Equal pay for equal work

### \* Vera Muster

The Swiss Federal Statistical Office reported that the gender wage gap in Switzerland was of 18.1% in 2014 and 12% in 2016.<sup>36</sup> Switzerland was thus placed in the bottom three of all OECD countries in 2014 (no comparison is currently available for 2016).<sup>37</sup> The gender pay gap persists in Switzerland despite the fact that the Swiss Federal Constitution incorporated the notion of equal pay for work of equal value as early as 1981, with the first equal wage and opportunity law coming into effect in 1996.

The wage gap is usually composed of «explained» factors, such as that more women work in lower-paying and part-time jobs, and «unexplained» factors, consisting of gender-based discrimination. However, explained factors of the gender wage gap also reflect discriminatory social norms and indirect discrimination against women because women are overrepresented in lower-paying jobs (despite

their increasingly high-level of education) and conduct more unpaid and informal work than men do.<sup>38</sup> According to the Swiss Federal Statistical Office, 40.5% of the Swiss gender wage gap was caused by unexplained factors in 2014.<sup>39</sup> Women in lower hierarchical positions are even more affected by the gender wage gap's unexplained factors than women in higher positions, which means that they are being paid far less than men for doing the same job. 60% of the gender wage gap in lower hierarchical positions is due to unexplained factors, while unexplained factors make up 45% of the gender wage gap in top positions.<sup>40</sup>

The Swiss government has recognized the importance of tackling the gender wage gap, as evidenced by the creation of Logib – a government-funded tool that can be accessed by companies with at least 50 employees to evaluate whether their payment schemes and policies result in gender biases.<sup>41</sup> The FOGE also

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36 Federal Statistical Office, «Schweizerische Lohnstrukturerhebung 2014 - Lohnunterschiede Zwischen Frauen Und Männern Nehmen Weiter Ab,» July 3, 2017, <https://www.bfs.admin.ch/bfs/en/home/news/whats-new.assetdetail.2082041.html>; Federal Statistical Office, «2016 Betrug Der Medianlohn 6502 Franken - Schweizerische Lohnstrukturerhebung 2016,» May 14, 2018, <https://www.bfs.admin.ch/bfs/en/home/news/whats-new.assetdetail.5226936.html>.

37 Data from 2014. Organisation for Economic Cooperation and Development, «Employment: Gender Wage Gap,» OECD.Stat, accessed March 2, 2018, <https://stats.oecd.org/index.aspx?queryid=54751>.

38 Jill Rubery, Damian Grimshaw, and Hugo Figueiredo, «How to Close the Gender Pay Gap in Europe: Towards the Gender Mainstreaming of Pay Policy,» *Industrial Relations Journal* 36, no. 3 (May 1, 2005): 185–86.

39 Federal Statistical Office, «Schweizerische Lohnstrukturerhebung 2014 - Lohnunterschiede Zwischen Frauen Und Männern Nehmen Weiter Ab.»

40 Federal Statistical Office.

41 Eidgenössisches Büro für die Gleichstellung von Frau und Mann, «Selbsttest Tool: Logib,» accessed May 23, 2018, <https://www.ebg.admin.ch/ebg/de/home/dienstleistungen/selbsttest-tool--logib.html>.

42 Abbreviation for Analytische Bewertung von Arbeitstätigkeiten nach Katz und Baitsch

recommends that companies use ABAKABA,<sup>42</sup> a tool developed by a private company that employs a mix of psychological and statistical techniques to issue in-depth assessments of their level of companies' commitment to gender equality.<sup>43</sup> In addition, there are several private initiatives, such as EDGE and Equal Salary, that seek to promote workplace gender equality and equal pay by providing certificates to companies that follow these principles.<sup>44</sup>

In summer 2017, the Federal Council acknowledged the need to address the gender pay gap through legislative means. It approved an amendment of the GEA that, if entered into force, would have required companies with at least 50 employees to do an analysis of their salaries every four years.<sup>45</sup> While the law foresaw that the companies would have to transmit the results to their employees and shareholders, it did not envision the creation of a mechanism to control whether companies conduct their analysis within the required period, nor would it have established sanctions for companies that maintain high levels of gender-based wage differences.<sup>46</sup> The Council

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43 Michelle Kelso, Naomi Cahn, and Barbara Miller, *Gender Equality in Employment: Policies and Practices in Switzerland and the U.S.* (The George Washington University, 2012), 39. The paper cited below discusses the two methods that the Swiss federal court has accepted to assess gender inequalities in salary schemes. See: Steve Binggeli, Oliver Schröter, and Jennifer Bieri, «Lohnvergleichsanalysen,» Jusletter, no. 930 (2018).

44 Equal Salary, «The Certification Process,» accessed March 5, 2018, <http://www.equalsalary.org/get-certified/the-certification-process/>; «EDGE - The Global Business Certification Standard for Gender Equality,» accessed March 5, 2018, <http://edge-cert.org/about-us/>.

45 «Entwurf. Bundesgesetz Entwurf Über Die Gleichstellung von Frau Und Mann (Gleichstellungsgesetz, GlG)» (2017) Art. 13a.

Entwurf. Bundesgesetz Entwurf über die Gleichstellung von Frau und Mann (Gleichstellungsgesetz, GlG), 13(h) (i).

of States and the National Council rejected the original proposal for the GEA amendment, but accepted an amended version at the end of 2018.<sup>47</sup> The amended version of the law requires only companies with more than 100 full-time employees to conduct an analysis of their salaries, which resulted in the law covering only 0.9% of all companies and 46% of all employees in Switzerland instead of the previous 2% of all companies and 54% of all employees. Furthermore, it still does not establish any sanctions for a company failing to improve its pay equality, and also relieves companies that have reached pay equality from the obligation to undertake a pay analysis in the future again. Minister of Justice Simonetta Sommaruga pointed out that only counting full-time staff and excluding part-time personnel can result in the situation where companies with many female employees are excluded from the obligation to conduct an analysis of their salaries since 75% of all persons working part-time are women.<sup>48</sup>

While Switzerland was discussing the GEA amendment, Iceland became the first country in the world to adopt a law that imposes financial penalties on companies if they fail to ensure equal pay.<sup>49</sup> The law demands that private companies

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47 Die Bundesversammlung - Das Schweizer Parlament, «17.047 | Gleichstellungsgesetz. Änderung,» accessed December 7, 2018, <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20170047>.

48 Die Bundesversammlung - Das Schweizer Parlament.

49 Egill Bjarnason and Christine Hauser, «Iceland Makes Companies Prove They're Not Paying Women Less,» *The New York Times*, January 3, 2018, sec. Europe, <https://www.nytimes.com/2018/01/03/world/europe/iceland-equal-pay.html>.

50 Iceland Ministry of Welfare, «Act on Equal Status and Equal Rights of Women and Men No. 10/2008, as Amended by Act No. 162/2010, No. 126/2011, No. 62/2014, No. 79/2015, No. 117/2016 and No. 56/2017» (n.d.) Art. 19, para 5.

with at least 25 employees<sup>50</sup> receive each year a certificate showing that they meet the ISO standards on «Equal pay management system – Requirements and guidance» (in Icelandic: ÍST 85:2012).<sup>51</sup> Private certification bodies are in charge of awarding the certifications to companies and must communicate the results of their audits to the Icelandic Centre for Gender Equality, which publishes the lists of companies with and without certificates.<sup>52</sup> If companies fail to receive certification for equal pay, the Centre for Gender Equality «may instruct the relevant company or institution to take adequate corrective action within a reasonable time, or face a penalty through the imposition of *per diem* fines».<sup>53</sup> The amount of *per diem* fines is set by the Centre for Gender Equality on a case-by-case basis, but can add up to almost 400 Euros per day.<sup>54</sup> Bigger companies with a minimum of 250 employees must obtain their first certification by the 31st of December 2018, while smaller companies with a maximum of 100 employees have until the 31st of December 2021.<sup>55</sup> Thus, the law uses a mix of transparency measures, in form of publishing the results of the certification audits online and imposing financial penalties on non-complying companies.

**We therefore propose...**

**Solution 5: GEA amendment modelled on the Icelandic law on pay equality but with**

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51 Stefán Ólafsson, «Iceland: Equal Pay Certification Legalised ESPN Flash Report 2017/55» (European Commission, 2017).

52 Iceland Ministry of Welfare, Act on Equal Status and Equal Rights of Women and Men No. 10/2008, as amended by Act No. 162/2010, No. 126/2011, No. 62/2014, No. 79/2015, No. 117/2016 and No. 56/2017 Art. 19.

53 Iceland Ministry of Welfare Art. 19.

54 Iceland Ministry of Welfare Art. 18(3), 19.

55 Ólafsson, «Iceland: Equal Pay Certification Legalised ESPN Flash Report 2017/55.»

**a transitional period of eight years**

We propose that Switzerland passes a law that penalizes companies with a minimum of 25 employees in case they fail to reach equal pay for equal work after a transition period. The first step to do so is to make it mandatory for all companies with a minimum of 25 employees to regularly their employees' salaries. This would require adapting the state-provided programme to calculate the gender pay gap in companies, called LOGIB, since it currently only works for companies with at least 50 employees. Since the unexplained factors of the Swiss gender wage gap amount currently to 40.5% of the gap, instead of 6% in Iceland, we propose to include a transitional period of eight years in the new law.<sup>56</sup> During this transitional period, companies must show after four years that they have reduced the percentage of wage discrimination by half, as compared to their first audit. If they do not comply with this goal, the FOGE, which could serve as the monitoring body of the new law, should impose financial penalties on the company. The same penalties should apply if after eight years companies still retain gender discrimination in their wages.

**3.2. Management and leadership**

**\* Rebeka Sträter**

In its Concluding Observation from 2016, the CEDAW Committee was concerned about the underrepresentation of women in managerial positions in companies in Switzerland.<sup>57</sup> The Declaration on Trade and Women's Economic Empowerment by the World Trade Organization

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56 Ólafsson.

57 CEDAW Committee, «Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Switzerland,» paras. 36(b), 37(b).

and the first objective of the FDFA Strategy on Gender equality equally recognize the importance of promoting women's active participation in national and international economies. According to the 2017 Schilling-Report, women make up only 8% of higher-profile positions in Swiss private businesses, which means that the so-called «glass ceiling», which describes barriers for women to reach top leadership positions, also pertains in Switzerland.<sup>58</sup> The benefits of having women in leadership positions have been found to be strongly positive on a company's success and its future competitiveness, when skills shortage is taken into account. Studies have also shown that having women as role models in positions of power, such as managerial positions, can have positive impacts on educational attainment and aspirations of younger girls and women.<sup>59</sup> The European Commission has been discussing a mandatory quota of 40% women on the boards of companies listed on the stock exchange since 2012, while many European countries have already implemented similar quotas.<sup>60</sup> This past June, the Swiss national council voted in favour by 95 to 94 votes to implement a 20 percent quota on boards and high-level positions of companies with more than 250 employees and listed on the stock exchange. However, the guidelines are non-binding, meaning that non-compliant companies will

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58 Guido Schilling, «Schillingreport 2017. Transparency at the Top. The Management Boards of Switzerland's Private and Public Sector,» 2017, 10.

59 Lori Beaman et al., «Female Leadership Raises Aspirations and Educational Attainment for Girls: A Policy Experiment in India,» *Science*, January 12, 2012, 1212382.

60 Barbara Rigassi and Ursula Brüssler, «Frauen in Verwaltungsräten: Situation in Schweizer Unternehmen Und Lösungsansätze in Europa,» 2014, 2–3; European Commission, «Proposal for a Directive of the European Parliament and of the Council on Improving the Gender Balance among Non-Executive Directors of Companies Listed on Stock Exchanges and Related Measures,» November 14, 2012.

not face any consequences other than having to explain why this is the case.<sup>61</sup>

The underrepresentation of women in leadership positions in Switzerland certainly reflects other gender inequalities, such as the fact that women are still mostly responsible for unpaid care work. This means that it cannot be tackled in «silo» but needs to go hand in hand with other structural changes supporting gender equality, such as the implementation of family-friendly working policies (see section 3). Nevertheless, the «glass ceiling» describes the specific phenomenon that qualified women, who have gradually climbed up the career ladder next to their male peers, are blocked by an invisible «ceiling» from reaching the top positions, while their male counterparts are hired as their superiors. Iris Bohnet argues that gender stereotypes and gender roles are the main causes for the «glass ceiling», since women are often seen as not «tough» enough to be suitable leaders while traditional gender roles block them from asking for promotions or more salary.<sup>62</sup>

### **We therefore propose...**

#### **Solution 6: Switzerland's active role in the WTO process by promoting the adoption of an International Charter for Women in Economic Leadership**

In addition to eagerly pursuing the

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61 «Nationalrat Für Geschlechterrichtwert in Grossen Unternehmen,» Die Bundesversammlung – Das Schweizer Parlament, June 14, 2018, [https://www.parlament.ch/de/services/news/Seiten/2018/20180614181055863194158159041\\_bsd218.aspx](https://www.parlament.ch/de/services/news/Seiten/2018/20180614181055863194158159041_bsd218.aspx).

62 Iris Bohnet, *What works: Wie Verhaltensdesign die Gleichstellung revolutionieren kann*, trans. Ursel Schäfer, 1st ed. (München: C.H.Beck, 2017), 29ff, 74.

implementation of the WTO Declaration through the sharing of knowledge and participation in the follow-up process, Switzerland should seize the moment to push for the adoption of an International Charter for Women in Economic Leadership. We propose that the Charter should bring together as many relevant stakeholders as possible by being a collaborative effort led by the WTO and the International Labour Organisation (ILO) which would ensure the harmonization of policies among international actors, in line with the UN's recent approach of «Delivering as One».<sup>63</sup> The platform of the ILO, a UN agency that includes employers and trade unions next to states, and the strong presence of transnational business lobbies in the WTO framework provide an opportunity to discuss conjoint efforts of the public and private sector to eliminate the underrepresentation of women in economic leadership. The Charter should thus be open to sign by both states and private companies that want to show their voluntary commitment to work towards gender parity in leadership positions in all types of businesses (micro, small, medium, and large enterprises) and informal economies.<sup>64</sup>

As the Charter provides the innovative approach of having states and private companies signing up on one common platform, it should contain two thematic parts: one addressing the means of states to stimulate an increase of women in leader-

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63 A/RES/60/1 2005 World Summit Outcome (UN General Assembly, 24 October 2005).

64 While it is more difficult for states to regulate the informal sector, it is crucial to recognize its relevance for economic development and to research the different ways in which states can also promote gender equality also in informal employment settings.

ship positions in public institutions and private companies, and the other one discussing the role of private businesses themselves. Similar thematic charters developed at the national level, such as in Denmark ('Charter for More Women in Management') and in the Netherlands ('Talent to the Top Charter'), could provide input for the development of an international version. While the specific content of the Charter would need to be clarified by consulting with experts, the Charter's part addressed to states could include the relevance of gender-disaggregated data on employment issues, institutional incentives for companies to increase the share of women in managerial roles (e.g. receipt of subsidies), penalties for companies failing to make progress, women's quotas, transparency policies, and state-sponsored training programmes. Private companies signing up to the Charter could be asked to set specific time-bound targets for increasing the share of women in leadership positions and establish concrete action plans, including training programmes, to reach these targets.

### **3.3. Sexual harassment**

#### **\* Saskia Kircali**

In 2017, the #MeToo campaign drew attention to the widespread phenomenon of sexual harassment. The last comprehensive survey on this issue was undertaken in Switzerland in 2008 and only concerned the German- and French-speaking parts. The survey revealed that about 55% of surveyed women and 49% of surveyed men have experienced treatment that could be considered a form of sexual harassment during their working

life.<sup>65</sup> Additionally, 28.3% of women and 10% of men confirmed that they have felt sexually harassed in their workplace at least once.<sup>66</sup> Foreigners, persons with dual citizenship, single parents, persons with tertiary graduation, shift workers and persons with a part-time pension, persons belonging to the legislative body or the senior administrative services, and executives in the private sector were identified as more frequently exposed to sexual harassment than others. Sexual harassment was also found to be more prevalent in the German-speaking part than in the French regions; the number of men found experiencing sexual harassment in Switzerland was unexpectedly high.<sup>67</sup> The CEDAW Committee also recognized the problem of sexual harassment in the Swiss review in 2016 by acknowledging its concern for the lack of effective measures to remedy and prevent gender-based harassment in the workplace.<sup>68</sup>

Switzerland recognizes in Art. 4 of the GEA that sexual harassment is a form of gender-based discrimination,<sup>69</sup> this definition was advocated by Catherine MacKinnon when she coined the term «harassment» in 1979.<sup>70</sup> Apart from the GEA, sexual harassment is also regulated and prohibited in other parts of Swiss law such as the labour code, civil law, and penal law.<sup>71</sup> Sexual harassment has been further classified as a human rights violation by international legal

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65 Silvia Strub and Marianne Schär Moser, «Risiko Und Verbreitung Sexueller Belästigung Am Arbeitsplatz Eine Repräsentative Erhebung In Der Deutschschweiz Und In Der Romandie» (Staatssekretariat für Wirtschaft SECO, Eidgenössisches Büro für die Gleichstellung von Mann und Frau EBG, 2008), V.

66 Strub and Schär Moser, VI.

67 Strub and Schär Moser, 79, 88.

68 CEDAW Committee, «Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Switzerland,» paras. 36(e), 37(e).

instruments such as by the 1993 Declaration on the Elimination of Violence against Women.<sup>72</sup> In addition, the International Labour Office (ILO) was mandated by its Governing Body in 2015 to place a standard-setting item on the topic of «Violence and harassment against women and men in the world of work» on the agenda of the 2018 International Labour Conference (ILC). The standard-setting item was intended to result in the adoption of a norm-setting instrument on the topic, preferably a binding international treaty that was negotiated for the first time by the ILC in June 2018.

### **We therefore propose...**

#### **Solution 7: Conducting a nationwide survey on harassment in the world of work**

We propose that the first step to tackling harassment in Switzerland should be to conduct a more detailed representative study concerning the risks, prevalence, and mechanisms of sexual harassment in the workplace. The study should

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69 Article 4 of the GEA defines sexual harassment as behaviour that «includes in particular threats, the promise of advantages, the use of coercion and the exertion of pressure in order to obtain favours of a sexual nature». See: The Federal Assembly of the Swiss Confederation, «151.1 Federal Act of 24 March 1995 on Gender Equality (Gender Equality Act, GEA)» (1995) Art. 4.

70 Catharine A. MacKinnon, *Sexual Harassment of Working Women: A Case of Sex Discrimination* (Yale University Press, 1979).

71 Die Bundesversammlung der Schweizerischen Eidgenossenschaft, «822.11 Bundesgesetz Über Die Arbeit in Industrie, Gewerbe Und Handel (Arbeitsgesetz, ArG)» (1964) Art. 6(1); Der Schweizerische Bundesrat, «822.113 Verordnung 3 Zum Arbeitsgesetz (ArGV 3) (Gesundheitsschutz)» (1993) Art. 2; The Federal Assembly of the Swiss Confederation, «Federal Act on the Amendment of the Swiss Civil Code (Part Five: The Code of Obligations)» (1911) Art. 328(1); The Federal Assembly of the Swiss Confederation, 151.1 Federal Act of 24 March 1995 on Gender Equality (Gender Equality Act, GEA) Art. 5(3), 10; Federal Assembly the Swiss Confederation, «311.0 Swiss Criminal Law» (1937) Art. 198.

72 UN General Assembly, «Declaration on the Elimination of Violence against Women,» Pub. L. No. A/RES/48/104 (1993) Art. 2(b).

take into account the following elements: length of work service; employment status; occupation; professional position; temporary/permanent employment; working hours; the size of the organisation; industry/sector; nationality; education; residence authorisation; and personal life situation, such as marital status and living arrangements.

Based on the study conducted by Strub and Moser in 2008, we further suggest focussing particularly on six main areas. First, further investigation of the **reactions of the victims** is needed. Second, the **consequences for the perpetrators and victims** must be captured, since this information is especially important for shaping training methods. Some victims may be concerned about reporting sexual harassment without knowing the possible consequences for themselves and the perpetrators. Third, the identification of **extra vulnerable workers** and explanations for their greater risk is important to develop training programmes that particularly aim at the prevention of sexual harassment of these groups of workers. Fourth, explanations for the **differences in the language regions**, mentioned earlier, need to be found. As such, it is also important to include the Italian part, which was left out of the previous study as a means of cutting research costs. Fifth, it is vital to focus on deeper research and employment of qualitative methods to understand the underlying **mechanism in sexual harassment against men** as well as the proportion of men and women among the perpetrators of that form of harassment. Sixth, explanations for possible connections between **differences in the size of corporations**, in the existence of preventive

procedures and in sectors/industries have to be found in order to identify possible causes for those differences.

### **We therefore propose...**

#### **Solution 8: Undertaking state-funded training programmes for the prevention of harassment**

After identifying the most affected workers and the dynamics of sexual harassment through the survey, we propose that FOGE develops training programmes for the prevention of harassment in different types of institutions and targeting different groups of people.<sup>73</sup> While under Swiss law it is mainly the responsibility of the employer to tackle and prevent sexual harassment, the concept of «due diligence» as developed in international law, such as CEDAW documents,<sup>74</sup> recognizes that states have the obligation to *protect* its population from certain treatment, such as sexual harassment, by third parties. For example, the CEDAW holds that states shall take *all* appropriate measures «to eliminate discrimination against women by any person, organization or enterprise»<sup>75</sup> and to «modify

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73 FOGE already provides brochures and information material targeted at both employers and employees for preventing and combating harassment at the workplace. See: Eidgenössisches Büro für die Gleichstellung von Frau und Mann, «Sexuelle Belästigung Am Arbeitsplatz,» accessed May 23, 2018, <https://www.ebg.admin.ch/ebg/de/home/dokumentation/publikationen/publikationen-zugleichstellung-im-erwerbsleben/sexuelle-belaestigung-am-arbeitsplatz.html>.

74 CEDAW Committee, «General Recommendation No. 19: Violence against Women,» 1992, para. 9; A. T. v. Hungary, No. Communication No. 2/2003 (Committee on the Elimination of Discrimination against Women January 26, 2005); Fatma Yildirim (deceased) v. Austria, No. Communication No. 6/2005 (Committee on the Elimination of Discrimination against Women August 6, 2007); R.K.B. v. Turkey, No. Communication No. 28/2010 (Committee on the Elimination of Discrimination against Women February 24, 2012).

the social and cultural patterns of conduct of men and women.»<sup>76</sup> Thus, if the legal obligation of companies to fight sexual harassment is not enough to *prevent* this practice, then state-funded training programmes could help to this end.

Training programmes have the explicit aim to *prevent* harassment, while protection mechanisms such as reporting instruments, including judicial processes, aim at penalizing and remedying an already perpetrated act. Even though such penalizing tools are crucial in the fight against sexual harassment, raising awareness through training programmes has the potential to enhance a lasting change of workplace culture and protect the workers at the bottom of a hierarchy. Unequal power relations, which are evident in most cases of sexual harassment, the fear of losing a job, and the difficulty to collect evidence for discriminatory behaviour leave many cases of sexual harassment unreported. Our proposed training courses could, therefore, complement efforts to ensure the reporting of sexual harassment. Based on the findings of one of the few studies that have evaluated sexual harassment training programmes, the following aspects should be considered during the conceptualisation of the training:

1. It is important that the FOGE establishes a **committee** consisting of members with experience in training programmes and sexual harassment prevention. The committee should be responsible for developing the national training

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<sup>75</sup> «Convention on the Elimination of All Forms of Discrimination against Women» (1979) Art 2(e).

<sup>76</sup> Convention on the Elimination of all Forms of Discrimination against Women Art. 5(a).

programmes and ensuring that monetary resources and sufficient staff are provided.

2. When it comes to the concrete performance of the trainings it is crucial to capture the **different level of knowledge and skills** of participants before the trainings start. For example, it must be considered that women usually have more experiences and awareness of harassment than men do.<sup>77</sup>

3. Furthermore, the **participants' needs**, in terms of expectations but also the particular competences that are needed, must be identified in order to accomplish the desired goal with the training programmes.<sup>78</sup>

Active and experimental training methods, such as roleplays and group discussions based on case studies, are promising as they have the potential to be even more effective than passive learning methods such as lectures and videotapes.<sup>79</sup> Moreover, different teaching methods facilitate different types of learning. The training programmes must be further evaluated regularly (e.g. bi-annually) so as to understand whether patterns of sexual harassment are stable over time and whether interventions are still producing the expected effects. In addition to the evaluation and recommendations, an annual report of best practices published by FOGE could provide the inducement for corporations to implement such training.

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<sup>77</sup> Shereen G. Bingham and Lisa L. Scherer, «The Unexpected Effects of a Sexual Harassment Educational Program,» *The Journal of Applied Behavioral Science* 37, no. 2 (June 1, 2001): 131.

<sup>78</sup> Bingham and Scherer, «The Unexpected Effects of a Sexual Harassment Educational Program.»

<sup>79</sup> James E. Gruber, «The Impact of Male Work Environments and Organizational Policies on Women's Experiences of Sexual Harassment,» *Gender & Society* 12, no. 3 (June 1, 1998): 316.

# 4. Family-friendly working policies

## 4.1. Childcare

### \* Chiara Valli

According to the Federal Statistical Office, 63% of all women in Switzerland are currently formally working, but 60% of these hold a part-time job.<sup>80</sup> Academic literature seems to largely agree that there is a causal relationship between family-friendly policies and the employment rate of women.<sup>81</sup> The loss of women's labour force in the formal employment market due to an absence of affordable childcare has negative impacts on the overall economy and on private companies: the economy loses on skills and experience, while private companies suffer from lower retention rates, increase in turnover costs and childcare-related absenteeism.<sup>82</sup> The lack of childcare facilities and qualified personnel are thus adding to the problem of reconciling family and work.<sup>83</sup>

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80 Schweizerisches Bundesamt für Statistik, «Erwerbs-, Haus- Und Familienarbeit,» accessed March 2, 2018, <https://www.bfs.admin.ch/bfs/de/home/statistiken/bevoelkerung/familien/erwerbs-haus-familienarbeit.html>.

81 Janet C. Gornick and Marcia K. Meyers, *Families That Work: Policies for Reconciling Parenthood and Employment* (Russell Sage Foundation, 2005); Hadas Mandel and Moshe Semyonov, «Family Policies, Wage Structures, and Gender Gaps: Sources of Earnings Inequality in 20 Countries,» *American Sociological Review* 70, no. 6 (December 1, 2005): 949–67; Walter Korpi, «Faces of Inequality: Gender, Class, and Patterns of Inequalities in Different Types of Welfare States,» *Social Politics: International Studies in Gender, State & Society* 7, no. 2 (July 1, 2000): 127–91; Mary Daly, «A Fine Balance Women's Labor Market Participation in International Comparison,» in *Welfare and Work in the Open Economy: Volume II: Diverse Responses to Common Challenges in Twelve Countries*, ed. Vivien A. Schmidt and Fritz W. Scharpf (OUP Oxford, 2000), 468–510.

82 Woetzel et al., «The Power of Parity: How Advancing Women's Equality Can Add \$12 Trillion to Global Growth,» 95; Karen Shellenback, «Child Care & Parent Productivity: Making the Business Case,» 2004.

As explained in chapter 1.1, since the organisation of childcare lies in the competences of cantons and communes, it differs greatly among regions. Even though there is no comprehensive research on parents' average costs for childcare in Switzerland,<sup>84</sup> it is estimated that parents in Switzerland pay on average twice more for early-age childcare («crèche») than Austrian, German or French parents, even when purchasing powers are considered.<sup>85</sup> This difference is mainly caused by the fact that Switzerland's neighbours offer greater childcare subsidies.<sup>86</sup> As such, it is not surprising that high childcare costs serve as a deterrent for households with two parents to have two salary-earners. Since a large share of one person's salary is used for external childcare, an arrangement in which both parents work might result in the loss of family subsidies and financial support when a family's total income exceeds a certain level.<sup>87</sup> This, combined with traditional gender roles assuming women as the main caregivers, the societal pressure on mothers that staying at

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83 Kaspar Burger, Sascha Neumann, and Kathrin Brandenberg, «Studien Zur Frühkindlichen Bildung, Betreuung Und Erziehung in Der Schweiz» (Jacobs Foundation, 2017).

84 Susanne Stern et al., «Analyse Der Vollkosten Und Der Finanzierung von Krippenplätzen in Deutschland, Frankreich Und Österreich Im Vergleich Zur Schweiz. Forschungsbericht Nr. 3/15» (Bundesamt für Sozialversicherung, Universität St Gallen, INFRAS, 2015), 18.

85 Stern et al., «Analyse Der Vollkosten Und Der Finanzierung von Krippenplätzen in Deutschland, Frankreich Und Österreich Im Vergleich Zur Schweiz. Forschungsbericht Nr. 3/15.»

86 Stern et al.

home is necessary to be a «good» mother, and the fact that women earn on average 17% less than men in Switzerland (as of 2016)<sup>88</sup> often results in the decision of heterosexual couples that mothers leave or reduce their wage labour to resume childcare responsibilities. Important to note is also that the high costs of childcare<sup>89</sup> put a significant financial burden on single parents, who are disproportionately more affected by poverty and of whom 84% are women (as per 2017 data).<sup>90</sup>

### **We therefore propose...**

#### **Solution 9: Public-private partnerships for the establishment of employer-provided childcare**

We propose that Switzerland should provide, upon satisfaction of certain criteria, subsidies to private businesses to set up on-site childcare facilities for their employees. This would allow parents to reconcile work and family responsibilities and save the economy overall money since parents could avoid losing extra time for bringing their children to external childcare facilities. The additional costs raised for private companies and the state would be compensated by the profits raised through the measure, such as increased retention rates and less child-care related absenteeism. For example,

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87 Schweizerische Eidgenossenschaft, «Vollkosten Und Finanzierung von Krippenplätzen Im Ländervergleich. Bericht Des Bundesrates In Erfüllung Des Postulats 13.3259 Christine Bulliard-Marbach «Krippen Vergünstigen Und Den Sektor Dynamisieren» Vom 22. März 2013.» July 1, 2015, 1, <http://www.news.admin.ch/NSBSubscriber/message/attachments/40484.pdf>.

88 Organisation for Economic Co-operation and Development, «Employment : Gender Wage Gap.»

89 Even though child-care is mostly costly in Switzerland, persons working in the field of child-care, who are disproportionately women, often face precarious working conditions. See: Annika Bangerter, «Frauen arbeiten unter prekären Bedingungen – und das ausgerechnet in Kitas,» Aargauer Zeitung, August 3, 2018, <https://www.aargauerzeitung.ch/schweiz/frauen-arbeiten-unter-prekaeren-bedingungen-und-das-ausgerechnet-in-kitas-132293223>.

Patagonia, a company that provides on-site daycare to its employees, reports that 91% of the costs related to childcare facilities are recovered through other financial gains, while JPMorgan Chase Bank even estimates the return of 115% of its annual costs on daycare.<sup>91</sup> According to the CEO of Patagonia, this is the case since 100% of their employees who went on maternity leave returned to work after the leave thanks to the company's on-site daycare facility. Furthermore, the turnover rate among Patagonia's employees who take advantage of the provided childcare has shown to be 25% lower compared to other employees.<sup>92</sup> Thus, on-site childcare would make companies more attractive to working parents, in particular women, thus enlarging the companies' recruitment pool of qualified personnel. Employer-provided childcare has also shown to increase companies' productivity, improve work ethics, and enable a larger share of women in managerial positions. Companies that have employed this model, such as Patagonia, also claim that on-site daycare facilities lead to a stronger workplace culture based on trust and greater loyalty among employees.<sup>93</sup>

Employer-provided childcare is already a reality in many countries, such as Germany, which grants companies flat-rate subsidies of 400 Euros per child each month. The subsidy is limited to the first two years after the establishment of a given facility.<sup>94</sup> Similarly, the federal government of

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90 Bundesamt für Statistik, «Familien in Der Schweiz. Statistischer Bericht 2017» (Eidgenössisches Departement des Inneren, 2017), 8, 12.

91 Rose Marcario, «Patagonia's CEO Explains How To Make On-Site Child Care Pay For Itself,» Fast Company, August 15, 2016, <https://www.fastcompany.com/3062792/patagonias-ceo-explains-how-to-make-onsite-child-care-pay-for-itself>.

92 Marcario.

93 Marcario.

the United States grants companies a tax credit equal to 25% of childcare expenditures. The credit is limited to a total of \$150,000.<sup>95</sup> A Swiss federal report evaluating the implementation of the Swiss Action Plan on Gender Equality 1999-2014 has also stressed the relevance of employers in the provision of sufficient day care places.<sup>96</sup> In fact, cantons such as Vaud, Neuenburg, and Freiburg have already introduced models of private partnerships where childcare is financed through a collaboration of communes, cantons, the confederation, employers, parents, and other private networks.<sup>97</sup> For example, since 2006 employers in Vaud must annually contribute at least 0.08% of their wages to the financing of childcare, a contribution that covers 55% of the programme's total costs, municipalities pay annually 5 CHF per inhabitant to finance the programme, while the remaining costs are covered by the canton, the federation, parents, and private institutions (e.g. Loterie Romande).<sup>98</sup>

While on-site daycare provides many advantages, including the possibility to attract qualified female workers, it may not be suitable for all companies. To be cost-efficient, companies would need either to have enough employees interested in the offer or to collaborate with other nearby businesses.

94 «Förderfibel zum Förderfibel Zum Programm Betriebliche Kinderbetreuung (BeKiB)» (Bundesministerium für Familie, Senioren, Frauen und Jugend, 2012), 11.

95 «26 U.S. Code § 45F - Employer-Provided Child Care Credit» (n.d.), para. b.

96 Flurina Derungs et al., «Gleichstellung von Frau und Mann Aktionsplan Der Schweiz Bilanz 1999–2014» (EDI Eidgenössisches Büro für die Gleichstellung von Mann und Frau; EDA Sektion für Chancengleichheit und Globale Gender- und Frauenfragen, 2014), 54, 57.

97 Netzwerk Kinderbetreuung Schweiz, «Qualität in Der Kinderbetreuung - Gemeinsame Verantwortung von Öffentlicher Hand Und Wirtschaft. Zukünftige Finanzierungsmodelle Für Die Sicherung Einer Bedarfsgerechten, Qualitätsorientierten Und Zukunftsfähigen Kinderbetreuung,» 2013, 7.

98 Netzwerk Kinderbetreuung Schweiz, 8–9.

Another considerable barrier could be the lack of suitable space, as there are strict guidelines on minimum space, health and safety regulations for childcare facilities, in city areas.<sup>99</sup> Thus, in order to help companies figure out whether they can overcome those hurdles, the Federal Social Insurance Office and FOGE should work out a detailed plan of how they would support companies in the short, medium, and long term.<sup>100</sup>

## 4.2. Parental leave

### \* Laura Carmen Angst

Since 2005 Switzerland provides 14 weeks of maternity leave, but it remains one of the few European countries that does not provide any statutory leave for fathers.<sup>101</sup> Apart from cantonal regulations that offer at least two days of leave to new fathers, some private companies and public institutions have introduced their own paternity leave policies, which in rare circumstances can be up to or even more than four weeks (e.g. Alternative Bank Switzerland, IKEA).<sup>102</sup> According to a study conducted by MenCare in 2017, 26 initiatives demanding some form of paternity or parental leave have been debated and subsequently rejected in the Swiss parliament over the last ten years.<sup>103</sup> An initiative being debated since May 2016 demands

99 «KiTaS-Richtlinien» (Verband Kindertagesstätten der Schweiz KiTaS, 2008), [https://www.kibesuisse.ch/fileadmin/user\\_upload/Kibesuisse/Publikationen/DE\\_KiTaS\\_Richtlinien\\_2008.pdf](https://www.kibesuisse.ch/fileadmin/user_upload/Kibesuisse/Publikationen/DE_KiTaS_Richtlinien_2008.pdf).

100 Federal Social Insurance Office, «Allgemeine Informationen,» accessed May 23, 2018, <https://www.bsv.admin.ch/bsv/de/home/finanzhilfen/kinderbetreuung/allgemeine-informationen.html>.

101 Isabel Valarino and Jacques-Antoine Gauthier, «Paternity Leave Implementation in Switzerland: A Challenge to Gendered Representations and Practices of Fatherhood?», *Community, Work & Family* 19, no. 1 (January 2016): 1–20; European Parliament, «Maternity and Paternity Leave in the EU. At a Glance,» December 2016.

102 Alternative Bank Schweiz, «Fortschrittliche Arbeitgeberin,» accessed March 2, 2018, <https://www.abs.ch/?id=539>.

four weeks of nationwide paternity leave with the same allowance as that allocated to maternity leave, which is 80% of the parent's usual salary (with a maximum limit of 196 CHF per day).<sup>104</sup> In October 2017, the Federal Council recommended the parliament reject the initiative and refrained from providing an alternative proposal.<sup>105</sup> As was further explained in June 2018, the main reason for the Federal Council to reject the initiative is that a statutory paternity is expected to generate economic losses.<sup>106</sup> In addition, in the eyes of the Federal Council, it is mainly the responsibility of employers to introduce paternity leave.<sup>107</sup> The Commission for Education of the National Council, however, decided in September 2018 to support a statutory paternity leave of two weeks that fathers can access either all at once or in pieces within the first six months after their child's birth.<sup>108</sup>

A literature review conducted by the Swiss Federal Coordination Committee for Family Affairs published in 2017 refutes the argument that parental leave is too expensive for the Swiss economy by showing that, if well conceptualized,

it could have positive impacts on the overall economy.<sup>109</sup> It is true that the absence of workers can create short-term economic losses due to additional costs related to recruitment, training and replacement – especially for high-skilled employees.<sup>110</sup> The state also generates economic losses with regard to lower tax incomes during parental leaves. However, by relying on various studies, the Swiss Federal Coordination Committee for Family Affairs shows that these short time costs of parental leave schemes can be compensated by their positive effects on the economy in the long run.<sup>111</sup> Companies generally benefit from parental leave since their turnover quota is reduced and qualified personnel retained.<sup>112</sup> In other words, paid leaves have the potential to increase labour market participation and job continuity – especially among mothers – and thus preserve job-specific human capital.<sup>113</sup> A higher rate of women's participation in the labour force also increases the overall productivity of an economy.<sup>114</sup> As calculations presented in an

103 Diana Baumgarten and Andreas Borter, «Vaterschaftsurlaub Schweiz. MenCare Schweiz-Report Vol.2.» (Burgdorf/Zürich: Schweizerisches Institut für Männer- und Geschlechterfragen, 2017), 17.

104 «Bundesgesetz Über Den Erwerbsersatz Für Dienstleistende Und Bei Mutterschaft,» Pub. L. No. 834.1 (1952), paras. 16(e), 16(f); «Eidgenössische Volksinitiative 'Für Einen Vernünftigen Vaterschaftsurlaub – Zum Nutzen Der Ganzen Familie,» Schweizer Eidgenossenschaft, accessed February 7, 2018, <https://www.bk.admin.ch/ch/d/pore/vi/vis468t.html>.

105 Schweizerische Eidgenossenschaft, Bundesamt für Sozialversicherungen, «Bundesrat Lehnt Volksinitiative Für Einen Vaterschaftsurlaub Ab.»

106 Der Bundesrat, «Bundesrat Empfiehlt Volksinitiative Für Einen Vaterschaftsurlaub Zur Ablehnung,» accessed November 5, 2018, <https://www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-70951.html>.

107 Der Bundesrat.

108 Die Bundesversammlung - Das Schweizer Parlament, «Vaterschaftsurlaub – Kommissionen Machen Weg Frei Für Zwei Wochen Vaterschaftsurlaub,» September 20, 2018, <https://www.parlament.ch/de/services/news/Seiten/sda-wbk-n-2018-09-23.aspx>.

109 Franziska Müller and Alma Ramsden, «Evidenzbasierte Erkenntnisse Zu Wirkungen von Elternzeit Sowie Mutterschafts- Und Vaterschaftsurlaub. Literaturanalyse» (Eidgenössischen Koordinationskommission für Familienfragen (EKFF), 2017).

110 «Background Brief on Fathers' Leave and Its Use» (OECD, 2016), 13.

111 Eidgenössische Koordinationskommission and für Familienfragen, «Elternzeit – Weil Sie Sich Lohnt! Wissenschaftlich Fundierte Argumente Und Empfehlungen,» 2018, 4–5; Müller and Ramsden, «Evidenzbasierte Erkenntnisse Zu Wirkungen von Elternzeit Sowie Mutterschafts- Und Vaterschaftsurlaub. Literaturanalyse,» 7–8, 50–59.

112 Eidgenössische Koordinationskommission and für Familienfragen, «Elternzeit – Weil Sie Sich Lohnt! Wissenschaftlich Fundierte Argumente Und Empfehlungen,» 4; Müller and Ramsden, «Evidenzbasierte Erkenntnisse Zu Wirkungen von Elternzeit Sowie Mutterschafts- Und Vaterschaftsurlaub. Literaturanalyse,» 57–58.

113 Ecoplan, «Familienfreundliche Arbeitsbedingungen: Was Machen Die Kantone/Gemeinden» (Staatssekretariat für Wirtschaft SECO, 2016); Maya Rossin-Slater, Christopher Ruhm, and Jane Waldfogel, «The Effects of California's Paid Family Leave Program on Mothers' Leave-Taking and Subsequent Labor Market Outcomes,» *Journal of Policy Analysis and Management* : [The Journal of the Association for Public Policy Analysis and Management] 32, no. 2 (2013): 243.

EU report show, a 1% increase of the number of women in the labour force compensates a fully paid parental leave of 18 to 20 weeks.<sup>115</sup> The German case further demonstrates that, in the long run, costs associated with paternity leave are counterbalanced by tax receipts and decreases in other public expenditures associated with labour inactivity due to women's earlier return to work after giving birth and to a greater number of women in the workforce.<sup>116</sup>

The research conducted by the Education Committee shows that parental leave could not only benefit the Swiss economy, but could also positively affect the well-being of mothers, fathers, and children, as well as equality between women and men.<sup>117</sup> This confirms previous studies showing that despite varying much in design, paternity leave policies generally affect overall gender equality positively, whether by increasing women's formal employment, lessening their job turnover, reducing the differences in salary between mothers and childless women, and encouraging men to contribute their share of unpaid housework.<sup>118</sup> Sharing the leave with a partner can also avoid that women experience the negative effects of leaving their job for too

long, since studies have shown that leaves lasting longer than a year negatively impact future salaries and often lead to the drop out from formal employment altogether.<sup>119</sup> Paid parental leave is also positively associated with a strong wish to become parent and thus, a higher birth rate, which is needed to tackle the ageing of society and the decline of the working age population.<sup>120</sup> It further positively affects the health of mothers and children, the emotional development of children, the father-child relationships and the number of children raised in poverty.<sup>121</sup> The likelihood of men making use of their share of leave is low if parents receive a flat-rate payment, but increases when the wage replacement amounts to at least 50% of the usual salary – as is the case of the policy currently being considered.<sup>122</sup>

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114 Eidgenössische Koordinationskommission and für Familienfragen, «Elternzeit – Weil Sie Sich Lohnt! Wissenschaftlich Fundierte Argumente Und Empfehlungen,» 5; Müller and Ramsden, «Evidenzbasierte Erkenntnisse Zu Wirkungen von Elternzeit Sowie Mutterschafts- Und Vaterschaftsurlaub. Literaturanalyse,» 66–69.

115 Heening Thomsen and Helene Urth, «Costs and Benefits of Maternity and Paternity Leave» (Directorate General for Internal Policies, European Parliament), accessed May 11, 2018, [www.europarl.europa.eu/document/activities/cont/201107/20110725ATT24641/20110725ATT24641EN.pdf](http://www.europarl.europa.eu/document/activities/cont/201107/20110725ATT24641/20110725ATT24641EN.pdf).

116 Rheinisch-Westfälisches Institut für Wirtschaftsforschung, «Fiskalische Refinanzierungseffekte Des Elterngeldes: Projektbericht Zum Forschungsvorhaben Des Bundesministeriums Für Familie, Senioren, Frauen Und Jugend,» 2015.

117 Müller and Ramsden, «Evidenzbasierte Erkenntnisse Zu Wirkungen von Elternzeit Sowie Mutterschafts- Und Vaterschaftsurlaub. Literaturanalyse.»

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118 Laura Addati, Naomi Cassirer, and Katherine Gilchrist, *Maternity and Paternity at Work: Law and Practice across the World* (Geneva: International Labour Office, 2014), 51; Rebecca Ray, Janet C. Gornick, and John Schmitt, «Who Cares? Assessing Generosity and Gender Equality in Parental Leave Policy Designs in 21 Countries,» *Journal of European Social Policy* 20, no. 3 (July 1, 2010): 198; Valarino and Gauthier, «Paternity Leave Implementation in Switzerland,» 16; Rossin-Slater, Ruhm, and Waldfogel, «The Effects of California's Paid Family Leave Program on Mothers' Leave-Taking and Subsequent Labor Market Outcomes,» 243; Linda Haas and Tine Rostgaard, «Fathers' Rights to Paid Parental Leave in the Nordic Countries: Consequences for the Gendered Division of Leave,» *Community, Work & Family* 14, no. 2 (May 1, 2011): 190.

119 Organisation for Economic Co-operation and Development, «Parental Leave: Where Are the Fathers? Men's Uptake of Parental Leave Is Rising but Still Low,» Policy Brief (OECD, March 2016), 1.

120 Yusuf Emre Akgunduz and Janneke Plantenga, «Labour Market Effects of Parental Leave in Europe,» *Cambridge Journal of Economics* 37, no. 4 (n.d.): 845–862; Müller and Ramsden, «Evidenzbasierte Erkenntnisse Zu Wirkungen von Elternzeit Sowie Mutterschafts- Und Vaterschaftsurlaub. Literaturanalyse,» 60–62.

121 Addati, Cassirer, and Gilchrist, *Maternity and Paternity at Work*, 51; Margaret O'Brien, «Fathers, Parental Leave Policies, and Infant Quality of Life: International Perspectives and Policy Impact,» *The ANNALS of the American Academy of Political and Social Science* 624, no. 1 (July 2009): 190–213; Ann-Zofie Duvander and Mats Johansson, «What Are the Effects of Reforms Promoting Fathers' Parental Leave Use?,» *Journal of European Social Policy* 22, no. 3 (July 1, 2012): 323; Eidgenössische Koordinationskommission and für Familienfragen, «Elternzeit – Weil Sie Sich Lohnt! Wissenschaftlich Fundierte Argumente Und Empfehlungen,» 4; Müller and Ramsden, «Evidenzbasierte Erkenntnisse Zu Wirkungen von Elternzeit Sowie Mutterschafts- Und Vaterschaftsurlaub. Literaturanalyse,» 41–50.

Iceland and Sweden have both been praised for their parental leave models that have greatly fostered gender equality.<sup>123</sup> Iceland grants parents 273 days (39 weeks) of paid parental leave, while Sweden grants a total of 480 days (68.6 weeks). Both countries implemented a reserved and non-transferable amount of days for each parent.<sup>124</sup> In both countries, the policies offer a high wage replacement and also grant minimum payments to parents who have not accumulated rights by previous labour market participation.<sup>125</sup> Both leave schemes also provide high flexibility, since the leave can be taken in form of part-time, in one continuous period, or in several blocks. In Iceland parents can furthermore take their whole leave simultaneously<sup>126</sup> and Sweden offers higher payment rates if parents share the leave equally.<sup>127</sup> The comprehensive parental leave schemes of the two countries have also played a role in the ranking of Sweden as best and Iceland as third-best OECD country as regards gender equality in the labour market.<sup>128</sup>

As the current initiative of four weeks of paternity leave is already highly disputed and similar initiatives have been rejected in the past, any reform as implemented countries like Iceland and

122 O'Brien, «Fathers, Parental Leave Policies, and Infant Quality of Life,» 190.

123 Bjorn Thor Arnarson and Aparna Mitra, «The Paternity Leave Act in Iceland: Implications for Gender Equality in the Labour Market,» *Applied Economics Letters* 17, no. 7 (May 20, 2010): 677; Ann-Zofie Duvander, Linda Haas, and Sara Thalberg, «Fathers on Leave Alone in Sweden: Toward More Equal Parenthood?,» in *Comparative Perspectives on Work-Life Balance and Gender Equality*, ed. Margaret O'Brien and Karin Wall, vol. 6 (Cham: Springer International Publishing, 2017), 125–45, [https://doi.org/10.1007/978-3-319-42970-0\\_8](https://doi.org/10.1007/978-3-319-42970-0_8).

124 Haas and Rostgaard, «Fathers' Rights to Paid Parental Leave in the Nordic Countries.»

125 Duvander and Johansson, «What Are the Effects of Reforms Promoting Fathers' Parental Leave Use?»; Guðný Björk Eydal and Ingólfur V Gíslason, «Iceland Country Note,» in *13th International Review of Leave Policies and Related Research 2017*, ed. Sonja Blum, Alison Koslowski, and Peter Moss, 2017, 203–9.

Sweden would likely face some form of resistance by Swiss political institutions and the population. However, according to a survey conducted in 2014, a large majority of the parties approves or even advocates for the introduction of a statutory paid parental leave.

### **We therefore propose...**

#### **Solution 10: Statutory parental leave of one year, with four non-transferable months, for each parent**

Based on the academic research on the positive effects of parental leave presented above and the successful parental leave models in Sweden and Iceland, we support the proposal of introducing a 38-week parental leave scheme by the Swiss Federal Coordination Committee for Family Affairs. The Coordination Committee recommends that 14 weeks be reserved for the mother and eight for the father, while the division of the other 16 weeks is up to the parents.<sup>129</sup> Mothers can take two weeks before the date of birth and must take at least 8 weeks after birth (legal prohibition to work). Parents should be able to take up the leave on a flexible basis, such as on a part-time basis, all at once or in several separate blocks.<sup>130</sup> The allowance paid during the parental leave should

126 Focus Consultancy, «The Parental Leave System in Iceland. Seminar Reports: 22-23 October 2008, Reykjavik Organisation of Exchange of Good Practices on Gender Equality,» n.d., 10.

127 Duvander and Johansson, «What Are the Effects of Reforms Promoting Fathers' Parental Leave Use?,» 323; Eydal and Gíslason, «Iceland Country Note.»

128 European Institute for Gender Equality, Eurostat, MSCI ESG Research, GMACILO, Inter-Parliamentary Union, OECD national sources, *The Economist*, «Glass Ceiling Index. Environment for Working Women, 2017 or Latest.»

129 Eidgenössische Koordinationskommission and für Familienfragen, «Elternzeit — Weil Sie Sich Lohnt! Wissenschaftlich Fundierte Argumente Und Empfehlungen,» 5.

130 Eidgenössische Koordinationskommission and für Familienfragen, 5.

be the same as for current maternity leave, namely 80% of the parent's usual salary with a maximum limit of 196 CHF per day.<sup>131</sup> In order to ensure that also same-sex couples and trans parents can effectively benefit from parental leave, we propose to formulate the law in a gender-neutral way, by

replacing the term mother with person giving birth, and father with second parent. Moreover, the law shall ensure the same parental leave scheme for adoptive parents.

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<sup>131</sup> Müller and Ramsden, «Evidenzbasierte Erkenntnisse Zu Wirkungen von Elternzeit Sowie Mutterschafts- Und Vaterschaftsurlaub. Literaturanalyse,» 74.

## 5. Conclusion and strategic recommendations

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The above-discussed policy solutions show that international recommendations and guidelines on gender equality must be translated into concrete measures at the domestic level that take into account the local context, challenges and windows of opportunities. By using comparative insights from other countries, we attempted to derive feasible policy solutions for some of the shortcomings of women's right to work in Switzerland, as identified by CEDAW in 2016. The following list of strategic recommendations provides a clear and concise overview of our proposals:

**Solution 1:** FOGE should ensure the intersectoral preparation, realization and follow-up of the CEDAW review, including actors from the communal, cantonal and federal level, in order to raise awareness on the Convention at all political levels.

**Solution 2:** The Swiss government should ensure coherence in its domestic and foreign policy concerning gender equality.

**Solution 3:** FOGE should work together with the Swiss Association of Judges, the Swiss University Conference and universities for the training of the judiciary, attorney and university law professors on the correct application of CEDAW and the GEA.

**Solution 4:** In order to fulfill its responsibility to inform all relevant stakeholders about the steps needed to ensure Switzerland's international obligations, FOGE should work together with the FDFA in developing strategic partnerships with leading media outlets to disseminate information on gender equality issues.

**Solution 5:** The Gender Pay Gap in Switzerland should be effectively addressed by making it mandatory for companies with a minimum of 25 employees to reveal their employees' salaries and to introduce a sanction mechanism to penalize companies that continue to show a gender pay gap after eight years of transition period.

**Solution 6:** Switzerland should actively implement the recent WTO Declaration on Trade and Women's Economic Empowerment by pushing for the adoption of an International Charter for Women in Economic Leadership as inter-agency collaboration between the WTO and the ILO.

**Solution 7:** The FOGE should conduct a comprehensive nationwide study on the prevalence of sexual harassment.

**Solution 8:** The FOGE should establish training programmes for the prevention of harassment in private and public institutions.

**Solution 9:** The lack of affordable childcare in Switzerland should be mitigated through the provision of subsidies to employer-provided childcare by the Federal Social Insurance Office and FOGE.

**Solution 10:** All political actors in Switzerland should push for the introduction of a statutory

parental leave of 38 weeks, with 14 weeks reserved for parent giving birth and 8 weeks for the second parent on a non-transferable basis, flexible take-up possibilities and an 80% wage replacement.

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