



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### **Fourth periodic report submitted by Switzerland under articles 16 and 17 of the Covenant, due in 2015\* \*\***

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\* The present document is being issued without formal editing.  
\*\* The annexes to the present report are available on the Committee's website.



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## Introduction

1. The Committee on Economic, Social and Cultural Rights considered the combined second and third periodic reports of Switzerland (E/C.12/CHE/2-3) at its 37th, 38th and 39th meetings, held on 5 and 8 November 2010, and adopted its concluding observations thereon on 19 November 2010. In the submission of its fourth periodic report, Switzerland has followed the new guidelines (A/RES/68/268). This report provides all the information required to respond to the Committee's recommendations. While the report should officially cover the period from May 2008 to December 2015, the Federal Council has borne in mind the delay in submitting the report and included in it all pertinent information gathered up to the moment of its adoption. The report does not repeat the information contained in the initial report, the combined second and third periodic reports or the common core document of 12 October 2016. Annexes 1 to 3 supply additional information.

## Background

### Ratification of international instruments on economic, social and cultural rights

2. Please refer to the common core document adopted by the Federal Council on 12 October 2016 (chapter III: "General framework for the protection and promotion of human rights") and to chapter II, part A, of the third report of Switzerland under the universal periodic review procedure, dated 28 June 2017.

3. Switzerland ratified the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention for the Safeguarding of the Intangible Cultural Heritage on 16 October 2008 and the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions on 20 March 2008 (see annex 2).

4. On 28 June 2013, Switzerland signed the World Intellectual Property Organization (WIPO) Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled. Switzerland also signed the WIPO Beijing Treaty on Audiovisual Performances, on 26 June 2012.

5. Switzerland ratified the Nagoya Protocol on 11 July 2014.

6. The Federal Council approved the Federal Act on the International Convention for the Protection of All Persons from Enforced Disappearance on 18 December 2015. All the implementing legislation entered into force at the same time as the Convention, on 1 January 2017.

7. Switzerland signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) on 11 September 2013. Ratification is expected during the course of 2018.

8. Switzerland has acceded to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. The instrument of accession was deposited on 24 April 2017 and entered into force for Switzerland on 24 July 2017 (see annex 2).

9. On 1 July 2014, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse entered into force in Switzerland.

10. On 21 February 2011, Switzerland ratified the International Labour Organization (ILO) Maritime Labour Convention, 2006. It also ratified the ILO Employment Policy Convention, 1964 (No. 122) on 11 February 2013 (see annex 2), the ILO Maternity Protection Convention, 2000 (No. 183) on 4 June 2014 and the ILO Domestic Workers Convention, 2011 (No. 189) on 12 November 2015. The ILO Maternity Protection Convention, 2000 (No. 183) entered into force for Switzerland on 4 June 2015 and it ratified the ILO Protocol to the Forced Labour Convention, 1930 (No. 29) on 28 September 2017.

11. Switzerland ratified the Convention on the Rights of Persons with Disabilities on 15 April 2014.

### **Constitutional and legislative amendments**

12. The amendments are explained in relation to the provisions of the Covenant.

#### **Recommendation No. 5**

13. In Switzerland, norms of international law are valid under domestic law (monism) as of their entry into force; they need not be translated into national law in order to be incorporated (dualism). The Covenant is thus valid immediately and must be applied by the authorities (see annex 2 and the common core document, chapter D1).

14. Norms of international law are directly applicable when they are sufficiently specific to enable a natural or legal person to draw from them rights and obligations on which to base the initiation of proceedings before the administrative and judicial authorities. Norms of international law that are not directly applicable must be given appropriate form by the legislature to give rise to rights and obligations for individuals. The Federal Court recognizes the primacy of international law, while also acknowledging certain exceptions. Thus, international law takes precedence over legal standards, unless the Federal Assembly has knowingly adopted a text that is contrary to international law, in which case it is this (later) provision that applies (“Schubert jurisprudence”). Nevertheless, the human rights guaranteed by international law and those guaranteed by the Agreement on the Free Movement of Persons signed by Switzerland and the European Union systematically prevail over federal laws.

15. Please refer to the response of the Federal Council to Interpellation No. 16.3043 Vogt, “Ensuring the capacity for action of Parliament and the Federal Council. Implementing article 121a of the Constitution. Maintaining the Schubert jurisprudence” (see annex 2).

16. Since 2008, the Federal Court has confirmed its jurisprudence to the effect that “the provisions of United Nations Covenant I do not, in principle, confer justiciable rights on individuals” (see annex 2). The Court recalled, in a decision of 2013 concerning article 9 of the Covenant, that article 2 (2) of the Covenant does not have autonomous scope, but establishes guarantees in conjunction with the programmatic obligations that States undertake to fulfil progressively (see ATF 139 I 257 [264]). According to the Court, the Covenant does not, in principle, confer justiciable rights on individuals (ATF 139 I 257 [264]). Its provisions are not directly applicable, although the Court does not exclude the possibility that some of them, such as article 8, on certain aspects of the freedom of association (see paragraph 38 of the combined second and third periodic reports on the implementation of the Covenant), may be. Regarding article 2 of the Covenant, the Court recalled the accessory nature of article 2 (2) of the Covenant and the programmatic nature of article 9 of the Covenant in its decision ATF 135 I 161 (see annex 2). Contrary to the claim made in recommendation No. 5, the non-recognition of the direct applicability of the Covenant does not mean that it cannot be given effect in the domestic legal order. Since the provisions of the Covenant are programmatic in nature and addressed to the legislature, the latter is expected to take measures to give them appropriate form. As to the case law related to article 7 of the Covenant, ATF 136 I 290 contains recitals concerning the applicability of the article (see annex 2). Adherents of the theory that hourly workers have a right to remuneration for public holidays were of the view that this right derives from article 7 (d) of the Covenant.

17. For further information, please refer to the comments on specific articles.

#### **Recommendation No. 6**

18. On 1 July 2009, the Federal Council adopted a report entitled “Establishment of a federal human rights commission: Possibility, timeliness, alternatives”, which noted that there was a need for support on human rights. In the absence of consensus, however, it was

too soon to create a fully fledged national human rights institution. The Council decided to run a five-year pilot project.

19. The Swiss Centre of Expertise in Human Rights began its work in spring 2011. The Centre is structured around six thematic clusters: migration; police and justice; gender policy; child and youth policy; institutional issues; and human rights and business.

*Assessment of the Swiss Centre of Expertise in Human Rights and follow-up to the project*

20. The Centre was assessed in spring 2015 (see annex 2). The Centre helped to strengthen human rights policy, but had more difficulty in raising awareness among the general public. Its lack of formal independence was considered to be the most significant issue affecting the pilot project. On 1 July 2015, the Federal Council decided to extend the project for five years. Sustainable regulations have been developed on the basis of the “status quo +” model, whereby the tasks of the future institution have been assigned to a university, which will receive funding of 1 million Swiss francs (SwF) per year from the Confederation. In contrast to the pilot project, the institution would have a legal basis and the ability to decide freely on how to spend some or all of its core funding. A bill was submitted for consultation from 28 June 2017 to 31 October 2017 (see annex 2). Please also refer to the common core document (chapter E concerns the Centre).

**Recommendation No. 24**

21. Free-trade agreements are based predominantly on economic criteria, while taking into account respect for social and environmental standards and human rights. Since 2010, Switzerland has systematically proposed the inclusion of provisions to this effect, in particular a chapter entitled “Trade and sustainable development”. The purpose of the chapter is to enhance the consistency of various policies and ensure that economic liberalization goes hand in hand with the protection of the environment and of workers. It contains provisions on labour standards and environmental protection (compliance with, and effective implementation of, ILO conventions and ratified multilateral environmental agreements). In addition, Switzerland proposes references to international human rights instruments and corporate social responsibility principles. In accordance with the United Nations Guiding Principles on Business and Human Rights, a specific clause continues to ensure that the parties to free-trade agreements have the policy space needed to keep honouring their international obligations under other treaties, including those dealing with social, environmental and human rights issues. Lastly, free-trade agreements allow the parties to take derogating measures to protect human, animal or plant life or health and preserve non-renewable natural resources. The social and environmental interests and circumstances of partner countries are duly taken into account during the negotiation and implementation of these agreements.

22. The free-trade agreements concluded by Switzerland respect the flexibility of trade-related aspects of intellectual property rights, which is also enshrined in the Doha Declaration and the amendment to the Agreement on Trade-Related Aspects of Intellectual Property Rights that entered into force on 23 January 2017 and made permanent the decision of the World Trade Organization (WTO) of 30 August 2003 on access to medicines to combat public health problems in developing countries. Access to medicines is reliant on many factors: a developed health-care system, an efficient logistical chain, non-prohibitive tariffs and non-tariff barriers, efficient production, successful public procurement and the effective protection of intellectual property rights. The various treaties on free trade and the protection of investment entered into by Switzerland promote the opening-up of the economies of its partner countries and thereby contribute to economic development and the growth of these economies, which has a positive impact on the above-mentioned factors and on access to medicines.

23. Protecting intellectual property rights in the health-care sector and improving the health of disadvantaged populations are important. The efforts made in these two areas can complement each other. Intellectual property protection not only can contribute to prosperity and the development of society but also serves as a driver for the development of more effective medicines and better technologies and services.

24. Pursuant to the Agreement on Trade-Related Aspects of Intellectual Property Rights, WTO member countries must protect new plant varieties. This may be done either by patents or by an effective sui generis system or by any combination thereof. Acceding to the International Convention for the Protection of New Varieties of Plants, which is administered by WIPO, is one of the ways of offering time-limited protection to new plant varieties.

25. Switzerland opted to accede to the Convention. In such cases, the parties to a free-trade agreement may alternatively agree on specific substantive protection provisions.

26. Regarding investment protection agreements, Switzerland is continuously developing its practice and bears in mind its international obligations. Since 2012, it has introduced provisions to enhance consistency with the Sustainable Development Goals. In early 2015, a working group was formed with the aim of examining contractual practice so as to take into account the latest developments in the field of investment protection. In March 2016, a report on such developments was published (see annex 2).

27. The Federal Council does not carry out wide-ranging impact assessments in the context of negotiations on free-trade agreements. The complexity of the problems, the difficulty of identifying and tracking causal links and the lack of disaggregated statistics are issues that render the assumptions and conclusions of such assessments fragile. Nevertheless, the Council closely monitors developments in these assessments at the international level.

28. As a member of the Organization for Economic Cooperation and Development (OECD), Switzerland has a national contact point for the OECD Guidelines for Multinational Enterprises. On 1 May 2013, the Federal Council adopted an ordinance on the organization of the national contact point and on its consultative commission (see annex 2).

29. The positions adopted by Switzerland as a member of the governing bodies of international financial institutions take into account any impact on economic, social and cultural rights. Switzerland places appropriate emphasis on designing strategies, defining operations and formulating institutional activities aimed at reducing poverty and encouraging sustainable growth. Switzerland also endeavours, in its capacity as an active and responsible shareholder in these banks, to meet its obligations appropriately, including with regard to the replenishment of funds and capital increases.

30. Within the Council of Europe Steering Committee for Human Rights, Switzerland helps to analyse the Council's legal framework for the protection of social rights in Europe and to identify best practices.

31. The foreign policy of Switzerland in the area of health also seeks to promote and protect the right to health. It aims to ensure access to life-saving medicines for poverty-related illnesses. To compensate for market failures in these contexts, the policy provides for additional mechanisms and funding for the research and development of medicines. At the international level, Switzerland is committed to the development of a coordination and funding mechanism for research and development specifically devoted to the needs of disadvantaged populations in low- and middle-income countries.

32. Switzerland set up an interdepartmental working group on public health, innovation and intellectual property, which ensures compliance with requirements related to innovation and public health.

33. On 1 April 2015, the Federal Council published its position and its action plan on corporate social responsibility (see annex 2).

### **Recommendation No. 32**

34. In its response to parliamentary motion 09.3279, entitled "Ratification of the Optional Protocol to the United Nations International Covenant on Economic, Social and Cultural Rights", the Federal Council underlined that, "despite the opposition of a large group of States, it was the solution that involved making the Optional Protocol fully comprehensive in scope that prevailed in the last round of negotiations, in 2008. It therefore

cannot be excluded that the United Nations Committee may also examine complaints of violations of provisions that, according to the Swiss legal approach, are programmatic in nature. Thus, the Covenant would, a posteriori, become far broader in scope than originally intended by the Federal Council and Parliament at the time of its ratification. This has implications for the compatibility of the Optional Protocol with the legal order of the Confederation and the cantons. Under the circumstances, the Federal Council will not, for the time being, take any steps to sign and ratify the Optional Protocol to the Covenant. It thus confirms its position: in accordance with its practice to date, Switzerland should not take any steps to accede to an international convention until it is sure that it can ratify it effectively”.

### **Recommendation No. 33**

35. The Federal Council disseminates its national reports and the Committee’s concluding observations on the websites of the State Secretariat for Economic Affairs, the Federal Department of Economic Affairs, Education and Research, the Directorate of International Law and the Federal Department of Foreign Affairs. Information on this subject can also be found on the websites of a number of Swiss non-governmental organizations. The reports are available in French and German. Please also refer to the common core document (chap. F).

### **Recommendation No. 34**

36. Switzerland updated its core document and transmitted it to the United Nations Secretariat in October 2016 along with a request to send it to the Committee on Economic, Social and Cultural Rights. It is based on the guidelines of 10 May 2006 of the Office of the United Nations High Commissioner for Human Rights (HRI/MC/2006/3).

### **Recommendation No. 35**

37. Owing to budget cuts and limited human resources within the Federal Administration, Switzerland was unable to submit its fourth report within the deadline.

## **Article 1**

### **Right of self-determination**

#### **Application**

38. Please refer to the response to recommendation No. 5 (see paras.13–17). There is no jurisprudence of the Federal Court relating to article 1 of the Covenant from the period under review.

### **Recommendation No. 7**

39. The fact that Switzerland does not have comprehensive legislation designed to combat discrimination of all kinds at the federal level is indicative not of a substantive deficiency but of the specificity of the Swiss legal order, which is characterized by its attachment to the monist tradition and by the federalism that underpins the division of tasks between the Confederation and the cantons.

40. All the cantons must respect minimum human rights standards; they have deliberately been given some room for manoeuvre. Cantonal differences in the implementation of international obligations can result in certain cantons having a human rights protection mechanism that goes beyond the minimum requirements under international law. The national harmonization of the level of protection could thus have a levelling-down effect.

41. The Federal Council views the sectoral approach as affording more protection against the various forms of discrimination suffered by different categories of people. Concerning racial discrimination, as well as the anti-racism rule, there are numerous provisions in the Federal Constitution, private law, criminal law and administrative law that can be used to combat discrimination. Under cantonal integration programmes, the

counselling services available in the cantons aim to better support victims of racial discrimination; following a development phase, the Confederation and the cantons are currently taking measures to strengthen and promote the quality of the services. The Service for Combating Racism, in collaboration with the secretariat of the Federal Commission against Racism, has prepared a legal guidebook that offers practical advice on how to defend oneself from acts of racial discrimination. This book, which was made available online in July 2017, aims to improve the specialist advice provided in the cantons and to serve as an additional tool for legal practitioners.

42. Insofar as the free-standing prohibition of discrimination in the Convention on the Rights of Persons with Disabilities (art. 5 (1)) refers to the legal system as a whole and may be applied directly, the clear definition that it contains, which is based on a specific group of people, strengthens the rights of persons with disabilities in Switzerland. Given that the denial of reasonable accommodation constitutes discrimination, it can be assumed that protection against discrimination will be enhanced in terms of jurisprudence, particularly with regard to the practice followed to date by the Federal Court in relation to obligations concerning the prohibition of discrimination.

43. A study has been conducted on access to justice in cases of discrimination (see annex 2).

### **Statistics**

44. See annex 3.

### **Recommendation No. 25**

45. Between 2008 and 2015, the level of official development assistance (ODA) increased by over SwF 1 billion in absolute terms and by 0.1 per cent as a proportion of gross domestic product (GDP). In 2015, the ODA/GDP ratio was 0.52 per cent, in accordance with a decision made by Parliament in 2011 to achieve a figure of 0.5 per cent by that date. In the years to come, the programme on the stabilization of public finances for 2017–2019 will have an impact on the evolution of ODA. This will depend on volatile elements (costs associated with asylum seekers, statistical adjustments) and on changing economic circumstances (total GDP). From 2008 to 2016, ODA grew by more than SwF 1 billion in absolute terms and by 0.11 per cent as a proportion of GDP. In 2016, the ODA/GDP ratio was 0.53 per cent, exceeding the target of 0.5 per cent set by Parliament in 2011 for the second consecutive year (2015: 0.51 per cent).

## **Article 2 Implementation**

### **Application**

46. Please refer to the comments made in relation to recommendation No. 7. In 2011, the Federal Council asserted that the promotion of integration should go hand in hand with the fight against discrimination and the elimination of structural and individual obstacles to housing, employment, training and leisure, among other things. The establishment of cantonal integration programmes in 2014 provided a clear framework for the fight against racism and discrimination.

### **Equal pay**

47. On 5 July 2017, the Federal Council submitted to Parliament new legal provisions requiring employers in the public and private sectors to carry out regular analyses of wages under the supervision of a third party.

### **Religion**

48. In response to the Aeschi postulate (13.3672), entitled “Clarification of certain religious matters”, work is under way with regard to religious symbols. A report was adopted by the Federal Council on 9 June 2017 (see annex 2).



**Race, sex, disability**

49. Please refer to the response to recommendation No. 7 and the report drafted by the Federal Council in response to the Naef postulate (12.3543) of 14 June 2012, entitled “Report on the right to protection from discrimination”.

**International economic and technical cooperation**

50. In the area of international economic and technical cooperation, economic and trade-related policy measures contribute directly to the realization of the rights embodied in the Covenant and, in particular, to the creation of jobs. A contribution in the environmental and social spheres is also made possible through the recognition of resource-efficient production methods and the introduction of modern working methods that comply with key ILO conventions.

51. The Federal Council intends to boost inclusive growth, including through the creation of more and better jobs and the strengthening of professional skills in international cooperation partner countries (see annex 2).

**Recommendation No. 29**

52. The entry into force of the Federal Act on Foreign Nationals on 1 January 2008 and of the Ordinance on Admission, Stay and Gainful Employment have made it possible to anchor regulations concerning the presence of victims of human trafficking in Swiss law. These regulations are in line with the guidelines laid down in the Convention on Action against Trafficking in Human Beings. They provide for a period of reflection of at least 30 days, leave to remain for the duration of any criminal proceedings against perpetrators, leave to remain in the event of a personal situation of special hardship, and assistance in the return and reintegration of victims and witnesses of human trafficking (Federal Act on Foreign Nationals, arts. 30 (1) (e) and 60 (2) (b), and Ordinance on Admission, Stay and Gainful Employment, arts. 35 and 36).

53. Pursuant to article 30 (1) (b) of the Federal Act on Foreign Nationals, undocumented migrants may be granted a residence permit (in individual cases of an extremely serious nature). Article 30a of the Ordinance on Admission, Stay and Gainful Employment defines the conditions under which young undocumented foreign nationals may have their situation regularized in order for them to access vocational training.

54. Various studies have focused on the issue of undocumented migrants in Switzerland; a new study on the situation of undocumented migrants in Switzerland undertaken by the State Secretariat for Migration was published on 25 April 2016 (see annex 2).

55. The right to free basic education is guaranteed to all children living in Switzerland by article 19 of the Constitution, article 28 of the Convention on the Rights of the Child and article 13 of the International Covenant on Civil and Political Rights. The Constitution obliges the cantons to provide adequate basic education without discrimination (art. 62 (2)).

56. The Conference of Cantonal Directors of Social Affairs has developed child and youth policy recommendations for the cantons (see annex 2).

57. Switzerland adopted its first National Action Plan to Combat Trafficking in Persons on 1 October 2012. A second Plan (for 2017–2020) was adopted on 30 November 2016 (see annex 2). The measures set out in the Plan include the ratification of the ILO Protocol to the Forced Labour Convention, 1930 (No. 29), which Switzerland ratified on 28 September 2017.

58. In 2015, the State Secretariat for Migration clarified its guidelines on human trafficking.

59. The Criminal Code was amended on 1 December 2006. Since then, it has been an offence under article 182 of the Code to engage in the trafficking of a human being for the purpose of sexual exploitation, exploitation of his or her labour or for the purpose of removing an organ.

60. The penalty is a custodial sentence of up to 20 years. If the victim is a minor or if the offender acts for commercial gain, the penalty is a custodial sentence of not less than 1 year.

61. Between 45 and 78 cases of human trafficking and between 69 and 148 offences relating to the encouragement of prostitution were recorded between 2009 and 2014 (see annex 3).

62. From 2009 to 2014, there were between 6 and 15 convictions per year for human trafficking and between 8 and 26 convictions per year for the encouragement of prostitution (see annex 3).

### **Statistics**

63. See annex 3.

## **Article 3 Equality between men and women**

### **Application**

64. Regarding gender equality, please refer to the relevant paragraphs of the combined fourth and fifth periodic reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (see annex 2).

65. In a judgment of 2 February 2016 in *Di Trizio v. Switzerland*, which concerned the calculation of a disability allowance according to the so-called “combined” method, the European Court of Human Rights held that there had been a violation of article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms, read in conjunction with article 8 thereof. Switzerland took action in response to the judgment. On 1 December 2017, the Federal Council decided to introduce a new method of calculation that met the requirements of the Court and that came into effect on 1 January 2018 (see annex 2). In a decision of 19 April 2017, the Committee of Ministers of the Council of Europe declared that Switzerland had fulfilled its obligations in this case, the consideration of which was therefore closed.

66. The third sentence of article 8 (3) of the Constitution, which establishes the right to equal pay for work of equal value, is given shape in the domain of work by the Equality Act (see annex 2).

67. The budget for financial assistance under the Equality Act is set each year by Parliament. In 2017, it amounted to SwF 4.5 million. Each year, the Federal Office for Gender Equality provides financial support for projects and consulting services dealing with issues such as equal pay, encouraging career choices that are considered sex-atypical (for example, the mathematics, informatics, natural sciences and technology (MINT) professions for women and the care professions for men), part-time work for men and women, sexual harassment, the professional integration of foreign nationals and the work-life balance at various levels.

### **Amendments to framework laws, policies and strategies**

68. Please refer to the comments made in relation to article 1 of the Covenant.

69. Each year, the Federal Personnel Office publishes figures on staff management within the Federal Administration. These statistics make it possible to compare the representation of women and men by age, wage bracket and degree of employment (see annex 2).

### **Mechanism in place to monitor progress**

70. Please refer to the combined fourth and fifth periodic reports of Switzerland on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (see annex 2, para. 64).

71. Regarding gender equality in the workplace, the Equality Act is implemented by either civil or administrative courts, depending on whether the matter at hand concerns the private or the public sector, following a procedure that has benefits for victims of discrimination (see articles 113 (2) (a), 114 (a) and 243 (2) (a) of the Civil Procedure Code).

72. In 2015, to improve the legal instruments for combating gender-based discrimination, the Federal Office for Gender Equality co-organized, with the Council of Europe, a conference on women's access to justice. In 2016, it sponsored a symposium on the Equality Act with the aim of identifying obstacles to the Act's implementation. On 14 June 2017, the Office published an analysis of the Act's effectiveness (see annex 2).

### **Statistics**

73. See annex 3.

### **Recommendation No. 8**

74. Please refer to the combined fourth and fifth periodic reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

75. On 15 November 2010, in order to determine whether the provisions of the Constitution and the Equality Act concerning equal pay are observed within the Federal Administration, the head of the Federal Department of Finance signed the Convention on the Equal Pay Dialogue between the Federal Administration and federal staff associations. Wages were examined using the Confederation's standard analysis software (the Logib tool) from 2010 to 2013. The values did not exceed the tolerated level of 5 per cent established during the Equal Pay Dialogue. The Federal Administration continues to take steps to combat wage discrimination by monitoring compliance with equal pay requirements as part of the staff strategy for 2016–2019. Moreover, in September 2016, the Federal Department of Home Affairs launched the Charter for Equal Pay in the Public Sector.

76. Within the Federal Administration, the proportion of women in senior management positions has been rising since 2011 (see annex 2, para. 69). It grew from 14.3 per cent in 2011 to 19.3 per cent in 2016. Part-time work remains more widespread among women than men, but there has been a slight increase in the proportion of men working part-time (from 7.9 per cent in 2011 to 11 per cent in 2016).

## **Article 4**

### **Limitations on the exercise of rights**

#### **Application**

77. Please refer to paragraphs 107 and 108 of the combined second and third periodic reports on the implementation of the Covenant. Regarding the incorporation and direct applicability of article 4 of the Covenant in the Swiss legal order, there is no relevant jurisprudence from the period under review. As to the applicability of international treaties, please refer to the common core document of Switzerland dated 12 October 2016 (chap. D.2).

## **Article 5**

### **Prohibition of the abuse of rights and primacy of the most favourable right**

#### **Application**

78. Please refer to the initial report on the implementation of the Covenant (paras. 73 and 74).

## **Article 6**

### **Right to work**

#### **Application**

79. Please refer to the information contained in the common core document of Switzerland dated 12 October 2016 (chap. IV.G). The right to work is also enshrined in article 19 of the Constitution of the canton of Jura.

#### **Recent developments in law and practice**

80. The cantons are responsible for vocational, academic and career guidance (Vocational Training Act, art. 49).

81. Vocational, academic and careers advisers have to undergo specialized training, which lays out the minimum requirements for the recognition of training pathways (Vocational Training Act, art. 50).

82. Financial support from the Confederation for the trilingual vocational guidance website amounts to 50 per cent (see annex 2).

83. The Confederation may make contributions to vocational training development and quality improvement projects (Vocational Training Act, art. 54) and to particular services of public interest (Vocational Training Act, art. 55), especially those linked to vocational, university and career guidance.

84. In 2015, the State Secretariat for Education, Research and Innovation, in collaboration with the Swiss Conference of Cantonal Ministers of Education, launched a project to optimize preparations for choosing a career. Various aspects of preparing to choose a career, the training for vocational, academic and careers advisers and existing information documents will be analysed to gauge their suitability for target groups.

#### **Main amendments to framework laws, policies and strategies**

85. The Convention on the Rights of Persons with Disabilities entered into force for Switzerland in May 2014. Switzerland submitted its initial report on 29 June 2016 (see annex 2).

86. An evaluation of the Act on Equality for Persons with Disabilities demonstrated that the Act has helped to improve the accessibility of buildings and public transport. The task now is to encourage equality and participation in other areas, such as the labour market. A report on disability policy was published by the Federal Department of Home Affairs on 11 January 2017 (see annex 2).

87. The Act, along with the Disability Insurance Act and the measures that it establishes in favour of the employment of persons with disabilities, is applicable to the Confederation's labour relations in public law. Two types of measures are envisaged: the first is geared towards the reintegration of existing staff and the second towards the recruitment of persons with disabilities.

88. Concerning labour relations in public law at the cantonal and communal levels, article 8 (2) of the Constitution applies, in conjunction with cantonal and communal staff rights. The Act on Equality for Persons with Disabilities is applicable to labour relations in private law only with regard to the accessibility of buildings with the capacity for more than 50 employees.

89. The Act on Unlawful Employment stipulates that the measures that it provides for should be evaluated within five years of its entry into force. This evaluation was conducted between 2011 and 2012. The report (see annex 2) highlights various potential improvements.

90. Overall, the economic situation in Switzerland did not deteriorate in the wake of the 2008 financial crisis. The average annual unemployment rate as measured by the State Secretariat for Economic Affairs rose from 2.6 per cent to 3.7 per cent in 2009. It has remained stable for the last three years at between 3.2 and 3.3 per cent. During this most

recent period, the unemployment rate has been lower among women than men (3.2 per cent compared to 3.4 per cent). The stabilization policy carried out during the financial crisis was not implemented fully because there was an insufficient need to do so (see annex 2). At this stage, no unemployment prevention measures have been put in place to mitigate the effects of the fourth industrial revolution.

91. The Federal Council has evaluated the fourth amendment to the Unemployment Insurance Act (see annex 2).

92. The Act is implemented through the unemployment insurance compensation fund and by the cantons. Women and young people are not significantly more affected by unemployment. Older workers are also well integrated into the job market; in the event of unemployment, however, they have greater difficulty than younger people in returning to the labour market and are more susceptible to long-term unemployment. Steps have been taken within the framework of an annual tripartite conference that has been taking place since 2015.

93. Since 2011, provident funds have been able to offer two new options to older insured persons. The first allows persons who reduce their degree of employment after the age of 58 years (by an extent that incurs, at most, a 50 per cent drop in pay) to remain insured on the basis of their previous salary. The second enables persons who wish to continue working past retirement age to keep paying into their provident fund until they reach 70 years of age.

94. In 2012, the sixth amendment to the Disability Insurance Act entered into force. Its purpose is to promote the rehabilitation of persons with disabilities and, more specifically, that of persons who already have a disability pension and whose rehabilitation is possible. The aim is to maximize a potential for rehabilitation that has not previously been adequately exploited. Adjusting the level of benefits in line with the degree of rehabilitation represents a paradigm shift, with the adage “once on benefits, always on benefits” being replaced with the concept of “benefits as a bridge to reintegration”. The objective is to enhance, through targeted measures, the working and earning capacity of persons with disabilities.

95. On 15 February 2017, the Federal Council submitted to Parliament a draft amendment to the Disability Insurance Act entitled “Ongoing development of disability insurance” (see annex 2). The purpose of the draft is to prevent disability and strengthen rehabilitation measures, in particular for children and young people.

### **Combating illegal employment**

96. In 2015, economic activities conducted outside the margins of the law in Switzerland were equal in value to 6.5 per cent of GDP. The proportion of Swiss citizens involved in semi-legal or wholly illegal activities has been decreasing since 2010 (see annex 2).

97. The Act on Unlawful Employment creates incentives not to work in the informal sector. It also provides for measures such as the simplified accounting procedure for persons on low incomes, which limits the administrative burden.

### **Technical and vocational training programmes**

98. Vocational training is the joint responsibility of the Confederation, the cantons and business organizations.

99. Since 2014, the new Federal Act on Ongoing Training has made it possible to receive ongoing training and enhance the employability of low-skilled persons. Moreover, the Ordinance on Vocational Training allows adults with professional experience to obtain a professional qualification without having to follow a regulated training programme.

### **Statistics**

100. See annex 3.

**Recommendation No. 9**

101. The measures provided for under both the Unemployment Insurance Act and the Vocational Training Act are based on people's needs.

102. The Confederation and the cantons have set themselves the target of raising to 95 per cent the proportion of 25-year-olds who have an upper-secondary level qualification. The degree of achievement of this objective is checked regularly. The 2014 edition of the Swiss Education Report (see annex 2) indicates that this objective has been attained among people educated in Switzerland. By contrast, it has not been reached among, in particular, adolescents and young adults educated outside Switzerland. The next national report on education will be published in 2018.

103. For migrants, specific labour market integration measures are adopted as part of cantonal integration programmes.

**Recommendation No. 26**

104. The cuts made to save money were spread out so as not to put a disproportionate strain on any particular group. Following the reduction, introduced on 1 April 2011, in the maximum duration of benefits, there was a spike in the number of people whose entitlements expired. The overall increase in the number of people whose entitlements have expired is not, however, attributable to the amendment to the Unemployment Insurance Act, the main effect of which was merely to bring forward the entitlement end date. Please refer to annex 2, paragraph 91, for further details of the impact of the fourth partial amendment to the Unemployment Insurance Act.

**Article 7****Right to just and favourable conditions of work****Application**

105. In this regard, see the information provided in sections A.5 and IV.G of the common core document of Switzerland of 12 October 2016, in addition to the position of Switzerland on general comment No. 23 on article 7 of the Covenant (E/C.12/54/R.2).

106. Occupational safety and health are regulated by the Accident Insurance Act, the Labour Act and the implementing regulations of those two acts. The State Secretariat for Economic Affairs is ultimately responsible for the application of the Labour Act, in respect of which it works with the labour inspection offices of the cantons. The Federal Office of Public Health monitors the application of the Accident Insurance Act. Depending on their particular remit, inspectors from the Swiss national accident insurance fund (Suva), the cantons or the State Secretariat for Economic Affairs ensure that the provisions of the Act are enforced.

107. In 2014, the body responsible for monitoring occupational health and safety had 49,991 full-time equivalent staff members at the national level. The budget for the prevention of workplace accidents and occupational diseases came to SwF 111 million in 2014.

108. The two federal acts (the Accident Insurance Act and the Labour Act) cover all the items listed in article 7 of the Covenant.

109. Ordinance 3 on the Labour Act was amended on 1 October 2015 to state explicitly that it is the employer's obligation to ensure that the health of his or her employees is protected.

110. In 2015, the federal administration produced a handbook on the quality of the hiring process that dealt with non-discrimination in hiring in particular.

111. Measures to encourage women to pursue careers are in place throughout the federal administration.

112. In 2011, for the legislative period 2011–2015, and in 2015, for the period 2015–2019, the Federal Council defined the targets for key figures concerning federal workers. The targets have to do in particular with the total percentage of women and the percentage of women by pay grade (see annex 2).

113. Since 1 July 2013, parents employed by the federal administration may reduce the time they spend in their position by 20 per cent after the birth or adoption of a child. They must work at least three-fifths time, however (Ordinance on Federal Personnel, art. 60).

114. The Decree of the Federal Council of 6 November 2013 establishes as a target a quota of 30 per cent for the representation of women on the boards of companies connected to the federal Government. The quota was introduced on 1 January 2014 and will expire on 31 December 2020.

115. The Act and the Ordinance on Workers Posted to Switzerland have been amended several times since 2008 to provide workers greater protection from having their wages undercut. For example, measures to combat the notional self-employment of foreign service providers have been introduced, the upper limit on penalties has been raised, penalties for infringement of minimum-wage rules in standard employment contracts have been put in place, it has been made possible to use a simplified procedure to ensure that violations of collective labour agreements are punished and the terms under which standard employment contracts can be extended have been further specified.

116. The Federal Act that makes it possible to broaden the scope of collective labour agreements has also been amended so that, under the simplified procedure, the provisions on penalties and audit fees in those agreements can apply more broadly.

117. Every year (see annex 2), Switzerland publishes a report on the work of the labour inspection authorities, in accordance with article 21 of the ILO Labour Inspection Convention, 1947 (No. 81).

118. Decision No. 136 I 290 (annex 2, para. 16) of the Federal Supreme Court should be consulted for more information on the incorporation and direct applicability of article 7 of the Covenant in the Swiss legal order.

### **Legal remedies**

119. The conditions under which the Swiss courts have jurisdiction over labour rights disputes involving workers posted to Switzerland from abroad are established in article 115 (3), of the Act on Private International Law. Information on jurisdiction over disputes involving Swiss resident workers can be found in article 34 of the Civil Procedure Code.

### **Minimum wage**

120. Swiss law does not establish a minimum wage. The cantons, however, have limited authority to put such a wage in place. The cantons of Neuchâtel and Jura have each adopted a minimum wage. A bill to that effect is being considered in the canton of Ticino. On 18 May 2014, a federal popular initiative on the introduction of a minimum wage was rejected by 76.3 per cent of voters. Wage-determination policy in Switzerland is based chiefly on freedom of contract, economic freedom and collective bargaining. Collective labour agreements generally establish a minimum wage. The minimum wage is negotiated and established by the employer associations and trade unions that are parties to the agreements. As a rule, negotiations take place every year and are informed by the consumer price index. The conferral of a general (or extended) binding character on a collective labour agreement that establishes a minimum wage obliges all employers in the occupation or sector covered by the agreement, not only the parties thereto, to pay that minimum wage. In the event of non-compliance with provisions whose scope has been broadened, the bodies responsible for monitoring adherence to the agreements (joint commissions) may, as established by the agreements, impose penalties on all the employers in the sector that have violated the agreement. When there is no collective labour agreement and repeated abuses have been found, tripartite commissions made up of representatives of the State, employers and workers may order the payment of the mandatory minimum wage established in collective agreements.

### **Work-life balance**

121. The federal administration has taken a number of measures to promote the reconciliation of workers' professional and family and personal lives. Since 2010, all full-time posts have been advertised, as far as possible, as posts to be occupied for 80 to 100 per cent of the standard workweek. In addition, flexible working arrangements are now mentioned in the Ordinance on Federal Personnel (art. 64 (4)). Paternity leave has been lengthened from 5 days to 10 and must now be taken within 12 months after the child's birth rather than 6, as had been the case previously. If an employee is absent because he or she has taken in young children and is responsible for caring for and raising them with a view to a later adoption, his or her salary is paid for two months. The legal bases (articles 75a and 75b and 51a and 51b of the Ordinance on Federal Personnel) harmonizing the rules on granting financial aid for childcare outside the home entered into force on 1 January 2011.

122. The Act on Financial Aid for Childcare outside the Home entered into force on 1 February 2003. In June 2017, the Federal Assembly agreed to an amendment to the Act: two new measures will be introduced in respect of such childcare in a bid to relieve parents of a part of the financial burden they bear (see paragraph 177).

123. In the referendum of 13 March 2013, the introduction into the Constitution of an article on the promotion of work-life balance by the Swiss Confederation and the cantons was rejected.

124. The Federal Council presented various forms of paternity or parental leave on 30 October 2013. For the Federal Council, other measures to reconcile work and family life, such as the creation of childcare facilities and facilities for extracurricular activities, nonetheless have priority. The Council therefore decided not to propose that lawmakers should establish paternity or parental leave by law.

125. A motion to hold the federal popular initiative "Reasonable paternity leave — for the whole family" was filed on 4 July 2017. The initiative calls for the establishment of a statutory paid paternity leave of at least four weeks. The Federal Council calls on voters to reject the initiative and has not made a counterproposal.

### **Overtime**

126. Article 321c of the Code of Obligations lays down the conditions under which a worker may be required to work overtime (para. 1) and addresses the compensation owed by the employer (paras. 2 and 3). Overtime is the time worked in excess of the required time indicated in the employment contract. Article 321c (2), indicates the minimum length of the compensatory time off that, with the worker's consent, may replace monetary compensation. Article 321c (3), states that overtime not compensated by time off must be compensated by paying the normal wages and a supplement of at least one quarter thereof (unless otherwise specified in a standard employment contract, collective labour agreement or other written agreement). Articles 12 and 13 of the Labour Act set annual limits on overtime (the number of hours worked in excess of the maximum 45- or 50-hour workweek) and indicate the compensation that is owed (compensatory time off or pay of time and a quarter). In some collective labour agreements, the compensatory time off provided for is equivalent to that required under article 321c (2), of the Code of Obligations, while in others longer periods of compensatory time off are provided for. When overtime is compensated monetarily, the practice under many collective labour agreements is to pay the minimal supplement indicated in article 321c (3). In some such agreements, however, monetary compensation is higher than the minimum prescribed by law.

### **Paid vacation**

127. Under article 329a (1) of the Code of Obligations, workers over the age of 20 are entitled to four weeks' vacation a year, while those under 20 are entitled to five. Article 329d (1) states that the employer is to pay a worker's full salary for the vacation time to which he or she is entitled. Under article 20a (1) of the Labour Act, the Swiss National Day is considered equivalent to a Sunday. Similarly, the cantons may equate to a Sunday eight other public holidays a year, not necessarily the same ones in each canton. The Swiss



National Day is a paid holiday under article 110 (3) of the Constitution. The other holidays have not been explicitly made paid days off by law, but it is acknowledged that workers paid on a monthly or weekly basis cannot have their pay reduced as a result of public holidays, unless such a reduction is expressly provided for in their contract. Workers paid by the hour are not paid for public holidays unless their contracts contain provisions explicitly stating otherwise (see annex 2, para. 16). Under article 18 (1) of the Labour Act, Sunday work is generally prohibited. Article 21 (1) states that half a day of additional leave must be provided for workweeks of more than five days. Under article 329 (1) of the Code of Obligations, one day of leave a week, usually Sunday, is mandatory.

### **Non-discrimination, implementation of the principle of “equal pay for work of equal value”**

128. According to the Federal Statistical Office, the wage gap between women and men is gradually decreasing in the private sector: from an average of 23.6 per cent in 2010, for example, it fell to 19.5 per cent in 2014 (arithmetic mean). In the entire public sector (the federal Government, the cantons and the municipalities), the wage gap between women and men amounted, on average, to 16.6 per cent in 2014 (16.5 per cent in 2012). Part of the gap is the result of structural effects related to a combination of the person’s background (age, education, years of service), the characteristics of the particular position he or she holds and his or her particular field of activity. The other part of the gap is unexplained. According to the specific study of the explained and unexplained parts of wage gaps, the unexplained part of the gap fell from SwF 678 a month in 2012 to SwF 585 in 2014. This change is consistent with the trend observed since the 2000s — namely, the slow and steady closing of the gap, combined with a drop in the unexplained share thereof. The size of the unexplained share varies from one sector to another. In the economy as a whole, it has fallen by nearly 3 percentage points (from 15.1 per cent in 2012 to 12.5 per cent in 2014). The unexplained share of the gap fell from SwF 675 a month in 2012 to SwF 599 in 2014.

129. As explained in paragraphs 46, 47, 55, 58, 64, 76, 80, 81 and 84 of this report and in paragraph 177 of the country’s combined second and third periodic reports on the implementation of the Covenant, several laws, including the Gender Equality Act, deal with equal treatment and protection from discrimination. The protection of the employee as a person is guaranteed by the Code of Obligations (art. 328). The prohibition of discrimination is also enshrined in the Constitution (art. 8 (2–4), in conjunction with art. 35). Although this constitutional provision may have no direct effect on the relationship between employer and employee in private law (except for equal pay), it must be reified by lawmakers and taken into consideration by the authorities responsible for enforcing labour law.

### **Occupational health and safety**

130. In 2014, the federal administration issued a publication on preventing and handling cases of sexual harassment in the federal administration. An awareness-raising brochure has also been published (see annex 2). Occupational health was a major concern of the federal administration’s 2011–2015 Personnel Strategy. Its Occupational Health Management Action Plan was adopted on 2 February 2013. The Plan sought to delineate the management of occupational health, establish principles and objectives, define the responsibilities and missions of stakeholders and present the actions that must be taken as part of the provision of services.

131. A plan of action to promote mental health at work (Mental Health in Switzerland: Background and Scope of Action) was adopted and distributed by the Federal Office of Public Health on 18 May 2015.

### **Statistics**

132 See annex 3.

**Recommendation No. 27**

133. The aim of a custodial sentence is to improve the prisoner's social behaviour, his or her ability to abide by the law in particular (Criminal Code, art. 75 (1)). The work requirement for prisoners is based on article 81 of the Criminal Code. Work is required only if appropriate work is available (see annex 2). By law, the requirement applies only to convicted prisoners serving a sentence or subject to a measure involving deprivation of liberty (Criminal Code, art. 90). Persons in pretrial detention (Code of Criminal Procedure, art. 226), in detention pending extradition (Mutual Assistance Act, arts. 47 ff.) and in administrative detention (Foreign Nationals Act, arts. 75, 76 and 78) are not required to work (see annex 2). Remuneration is provided for by law (Criminal Code, art. 83 (1)). Pursuant to article 83 (2) of the Criminal Code, detainees may freely dispose of a part of their remuneration while they are in detention. The other part is a reserve that they will have the right to on their release.

**Article 8  
Trade union rights****Application**

134. Freedom of association, individual and collective, is enshrined in article 28 of the Constitution. This freedom has an indirect side effect, reflected in the Code of Obligations (art. 336 (2) (a)). The Federal Supreme Court has not ruled out the possibility of considering article 8 (1) (a) or (d) of the Covenant directly applicable (see annex 2, paragraph 16). Under article 110 of the Constitution, the Swiss Confederation may make laws on employer and employee relations. Article 122 of the Constitution gives the Confederation the power to legislate in the field of civil law, which includes regulations relating to individual employment contracts.

135. There is no legal regulation specific to professional associations in Switzerland. Most trade unions are legally established as associations. As legal persons, trade unions enjoy civil rights. They may therefore enter into contracts and demand in court that they be enforced. They are holders of the personal rights granted by law and, in accordance with article 28 of the Civil Code, are entitled to the protection of those rights. Trade union members are bound to their organization by the rules that, under articles 60 ff. of the Civil Code or 828 ff. of the Code of Obligations, apply to any member of an association or cooperative. Switzerland does not have a comprehensive set of collective labour laws.

136. Under article 328 of the Code of Obligations, employers are required to respect the status as persons of their employees. In addition, article 336 (2) (a), states that a dismissal effected because of a worker's trade union activity is a wrongful dismissal.

137. Annex 2 should be consulted for further information on the protection afforded to workers' representatives.

**Legal remedies**

138. Article 28 of the Civil Code may be invoked by trade unions and other legal persons.

139. Freedom of association is protected under the provisions of the Code of Obligations on protection from dismissal for trade union activity: article 336 (2) (a), addresses the prohibition of such dismissals, while article 336a (1) and (2) deals with the penalties imposed on employers for wrongful dismissals. Claims in this regard may be brought before the federal and cantonal civil courts. An appeal can always be lodged at the cantonal level and with the Federal Supreme Court, the court of last resort.

140. Any restrictions on freedom of association must meet the usual requirements, as laid down in article 36 of the Constitution, for the restriction of fundamental rights. Participating in a lawful strike cannot constitute grounds for dismissal, and judicial precedent would have it that terminating an employment contract for no reason other than an employee's participation in a lawful strike is a form of wrongful dismissal.

141. In 2003 and 2013, trade unions submitted complaints against Switzerland to the Committee on Freedom of Association for violations of the ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and the ILO Right to Organize and Collective Bargaining Convention, 1949 (No. 98), both ratified by Switzerland (cases No. 2265 and No. 3023). As a result, the Federal Council tasked the Federal Department of Justice and Police and the Federal Department of Economic Affairs, Education and Research to conduct studies on issues related to the penalties for the wrongful dismissal of employees for exercising their right to freedom of association. Two studies, dated 14 August 2015 and 11 April 2016, have been published (see annex 2). Tripartite consultations continued until May 2017 within the framework of a seminar organized by the two departments. The participants noted that the Federal Council, the Federal Office of Justice and the State Secretariat for Economic Affairs had made every effort to try to find a solution: an amendment (since suspended) was proposed in 2010, academic studies were conducted and a seminar has been held. Workers and the organizations that represent them and employers are at loggerheads: employers do not want to change Swiss laws on employment contracts to stiffen penalties for (wrongful) dismissal, while trade unions, which are in principle in favour of requiring the reinstatement of dismissed workers, are demanding that, at the least, wrongly dismissed workers should be entitled to a payment equal to 12 months' salary rather than the current 6.

### Statistics

142. See annex 3.

### Recommendation No. 10

143. A range of requirements must be met for a strike to be deemed legal: it should have to do with labour issues, comply with the obligation to maintain harmonious labour relations, respect the principle of proportionality and — a fourth requirement arising from judicial precedent and prevailing practice — have the backing of a workers' organization.

144. Collective bargaining is covered by freedom of association and the rules on collective labour disputes originating in article 28 of the Constitution.

### Recommendation No. 11

145. In the private sector, articles 336 to 336*b* of the Code of Obligations provide protection from wrongful dismissal. The grounds on which dismissal is considered wrongful are listed in article 336. A dismissal, although wrongful, can remain in effect, but it is penalized. A judge determines the amount of monetary compensation, capped at six months' salary, to be paid to the dismissed worker (Code of Obligations, art. 336*a* (1) and (2)). The worker must prove that the dismissal was based on wrongful grounds. He or she nonetheless has the right to request an explanation in writing of the reasons for the dismissal.

146. Workers are protected from dismissal at an inopportune juncture — that is, when the worker's situation (sickness, accident, pregnancy and the period after childbirth in particular) make it unlikely that he or she will find new employment by the end date of the contract — under article 336*c* of the Code of Obligations.

147. In the public sector, protection from wrongful dismissal is afforded by the laws on personnel of each canton or municipality and by the Federal Personnel Act (art. 34*c*). Reinstatement, however, is no longer the rule for federal personnel. It is nonetheless provided for if the grounds for dismissal are deemed wrongful within the meaning of the Code of Obligations (art. 336), if the dismissal is the result of whistle-blowing by the employee, if the dismissal occurs at one of the junctures listed in article 336*c* or if it is discriminatory under the Gender Equality Act.

## **Article 9**

### **Right to social security**

#### **Application**

148. The Federal Supreme Court decisions 8C\_150/2011 of 14 February 2012 and 139 I 257 of 23 September 2013 (preambular para. 6) should be consulted (see annex 2) for information about the domestication and direct applicability of article 9 of the Covenant.

149. The right to social security is discussed in the combined second and third periodic reports of Switzerland on the implementation of the Covenant (paras. 23–32).

150. The Swiss system covers the nine traditional branches of social security. The social security system is based primarily on contributory programmes. Further information on the social security system can be found in the common core document (section A.4).

#### **Public social security programmes**

151. Mandatory medical insurance, old-age and survivors' insurance and disability insurance (pillar one of the social security system) are universal programmes. Additional benefits are provided as part of the supplementary benefits programme if those provided under pillar one are insufficient. Daily allowance insurance (in the event of sickness) is optional, but it is available to anyone residing or gainfully employed in Switzerland. The maternity benefits programme covers all women in gainful employment (whether employed by others or self-employed). Accident insurance, unemployment insurance and occupational pension plans (pillar two) are mandatory only for employees. Individual provident plans (pillar three) are optional; they are open to anyone in gainful employment and affiliated with the first pillar. The Confederation, in cooperation with the cantons, encourages subscribing to a provident plan, not least by providing tax incentives to do so. Lastly, means-tested allowances are provided to employees, self-employed persons and persons exercising no gainful activity as part of the family allowances programme.

152. Non-contributory benefits are also provided — namely, the special allowance of the old-age and survivors' insurance programme, the special allowance of the disability insurance programme and the disability allowance and supplementary benefits of the old-age and survivors' or disability insurance programmes (see paragraph 300 of the combined second and third periodic reports of Switzerland on the implementation of the Covenant).

153. The combined second and third periodic reports should also be consulted for information about social assistance (see paragraphs 383 ff.).

154. Information about the recommendations of the Swiss Confederation of Social Action Institutions can be found in annex 2.

#### **Minimum benefits**

##### **Pension system**

155. The minimum benefit from the first pillar (old-age and survivors' insurance and disability insurance) is established by law and in principle is adjusted according to wage and price movements every two years.

156. The second pillar (occupational pension plans) includes a funded plan: the benefit is a percentage of retirement assets. The law does not set a minimum amount, but there are actuarial requirements that must be met by all provident institutions. The rules on the indexation of some forms of income are also established by law.

157. The Constitution (arts. 112 and 113) states that first-pillar income must cover basic living expenses and that income from the second pillar, together with that from the first, should enable beneficiaries to maintain their previous standard of living in an appropriate manner. This constitutional goal is considered achieved when income from the first two pillars is equivalent to 60 per cent of the beneficiary's final income before retirement.

**Other benefits**

158. Paragraph 176 contains information on the minimum family allowance.

**Gender equality**

159. The retirement age is 64 for women and 65 for men. In addition, in the old-age and survivors' and accident insurance programmes, it is easier for widows to qualify for surviving-spouse benefits.

**Informal economy**

160. Workers in the informal economy receive social security benefits, including with regard to health, maternity and old-age risks.

**Health and motherhood**

161. Health coverage does not depend on being gainfully employed, and workers in the informal economy are covered if they are resident in Switzerland. Maternal health care is provided in accordance with the Health Insurance Act.

**Old age, survivors and disability**

162. All persons resident or gainfully employed in Switzerland must have old-age and survivors' insurance and disability insurance. Workers in the informal economy are covered if they reside in the country. Foreign nationals and their non-Swiss survivors are entitled to income from the old-age and survivors' insurance programme only for as long as they are domiciled and habitually resident in Switzerland (the income cannot be exported). However, contributions made by foreign nationals from a State with which no social security agreement has been concluded may be reimbursed if they reside abroad. Like the Old-Age and Survivors' Insurance Act, the Disability Insurance Act places limits on exporting income. In addition, foreign nationals are entitled to rehabilitation benefits under the Act on conditions more restrictive than those for Swiss nationals. Special income from the old-age and survivors' insurance and disability insurance programmes is granted only to Swiss nationals. Finally, under the Supplementary Benefits Act, foreign nationals must have resided in Switzerland for the 10 years immediately preceding their application for supplementary benefits to be entitled to them. The effect of these discriminatory provisions, however, is fully or largely offset by the international social security agreements between Switzerland and 48 other countries; these agreements apply to more than 80 per cent of the foreigners living in Switzerland.

163. There are no other differences between Swiss and foreign nationals.

**Main amendments to framework laws**

164. The cash benefits paid out as part of the old-age and survivors' insurance programme and the disability insurance programme and the income compensation allowance for service or maternity are periodically indexed to wage and price movements, and adjustments have been made to the caps on occupational pension plan benefits and to the system of supplementary benefits.

165. The coverage of mandatory health insurance has expanded. Since 1 March 2014, for example, women in their thirteenth week of pregnancy to eight weeks after giving birth have been exempt from covering their share of the cost of general medical services when they are ill.

166. The fifth review of the disability insurance programme made a much healthier programme possible. Since 2012, the measures taken as part of that review have been supplemented by a sixth review, the aim of which was mainly to promote the rehabilitation of persons with disabilities (see paragraph 93 above, on article 6 of the Covenant).

167. On 1 January 2011, the Federal Act on Occupational Pension Funds, Old-Age and Survivors' Insurance and Disability Insurance was buttressed by measures to facilitate the participation of older workers in the labour market (see above under article 6). A structural

reorganization designed to enhance monitoring and introduce provisions on governance and transparency took effect between 1 August 2011 and 1 January 2012.

168. Benefits for the self-employed have been provided for under the Family Allowances Act since 1 January 2013.

### **Legal remedies**

169. A simple objection suffices to contest a decision by a social insurance provider. If an insured person contests the decision made by the social insurer in response to the objection, appeal proceedings are launched in the Cantonal Insurance Court. The Court's judgment can in turn be appealed to the Federal Supreme Court (see in particular the Federal Act on the General Aspects of Social Insurance Law).

### **Statistics**

170. See annex 3.

### **Recommendation No. 12**

171. The Federal Supreme Court has held that persons without a residence permit are entitled to emergency assistance (ATF 131 I 166). Providing social assistance rather than emergency assistance goes beyond the requirements of the Court's ruling. Emergency assistance is sufficient in cases where persons illegally resident in Switzerland refuse to return to their home country. It includes basic medical care, housing, food and schooling for children. On 29 June 2012, the Conference of Cantonal Directors of Social Affairs adopted recommendations on emergency assistance for persons required to leave the country as a result of asylum decisions (see annex 2).

## **Article 10**

### **Protection of the family, mothers and children**

#### **Application**

172. For the constitutional provisions, please refer to the combined second and third periodic reports on the implementation of the Covenant (para. 341 ff.).

173. In its report of 20 May 2015 in response to the Tornare "Family policy" postulate (13.3135) and in its "2017 Report on Families: the situation of families and family policy" (see annex 2), the Federal Council describes the current situation of families and takes stock of the options available to the Confederation. The Federal Council sets out four areas of intervention: financial security of families, work-life balance, adapting family and inheritance law to new ways of living and family support.

174. Swiss legislation on parental authority entered into force on 1 July 2014. Civil Code reforms relating to child maintenance and the division of occupational pensions in the event of divorce entered into force on 1 January 2017. Revised legislation on adoption will enter into force on 1 January 2018.

175. Developments with respect to the taxation of married couples and the inclusion of childcare expenses in tax calculations are being explored as part of the initiative to address the shortage of qualified staff.

176. The Family Allowances Act entered into force on 1 January 2009. It establishes minimum levels of family allowances of SwF 200 per month for children from 0 to 16 years and SwF 250 per month for children from 16 to 25 years who are still in education or training.

177. The Federal Act on Financial Assistance for Supplementary Childcare established a programme to create new day care places for children. Challenges remain for children aged 0 to 3 years; existing places can accommodate 22 per cent of children. For school-age children, the level of coverage is only 8 per cent. The programme was scheduled for completion by January 2011, but will continue until January 2019. In June 2017, Parliament

adopted an amendment to the Act in order both to reduce the costs incurred by working parents who must rely on third parties for childcare and to match the supply of care more closely to demand. The sum of SwF 100 million over five years has been allocated for that purpose. Lastly, the Confederation accords financial assistance to the Swiss Childcare Association.

### **Legal channels**

178. Disputes pertaining to social insurance benefits are subject to the procedure described in paragraph 177.

### **Right to freely enter into marriage and found a family**

179. Please see our comments on recommendation No. 16.

### **Childcare services**

180. The cantons and communes have greatly expanded their provision of supplementary and extracurricular childcare in the last few years.

181. We refer to the 2010 recommendations of the Conference of Cantonal Ministers of Social Affairs regarding childcare for young children (see annex 2) and the Conference's report of 13 May 2013 entitled "Childcare for young children — situation in the cantons, 2012" and data analysis from the "Work-life balance: cantonal and communal measures" information platform (see annex 2). In 2015, the Conference also commissioned a report regarding the quality standards for childcare centres in the cantons (see annex 2). Most of the cantons meet the recommendations on minimum standards for the quality of facilities and processes.

### **Social services enabling elderly persons and persons with disabilities to remain in their usual living environment**

182. Disabilities allowance is intended to enable elderly and disabled persons to live independently. It is also used to compensate family members for the extra work that they must do.

183. Since 1 January 2012, this allowance complements disability insurance and old-age and survivors' insurance. It is solely intended to fund assistance services provided by individuals in the framework of an employment contract; the assistant must not be a direct relative or married, living in a registered partnership or living in a couple with the beneficiary of the allowance.

### **Maternity protection**

184. The Labour Act includes health protection provisions for pregnant women and mothers. The Code of Obligations and the Gender Equality Act provide protection against discriminatory acts and dismissal.

185. Compulsory health care insurance covers medical, pharmaceutical and hospital fees in the same way as for illness, except that no excess or part-payment is payable in the case of pregnancy. Pregnancy-specific services are also provided for by the Federal Health Insurance Act and the Health Care Insurance Ordinance.

186. See paragraph 10.

### **Women involved in atypical work and women not covered by work-related maternity benefits**

187. Labour law protection standards apply to any employment contract. The Labour Act does not apply to private households that chiefly employ domestic personnel.

188. The payment of wages in the event of incapacity for work, provided for by article 324a of the Code of Obligations, applies to mothers who do not have a right to maternity leave. Childbirth as such does not constitute incapacity for work; however, mothers do not have the right to work for eight weeks after delivery and may, upon simple notice, leave

their work at a point between the ninth and the sixteenth week of pregnancy. As the prohibition to work is an impediment under article 324a of the Code of Obligations, mothers who do not have maternity insurance receive their wages during those eight weeks.

#### **Duration of maternity leave**

189. Please see the combined second and third reports on the implementation of the Covenant (para. 264 ff.).

#### **Paternity leave and parental leave**

190. The law does not provide for paternity leave or parental leave. However, nearly 228,000 fathers benefit from a collective labour agreement providing for paternity leave of between 5 and 15 days and nearly 161,000 people benefit from a collective labour agreement providing for parental leave of between three months and two years (see annex 2). Please also see paragraph 124.

#### **Age for access to employment**

191. Under article 30 of the Labour Act, it is prohibited to employ young persons under 15 years of age. Ordinance 5 to the Labour Act, on the protection of young workers, determines the categories of businesses or jobs and the conditions in which young persons may be employed. The cantons in which compulsory schooling ends before 15 years of age may be authorized, by presidential decree and in special conditions, to permit exceptions for young persons over 14 years of age who have finished school.

#### **Protection of children from hazardous work**

192. Ordinance 5 prohibits young persons under the age of 18 years from carrying out hazardous work. With the agreement of the State Secretariat for Economic Affairs, the State Secretariat for Education, Research and Innovation may provide for exemptions for young people from the age of 16 (now from the age of 15 after the establishment of accompanying measures) when the performance of hazardous work is required for initial vocational training. The revised Ordinance came into force on 1 August 2014 and provides that, for occupations involving the completion of hazardous work, professional organizations establish accompanying measures on occupational safety and health protection in their training plans. Such measures must be developed by professional organizations and approved by the State Secretariat for Economic Affairs within three years following the entry into force of the amendment to Ordinance 5 (i.e. by 31 July 2017). The cantons must verify and complete the authorizations to train apprentices in the following two years (by 31 July 2019). If, at the expiry of these deadlines, the measures are not implemented, apprentices under 18 years of age will no longer be able to perform hazardous work in the initial vocational training concerned.

193. Please see Annex 2 for more information.

#### **Situation of asylum seekers and their families**

194. After the submission of their asylum application, applicants spend up to 90 days in a Swiss registration and procedure centre, after which they are divided among the cantons, which are then responsible for their administration and accommodation.

195. Three months after filing their asylum application, applicants may obtain a work permit (Asylum Act, art. 43 (1)) if the economic and employment situation allows it, their employer has filed a request (Foreign Nationals Act, art. 18 (b)), the pay and working conditions are met and the priority of workers in Switzerland is respected (national preference, see article 21 of the Foreign Nationals Act). If authorization for work is granted, the asylum seeker must, to the extent possible, repay any social assistance, start-up allocations and enforcement costs as well as fees occasioned by the appeal procedure (Asylum Act, art. 86 read together with art. 85).

196. On 16 December 2016, Parliament passed an amendment to the Foreign Nationals Act aimed at improving integration. Provisions on the special income tax were abolished to



encourage asylum seekers to accept low-paid or part-time work. The amendment and its implementing provisions will enter into force in early 2018.

197. Asylum seekers who cannot live by their own means generally receive social assistance (Asylum Act, arts. 80 ff.). If possible, such assistance is provided in the form of benefits in kind (Asylum Act, art. 82 (3)).

198. Asylum seekers are affiliated to old-age and survivors' insurance (Old-Age and Survivors' Insurance Act, article 1a (1) (a) read together with the Disability Insurance Act, article 1b) and to compulsory health care insurance (Sickness Insurance Act, art. 82 (a) read together with art. 3).

199. When an asylum application is submitted by a family, each member is entitled to invoke the above-mentioned rights. The children of asylum seekers and unaccompanied minor asylum seekers are entitled to free basic education (Constitution, art. 19).

## **Family reunification of immigrants**

### **Individuals covered by asylum legislation**

200. During the asylum procedure, an asylum seeker cannot assert the right to family reunification. If the applicant is granted asylum, his or her spouse or registered partner as well as any minor children already in Switzerland are also recognized as refugees and granted asylum, provided that no special circumstances preclude this (Asylum Act, art. 51 (1)). If the family has been separated by the flight and other members of the family are still in danger, they are permitted to enter Switzerland (Asylum Act, art. 51 (4)). If the condition of separation by flight is not met, the competent authority may grant a residence permit to the spouse or registered partner and any unmarried children under the age of 18 who are still abroad, if the person holding the residence permit is not dependent on social assistance and has suitable housing for the whole family (Foreign Nationals Act, art. 44).

201. The spouse or partner and any unmarried children under 18 years of a temporarily admitted person, whether that person has refugee status or not, may qualify for family reunification and the same status at the earliest three years after the order for temporary admission is issued, provided that the family has suitable housing, is not dependent on social assistance and lives together (Foreign Nationals Act, art. 85 (7)).

### **Individuals covered by legislation on foreign nationals**

202. The spouse or registered partner and unmarried children under 18 years of age of the holder of a residence permit are entitled to residence permits, provided that they live in the same household. Children under the age of 12 years are entitled to be granted a permanent residence permit (Foreign Nationals Act, art. 43 (1) and (3)). The spouse or registered partner of a residence permit holder requesting family reunification, together with any unmarried children under 18 years of age, may be granted residence permits if they live with the permit holder in suitable housing and can live by their own means without having recourse to social assistance (Foreign Nationals Act, art. 44). Family reunification is also possible for persons with a short stay permit. The spouse or registered partner and any unmarried children under 18 years of age may obtain short stay permits if they live with the permit holder in suitable housing and do not depend on social assistance (Foreign Nationals Act, art. 45).

203. Under the Agreement on the Free Movement of Persons between Switzerland and the European Union, the family members of citizens of the European Union or the European Free Trade Area who have a right to reside in Switzerland may benefit more extensively from the right to family reunification. In particular, the citizen's spouse and their common or respective descendants under 21 years of age or dependent descendants of any age, as well as their respective relatives in the ascending line and their dependent spouses, may benefit from this right. Moreover, descendants and relatives in the ascending line are not limited to children and parents but may, in certain cases, include grandparents and grandchildren. Switzerland and the European Union also allow so-called "inverse" cases of family reunification whereby a residence permit is granted to a relative from a third

State who has a dependent child who has the nationality of a European Union member State. In yet other cases, individuals who are dependent on or living under the same roof as a citizen of the European Union or the European Free Trade Area in the country of origin may also qualify for family reunification.

### **Domestic violence**

204. Cantons maintain private and public drop-in centres to support victims of crimes under the Federal Act on the Provision of Support to Victims of Crime (Victim Support Act). The Swiss Conference of Liaison Offices under the Victim Support Act has published recommendations pertaining to the implementation of the Victim Support Act (see annex 2). We also refer to the latest report of the Federal Council, of 11 October 2017, entitled “Managing threats arising from domestic violence: analysing the legal situation and creating a national definition” (see annex 2). The Federal Council recommends that the authorities, including cantonal authorities for the protection of adults and children, step up their collaboration in the area of combating violence. The Federal Council will soon adopt a new report entitled “Creating conditions that allow health professionals to identify violence against children in family settings”. The Federal Council intends to allocate financial support from 2014 to 2021 to cantonal programmes that protect children and young people, in accordance with article 26 of the Advancement of Children and Young People Act.

205. In 2013, the State Secretariat for Migration issued a circular on domestic violence (see annex 2). It has also modified the Foreign Nationals Act directives. These modifications relate primarily to the publication of the above-mentioned circular and updates to jurisprudence.

206. A federal programme to combat forced marriage was implemented from 2013 to 2015. For the period 2018–2021, the State Secretariat for Migration will finance a national centre to combat forced marriage. Within the federal programme to combat forced marriage, financial resources were allocated to various awareness-raising projects. Annex 2 provides a summary of the measures in place.

207. With respect to instructor training, the Youth and Sport programme of the Federal Office for Sport offers classes on sexual assault. Swiss Olympic and the Federal Office for Sport address the issue by providing information on the website [www.spiritofsport.ch](http://www.spiritofsport.ch).

208. In the cantons, the dissemination of the Convention on the Rights of the Child takes place within the framework of annual assemblies of the Conference of Cantonal Managers for Child Protection and Youth Support and the Conference of Cantonal Delegates for the Advancement of Children and Young People. The Conference of the Cantons on Protection of Minors and Adults organizes study days and other training courses related to adults’ and children’s rights to protection. See also the common core document (section E.2).

209. The protection of children falls primarily within the competence of cantons and communes. As the State body responsible for child and youth policy, the Federal Social Security Office maintains a focus on the family and childhood, fulfils a coordination role and supports organizations working in the prevention of mistreatment and sexual abuse of children as well as in the provision of advice, awareness-raising, information and parental training. The Office authors reports and studies and encourages information exchange. It also receives a “child protection” budget of approximately SwF 900,000 per year. It can conclude service contracts with organizations working at the national level or in a linguistic region, or finance ad hoc projects. The Confederation and certain cantons subsidize the “Pro juventute” foundation to provide a 24-hour telephone hotline for children and young people (Help and Advice 147).

210. Swiss Crime Prevention, an agency of the Conference of Directors of Cantonal Departments of Justice and Police, carries out prevention campaigns on Internet dangers, paedophile criminality, violence and abuse against and between children and domestic violence.

211. See paragraph 56 for information about the national action plan to combat human trafficking.

212. Since 1 January 2013, the Federal Act on Extra-Procedural Witness Protection, the Ordinance on Extra-Procedural Witness Protection and the Witness Protection Service have protected witnesses taking part in criminal proceedings, including outside of the formal proceedings themselves and after the close of the proceedings. An important aspect of victims' assistance is the regularization of their stay. Once victims are no longer at risk, they have a 30-day reflection period, after which, if they decide to cooperate with the authorities, they may be granted a residence permit for the duration of the inquiry and the judicial proceedings.

### **Legal provisions**

213. The Swiss Criminal Code has been amended to strengthen the protection of minors against exploitation and sexual abuse (Criminal Code, art. 196).

214. Article 28*b* of the Criminal Code contains a non-exhaustive list of protection measures for cases of violence. It requires cantons to designate a service that has the power to remove a violent person promptly from the home in a crisis, and obliges them to define the applicable procedure.

215. The protection measures enshrined in the Criminal Code complement the provisions in force in the cantons with respect to protection from violence in general and expulsion from the home in particular.

### **Recommendation No. 13**

216. Please see the interim report on the implementation of the recommendations of the Committee on the Elimination of Discrimination against Women in relation to violence, migrant communities and minority communities (see annex 2) and the combined fourth and fifth periodic reports of Switzerland on the implementation of the Convention on the Elimination of Discrimination against Women (paras. 53–66).

217. On 13 May 2009, the Federal Council published a report on the causes of and measures taken against intimate partner violence in Switzerland. Detailed information on each of these measures is contained in an interim report published in March 2012 and in the combined fourth and fifth periodic reports of Switzerland on the implementation of the Convention on the Elimination of Discrimination of Women (paras. 53–66).

218. The Federal Office for Gender Equality has published several studies (see annex 2). The latest police crime statistics from 2016 show a rise in offences pertaining to domestic violence (see annex 3). Switzerland signed the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) on 11 September 2013. Parliament agreed to its ratification on 31 May 2017 and is due to ratify it in 2018. The police crime statistics and the statistics on criminal convictions allow the relevant violations of the Criminal Code to be quantified, particularly with respect to Title 4 on crimes and offences against liberty, article 181*a* on forced marriage and forced partnership, article 182 on human trafficking, and Title 5 on sexual offences (see annex 3).

#### *Federal Act on assistance for victims of crime (Victims of Crime Act)*

219. Any individual who suffers an attack on his or her physical, mental or sexual integrity in Switzerland has the right to assistance under the Victims of Crime Act.

#### *Possible developments*

220. On 11 October 2017, the Federal Council adopted a bill to amend civil and criminal legislation in order to better protect victims of domestic violence and stalking in civil and criminal procedures. The bill provides for the possibility to carry out electronic surveillance in the case of a geographical restraining order or contact ban and removes certain procedural impediments to civil-law protection. With respect to criminal law, a review of the regulations on staying and closing criminal procedures in cases of bodily harm, repeated assault, threats or intimidation in relationships is planned, which will also relieve the burden on victims, since the decision to stay or close the proceedings will no longer be only

their responsibility. Specifically, the bill provides that staying the proceedings will henceforth only be possible if it helps to stabilize or improve the situation of the victim. However, it will not be permitted in the case of suspected repeated assault. In addition, the authority must be able to order the defendant to follow a violence prevention programme. It is expected that the bill will be considered by Parliament before the end of 2018. The consultation procedure finished on 29 January 2016. The Federal Council is expected to pass the law in September 2017.

#### **Recommendation No. 14**

221. Since 2009, the specialized “Child Protection” group of the Swiss Society of Paediatrics has been keeping records of all the children in Switzerland against whom a form of child abuse has occurred or suspected mistreatment has not been disproved.

222. The Federal Council has developed a draft amendment to the Criminal Code in order to extend to all professionals who work with children the obligation to notify the child protection authorities of cases in which the well-being of a child is suspected to be at risk. The draft is currently being examined by Parliament (No. 15.033, see annex 2).

#### **Recommendation No. 15**

223. The federal Forced Marriages Act, in force since 1 July 2013, amended certain provisions of the Foreign Nationals Act: under article 50 (1) (b), after the dissolution of a marriage, the right of the spouse to a residence permit and the extension of its period of validity under articles 42 and 43 remains intact in cases where the extended stay is required for compelling personal reasons. In accordance with article 50 (2) of the Foreign Nationals Act, personal reasons are cited not only when the spouse is the victim of domestic violence, but also when the marriage took place in violation of the free will of one of the parties.

224. The following paragraphs explain article 50 of the Foreign Nationals Act:

##### *Domestic violence and its degree of intensity*

225. Criteria for establishing the degree of violence are derived from case law. According to the Federal Court, violence suffered cannot constitute a “compelling personal reason” — and therefore a hardship case — within the meaning of article 50 of the Foreign Nationals Act unless it reaches a certain degree of intensity (see annex 2). Temporary difficulties in the relationship are not a sufficient basis for a hardship case and do not give rise to the right to remain on Swiss soil (see annex 2).

##### *Evidentiary requirements*

226. General statements or statements that report one-off tensions are not sufficient. If the domestic violence takes the form of mental and physical violence, it is necessary to demonstrate its systematic and sustained nature as well as the perceived burden it places on the victim (see annex 2).

227. The parliamentary request of 5 May 2015 (No. 15.3408, “Right to remain of victims of domestic violence”, see annex 2) calls on the Federal Council to submit a report on the application of provisions governing the right to remain of migrants who are victims of domestic violence. This report is planned for 2018.

#### **Statistics**

228. Please see annex 3.

#### **Recommendations Nos. 16 and 28**

229. The Federal Forced Marriages Act entered into force on 1 July 2013 (see annex 2) and is scheduled for review (Po. 16.3897 Arslan).

230. The Criminal Code, the Federal Act on Registered Partnerships Between Persons of the Same Sex (Partnership Act), the Civil Code, the Federal Act on International Private Law, the Foreign Nationals Act and the Asylum Act have all been revised. The

implementation of these revisions led to the amendment of the Civil Status Ordinance and the Ordinance on Admission, Stay and Gainful Employment. The civil register office must examine whether there is any proof that an application for marriage does not reflect the free will of the engaged couple (Civil Code, article 99 (1) (3)). Moreover, the celebration of marriage in Switzerland is exclusively governed by Swiss law (Partnership Act, art. 44), which means that unions of minors can no longer be celebrated in Switzerland. Such unions may be annulled *ex officio*, as may forced marriages (Civil Code, art. 105 (5) and (6)). The immigration services, in the case of family reunification, and State authorities who have a reason to believe that a marriage should be declared null and void must inform the competent authority to file for an annulment. Provided that it is compatible with their duties, the federal and cantonal authorities must contact the authority competent for the action if they have reason to believe that there are grounds for annulment (Civil Code, art. 106 (1), second sentence). The State authorities must report criminal offences of which they become aware in the performance of their duties (Civil Code, art. 43a (3) bis). This particularly concerns forced marriages (Criminal Code, art. 181a). Registered partnerships that establish comparable rights and obligations to marriage are placed on an equal footing with marriage; measures to combat unions of minors and forced unions have been adopted (Partnership Act, arts. 6 (1) and 9 (1) (d–e) and (2)).

231. For the Federal Programme to Combat Forced Marriage, see annex 2 and paragraph 206.

232. Please also see the replies to Recommendation No. 15.

233. For statistics, see annex 3.

## **Article 11**

### **Right to an adequate standard of living**

#### **Application**

234. Please refer to the combined second and third reports on the implementation of the Covenant (paras. 21, 22 and 378) and to annex 2 in respect of case law.

235. Social assistance lies within the competence of the cantons while its implementation is generally delegated to the communes (see information above related to article 9).

#### **Housing**

236. The housing policy of the Confederation is guided by the Constitution, particularly its article 108. In accordance with article 41 (1) (e), the Confederation and the cantons undertake, as a complement to individual responsibility and private initiative, to ensure that all persons seeking accommodation can find suitable housing. Article 109 requires the Confederation to adopt legislation to combat abuses in tenancy matters. The Code of Obligations (tenancy law) and the Federal Act on Framework Lease Agreements and Declaration of their General Application serve as implementing acts.

237. Article 1 of the Act on the Promotion of Affordable Accommodation aims to boost the housing supply available to low-income households by taking into consideration the interests of single-parent families, persons with disabilities, older persons in need and trainees.

238. The incentives provided under the Act are limited to indirect support for social housing. This includes the financing of a working capital fund, managed on behalf of the Confederation, which gives access to low-interest loans made available for projects run by non-profit-making housing associations. The Confederation provides guarantees for funding instruments: it primarily supports the Central Housing Construction Institution and, secondarily, the Mortgage Guarantee Cooperative.

239. Some 51,000 housing units remain under the mandate of the Federal Act on the Promotion of Housing Construction and Home Ownership, either through guarantees and repayable advances issued or through non-repayable contributions in the form of further reductions for tenants and owners who meet the conditions of the law.

240. In order to ensure that low-income tenants living in buildings that have benefited from measures under the Act can stay longer in their housing, the Federal Council has extended the duration of contributions to housing costs from 19 years to 21 years.

241. In 2003, Parliament introduced amendments to the Act on the promotion of low-cost rental accommodation in the form of a framework credit worth SwF 300 million designed for long-term loans and allocated to the working capital fund in instalments. The final instalment of the share of the 2003 framework credit earmarked for loans was allocated in 2017.

242. On 30 August 2017, the Federal Council tasked the Federal Department of Economic Affairs, Education and Research with drafting a dispatch on the rejection of the people's initiative entitled "More affordable housing" and on draft legislation closely connected to the initiative for a framework credit of SwF 250 million to increase the share of the working capital fund allocated to funding loans for public-interest building contractors. This measure will be submitted to Parliament for consideration and subsequent decision in 2018.

243. In 2011, Parliament adopted a second framework credit of SwF 1,400 million for contingent liabilities in accordance with the low-cost rental accommodation Act. In 2015, Parliament approved a third framework credit of SwF 1,900 million for Central Housing Construction Institution loan guarantees.

244. In 2013, the Federal Council approved an amendment to the Ordinance on the Promotion of Low-rent or Low-cost Accommodation to promote such housing for rent or purchase.

245. An amendment to the Ordinance on the Rental and Leasing of Residential and Business Premises to ensure better legal protection of tenants entered into force on 1 July 2014.

246. In 2015, the Federal Council adopted a dispatch supporting a partial revision of leasing law to improve rental transparency when there is a change of tenant. The dispatch was rejected by Parliament in 2016.

#### **Living and transit sites for Travellers**

247. The lack of space for minorities with itinerant lifestyles leads to conflicts with local authorities when they park on unauthorized sites but also to tensions between Yenish, Manush and Roma persons. Consequently, the Confederation is seeking solutions in cooperation with the cantons. With regard to transit sites for foreign Roma, discussions are ongoing with the cantons and other federal services such as the Federal Roads Office, the Federal Office for Spatial Development and the Federal Office for Defence Procurement.

#### **National studies on homeless persons**

248. For information on housing conditions based on the European Union Statistics on Income and Living Conditions (EU-SILC), including housing-related hardship, and other national studies, please refer to annex 3.

249. The study entitled "The housing situation in Switzerland: an analysis of the housing conditions of households living in poverty", published on 11 January 2016, indicates that approximately 80 per cent of such households face housing costs exceeding 30 per cent of their income (see annex 2).

#### **Forced evictions**

250. Under article 257d of the Code of Obligations, if a tenant does not pay the rent on time, the lessor may set a 30-day deadline for payment in writing and inform him or her that, failing settlement of the rent, the lease will be terminated. If the tenant has not paid the required amount by the deadline, the lessor may terminate the contract at a month's end after a period of notice of 30 days. If the tenant has not left the apartment subsequent to this deadline, the lessor may demand his or her eviction. Article 271 (2) of the Code provides that, upon request of the tenant, reasons must be given for the notice. In accordance with

article 271 (1), the tenant may dispute notice that is in breach of the rules of good faith (e.g. if the notice is issued because of the tenant asserting his or her rights or because of a change in family situation).

251. There are no statistics available on the number of forced evictions of tenants.

#### **Legal remedies**

252. Appeals against negative decisions are permissible in all cantons pursuant to articles 29 (2) and 29a of the Constitution.

253. The right to legal assistance and legal counsel are granted upon request.

#### **Efforts to provide care for and assistance to children, adult dependents and older persons**

254. Those who provide such care are mainly women. A Confederation programme entitled “How to support and alleviate the burden of family caregivers (2017–2021)” (see annex 2) aims to help family caregivers so that they can continue to work despite this additional burden.

255. Please refer to the combined fourth and fifth reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (paras. 99 and 160–163).

#### **National poverty line**

256. There is no official national poverty line in Switzerland but the Federal Statistical Office has defined a statistical poverty line (see annex 3).

#### **National Programme to Prevent and Fight Poverty**

257. On 15 May 2013, the Federal Council approved the National Programme to Prevent and Fight Poverty (2014–2018). The Confederation made SwF 9 million available for this programme. On 22 November 2016, the National Anti-poverty Conference opened the debate on the results already achieved and on current issues.

#### **Cantonal measures**

258. In 2010, the cantonal directors of social affairs adopted a programme to combat poverty and social exclusion. During the summer of 2013, the Conference of Cantonal Directors of Social Affairs ended the implementation of its own programme.

259. On 25 June 2010, the Conference adopted recommendations on the introduction of supplementary benefits for families in order to support existing or planned cantonal projects, thereby harmonizing to a certain degree the cantonal models of supplementary benefits for families. At present, a dozen cantons provide benefits, subject to the availability of resources, to low-income families.

#### **Vote on an unconditional basic income**

260. On 5 June 2016, the Swiss people rejected the people’s initiative “For an unconditional basic income”.

#### **Food of a sufficient quantity and quality**

261. The foundations for the development of nutritional strategies were laid in 1992 during the International Conference on Nutrition organized by the World Health Organization (WHO) and the Food and Agricultural Organization (FAO).

262. For information on the Economic Supply System, please refer to the combined second and third reports on the implementation of the Covenant (para. 390 ff.).

263. Switzerland is striving to strengthen the role and the effectiveness of the Committee on World Food Security.

264. On 24 September 2017, the Swiss people accepted the federal decree on food security. The new article in the Constitution requires the Confederation to create the necessary conditions to this end.

#### **Healthy diets and access to food**

265. Under the Swiss Nutrition Strategy, improving public knowledge about nutrition is a priority (see annex 2). Equal opportunity is a part of the Swiss Nutrition Strategy.

266. The Foodstuffs Act regulates aspects linked to food safety.

#### **Sufficient and safe water**

267. The Federal Food Safety and Veterinary Office determines the legal basis guaranteeing the provision of drinking water that does not pose a danger to consumer health.

#### **Statistics**

268. See annex 3.

#### **Recommendation No. 17**

269. Please refer to the Conference of Cantonal Directors of Social Affairs programme of 25 June 2010 on combating poverty and social exclusion (see annex 2). The programme has helped to improve the situation of poor families and workers, the measures to promote the professional and social integration of young people and the coordination of the social security system and has led to the introduction of cantonal reports on the social situation. According to a report by the Federal Statistical Office, poverty decreased between 2007 and 2013 (see annex 3). The statistics (see annex 3) also demonstrate that the main groups at risk are persons living alone, persons raising their children alone, persons who have not undertaken any training after compulsory schooling and persons living in a household with a low level of participation in the labour market.

#### **Recommendation No. 18**

270. During the universal periodic review process in 2012, Switzerland rejected recommendation 123.54, arguing that: “The competent authorities are doing their best to ensure that asylum seekers are provided with adequate accommodation. However, given the high number of asylum seekers, the authorities are sometimes subject to certain constraints when selecting accommodation.”

271. During a first stage lasting a maximum of 90 days, the Confederation provides asylum seekers with accommodation. At this stage, some asylum seekers may be housed in nuclear bunkers. However, the bulk of the housing provided by the Confederation is not underground. The needs of unaccompanied minors are taken into consideration. After staying in facilities provided by the Confederation, the asylum seekers are distributed among the cantons. Their housing then becomes the responsibility of the cantons.

272. The Asylum Act was amended on 25 September 2015 in order to expedite asylum procedures. The implementation of the amendment means that adjustments will need to be made in terms of infrastructure and technical and organizational arrangements. Some of the new requirements can be implemented directly; the Federal Council decided on their implementation to begin as of 1 October 2016. The new legislation should enter into force in its entirety as of 2019.

273. The Conference of Cantonal Directors of Social Affairs adopted recommendations on the matter of unaccompanied minors and young asylum seekers in May 2016 (see annex 2).

274. The statistics requested in recommendation No. 18 are not available.



## **Article 12**

### **Right to health**

#### **Application**

275. Please refer to the common core document of 12 October 2016 (section A.4) and to the report on Switzerland by the European Observatory on Health Systems and Policies entitled “Health Systems in Transition (HsiT)” (Vol. 17, No. 4, 2015, see annex 2), which provides an overview of financial resources.

276. With regard to health insurance, please refer to our responses under article 9 of the Covenant.

277. In 2013, the State allocated 7.57 per cent of GDP to health care. Moreover, with 4.1 doctors and 17.7 nurses (including assistants) for every 1,000 inhabitants in 2013, Switzerland ranks first in the European region for the number of nurses and second, behind Monaco, for the total number of doctors and nurses (HsiT).

278. In 2013, Switzerland adopted the Health 2020 Strategy, which aims to improve the Swiss health-care system (see annex 2).

279. On the matter of primary health care, a masterplan on family medicine and basic medicine was drawn up in 2012 in cooperation with the committee of the “Yes to family medicine” people’s initiative. In 2014, the Swiss people accepted the federal decree on basic medical care. Once the masterplan had fulfilled its purpose (see annex 2), it was concluded in 2014.

#### **National Dementia Strategy**

280. On 21 November 2013, the National Health Policy Dialogue approved the National Dementia Strategy (2014–2017), which has since been extended to 2019 (see annex 2).

281. The Confederation and cantons set out to improve the quality of life of the persons concerned, reduce constraints and ensure good care, including access to health-care services.

#### **Coordinated care**

282. During the second national Health 2020 Conference, held on 26 January 2015, health-care stakeholders debated the measures to take before launching the Coordinated Care Project (see annex 2). Areas of action for older persons and persons with multiple morbidities were identified (see annex 2). The aim is to improve advance care planning or planning and coordination of the patient’s discharge from hospital.

#### **National programmes**

283. Please see annex 2 for information on the national alcohol programmes (2008–2012, 2013–2016).

284. The national tobacco programmes (2008–2012 and 2013–2016) include a media campaign (see annex 2). Sixteen cantons have cantonal tobacco prevention programmes (see annex 2).

285. A number of projects have been carried out under the national programmes to prevent drug addiction (2006–2011 and 2012–2016) (see annex 2).

286. The 2017–2024 Non-communicable Diseases Strategy (see annex 2) and the 2017–2024 Addictions Strategy (see annex 2) are currently being implemented.

#### **Health policy**

287. Switzerland has developed a Health Foreign Policy, adopted by the Federal Council in 2012 (see annex 2), to govern cooperation at international level.

#### **Statistics**

288. Please see annex 3.

**Recommendation No. 19**

289. The majority of the population feels in good physical and mental health. According to the 2012 European Social Survey, 77 per cent of respondents said that they feel full of vitality and energy; 82 per cent also feel happy; 92 per cent of respondents consider their quality of life good or very good. However, around 18 per cent of the population experience some sort of mental problems.

290. The suicide rate has been falling since the middle of the 1990s. However, it remains high in comparison to other countries. The Federal Council's Suicide Prevention Action Plan was put into place as of 2017 (see annex 2).

291. On 29 June 2011, the Federal Council decided not to propose any legal amendments to the specific criminal provision on organized assisted suicide. However, the Federal Council intends to promote suicide prevention and palliative medicine.

292. Half of all cantons have mental health programmes. Eleven cantons have taken up the programme of action of the Alliance against Depression.

293. The Mental Health Network was founded in December 2011 and the Alliance against Depression was incorporated into it. The Mental Health Network is under the responsibility of the Confederation together with the Conference of Cantonal Health Ministers and the Swiss Health Promotion Foundation (see annex 2).

294. In the future, the Confederation intends to promote the coordination of offers, improve the qualifications of professionals and consolidate data on care.

295. Postulate 13.3370 of the Social Security and Public Health Commission of the Council of States, entitled "Measures planned in the field of health in Switzerland", requests the Federal Council to present its assessment of the monitoring of mental health in Switzerland conducted by the Swiss Health Observatory in 2012 and the measures it is planning in that field (see annex 2).

*Treatment of mental disorders*

296. On 1 January 2013, the right to protection for adults came into force, regulating the conditions, procedure and legal protection in the event of assisted living placements (Civil Code, arts. 426–439).

**Recommendation No. 20**

297. The current system of sexual education for children and young persons is based on the shared responsibility of both parents and schools. The main aim of sexual education lessons is to provide information in the school environment. In addition, lessons raise awareness and develop skills on issues relating to sexuality to ensure that pupils can protect themselves against sexual assault, sexually transmitted diseases, unwanted pregnancies and stigmatization.

**Statistics**

298. See annex 3.

**Article 13  
Right to education****Application**

299. Constitutional provisions are clarified in the combined second and third reports on the implementation of the Covenant and in the common core document (section A.4).

300. Federal and cantonal legislation aims to achieve the goals set out in article 13 (1) of the Covenant.

301. Regarding the direct applicability of article 13, please refer to annex 2.

**Basic education**

302. Please refer to the combined fourth and fifth reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (paras. 81–93).

303. Since 1 January 2013, young undocumented persons may follow basic vocational training (Ordinance on Admission, Stay and Gainful Employment, art. 30). Authorization is also dependent on other conditions being met: application to engage in gainful employment in accordance with article 18 of the Foreign Nationals Act, compliance with conditions of remuneration and work, good integration, compliance with the legal system and disclosure of one's identity.

**School dropout**

304. The case management system aims to identify young people at risk or with multiple problems and to support them until they attain their upper-secondary level certificate.

**Literacy**

305. The adoption of the Lifelong Training Act in June 2014 enhances the acquisition and maintenance of basic skills. The Vocational Training Ordinance provides that adults with vocational experience may acquire a vocational diploma without having to follow a regulated training scheme.

**Minority children, indigenous children and education in their native language**

306. The national strategy for the development and teaching of languages provides for the promotion of languages of origin in a migratory context.

307. Language and culture of origin classes are most often organized by the migrant community. Facilities and school materials are provided free of charge by the communes. The cantons that have signed the agreement on the harmonization of compulsory education (art. 4 (4)) are committed to supporting such classes organized in compliance with religious and political neutrality.

**Universities**

308. Under the Act on Higher Education Funding and Coordination, the Confederation allocates funding to encourage innovation and collaboration between universities, as well as funding for investments.

**Amendments to framework laws**

309. In accordance with the Constitution, the Confederation and cantons must ensure the quality and accessibility of education and training in Switzerland.

**Higher education accessible to all**

310. Tuition fees account for a relatively small proportion of students' budgets. The introduction of free tuition for all guarantees access to higher education for low-income students only if they also receive scholarships to mitigate the burden of other costs. For students without the means to undertake tertiary-level studies, Switzerland has a training grant system.

**Human rights training and awareness-raising**

311. Human rights training and awareness-raising form an integral part of the curriculum for all training levels (see annex 2). In addition, several awareness-raising projects have been introduced on the topics of racism and human rights in school. The Service for Combating Racism gives funding for projects of this kind; the follow-up and evaluation of the projects are carried out by the "Education 21" foundation (see annex 2).

312. Please refer to the common core document (section E.3).

**Recommendation No. 21**

313. Human rights education forms part of the duties of the Swiss Centre of Expertise in Human Rights. The Centre has organized a number of days and training sessions relating to human rights, including for teaching staff; it has prepared teaching material and, in 2015, published a study on human rights education in schools with a particular focus on the curricula in French-speaking Switzerland.

314. The Federal Council has published a report on civic education in upper-secondary level training. It shows that citizenship education is well established, although there are differences in its implementation depending on the subject area of training and the region.

315. Compulsory school programmes provide for the teaching of economic, social and cultural rights.

**Recommendation No. 22**

316. Please refer to our comments on articles 7 and 10.

**Recommendation No. 30**

317. With regard to the school education provided to children and teenagers with disabilities, please refer to paragraph 562 of the combined second and third reports on the implementation of the Covenant. Since 1 January 2008, special education has been a part of the mandate of public education. Our approach is no longer disability insurance-based but education-based.

318. Cantons are now responsible for providing education for children and young persons with disabilities up to the age of 20 years. Their legislation stipulates that they must comply with higher law, namely the provisions of the Constitution on special education and the provisions of the Disabled Persons Equality Act, according to which integration is preferable to separation.

319. Following the 2011 agreement on special education, cantons have been cooperating with one another by establishing common quality standards, a common terminology and a common assessment procedure.

320. In addition to compulsory schooling, young persons with developmental or educational difficulties that do not prevent them from following training are entitled, under article 16 of the Disability Insurance Act, to receive support for basic or general vocational training at an upper-secondary level. For young persons with a recognized disability, this article guarantees the coverage of expenses associated with that disability in accordance with article 5 of the Disability Insurance Regulation. Other measures, such as those under the Vocational Training Act (arts. 18, 53 and 55), may apply. Moreover, the Government is proposing to improve the rehabilitation of children and young persons (see para. 94).

**Article 14  
Compulsory and free primary education****Application**

321. Compulsory education is free in public schools.

322. Persons carrying out an apprenticeship may attend training for free in vocational schools, in companies that offer training and on inter-company courses or at any other similar training location (Vocational Training Act, art. 22 (2), Vocational Training Ordinance, art. 21 (3)).

**Scholarships**

323. Scholarships may be awarded to meet the needs of those in financial difficulty.

## **Article 15**

### **Right to culture**

#### **Application**

324. The constitutional provisions relating to the implementation of article 15 appear in the combined second and third reports on the implementation of the Covenant.

325. In 2014, the Confederation, cantons, towns and communes spent 0.44 per cent of GDP on implementing cultural policies (see annex 2).

326. Please refer to the second report on the implementation of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions and to the common core document (section A.4).

327. On the matter of international cooperation in the scientific field, freedom of research, scientific progress and scientific research and innovation, please refer to the combined second and third reports on the implementation of the Covenant (paras. 15, 530, 592–594 and 602–604).

#### **Recent developments in law**

##### **Dispatches on culture**

328. Through its 2012–2015 dispatch on culture (see annex 2), the Federal Council defined the strategic focus of the country's cultural policy. On 28 November 2014, the Federal Council presented its dispatch on cultural promotion (2016–2020) which defines new strategic lines of action of federal cultural policy (see annex 2). Parliament approved funding of SwF 1,124.6 billion for the cultural policy.

##### **Amendments to framework laws**

329. The Promotion of Culture Act entered into force on 1 January 2012.

330. Regarding multilingualism and understanding among the linguistic communities, please refer to the combined second and third reports on the implementation of the Covenant (para. 577).

331. The Languages Act and the Languages Ordinance have been in force since 2010. These texts enforce article 70 of the Constitution. In order to enhance the multilingualism of the Confederation and, following parliamentary motions (see annex 2), the Federal Council adopted the revised Languages Ordinance on 27 August 2014. At the same time, the Federal Council's instructions pertaining to multilingualism in the federal administration were also revised (see annex 2). Article 6 of the Languages Ordinance refers explicitly to equal opportunities for linguistic minorities.

##### **Musical training**

332. On 23 September 2012, the Swiss people and cantons agreed to improve musical training (Constitution, art. 67*a*). On 19 June 2015, Parliament decided on the legal bases for implementing support measures and a programme entitled "Youth and Music" under the Promotion of Culture Act and adopted an annual spending ceiling of SwF 2.8 million for 2016 and SwF 3.6 million for 2017–2019.

##### **Cultural participation**

333. The Federal Cultural Affairs Office supports projects that promote public participation in cultural life. The applicable legal bases for strengthening cultural participation are article 9*a* of the Promotion of Culture Act and the Incentive Plan for Cultural Participation (2016–2020), which both entered into force on 1 January 2016.

**Cultural heritage**

334. The following measures, among others, will be implemented by the Swiss National Library between 2016 and 2020: development of the collection and preservation of publications, particularly digital publications; active participation in the development of international reference standards; and development of the digitization of print collections and their availability to the public.

**Cultural diversity**

335. In order to raise awareness of the cultural heritage of Yenish and Sinti persons in Switzerland, the Confederation supports the “Radgenossenschaft der Landstrasse” umbrella association and the “Ensuring the Future of Swiss Travellers” Foundation, as well as projects implemented by the minorities themselves.

**Teaching of culture and arts**

336. The curricula for post-compulsory secondary education include general elements of culture and the arts. For classes at baccalaureate level (*maturité*), the arts are incorporated into the syllabus. In basic vocational training courses, general culture classes address both culture and the arts.

**Protection of moral and material interests of authors**

337. The Copyright Act takes into consideration the protection of the moral and material interests of authors. It entitles authors to recognition of their authorship and to decide when, how and under what name their work will be published. It also provides for the right to the integrity of the work; authors have the exclusive right to decide when and how the work may be modified or used for the creation of a derivative work. The Act gives authors a number of rights, including the exclusive right to sell, make copies and recite their work. It lays out certain restrictions on copyright, thereby allowing the work to be used, for example, for educational purposes. In such cases, authors must receive remuneration. On 22 November 2017, the Federal Council adopted and submitted a draft revision of the Act to the Federal Chambers for consideration. It proposes in particular a restriction which would permit the use of works for scientific research purposes.

**Protection of the moral and material interests of indigenous peoples**

338. The Nagoya Protocol and amendments to the Act on the Protection of Nature and Landscape entered into force on 12 October 2014. The Nagoya Ordinance entered into force on 1 February 2016.

339. At a multilateral level, Switzerland is involved in the work carried out within the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. The goal is to reach agreement on one or several international legal instruments ensuring the protection of traditional knowledge, traditional cultural expressions and genetic resources.

**Freedom of scientific research and creative activity**

340. Freedom of art is enshrined in article 21 of the Constitution and freedom of the press in article 17.

**Development and dissemination of science and culture**

341. At a multilateral level, during the period 2012–2015, the Confederation essentially focused its action on participating in cultural bodies and instruments developed by the Council of Europe and UNESCO. At the Council of Europe, the Confederation is involved in the Steering Committee for Culture, Heritage and Landscape and supports this structure in the context of the reform of the institution.

**Recommendation No. 23**

342. The Federal Council continues to stress the difficult situation of Yenish and Sinti persons in Switzerland. In the 2016–2020 dispatch on culture, it has proposed measures to improve their situation. Parliament has approved an increase in incentive funds.

343. A governmental working group addressed the issue of living and transit sites, training, culture, social benefits and, finally, the issue of recognition of Yenish, Sinti and Roma persons. The working group established a draft action plan of possible measures in the areas of living and transit sites, training, culture and social issues (see annex 2).

**Recommendation No. 31**

344. Switzerland supported the efforts to establish the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. The main step taken since the ratification of the Convention concerns the implementation of the Promotion of Culture Act, which entered into force on 1 January 2012. The Act assigns to the Confederation the goals of “strengthening the cohesion and cultural diversity of Switzerland” and of “promoting a varied and high-quality cultural life” (art. 3 (a) and (b)). The Federal Cultural Affairs Office, the Swiss National Museum and the Pro Helvetia Swiss Cultural Foundation are responsible for the implementation of the Act, the scope of which is specified in the Federal Council dispatches on cultural promotion. Regarding the 2012–2015 dispatch on culture, please see paragraph 338.

345. Please refer to the fourth report on the Council of Europe Framework Convention for the Protection of National Minorities presented by Switzerland in 2017 (see annex 2).

346. Please also refer to the sixth report of Switzerland on the European Charter for Regional or Minority Languages of the Council of Europe, which covers the period 2012–2015 (see annex 2).

347. During the period under consideration, there was a rise in the number of cases of racism on the Internet. To counteract this development, in 2014 and 2015, Switzerland participated in the Council of Europe’s “No Hate Speech Movement” campaign (see annex 2). In 2015, the Federal Commission against Racism also launched a campaign to raise awareness among young people on the topic of racial discrimination.

348. The Constitution provides a mandate for sustainable development. The Federal Council defines relevant policy guidelines in its sustainable development strategy (see annex 2).

349. In 2007, the Conference of Cantonal Directors of Education developed the Sustainable Development Education Programme (2007–2014) as a contribution to the United Nations Decade of Education for Sustainable Development (2005–2014).

350. In 2012, the Conference of Cantonal Directors of Education, the Directorate for Development and Cooperation, the Federal Environment Office and the Federal Public Health Office established “Education 21” as a centre of competence for sustainable development education.

**Legal remedies**

351. The Copyright Act provides for several instruments in the event of violations of copyright and related rights. Civil proceedings may involve declaratory action, action in performance of a service or action in accordance with the Code of Obligations. The injured party may also file a complaint. There is also the possibility of requesting the customs authorities to take action when there is reason to suspect the imminent importation, exportation or transit of items that contrary to legislation.

**Statistics**

352. Please see annex 3.