

**4th Swiss report on the implementation of the International  
Covenant on Economic, Social and Cultural Rights**

**Contributions for the Civil Society “List of Issues” (“Platform  
of Swiss NGOs for Human Rights”) on the Swiss Government's  
obligations to respect and protect economic, social and  
cultural rights (ESC Rights)**

**Geneva, August 2018**

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## Introduction

In order to respond to regional specificities in the implementation of economic, social and cultural rights, a working group within the "Platform of Swiss NGOs for Human Rights" which brings together more than 80 non-governmental organizations (NGOs) from French-speaking Switzerland and German-speaking Switzerland has been set up. It is coordinated by FIAN Switzerland for the right to food.

Its primary objective has been to inform and get the Swiss civil society respond to the 4th Swiss report on the implementation of the International Covenant on Economic, Social and Cultural Rights (hereinafter "the Covenant"), an objective of which this document is the result.

## Methodology

Civil society organizations were asked to respond to the assertions made in the 4th Swiss report on the implementation of the Covenant, by writing questions relevant to their knowledge of the situation of respect for ESC rights and by pointing out the shortcomings found in the Swiss report. These contributions have been included in French and in English.

These questions were developed with the help of the following associations and individuals:

- ATD Quart Monde - [www.quart-monde.ch](http://www.quart-monde.ch)
- AvenirSocial - Association professionnelle suisse du travail social - [www.avenirsocial.ch](http://www.avenirsocial.ch)
- Centre de conseils et d'appui pour les jeunes en matière de droits de l'Homme (Codap) - [www.codap.org](http://www.codap.org)
- CLAFG - Centre de Liaison des Associations Féminines Genevoises - [www.clafg.ch](http://www.clafg.ch)
- Conseil Suisse pour la Paix (SFR) - [www.friedensrat.ch](http://www.friedensrat.ch)
- Coordination asile.ge (projet Asile LGBT Genève) - [asile.ge](http://asile.ge)
- Fédération Suisse des Sourds (SGB-FSS) - [www.sgb-fss.ch](http://www.sgb-fss.ch)
- FIAN Suisse - [www.fian-ch.org](http://www.fian-ch.org)
- humanrights.ch - [www.humanrights.ch](http://www.humanrights.ch)
- Inclusion Handicap - [www.inclusion-handicap.ch](http://www.inclusion-handicap.ch)
- Ligue suisse des droits de l'Homme - Genève - [www.lsdh.ch](http://www.lsdh.ch)
- NGO Coordination post Beijing Switzerland - [www.postbeijing.ch](http://www.postbeijing.ch)
- Organisation suisse d'aide aux réfugiés - [www.osar.ch](http://www.osar.ch)
- Public Eye - [www.publiceye.ch](http://www.publiceye.ch)
- SANTÉ SEXUELLE Suisse - [www.sexuelle-gesundheit.ch](http://www.sexuelle-gesundheit.ch)
- Syndicat des Services Publics (vpod-ssp) - [ssp-vpod.ch](http://ssp-vpod.ch)
- Transgender Network Switzerland (TGNS) - [www.tgns.ch](http://www.tgns.ch)
- Selim Neffah, independent expert

## Preparation of the document and contact

This document was prepared by: **The working group "Pact I" Platform of Swiss NGOs for Human Rights** led by FIAN Switzerland

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This document was translated by a wonderful team of volunteer translators. Huge thanks to them!

## Article 2 - Implementation of guaranteed rights

### Regarding the justiciability of DESC

1. Switzerland continues to view ESCR as a programmatic provision, does not condemn the regressive measures inherent in ESC rights and refuses to ratify the optional protocol. While individual human rights remedies may be brought before the European Court of Human Rights or before UN committees against torture, racial discrimination or discrimination against women or before the Committee on the Rights of the Child, this is not the case for ESCR.

2. The Convention on the Rights of Persons with Disabilities (CRPD), which came into force in Switzerland in 2014, makes it clear that ESC rights hold immediate obligations. By ratifying this convention, the Federal Council has also recognized the three types of obligations (respect, protect and give effect)<sup>1</sup>. In addition, the Swiss civil society expressly welcomes the fact that Switzerland, in its report (para. 42), finds that the prohibition of discrimination under art. 5 al. 1 CRPD is directly justiciable, and the refusal of reasonable accommodation constitutes a prohibited form of discrimination.

#### Questions:

3. Is this change in the executive's position based on the realisation that most of the internationally guaranteed ESC rights have justiciable counterparts under Swiss domestic law, and that the refusal to recognise the justiciability of ESC rights contained in international instruments cannot be explained by a structural incompatibility of Swiss domestic law with international ESC rights?
4. If so, why has the Federal Council not yet ratified the Optional Protocol to the ICESCR and the CRPD and ICCPR?

### Regarding the application of guaranteed rights

5. There is a significant lack of consistency in the enforcement of guaranteed rights between the different cantons. The Platform of Swiss NGOs for Human Rights has documented the lack of consistency of Switzerland's internal and external policies, as well as between different sectors.<sup>2</sup>

6. Human Rights Impact Assessments are an excellent tool for reviewing laws, policies, strategies, programs and activities. regarding their potential or proven impact on human rights. Setting up such studies is advocated by many bodies and experts, including within the United Nations.<sup>3</sup>

#### Questions:

7. What is the Federal Council doing to improve the coherence of its policies?
8. How does the Federal Council plan to examine possible avenues for the institutionalization of human rights impact assessments for state activities that may be a risk for human rights?

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<sup>1</sup> See "The Justiciability of Economic, Social and Cultural Rights in Switzerland" by Florentin Weibel Human Rights Clinic from the University of Basel, master work in collaboration with FIAN Switzerland (in English) [https://fian-ch.org/content/uploads/Justiciability-of-ESC-rights-in-Switzerland\\_FW.pdf](https://fian-ch.org/content/uploads/Justiciability-of-ESC-rights-in-Switzerland_FW.pdf)  
[https://fian-ch.org/content/uploads/Justiciability-of-ESC-rights-in-Switzerland\\_FW.pdf](https://fian-ch.org/content/uploads/Justiciability-of-ESC-rights-in-Switzerland_FW.pdf)

<sup>2</sup> See the discussion paper "Human Rights and Foreign Policy of Switzerland - Where is the consistency? " ; [https://www.humanrights.ch/upload/pdf/170609\\_Document\\_de\\_coherence\\_-\\_Juin\\_2017.pdf](https://www.humanrights.ch/upload/pdf/170609_Document_de_coherence_-_Juin_2017.pdf)

<sup>3</sup> See the study "Human Rights Impact Assessments" by A. Eberhard, T. Mengeu and L. Pedrojetta, Human Rights Clinic University of Basel, in collaboration with FIAN Switzerland (in English) on the institutionalization of such studies in Switzerland, 2015 . <https://fian-ch.org/content/uploads/HRC-HRIA-Report.pdf>

9. While a national human rights institution could help Switzerland fulfil its obligation to ensure consistent implementation of ESC rights at the national level without fear of a "race to the bottom", Switzerland still does not have one. As mentioned in the report, the lack of formal independence of the Swiss Centre for Jurisdiction for Human Rights (CSDH) is an issue (para. 20.). The extension of the pilot project for another 5 years, as decided in 2015, does not satisfy the Swiss civil society organizations.

10. In 2017, a draft bill that will serve as a basis for the creation of an independent National Human Rights Institution in Switzerland (NHRI) was submitted for consultation<sup>4</sup>. While the draft law explicitly refers to the Paris Principles, it is imperative that certain aspects of the law be amended to ensure that the future national human rights institution gains status A.<sup>5</sup> At the Swiss UPR in 2017, the Federal Council reaffirmed its commitment to establish a national human rights institution in accordance with the Paris Principles (UN recommendation 147.5 A / HRC / 37/12 / Add.1). Nevertheless a Federal Council decision(message) on the creation of the institution was expected in summer 2018 but it was postponed to an indefinite date.

**Question:**

11. Does the Federal Council still actually intend to create an independent national human rights institution?

**Regarding the dissemination of information on the CESC**

12. In March 2013, a report was published on the measures to be taken to implement the 2010 CESC recommendations to Switzerland, following a seminar organized with the support of the authorities and the participation of a member of the CESC<sup>6</sup>. Civil society is surprised not to see this document mentioned in Switzerland's report.

**Question:**

13. What follow-up did the federal and cantonal authorities give to the recommendations made during this seminar and in this report on the implementation of the 2010 recommendations?

**Regarding Free Trade Agreements (FTAs)**

**Question:**

14. How quickly does the Federal Council expect to be able to carry out continuous and wide-ranging impact assessments, including on potential human rights impacts in Switzerland as well as in third countries, before the conclusion of future FTAs?

15. What mechanisms are in place to ensure access to remedies for those affected by (measures taken in the context of) FTAs?

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<sup>4</sup> See under Procedures for completed consultations, 2017, Federal Department of Justice and Police, Federal Act on Support to the National Human Rights Institution, <https://www.admin.ch/ch/f/gg/pc/ind2017.html#DFJP>

<sup>5</sup> See the Humanrights.ch website <https://www.humanrights.ch/fr/droits-humains-suisse/interieure/institution-nationale/nouvelles/consultation-indh>

<sup>6</sup> Switzerland and economic, social and cultural rights, [http://www.skmr.ch/cms/upload/pdf/130618\\_Rapport\\_La\\_Suisse\\_et\\_les\\_droits\\_economiques\\_sociaux\\_et\\_culturels.pdf](http://www.skmr.ch/cms/upload/pdf/130618_Rapport_La_Suisse_et_les_droits_economiques_sociaux_et_culturels.pdf) ; Die Schweiz und die wirtschaftlichen, sozialen und kulturellen Rechte, [http://www.skmr.ch/cms/upload/pdf/130618\\_Bericht\\_\\_die\\_Schweiz\\_\\_und\\_\\_die\\_wirtschaftlichen\\_soziale\\_n\\_und\\_kulturellen\\_Rechte.pdf](http://www.skmr.ch/cms/upload/pdf/130618_Bericht__die_Schweiz__und__die_wirtschaftlichen_soziale_n_und_kulturellen_Rechte.pdf)

## Regarding due diligence and access to remedies

16. General Comment No. 24 (2017) on State obligations under the ICESCR in the context of corporate activities states in paras. 16 and 44, : "The obligation to protect entails a positive duty to adopt a legal framework requiring business entities to exercise human rights due diligence [...] States should adopt measures such as imposing due diligence requirements to prevent abuses of Covenant rights in a business entity's supply chain and by subcontractors, suppliers, franchisees, or other business partners. " and "States parties have the duty to take necessary steps to address these challenges in order to prevent a denial of justice and ensure the right to effective remedy and reparation. This requires States parties to remove substantive, procedural and practical barriers to remedies, including by establishing parent company or group liability regimes [...]".

17. Over 100 Swiss civil society organizations promote the Federal People's Initiative "for responsible multinationals". The text intends to impose the duty of due diligence of companies on their activities in Switzerland and abroad which could have an impact on human rights and the environment, and to open access to remedies for the victims of the harmful activities of Swiss companies abroad<sup>7</sup>.

### Questions:

18. What does the Federal Council intend to do to adopt a legal framework requiring companies to exercise due diligence in matters of human rights in Switzerland and abroad? And to establish remedies for the victims of the activities of Swiss companies dealing with ESC rights abroad?
19. Bearing in mind the importance of "the adoption of international instruments that could strengthen the duty of States to cooperate in order to improve accountability and access to remedies for victims of violations of Covenant rights in transnational cases." (General Comment No. 24, para. 35): Does the Federal Council intend to contribute actively and constructively to the development of a "legally binding international instrument to regulate the activities of transnational corporations and other business enterprises within the framework of international human rights law" in the respective working group of the Human Rights Council?

## Regarding the National Program for Preventing and Combating Poverty 2014-2018

20. According to civil society organizations, this program, with a budget of CHF 9 million, mainly monitors poverty in Switzerland but does little to reduce poverty in Switzerland.<sup>8</sup> The momentum initiated at the national level in the policy of preventing and combating poverty is fading again and binding objectives are still missing. (See also para. 142)

### Questions:

21. What is the result of this program, which will come to a close at the end of the year?
22. What results has it had for poor workers who do not benefit from targeted measures in this program?
23. Does the Federal Council facilitate the participation of people living in poverty when drafting anti-poverty policies?

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<sup>7</sup> <https://www.bk.admin.ch/ch/f/pore/vi/vis462.html>

<sup>8</sup> See Laura Kanoff's "Working Poor in Switzerland (A Legal Analysis of the Situation since 2010)" study, Human Rights Clinic from the University of Basel, in collaboration with FIAN Switzerland (in English). [https://fian-ch.org/content/uploads/Kanoff\\_Working\\_poor\\_publish\\_last.pdf](https://fian-ch.org/content/uploads/Kanoff_Working_poor_publish_last.pdf)

Which anti-poverty policy for Switzerland? Caritas comments on the 2015 anti-poverty policy [https://www.caritas.ch/fileadmin/user\\_upload/Caritas\\_Schweiz/data/site/was-wir-sagen/unsere-aktionen/alleinerziehende-vor-armut-schuetzen/alleinerziehde\\_armutsmonitoring\\_2015\\_caritas\\_schweiz.pdf](https://www.caritas.ch/fileadmin/user_upload/Caritas_Schweiz/data/site/was-wir-sagen/unsere-aktionen/alleinerziehende-vor-armut-schuetzen/alleinerziehde_armutsmonitoring_2015_caritas_schweiz.pdf)

## Regarding the obligation of non-discrimination

24. Despite the recommendation made by the CESCR in 2010, Switzerland still does not have a comprehensive anti-discrimination law uniformly applied throughout the Confederation. The conclusions of the 2016<sup>9</sup> "Report on the Right to Protection from Discrimination" indicate that protection against discrimination is lacking in the area of private law. The few cases brought to court indicate that victims do not know that private law offers protection against discrimination and that there is an overall lack of awareness. However, the Federal Council has decided not to act on nearly half of the recommendations that the Human Rights Competence Centre (HRCC) has formulated to improve the situation.

### Question:

25. What follow-up did the Federal Council give to the report's recommendations (which it had not automatically ruled out) since 2016?

## Welfare

26. The Federal Council did not implement the CESCR recommendation on social assistance/emergency made in 2010. The distinction between social assistance reserved for Swiss citizens, that reserved for foreigners admitted on a temporary basis and emergency aid for foreigners remains and is clearly discriminatory. In addition, the amounts recognized as "minimum subsistence" vary according to the legal status of the persons.

### Question:

27. Could Switzerland explain why the financial amounts needed to ensure the "minimum subsistence" of a person are not the same according to the various aid schemes?

## Equal Pay

28. In Switzerland, women earn 18% less than men. 40% of this difference in pay goes unexplained, yet it corresponds to equal training, experience and responsibilities. The remaining gap is explained by salary devaluation in jobs that employ the largest number of paid female workers due to the fact that women to this day continue to carry out most of the domestic work, but also because there is a lack of women in high-level positions.

29. The review of the Equality Act (RS 151.1) of 5 July 2017 (FF 2017 5169) "relating to enterprises": does not foresee any state control or the duty to communicate. The State does not intervene in these verifications, and it only applies to 2% of the enterprises and 54% of employees in Switzerland.

### Questions:

30. How is this review different from the voluntary measures adopted in the past and that were recognized as a failure?

31. Since this review of the Equality Act, how many enterprises have "played along with the game" and undertaken a salary analysis?

32. What assessment does the Federal Council make of this review process to reduce the "unexplained" wage gaps; more generally, what is the assessment on the implementation of voluntary measures by private actors?

33. What measures has the Federal Council suggested to tackle the "explained" wage gaps? How will the Council encourage a better sharing of domestic work, for instance?

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<sup>9</sup> The right to protection against discrimination. Federal Council's report in response to the postulate Naef 12.3543 of June 14, 2012, May 25, 2016.

<https://www.parlament.ch/centers/eparl/curia/2012/20123543/Bericht%20BR%20F.pdf>

34. What is the Federal council doing to increase the number of women in elected decision-making bodies at the federal and cantonal levels as well as in appointed positions at the local level, and to achieve equal representation of women and men in political and public life?

### **Undocumented persons**

35. Tens of thousands of people (including many minors) live in Switzerland with no legal status. They are denied many of their fundamental rights (refer especially to para. 127) and there are many cases of exploitation.

#### **Questions:**

36. What assessment does the Federal Council make of the Papyrus operation carried out in Geneva, which will end at the end of the year? Will this “operation” be continued? Will it be extended to other cantons?
37. How is it possible that this operation relies almost entirely on volunteering made available by association and unions?
38. What will happen with the hundreds of serious labour rights’ violations (exploitation) unmasked during this procedure?

### **Integration of foreigners**

39. The new review of the Federal Act on Foreigners (LEtr) sets out drastic measures for integration and describes the criteria that foreigners shall meet in order to be considered “integrated”. According to the organizations affected, these criteria are too rigid and restrictive. They fail to sufficiently take into consideration the specificities and individual situations<sup>10</sup>. The spirit of this Act is, if not impossible, to make a clear reading of the State’s intentions less difficult, with regards to long-term residency of foreigners, and leaves a very broad interpretation in the hands of the officials in charge of applying the Act. Furthermore, this Act takes a very restrictive approach to extra-European immigration; this constitutes, on the one hand, unequal treatment for migrants from the European Union and those from the rest of the world.

40. The provisional admission status has enormous consequences for the approximately 43,000 persons affected. Besides the difficulties linked to finding a job and the stigmatisation this status has to the eyes of employers and the population, different forms of unequal treatment contribute to the marginalisation of the affected persons and places them in a fragile position. The difficulties concerning family reunification, third-rate social support, and the lack of prospects all have an extremely negative impact and make a full and real integration very difficult, if not impossible.

41. Asylum seekers whose applications are found inadmissible are not guaranteed a fair procedure, especially in the “Dublin” cases where the requests for protection are not examined.

42. Furthermore, associations on the ground have identified obstacles to identify LGBTQI refugees, and therefore they cannot assert their right to gain protection. Such obstacles are partly linked to the reception conditions in federal centres. LGBTQI persons are exposed to risks in terms of discrimination and physical, psychological or sexual violence, either by other refugees or other persons, and are therefore forced to hide to ensure their protection. In addition, the processing of such sensitive applications has certain specificities, in terms of procedures (hearing process and techniques) and of examination.

#### **Questions:**

43. Does the Federal Council plan to enact objective and measurable criteria for integration that take into account the specificities and individual situations?
44. What measures has the Federal Council put in place to tackle the stigmatisation of foreigners and projects that pursue a discriminatory approach to these persons?

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<sup>10</sup> Refer to position adopted by the Swiss Refugee Aid Association (OSAR) in March 2018.

45. Since it has been largely proven that the provisional admission status does not allow for a proper integration and given that a large majority of these persons are made to remain in Switzerland for many years, what measures do the authorities foresee, so as to establish conditions that will ensure a real integration?
46. Integration is not limited to joining the labour market, so what do the authorities propose concerning family reunification, the possibility to travel outside Switzerland or receiving public aid in equal conditions to the rest of the population?
47. Amendments to the LEtr and the OASA and OIE ordinances enshrine integration as a measuring and restriction instrument. Does such an approach not create a gap between foreign and Swiss population and thus curtail our society living together and with cohesion?

#### **Additional questions regarding LGBTQI asylum seekers:**

48. Have any measures been taken to establish precise statistics on these asylum applications?
49. What measures have been taken to identify LGBTQI asylum seekers, inform them of their fundamental right to live their identity openly and in full security, and guarantee their protection throughout their process of applying for asylum?
50. Have any measures been taken to provide regular and compulsory training to management staff at the federal centres on the specificities and vulnerabilities linked to sexual orientation, gender identity and expression and sex characteristics (SOGIECS)?
51. Have any measures been taken so that all officials in charge of processing asylum applications, as well as interpreters, receive regular and compulsory training on the specificities of applications based on SOGIECS?

#### **LGBTQI**

52. The conclusions of the 2016 report on the right to protection against discrimination indicate that the most important shortcomings affect the LGBTQI community. However, the Federal Council recently refused to include a broader interpretation of Article 261 bis of the criminal code that would have allowed sanctions to be imposed on anyone publicly denigrating or belittling another person based on their sexual orientation<sup>11</sup>. The Federal Council continues to consider the matter of gender identity as something too vague to be included in the law.

#### **Questions:**

53. If it refuses to include gender identity and sexual orientation in Article 261 bis of the criminal code, which could nevertheless grant protection against discrimination to these groups, how does the Federal council aim to protect persons who are discriminated against based on their gender identity or expression, sex characteristics or sexual orientation?
54. Does Switzerland plan to include training for teachers to encourage them to follow inclusive teaching and to be sensitive to gender issues and thus better accompany the students?

#### **Persons with disabilities**

55. The “Report on the right to protection against discrimination” refers to the report on the national policy to favours persons with disabilities, which was published in May 2018.

#### **Question:**

56. As the aforementioned report does not include any of the measures from the recommendations of the Swiss competence centre for human rights (CSDH), how will the Federal Council implement its conclusion to examine all recommendations in the field of equality for persons with disabilities, especially relative to the non-existent protection, and to the weak

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<sup>11</sup> Opinion of the Federal Council <https://www.ejpd.admin.ch/dam/data/bj/aktuell/news/2018/2018-08-150/stgn-br-f.pdf>

responsibilities in the event of discrimination by private employers and private service providers?

## **Roma persons**

57. On 1 June 2018, the Federal Council rejected the request to recognise Swiss Roma persons as a national minority within the Council of Europe Framework Convention for the Protection of National Minorities. The affected organisations consider this decision discriminatory, even more so when, in Autumn 2016, the Federal Council explicitly recognised this status for the Yenish and the Sinti<sup>12</sup>.

### **Question:**

58. What is the basis for the Federal Council's decision?

## **Police training**

59. There are approximately 300 police bodies in Switzerland. There is no body that is independent to the police force to which complaints on police action can be filed. The committees that are in place lack transparency and are, on the whole, internal to the police force. It is therefore difficult for citizens to make their voices heard when they are subject to discrimination, improper use of police force or police authority.

60. Police training includes very little focus on relationships between the police and migrant populations. New recruits do not understand the complex nature of migrant phenomena and migrant experiences. Instead, new recruits are initially trained in ethno-national stereotypes, fostering a suspicious view of migrants.

61. The syllabus taught in all Swiss training centres focuses on technical and coercive subject matter (70% of the class time is spent on detecting crimes, police enforcement and the use of restraint), instead of focusing on social and relationship skills and human rights. Only 3% of the total class time is spent on human rights (psychology and social skills 7%)<sup>13</sup>.

### **Questions :**

62. Does Switzerland plan to guarantee that review procedures are in place so that citizens can file complaints on police actions?

63. Does Switzerland plan to improve police training, so as to do away with the ethno-national prejudice that has been observed in police conduct ?

## **On development aid**

64. The countries of the OECD, which Switzerland has been a member of since 1970, approved the objective of contributing 0.7% of GNI to Swiss development aid. Switzerland has also accepted in the Universal Periodic review 2017/2018 the recommendation concerning the increase of ODA to 0.7% of GNI.

### **Questions :**

65. Why has Switzerland not increased ODA in order to comply with the commitments?

66. Why does Switzerland plan to cut contributions to UN organisations (UNICEF and UNDP) for 2018-2020<sup>14</sup>. ? How will this contribute to an increase of ODA to 0.7% of GNI?

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<sup>12</sup> <https://www.humanrights.ch/fr/droits-humains-suisse/interieure/groupes/yeniches-manouches-sintes-roms/roma-nationale-minderheit>

<sup>13</sup> Pichonnaz, David (2017) Devenirs policiers. Une socialisation professionnelle en contrastes, Lausanne : Antipodes.

<sup>14</sup> <https://www.admin.ch/gov/fr/accueil/documentation/communiqués/communiqués-conseil-federal.msg-id-71820.html>

## **Article 3 – Gender equality**

### **Everyday equality**

67. Every two weeks, a woman dies at the hands of her male partner due to domestic violence. Rape, sexual harassment and other acts of sexual violence are also extremely common. In spite of this background, the Swiss Confederation does not currently have a fund in order to raise awareness about sexual violence. Funds are only used to assist victims after the act of violence has taken place.

68. The situation is even worse for migrant women. Switzerland entered a reservation to Article 59 on the right to stay for domestic violence victims as a condition for its ratification of the Istanbul Convention, which entered into force on 1 April 2018. This reservation means that, contrary to the requirements of the Convention, domestic violence victims whose residence permit is contingent on their partner or husband (permit B or F) do not have their residency guaranteed in Switzerland if they divorce their husband or separate from their partner. Switzerland will therefore continue to continue with its hardship policy, which, although its scope has been widened, cannot be considered as acceptable. Such decisions are made on a case-by-case basis, and the victim is in the position where they have to prove that they are indeed a victim of violence, in addition to that they cannot go back to their country of origin.

69. A 2014 study<sup>15</sup> mandated by the Federal Office for Gender equality and the Swiss Conference of the cantonal social governors revealed that there is still an unmet need for victim shelters. There were significant differences in the regions in relation to the supply, for example there are some cantons, which do not have any shelters at all. Due to a shortage of space, the shelters could not accommodate approximately 600 women. In 300 of these cases, there was no place available in other shelters at the time. Another problem identified in the study concerns the unstable financial situation of the shelters that rely on various sources of financial support and substantially on donations.

### **Questions :**

70. What is the Federal Council doing in order to implement the Istanbul Convention ? What financial resources are used to this end ?
71. Does the Federal Council plan to open up funds in order to create awareness-raising campaigns against domestic violence, without using money from the fund that supports victims of domestic violence ?
72. What is the Federal Council doing to guarantee the safety of women migrants who put up with domestic violence out of fear of their Swiss residence permit being cancelled?
73. What is the Federal Council doing to decrease sexist violence in Switzerland?
74. What is the Federal Council doing to combat gender role stereotypes in all spheres?
75. Why does the Federal Council not have a national gender equality strategy?
76. What is the Federal Council doing against the shortage of victim shelters?
77. What measures has the Federal Council taken to ensure equality between men and women, and how does it take into account those women who suffer intersectional discrimination, such as women with disabilities?

### **Work-family life balance**

78. In Switzerland, women continue to take care of the bulk of domestic tasks. A pivotal moment for family life, crystallizing inequalities, is when the first child is born. Thus, pregnancy represents a

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<sup>15</sup> Federal office for gender equality and Swiss Conference of the cantonal social governors (editors): Ist- und Bedarfsanalyse Frauenhäuser Schweiz- Grundlagenbericht, Zürich, November 2014.

significant hurdle for women's careers, as shown in a study conducted by the Federal Office for Social Insurance in 2017<sup>16</sup>. Out of the 2890 mothers who took part in the study, 11% stated that they had left their jobs "as part of a mutual agreement [with their superior]". But these are in fact hidden dismissals if the employer refuses to allow pregnant women to work fewer hours, or due to a bad atmosphere at work once the employer is informed about the pregnancy. The figures show that there are insufficient safeguards for mothers in Switzerland, and additionally, having children is perceived as a barrier for women at work -- which is not the case for men.

79. A recent study commissioned by the Federal Commission for Family Affairs recommends 38 weeks of parental leave -- this would benefit not only families but also the economy<sup>17</sup>.

80. In spite of this, the Federal Council advised refusing the initiative put forward in 2017 for 20 days of paternity leave -- an initiative that would allow fathers to be fully involved in childcare from birth while changing the gender landscape and representation at work.

#### **Questions:**

81. What is the Federal Council doing to balance work and family life?
82. How is the Council planning to ensure sufficient care services for preschool and school-age children?
83. How is the Council planning to set up further daycare services?
84. How is the Council planning to proceed with individual taxation inciting both parents to work, in order to break away from the current "male breadwinner" taxation model which undermines women?
85. What measures is the Council planning to take to increase men's involvement in their family lives?
86. How is the Council planning to improve protection for mothers returning to work following their maternity leave, especially in terms of requests for part-time hours and fixed-term contracts?

## **Article 6 – Right to work**

### **Young people and the labour market**

87. The new version of the Law on Unemployment Insurance (LACI RS 837.0) significantly reduces benefits for unemployed youth aged under 25, going from 260 to 200 days of compensation (art. 27 al. 5bis). Likewise, for people not bound by a contribution period [those who have been unable to work] (See Art. 14), the law has whittled it down to only 90 days of compensation (art. 27 al. 4), making the financial leap from education to the labour market extremely tough and adding a further stumbling block to new graduates accessing the job market.

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<sup>16</sup> Büro für Arbeits- und sozialpolitische Studien BASS AG: Erwerbsunterbrüche vor der Geburt, Schlussbericht, Bern, 21. Juli 2017.

**Pre-birth maternity leave. Leave from work prior to giving birth. Federal Council report following up on postulat 15.3793 Maury Pasquier, 19 June 2015; Berne, March 2 2018.**

<https://www.news.admin.ch/newsd/message/attachments/51309.pdf>

<sup>17</sup> Federal Commission for Family Affairs <https://www.ekff.admin.ch/fr/medias/detail/conge-parental-la-suisse-est-lanterne-rouge-en-europe/>

### **Questions:**

88. What is the Federal Council doing to ensure young people are protected from job insecurity?
89. What is the Council planning to do to close gaps in traineeships in companies (e.g. setting up training funds financed by companies which do not offer enough traineeships)?
90. What measures has the Council taken to prevent youth unemployment among trainees having completed their traineeship?

### **Foreigners and the labour market**

91. Foreigners face hiring discrimination, especially former unaccompanied minor migrants who are granted an "F foreigner" temporary residence permit theoretically granting them the right to work. According to civil society, employers are reluctant to hire "F foreigner" permit holders -- due to the "temporary nature" of this type of permit -- although figures have shown that the majority of foreigners on temporary residence permits remain in Switzerland and furthermore are integrated into Swiss society, especially young people having been through the Swiss education system.

### **Questions:**

92. How is the Federal Council planning to resolve this?
93. Have information measures for employers been prepared?

### **People with disabilities and the labour market**

94. The description of the protections set up to safeguard people with disabilities from discrimination at work lacks sufficient detail and hides significant gaps. No safeguards against discrimination are offered by private sector employers, and the law cited in Switzerland's report, Art. 3 lit. d LHand RS 151.3 ("in buildings with over 50 positions' [unofficial translation into English] covers only accessibility to buildings for which building or renovation permits were granted following the entry into force of the Federal La on the elimination of inequality affecting people with disabilities (LHand).

### **Questions:**

95. What measures has the Federal Council taken to ensure full inclusion of persons with disabilities in the workplace in line with Art. 27 CRPD, including reasonable accommodation such as sign language interpretation provisions?
96. What structural changes is the Federal Council envisaging in order to ensure that people with disabilities – including people whose capacity to perform is substantially restricted - can choose their work freely in an open labour market under good working conditions and with a remuneration that allows them to make a living (which goes far beyond the only very selected points that came out of the "Nationale Arbeitsmarktkonferenz" and the national policy in favor of people with disabilities)?
97. What measures is the Federal Council envisaging in order to strengthen protection by the disability equality act (LHand, RS 151.3) against discrimination of people with disabilities in their work life, especially with regard to discrimination by private employers and to legal remedies available?

## **Article 7 - Right to fair and favourable working conditions**

### **Minimum wage**

### **Questions:**

98. What is the Federal Council planning to do to combat low salaries in fields without a collective labour agreement setting minimum wages (e.g. a general minimum wage in these fields and across Switzerland)?
99. How is the Council going to tackle wage underbidding based on the place of origin principle which puts pressure on working and wage conditions in the place of provision of services

(e.g. strengthen the place of provision of services principle: service providers must uphold the operative working and wage conditions in the place of provision of services).

100. How is the Federal Council planning to combat dwindling jobs and worsening working conditions caused by robotisation?

## **Article 8 – Union rights**

### **Right to create and join trade unions**

101. Switzerland is yet to comply with ILO Convention 98 on the Right to Organise and Collective Bargaining by refusing to include the principle of the right to the reinstatement of victims of anti-union dismissals, in its legislation.

#### **Questions:**

102. Noting the failure of social partners to negotiate on the right to reinstatement, how does the Federal Council intend to comply with ILO Convention 98, to which it is a signatory?

### **Unfair dismissals**

103. Cases of unfair dismissals during pregnancy, sexual harassment, sexism and/or violence continue to be documented. Article 6 of the Equality Act (RS 151.1) reduces the burden of proof, thus only requiring the plaintiff to substantiate the claim with plausible evidence. It is then up to the employer to disprove the claim. Yet women are still reluctant to file complaints. Nothing protects the victim from their perpetrator during the trial. Victims must take the decision to stop working and thus throw their professional future into jeopardy. Moreover, 80% of sexual harassment allegations do not lead to anything despite the fact that 30% of women are thought to be harassed at some point during their career, as shown by a recent study.

#### **Questions:**

104. Does the Federal Council intend on considering a total reversal of the burden of proof during the federal revision of the Equality Act?
105. What measures does the Federal Council intend on putting in place in order to promote the protection of the victim and allow them to continue working in a healthy environment?

## **Article 9 – Right to social security**

### **Social assistance**

106. Civil society organisations have noticed a reduction in social assistance in several cantons, as well as an increasing number of obstacles to accessing such assistance, including the requirement of a residence permit.

#### **Questions:**

107. Is this a general trend in Switzerland?
108. What can be said about the impacts on the most vulnerable groups (foreigners, children and young people, single parents (especially mothers))?

109. The phenomenon of stigmatisation of those receiving social assistance, disability insurance or additional benefits and the climate of suspicion towards them are increasing at an alarming rate. Civil society is particularly concerned about the revision of the Insurance Supervision Law, which allows for serious violations of the right to privacy based on false prejudices. As a result, there is a heightened risk that many people will give up benefits that they are entitled to.

#### **Questions:**

110. What is the Federal Council doing to combat this situation?

111. For the most part, granting benefits ensures that nobody in Switzerland is living under the minimum subsistence level, as should be the case. However, the application of sanctions sometimes reduces the monetary amount of the assistance below the threshold considered to be the minimum needed to survive.

**Question:**

112. What is the Federal Council doing in order to ensure that everyone is living, unconditionally, at the subsistence level?

113. In particular, emergency assistance for migrants, which should be replaced by real social assistance and represents a last, inadequate bulwark against exclusion, should not be submitted to any conditions, it being specified that it aims to preserve a bare minimum when it comes to the dignity of each and every human being. However, it turns out that such is not the case. Civil society is particularly concerned about police arrests, in order to remove them from the country, being carried out on the premises of services where they are obliged to go in order to benefit from emergency assistance. This unfair, malicious practice, which is carried out with the clear objective of being a deterrent, undermines the necessary trust with authorities and leads to a large scale non-use of benefits. It can also lead to rights holders going into hiding- for fear of being arrested- and puts them in a situation of not being able to call upon fundamental rights.

**Question:**

114. What is the Federal Council doing to put an end to this affront to human dignity?

114a. The latest NGO reports in 2010 mentioned the situation of failed asylum seekers, who despite being denied refugee status found themselves stuck in Switzerland. Since then, the number of people concerned has further increased. A recent development leading to Swiss practice concerning Eritrean asylum seekers being hardened would be an example of this. In its judgement E-5022/20171 of 10 July 2018; the Federal Administrative Court concluded that sanctions for illegal exit or even, such as is the case with Eritrean nationals, the risk of being enrolled in national service upon return to their home country, do not provide for reasonable grounds to make deportation unlawful. This, all the while acknowledging that performing national service constituted forced labour contrary to Article 4(2) of the ECHR. In the present case, the development of this practice not only entails an extremely precarious situation in the long run for those concerned, but also seems to contradict Articles 6 and 7 of UN Covenant I.

**Question:**

114b. What measures are to be taken by the Federal Council to remedy this problem?

**Lack of statutory social insurance**

115. Statutory social insurance is still missing in Switzerland to cover one of the most important risks, namely the loss of earnings as a result of illness.

**Question:**

116. What measures are to be taken by the Federal Council to bridge this major gap in Swiss social security law by introducing compulsory daily sickness benefit insurance?

**Article 10 – Protection of the family, mother and children**

**Protection of the family**

117. The vast majority of persons affected by a removal order (asylum seekers/foreigners) are shackled during their transit, including pregnant women who do not physically resist their removal. A child was stillborn during the removal proceedings of her 7 month pregnant mother in Domodossola in

July 2014. The National Commission for the Prevention of Torture (CNPT) published a report<sup>18</sup> in 2017, calling on the authorities to waive removal orders for women beyond the 28<sup>th</sup> week of pregnancy and up until eight weeks after delivery.

**Question:**

118. What measures have been taken in order to prevent such a tragedy from happening again? Have the Commission's findings led to adequate measures being implemented?

119. Families with children were placed in administrative detention centres run by the police prior to their removal. In some cases, children have been separated from their parents and placed in different cells.

**Question:**

120. Taking into account the best interests of the child and the family unit, how does the Federal Council justify the detention of children in Switzerland?

121. The implementation of readmission agreements with third countries, which allow for the removal of an individual who already holds a certain status in another country sees families with children being separated (removal of one parent who holds refugee status in another European country).

**Question :**

122. How is it that the right to family unit does not prevail in these types of cases?

123. Civil society is concerned about the systematic blanket withdrawal of children under the mother's guardianship.

**Question :**

124. What measures have been adopted in recent years or shall be adopted by the government in order to support family ties, which are particularly affected by precariousness and sometimes even extreme poverty?

125. A Federal Council communiqué released on 29 March 2017 announced that the Council wished to examine how to better involve relatives through all of the stages of the proceedings as well as the decisions taken by the Child and Adult Protection Authority (APEA)<sup>19</sup>. This work is of real importance, given the numerous cases observed where those who appear before the APEA are either denied the right to be accompanied by a relative during the administrative and legal procedures; or are at least aware of the complications linked to asserting this right to being accompanied.

**Question :**

126. What measures does the Federal Council intend to apply in this regard?

**Right to free consent to marriage**

127. The implementation of the new Article 98, para. 4 of the Civil Code (RS 210) in force since 2011, prohibiting couples who are not lawful residents in Switzerland from getting married is problematic<sup>20</sup>. The Federal Supreme Court confirmed that a systematic ban on access to marriage against foreigners without a residence permit is contrary to Article 12 of the European Convention of Human Rights (ECHR). In order to enforce the law, the Federal Supreme Court recommended a

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<sup>18</sup> National Commission for the Prevention of Torture (CNPT), report submitted to the Federal Department of Justice and Police (DFJP) and to the Conference of Cantonal Justice and Police Directors (CCDJP) on monitoring removals in accordance with foreigners' rights, from April 2017 to March 2018.

<sup>19</sup> <https://www.admin.ch/gov/fr/accueil/documentation/communiqués.msg-id-66185.html>

<sup>20</sup> RO 2010 3057: Civil Code, Amendment of 12 June 2009 (Prevent marriages of persons residing without authorisation).

“flexible approach”. However, there is no leeway for registrars and it is up to foreigners to take into consideration the requirements linked to the respect of the right to marry and the principle of proportionality<sup>21</sup>.

**Question :**

128. What training have immigration police officers undergone on this issue?

**Measures to Protect the Family:**

129. Often, families are not recognized as they are. Especially because of the fact that the marriage itself is not recognized or marriage certificates are not recognized as evidence for a real wedding. Families are often separated. Migration laws are high impediments for migrants to the right to live as a family.

Legal offices regularly see people whose desire for family reunification is hindered or even denied by authorities.

**Question :**

130. What are the measures being taken by the Federal Council to protect families with a migrant background?

**Other Issues Concerning Same-sex Families:**

131. As of January 1, 2018, the partners of a homosexual or lesbian couple are authorized to adopt their spouse's children. However, joint adoption remains prohibited.

132. In June 2018, the Legal Committee of the Council of States ruled on marriage "for all" in Switzerland by deciding to exclude access to medically assisted procreation as well as access to the spouse's pension. LGBTIQ associations regretted this decision which does not promote access to the same rights for same-sex families.

**Questions :**

133. What measures does the Federal Council wish to put in place to ensure equal rights of official same-sex couples with regard to adoption and medically assisted reproduction?

134. What measures does the Federal Council wish to put in place to ensure the protection of the family in the event of the death of one of the spouses (e. g. access to a pension, widow's pension, access to medical care, etc.)?

**Caregivers**

135. The invalidity insurance (AI) provides an allowance for people with disabilities and, in the case of minors, an intensive care supplement, as written by the Federal Council in its report (para. 182).

However, this allowance only allows caregivers to cover part of the costs of care. Other social security benefits (health insurance benefits, assistance contribution, etc.) are denied. For example, many family caregivers live in very precarious situations and sometimes have to resort to social assistance.

**Question:**

136. What is the Federal Council doing to improve the financial situation of caregivers? Does it explore the possibility that the assistance contribution could be used, at least partially, to pay them?

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<sup>21</sup> <https://www.humanrights.ch/fr/droits-humains-suisse/interieure/politique-etrange/sans-papiers/atf-137-i-351-2011-138-i-41-2012-tribunal-federal-rejette-linterdiction-systematique-mariage-papiers?search=1>

## Article 11 – Right to an adequate standard of living

### Standard of living and poverty

137. Individuals and families in Switzerland continue to live in situations of extreme poverty. The cumulative aspects of precariousness in different areas (housing, income, education, etc.) condemn the most excluded to a vicious circle of poverty.

#### Question:

138. What measures is the Federal Council taking with a view to combating poverty among people with disabilities, with statistics clearly showing that poverty levels among those with disabilities are higher than among non-disabled people?

139. Depending on the canton, the amounts allocated for the personal expenses of people with disabilities under institutional care range between CHF 190 and CHF 536 per month.

#### Question:

140. How does the Federal Council intend to ensure that these people have sufficient financial means to meet their basic needs and participate in society in an appropriate manner?

### The working poor

141. The report only refers to the 2010 CDAS (departmental centre for social action) programme in its paragraph 269. In November 2012, it was noted during a round table discussion hosted by Federal Councillor Alain Berset that the situation of the working poor was not improving. The need for better coordination between the stakeholders involved, as well as between the national and regional authorities was also highlighted. In response to this observation, the Federal Council adopted in 2013 a national programme with the aim of preventing and combating poverty.

142. According to civil society organisations, this programme, whose budget consists of a mere CHF 9 million, mainly monitors poverty in Switzerland and has carried out few actions intended specifically to reduce poverty in Switzerland.<sup>22</sup>

#### Questions:

143. How has this programme, which will end at the end of the year, fared according to the Federal Council's stocktaking of it?

144. What effect has it had on workers in situations of poverty that do not benefit from targeted measures as part of this programme?

### The Right to food

145. The right to food in Switzerland is implicitly guaranteed by the Constitution through the right to "receive the essential means to lead a life of human dignity" (Art 12 CST RS 101). The right to food can therefore be considered as a legal entitlement to State social support. However there are still 590,000 people who find it difficult to realise their right to food in Switzerland<sup>23</sup>.

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<sup>22</sup> See the study 'Working Poor in Switzerland (A legal analysis of the situation since 2010)' by Laura Kanoff, Human Rights Clinic, University of Basel, in collaboration with FIAN Switzerland.

<sup>23</sup> *The right to food in Basel-City* by Eyholzer Carine, Huber Nathalie et Arber John, jointly with FIAN Switzerland, Basel University, 2015. [https://fian-ch.org/content/uploads/HRC\\_Right\\_to\\_food\\_Basel\\_publish2.pdf](https://fian-ch.org/content/uploads/HRC_Right_to_food_Basel_publish2.pdf)

Etude *Le droit à une alimentation adéquate à Genève*, by Laurence Deschamps-Léger, Ladina Knapp et Arnaud Waeber, jointly with FIAN Switzerland & the Institut de hautes études internationales et du développement (IHEID), 2010, [https://fian-ch.org/content/uploads/Le\\_droit\\_a%CC%80\\_l\\_alimentation\\_a%CC%80\\_Gene%CC%80ve.pdf](https://fian-ch.org/content/uploads/Le_droit_a%CC%80_l_alimentation_a%CC%80_Gene%CC%80ve.pdf).

Social support is provided by the Canton in which people in need reside.

**Questions:**

146. What does the Federal Council foresee to guarantee the right to food for those who are not official residents of a Canton, such as undocumented individuals, asylum seekers or those who do not have official residents' permits in that Canton?

147. Is there any harmonisation between the systems of social aid planned between Cantons to avoid discrimination? IS there a plan to make the Guidelines of the Swiss Conference on Social Security compulsory (SKOS)?

148. The vulnerable groups of unemployed, those with health issues, the working poor, the homeless as well as asylum seekers find it difficult to gain access to minimum social income, in spite of social support.

**Questions :**

150. What can the Federal Council do to guarantee that the right to food is available, accessible and acceptable without marginalising people from society?

151. Are long-term sustainable solutions planned to support these people to move beyond social support and realise their right to food beyond the emergency support provided by charitable organisations? For example, facilitating access to training or a facilitated procedure to access the healthcare system that would help reduce the insecurity of those in need and therefore help them avoid having to cut down on both the quantity and the quality of their food in order to cover other expenses?

152. Being poor implies that food becomes "an adjustment variable". Over and above the impact on the right to food, this implies social marginalisation, which is an attack on their human dignity.

**Questions:**

153. What can the Federal Council do to improve the attitude of society to those living below the poverty line?

154. In order to gain a better understanding of the situation concerning the right to food in Switzerland, would it be possible to gather data on food expenditure of beneficiaries of social support?

**Conditions during detention in prison**

155. Trans people in detention are regularly accommodated in facilities for people of their gender assigned at birth, and not according to their gender identity or needs. Such living conditions, contradicting their personal identity, needs and situation has detrimental effects especially on their mental health.

**Questions:**

156. Does the Federal Council plan to develop, in close cooperation with civil society experts, guidelines for the accommodation and living conditions of trans people that are deprived of their liberty so that their human rights can be guaranteed?

157. Can the Federal Council say if access to the required care, including psychological, psychiatric and gender affirmation treatment, is guaranteed for every person that is deprived of their liberty?

158. Can the Federal Council provide information about the prison occupancy rate? Does this pose an impediment to care?

## **Article 12 - The Right to Health**

### **Physical Health**

159. Several UN treaty bodies, including CAT and CRC, recommended clearly and repeatedly that Switzerland should ban surgeries on people with variations of sex development, especially on children. So far, the Federal Council has refused to propose a respective article in the criminal code and even denies the fact that such surgeries are still performed in Swiss hospitals<sup>24</sup> However, specialized NGOs report that they have learnt from affected families that these practices are on-going.

#### **Question:**

160. Can the Federal Council provide information on these practices?

### **Mental Health**

161. The report on mental health mentioned in para. 295 of the Federal Council report contains numerous recommendations to improve services and care in this area.

#### **Question:**

162. What schedule is planned for the implementation of these measures?

163. According to statistics, Switzerland has a particularly high suicide rate. Among young LGBT people, the risk of attempting suicide is between 5 and 10 times higher than among young heterosexual cisgendered individuals.

#### **Questions:**

164. Has the Federal Council planned to allocate any funds to address reducing suicide among young people? And more particularly, for young people in the LGBTIQ community?
165. What measures has the Federal Council taken since the last CEDAW report cycle to ensure the provision of sex reassignment surgery for all trans people?

### **Situation of Vulnerable Groups**

166. People from foreign countries are generally in poorer health than the Swiss population. They are exposed to much more arduous work conditions, sometimes without any access to healthcare apart from emergency cases. Disabled people from abroad need to defend themselves from an increasingly present suspicion that they want to abuse Swiss social services.

167. Numerous foreigners experiencing health problems, both physical and psychological, are held in administrative detention with insufficient, or non-existent, access to the care required to treat their health issue. This issue is particularly concerning in the case of people suffering from psychiatric conditions, where depriving them of their liberty in order to return them is clearly an inadequate measure..

168. The conditions surrounding the forcible return of migrants in themselves constitute a treatment that compromises physical and psychological integrity. In addition, OSEARA, a private company mandated by the Confederation to coordinate the medical care for those being forcibly returned, is particularly opaque in its operations. The expertises that they provide are at best questionable, with the mandate specifying that the remuneration of this company be associated with the effective return of the migrant. Civil society is furthermore surprised that doctors, who are paid by the Swiss state but operate for a limited company, engage in professional behaviour that contradicts or is in conflict with the ethics of their profession.

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24 See: Rapport explicatif relatif à l'avant-projet concernant la révision du Code civil suisse (changement de sexe à l'état civil) du 23 mai 2018.

169. This results in Switzerland expelling people in a state of health that does not permit their return, whether this be a result of the conditions surrounding their return or the lack of access to care in their destination country, to such a degree that this may seriously threaten their chances of survival, a practice that runs contrary to the jurisprudence of the CDH (violation of article 3), due to their health - or survival - being placed in serious danger by their return.

**Question:**

170. What does the Federal Council propose to do in order to respect international law, protect migrants and protect their health?

**Sexual Education**

171. The situation has not changed since it was last examined. There remains inequality in access to sexual education in Switzerland.

**Question:**

172. What does the Federal Council do to guarantee that all children and adolescents have equal access to comprehensive sex education in all cantons?

**Access to Health/Care**

173. Prohibitive Costs: Mandatory since 1995, as a result of the Law on Health Insurance, the price for taking out a private health insurance contract with a private organisation has since increased by 159%.<sup>25</sup> Swiss residents increasingly avoid professional healthcare for financial reasons despite this healthcare being potentially necessary.<sup>26</sup>

**Question:**

174. What does the Federal Council propose to do in order to combat the increasing costs of access to healthcare?

175. Gender affirming treatment: According to several rulings issued by the Federal High Court, all gender affirming treatment that is medically indicated must be reimbursed by the basic health insurance. However, in many cases health insurances refuse to cover medically indicated treatment. The reasons given vary, but are usually either in conflict with health insurance law or with the medical standards for the treatment of trans people as defined in the World Professional Association for Transgender Health' Standards of Care Version 7, and adapted for Switzerland.

**Question:**

176. Is the Federal Council planning to remedy this situation?

177. Discrimination of People with Disabilities: With regard to mandatory health insurance, the criteria for adequacy, cost effectiveness and efficiency represent potential discrimination against people with disabilities, particularly through using economic models to determine the usefulness of medical services. Access to supplementary health and life insurance is often refused to people with disabilities or limited as a result of reservations caused by risks associated with the handicap.

**Question:**

178. What measures does the Federal Council envisage in order to protect people with disabilities from discrimination in the field of health insurance?

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<sup>25</sup> Source: <https://www.rts.ch/info/suisse/8045185-les-primas-maladie-ont-augmente-de-159-depuis-20-ans.html> consulted on 28.08.2018

<sup>26</sup> Source: <https://www.rts.ch/info/suisse/8819934-toujours-plus-de-patients-renoncent-aux-soins-en-suisse-selon-un-sondage.html> consulted on 28.08.2018

## Article 13 – Right to Education

### Inclusive Education

179. In its recommendations from 2010 (para. 30), the CDESC demands that Switzerland demonstrates to what degree the arrangement of specialised education services complies with international standards for disabled people. Despite having ratified the CRPD, the CDIP has not revised the "arrangement of specialised education" from 2007. In its current report, Switzerland has deemed it sufficient to provide a very general explanation of the Swiss system for specialised education. This is clearly insufficient.

#### Questions:

180. What steps will the Federal Council take to ensure that a fundamental paradigm change from a – currently severely underfinanced – integrative schooling system to a truly inclusive system takes place?
181. How will Switzerland – instead of continuing to apply its rigid austerity programs in this field – conduct the transfer of resources from separative/segregative structures to inclusive structures, which is essential for building up an inclusive schooling system?
182. How is Switzerland intending to ensure that legislation as well as the cantonal concepts on schooling of children with disabilities corresponds to its obligations under Art. 24 of the CRPD?

### Secondary Education (*Degrés secondaire II*): general and professional education

183. While the progressive introduction of free secondary education is anchored in the Pact, (letters b and c of para 2; also in conventions relating to the rights of children (art. 28 1 b) and in the Convention on the Rights of Persons with Disabilities (art. 24 2 b)), this obligation is never mentioned by authorities during discussions about the increasing costs of education; where only economic arguments are presented.

#### Question:

184. What is the Federal Council doing to comply with its obligation to promote the right to education as a human right?

## Article 15 – Right to Culture

### Cultural Participation

185. LGBTIQ asylum seekers accommodated in collective camps are usually located away from cities. This increases their difficulty to reach the LGBTIQ community – often the only support that breaks their social isolation and the one culture they belong to and would want to participate in. In order to allow all LGBTIQ asylum seekers to participate in LGBTIQ culture, they need to be placed in major cities such as Zurich or Geneva. Being accommodated with other asylum seekers from their region or country of origin often does not include the possibility for them to participate in their cultural life but leads rather to (fear of) being harassed without protection from camp officials.

#### Questions:

186. What steps does the Federal Council take to guarantee all LGBTIQ asylum seekers with equal access to the LGBTIQ cultural life?
187. Is the Swiss government intending to ensure all persons, including those with disabilities, can participate in cultural life, especially in view of CRPD Article 30?
188. Is the Swiss government willing to acknowledge sign language users as a cultural minority?

## Right to enjoy the benefits of scientific progress and its applications

189. State of the art treatment for trans people is defined in the latest version of Standard of Care, issued by the World Professional Association for Transgender Health. Since some doctors, psychologists, health insurances and other decision makers act according to outdated scientific positions, ignoring these Standards of Care, they bar trans people from enjoying the benefits of scientific progress and its applications. This is especially true for negative decisions issued by health insurances and their doctors of trust denying access to gender affirming treatment; the insufficient quality of gender affirming genital surgery; and access to reproductive medicine not granted to all trans people. In particular, young trans people who medically transition are at an increased risk of not being able to enjoy the benefits of scientific progress.

### Question:

190. What steps does Switzerland take to ensure that all medical personal and health insurances in particular act in accordance with the latest Standards of Care for trans people, and that all trans people get access to treatment according to the most up to date scientific knowledge?

### 191. Reference Documents :

La Suisse a-t-elle un développement durable? Mise en œuvre de l'Agenda 2030 du point de vue de la société civile, 2018.

[https://plattformagenda2030.ch/wp-content/uploads/2018/06/Plateforme-Agenda-2030-rapport\\_F-web.pdf](https://plattformagenda2030.ch/wp-content/uploads/2018/06/Plateforme-Agenda-2030-rapport_F-web.pdf)

La Suisse et les droits économiques, sociaux et culturels, Geneva Academy of International Humanitarian Law and Human Right, centre suisse de compétence pour les droits humains, mars 2013

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