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## **National report submitted pursuant to Human Rights Council resolutions 5/1 and 16/21\***

**Switzerland**

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\* The present document is being issued without formal editing.



## **I. Methodology and consultation**

1. In Switzerland, human rights and fundamental freedoms have long been respected and guided all action by the State. These fundamental rights are at the heart of Swiss domestic and foreign policy and are enshrined in the Federal Constitution. Switzerland takes its international obligations seriously and fulfils them conscientiously, ensuring their effective implementation in practice. Nevertheless, over the last three cycles of the universal periodic review of the Human Rights Council, the country has been urged to strengthen the protection of human rights in certain areas, reconsider existing regulations and, where necessary, close gaps. The present report is being submitted in this context.

2. The present report covers the implementation of the recommendations accepted by Switzerland following the review of the country on 9 November 2017<sup>1</sup> as part of the third cycle of the universal periodic review and sets out the progress made in that regard. Where appropriate, reference is also made to wider developments unrelated to specific recommendations. The report seeks to follow the guidance note of the Office of the United Nations High Commissioner for Human Rights for the fourth cycle of the universal periodic review and it follows the order of the rights and freedoms as set out in the Universal Declaration of Human Rights.

3. It is increasingly recognized at the international level that human rights and sustainable development are deeply interconnected. To reinforce the link between human rights and the 2030 Agenda for Sustainable Development, the endnotes to the present report provide examples from various thematic areas to show how measures to implement universal periodic review recommendations also translate into progress towards the achievement of the Sustainable Development Goals.

4. Discussion of the present report, in the summer of 2022, involved a broad consultation process that included the Federal Government, the cantons, extra-parliamentary federal commissions, civil society and interested stakeholders. Two public events were organized with representatives of the federal, cantonal and municipal administrations, universities and civil society: on 21 September 2021, preparations were launched for the fourth cycle of the universal periodic review, and on 23 March 2022, round tables were convened to discuss relevant human rights developments of recent years and the implementation of universal periodic review recommendations in the country.

## **II. Legal and institutional framework**

### **A. International legal framework**

5. The ratification of international human rights instruments is of great importance to Switzerland. During the period under review, the national legal framework was enriched by the ratification of the following instruments: the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), which entered into force for Switzerland on 1 April 2018,<sup>2</sup> and the 2014 International Labour Organization (ILO) Protocol to the Forced Labour Convention, 1930 (No. 29), which entered into force for Switzerland on 28 September 2018.

### **B. Institutional framework**

6. Under the federal system, Switzerland adopts a sectoral approach to monitoring the implementation of its human rights obligations. The Swiss State is organized in such a way that responsibilities in this area are divided between the Confederation and the cantons. The Confederation has established the International Human Rights Policy Core Group,<sup>3</sup> which brings together all relevant federal departments and representatives of the Conference of Cantonal Governments under the leadership of the Federal Department of Foreign Affairs. The Group coordinates human rights policy issues and ensures the dissemination of information relating to reviews of Switzerland by international human rights bodies.<sup>4</sup>

7. The International Human Rights Protection Unit of the Federal Office of Justice acts as a point of contact for coordinating reporting procedures.<sup>5</sup> It is responsible for preparing and implementing the decisions taken by the International Human Rights Policy Core Group in this context.<sup>6</sup> It is currently developing a national report coordination website to simplify planning and coordination work among the various services.

8. On 1 October 2021, Parliament adopted a bill to establish a national human rights institution, on the basis of a Federal Council proposal of 13 December 2019.<sup>7</sup> From 2023, the national human rights institution will permanently replace the Swiss Centre of Expertise in Human Rights, which was a pilot project. The model chosen takes due account of the results of the 2017 public consultation and the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).<sup>8</sup> Provisions on the national human rights institution have been incorporated into the Federal Act on Measures pertaining to Civil Peace Support and the Promotion of Human Rights. The national human rights institution will ensure a pluralist representation of the social forces concerned and will receive financial support from the Confederation. The cantons will bear the infrastructure costs.<sup>9</sup>

9. The national human rights institution will have its own legal personality as a corporation under public law and will enjoy the necessary independence.<sup>10</sup> It will have a broad mandate to promote and protect human rights, encompassing the following areas: (1) information and documentation; (2) research; (3) advice; (4) promotion of dialogue and cooperation; (5) education and awareness-raising on human rights; and (6) exchanges at the international level.<sup>11</sup> However, it will not perform any administrative functions. In addition, it will not accept individual complaints and will not act as an oversight body or ombudsman.

10. The right of citizens to modify the Constitution by means of a popular initiative is an element and fundamental right of Swiss democracy. Direct consultation and broad public participation at all levels of the State are the expression of a vibrant and deeply rooted democracy and contribute to the pluralism and legitimacy of political decisions. Popular initiatives must comply with mandatory provisions of international law to be valid.<sup>12</sup> If a popular initiative does not comply with mandatory provisions of international law, it is declared null and void by Parliament and is not put to the vote of the people and the cantons.<sup>13</sup> In 2016, Parliament rejected a legislative package aiming to improve the compatibility of popular initiatives with international law.<sup>14</sup> When implementing popular initiatives that have been accepted, Switzerland strives in each case, to the extent feasible, to avoid any possible conflict between its obligations under international law and constitutional law by adopting an interpretation of the initiatives that is consistent with international law.<sup>15</sup>

11. Of the three Swiss candidates for election to the United Nations treaty bodies during the period under review, two<sup>16</sup> were nominated through a public call for candidates and a competitive selection procedure.<sup>17</sup> This practice, which was also followed when nominating candidates for other international bodies, will be maintained in the future.

### **C. Foreign policy and human rights**

12. The Federal Constitution mandates the Federal Council to promote respect for human rights and democracy throughout the world.<sup>18</sup> The Foreign Policy Strategy 2020–2023<sup>19</sup> and the strategies based on it set out how Switzerland works to protect human rights.<sup>20</sup> The ways in which the Federal Department of Foreign Affairs plans to implement the human rights objectives of the Foreign Policy Strategy are described in the Guidelines on Human Rights 2021–2024.<sup>21</sup> According to the Guidelines, Switzerland pays special attention to the issues of freedom of expression, the death penalty, torture and minorities. The Guidelines also set out how to ensure the promotion of human rights in connection with peace and security, business and sustainability.

### III. Promotion and protection of human rights

#### A. Equality, non-discrimination and holders of specific rights

13. The prohibition of discrimination is enshrined in the Constitution, as is the duty to uphold to fundamental rights throughout the legal system.<sup>22</sup> However, Switzerland does not have a specific law on discrimination in the broad sense, as issues of discrimination vary widely. Laws such as the Gender Equality Act and the Disability Discrimination Act directly address certain types of discrimination.<sup>23</sup> According to the Federal Council, there is already adequate protection against discrimination under civil and public law.<sup>24</sup>

##### 1. Gender

14. In April 2021, the Federal Council adopted the Equality Strategy 2030.<sup>25</sup> This is a programme of work for the Confederation, and one in which all departments are included. The Strategy is organized around four areas of action for equality between women and men: professional and public life; work-life balance; gender-based violence; and discrimination. It provides for measures to (1) strengthen women's economic empowerment throughout their lives, whatever their civil status and family situation; (2) create general conditions in which women and men can balance their private, family and professional lives and in which paid and unpaid work, whether domestic or family work, is shared equally; (3) reduce violence against women and domestic violence and improve women's personal safety; and (4) ensure that discrimination, sexism and gender-based stereotypes are no longer tolerated by society and no longer restrict women's and men's lifestyles.<sup>26</sup>

15. At the end of 2021, the first version of an action plan was published. It is aimed at implementing the Equality Strategy 2030 and giving effect to the 2021–2023 priority measures. In addition, the action plan sets out new measures for the Confederation, the cantons and a number of cities, for which the period of implementation could last until 2030.<sup>27</sup>

16. On 22 June 2022, the Federal Council adopted a national action plan for the implementation of the Istanbul Convention over the period 2022–2026. It has three priority themes for preventing and combating violence against women and domestic violence: (1) public information and awareness-raising activities; (2) initial and in-service training for professionals and volunteers; and (3) sexualized violence.<sup>28</sup> For each of these priorities, the national action plan sets out measures to be implemented at the federal, cantonal and communal levels.

17. On 1 July 2020, a number of legislative amendments aimed at improving protection for victims of domestic violence entered into force.<sup>29</sup> The amendment made to the regulations governing the suspension and termination of criminal proceedings in cases of common assault, repeated acts of aggression, threatening behaviour and coercion in relationships is aimed at bringing relief to victims, giving the courts greater discretion and making it more difficult to suspend and terminate proceedings. The measures that a judge may order to protect victims from being attacked again have also been expanded,<sup>30</sup> and the communication of judicial decisions among the authorities involved in protection against violence has been improved to avoid duplication, coordination problems and gaps in protection.<sup>31, 32</sup>

18. In response to several items of parliamentary business,<sup>33</sup> the Federal Council agreed to coordinate the establishment by the cantons of a helpline for persons who have experienced violence, as provided for under the Istanbul Convention. In April 2021, on the occasion of a strategic dialogue on domestic violence that brought together representatives of the Confederation, the cantons and civil society organizations, the Conference of Cantonal Directors of Social Services decided to draw up options for the introduction of a helpline.<sup>34</sup> On the same occasion, the Conference of Cantonal Justice and Police Directors undertook to determine the measures to be taken and, if necessary, to make changes to initial and in-service training for police officers and prosecutors.<sup>35</sup>

19. With regard to trafficking in persons and exploitation, a national hotline<sup>36</sup> has been in place since late 2015, although it needs to be made better known to the general public.<sup>37</sup>

20. Female genital mutilation was established as a separate offence in Switzerland in 2012.<sup>38</sup> When weighing up what measures to adopt, the Confederation has always called for the welfare of the child and the victim to be placed at the heart of all considerations. The Confederation therefore also focuses on outreach and preventive work, awareness-raising and the development of networks among specialists and authorities in the social, migration and health fields, and the creation of regional contact points.<sup>39</sup>

21. The introduction of gender budgeting in the Federal Government has been considered in the past and rejected on various grounds.<sup>40</sup> Such a narrow focus might run counter to other sociopolitical objectives, for example ensuring a regional balance in the allocation of budgetary resources, which should be taken into account in the same way as gender-specific objectives. However, the various federal services and departments are free to conduct analyses of the impact of expenditure on equality objectives, where they deem these to be useful.<sup>41</sup>

22. In the context of Swiss international cooperation, however, gender budgeting has long been an important element of programme work.<sup>42</sup> In 2018 and 2019, the Swiss Agency for Development and Cooperation and its project partners carried out a development exercise on the topic of socially inclusive and gender-responsive budgeting and developed a related work tool. A corresponding performance indicator has been developed to enable monitoring at the institutional level.

## 2. Children

23. The Constitution enshrines the right of all children to a free and adequate basic education.<sup>43</sup> The cantons require schools to allow all children to attend, even if they do not have a residence permit, so that they can receive mandatory education. Each canton has taken measures for the integration of marginalized and disadvantaged children, including migrant children and children with disabilities, and for combating discrimination against them in terms of access to education.<sup>44</sup>

24. Swiss schools were closed for only eight weeks<sup>45</sup> during the coronavirus disease (COVID-19) pandemic. During this period, both special and mainstream schools provided a minimum level of service for students with special needs. This included opening for a small number of students, establishing direct contact with families and students and making home visits.

25. While corporal punishment is not explicitly prohibited, the Swiss Government is absolutely clear that the regular use of violence during a child's upbringing is detrimental to his or her welfare. Children are protected from violence by child protection authorities, which can adopt measures ranging from educational instructions or the establishment of a deputyship to the withdrawal of parental authority, and under the criminal law. The protection of children from ill-treatment has been strengthened by the addition of new provisions to the Civil Code on the right and duty to notify the child protection authority if a child's physical, mental or sexual integrity appears to be at risk, which entered into force on 1 January 2019.<sup>46</sup> In November 2020, Parliament also transmitted a postulate<sup>47</sup> requesting that consideration be given to the possibility of supplementing the Civil Code with a provision on the protection of children from violence in the context of education.<sup>48</sup> This report is currently in preparation and is expected to be published in autumn 2022. Moreover, the Swiss Government has made prevention and a well-developed support system for children and young people a priority.<sup>49</sup>

26. Since 2017, in implementation of a national action plan on suicide prevention, the Confederation and the cantons have undertaken to strengthen the prevention of suicide among children and adolescents.<sup>50</sup> The cantonal action programmes on mental health, which were launched in 2017, constitute an important measure for promoting mental health and identifying mental illness in children and adolescents at an early stage. Most cantons now

have such programmes.<sup>51</sup> Their main objective is to promote the resilience and strengthen the personal resources of children and young people and those close to them.<sup>52</sup>

27. The Confederation also supports prominent national youth protection organizations, for example Pro Juventute, which provides 24-hour crisis services.<sup>53</sup> During the COVID-19 pandemic, the Confederation increased its support for the organization so that it could hire more counsellors to support children and young people in distress. Since 2019, the Confederation has also operated a suicide prevention website<sup>54</sup> and has provided information leaflets to help professionals, teachers and parents to deal with suicidal experiences and behaviours in children and young people.<sup>55</sup>

### 3. Older persons

28. Swiss policy on ageing is aimed at better recognizing the contribution of older persons to society and ensuring their well-being and financial security. It is designed to foster their empowerment and participation in social life and strengthen intergenerational solidarity.<sup>56</sup> With regard to financial security in retirement, a reform of old-age insurance<sup>57</sup> was adopted by Parliament in December 2021. The reform is intended to maintain current pension levels and ensure that the system is adequately financed up to 2030. It will be put to a vote on 25 September 2022.<sup>58</sup> Bridging payments for older unemployed persons, which are paid on a means-tested basis to those aged over 60 years who have reached the end of their entitlement to unemployment benefits, were introduced on 1 July 2021.<sup>59</sup>

29. In addition, the Confederation allocates annual subsidies of approximately 72 million Swiss francs (SwF) to recognized private charitable organizations working across the country to provide older persons with services such as counselling, courses to help them to maintain or improve their independence and coordination and development activities.<sup>60</sup>

30. It eventually became clear that the restrictions imposed on nursing homes in spring and autumn 2020 as a result of the COVID-19 pandemic had placed a disproportionate burden on residents and visitors. Accordingly, security policies were adapted and made more flexible.

### 4. Persons with disabilities

31. Equality at work is a priority theme for the Federal Bureau for the Equality of People with Disabilities. The Federal Bureau helps to raise awareness of accessibility in the workplace through its “Equality at work” priority programme.<sup>61</sup> The programme was launched in 2018 as a disability policy tool. It is geared not only towards the Confederation and the cantons but also, and in particular, towards organizations of persons with disabilities, companies, and representatives of employers and employees.

32. The first phase (2018–2022) of the programme had four objectives: (1) to consolidate and expand awareness of equality measures and their effects; (2) to put measures in place at the federal and cantonal levels and in the private sector; (3) to compile current knowledge and inform stakeholders appropriately; (4) to create a network of actors inside and outside the Federal Government. The second phase (2023–2026) will focus on disseminating and implementing instruments to promote equality in the workplace alongside public and private employers and strengthening the freedom to choose one’s place of work.<sup>62</sup>

33. Also in 2018, the Confederation and the cantons launched the “Autonomy” priority programme aimed at fostering the empowerment of persons with disabilities and their inclusion in society.<sup>63</sup> The programme is currently entering a second phase, to cover the period 2023–2026. The four areas of action are (1) housing; (2) work; (3) services; and (4) participation. This is a multi-year programme involving not only government actors at all federal levels but also civil society, through organizations assisting persons with disabilities and sectoral associations.<sup>64</sup>

34. At both the national and inter-cantonal levels, Switzerland has adopted various legal texts to guarantee the right to sufficient, suitable and adequate education and to promote the integration or inclusion of students with disabilities at the various levels of the education system.<sup>65</sup> Since 2008, the cantons have been responsible for the education of children and

young people with disabilities up to the age of 20 years.<sup>66</sup> The cantons apply enhanced special education measures to support inclusion in mainstream classes. If a student cannot be included in such a class, he or she is referred to a special class or a special school. Such referrals are made out of respect for the well-being and development possibilities of the child or young person and taking into account the school environment and organization.<sup>67</sup> Following mandatory schooling, young people are supported at the upper secondary level, which includes upper secondary schools and vocational education and training.<sup>68</sup> Responsibility for vocational education and training is shared between the Confederation, the cantons and labour organizations.<sup>69</sup>

35. The Federal Act on Political Rights provides for accommodations to be made for persons with disabilities so that they can exercise their political rights on an equal basis with others.<sup>70</sup> The cantons are responsible for ensuring that everyone is able to vote; this includes persons who, owing to disability or for other reasons, are permanently incapable of carrying out the actions required for voting themselves.<sup>71</sup> There are several procedures to enable such persons to exercise their right to vote with third party assistance.

36. On 18 November 2020,<sup>72</sup> the people of the republic and canton of Geneva approved an amendment to its constitution to abolish the possibility of suspending the political rights of persons permanently incapable of discernment in cantonal and communal matters.<sup>73</sup>

37. A barrier-free platform was launched for the federal elections in 2015 and 2019. This included sign language videos in the three national languages and, as part of a pilot project, information about the election in an Easy Read format. There are plans to produce Easy Read materials for the 2023 elections as well. In June 2021, Parliament also instructed the Federal Council to present a report on measures to enable persons with mental disabilities to participate, without discrimination, in political and public life.<sup>74</sup>

## 5. Migrants and the law on foreign nationals

38. Thanks to the roll-out of the cantonal integration programmes, the same integration policy goals have been applied throughout Switzerland since 2014. The cantonal integration programmes are financed jointly by the Confederation and the cantons and typically have a four-year implementation period. They have helped to bring about changes to integration policy for migrants in the cantons and communes.

39. The first phase of the programmes, covering the period 2014–2017, was based on three pillars: (1) information and counselling; (2) training and work; and (3) understanding and social integration. A review of the success of that first phase shows that significant progress was made with regard to (1) strengthening social cohesion on the basis of the values of the Federal Constitution; (2) enabling residents, whether Swiss or foreign nationals, to live together in a spirit of mutual respect and tolerance; and (3) achieving equality of opportunity by allowing all foreign nationals to participate in the economic, social and cultural life of Switzerland.<sup>75</sup> A second phase of the cantonal integration programmes was successfully implemented over the period 2018–2021. A third phase is planned for 2024–2027, following a transitional phase over the period 2022–2023.

40. Economic, social and cultural participation is at the heart of the cantonal integration programmes. The political participation of the foreign resident population is not a priority. The proportion of the population that is subject to Swiss laws but lacks the political rights to influence them now stands at 20 per cent.<sup>76</sup>

41. Foreign nationals in Switzerland are more likely to work in sectors with precarious working conditions and in seasonal occupations. They experience higher rates of unemployment than the average for the working population as a whole.<sup>77</sup> In addition to the implementation of the cantonal integration programmes, great efforts have been made in recent years to improve the situation of this target group through the Integration Agenda Switzerland.<sup>78</sup>

42. The Integration Agenda Switzerland is aimed at helping temporarily admitted persons and refugees to integrate more quickly into the world of work and society and reduce their

dependence on social assistance.<sup>79</sup> The current system still creates disincentives, which hamper the swift integration of temporarily admitted persons and refugees into the labour market. Consequently, since the introduction of the Integration Agenda Switzerland in the cantons, professionals have been hired to assess the individual needs of temporarily admitted persons and refugees, who can then be offered targeted support. This is instrumental in accelerating their enrolment in training courses or long-term integration into the primary labour market.<sup>80</sup>

43. In the spring of 2021, several media outlets and non-governmental organizations in Switzerland reported that members of the security services routinely used excessive force at federal asylum centres. The State Secretariat for Migration then ordered an independent investigation into the allegations. The report, which was published in September 2021, concluded that there was no evidence that the rights of asylum-seekers were being systematically violated or that there was widespread bias on the part of members of the security services and that the allegation of torture, which had also been made, was unjustified and false. The report corroborates the view of the National Commission for the Prevention of Torture that human rights and fundamental rights are generally respected at federal asylum centres.<sup>81</sup> It sets out several recommendations for further security improvements, and the State Secretariat for Migration is currently considering their implementation.

44. Prior to these events, the State Secretariat for Migration had already implemented a series of measures, including the development of a comprehensive violence prevention policy, which had been rolled out at all federal asylum centres. In addition, conflict prevention officers were hired at federal asylum centres to actively reach out to asylum-seekers with a view to avoiding conflicts or at least defusing them. The incident report was also revised. As a result, the number of situations requiring de-escalation and interventions by the police at federal asylum centres was significantly reduced.

45. Since 2020, the State Secretariat for Migration has published figures on administrative detention under legislation on foreign nationals as part of its monitoring of the enforcement of asylum removals, which is covered in asylum statistics.<sup>82</sup>

## 6. Racism

46. The general policy on combating racial discrimination in Switzerland is focused on the following areas: (1) providing legal protection; (2) embedding and providing protection against racial discrimination at the cantonal and communal levels within the framework of cantonal integration programmes; (3) protecting minority and migrant groups; (4) opening up institutions and mainstreaming; (5) promoting initiatives from the population, currently focused on online racist hate speech.<sup>83</sup>

47. The Service for Combating Racism designs and coordinates racism prevention activities at the federal level. It is able to provide financial assistance to support training, awareness-raising and prevention projects in the area of racism, antisemitism, xenophobia and inter-ethnic dialogue.<sup>84</sup>

48. The cantonal integration programmes also serve as a key anti-discrimination tool at the national level. The objectives agreed between the Confederation and the cantons ensure that victims of discrimination receive competent advice and also support improvements to protection against discrimination, including structural discrimination within institutions.<sup>85</sup> In the cantonal integration programmes, combating discrimination and removing structural and individual barriers to work, education, housing, leisure and other areas of life, above all for migrants, are a key component of promoting integration.<sup>86</sup>

49. An explicit objective of the cantonal integration programmes is to carry out outreach and awareness-raising activities on racism and racial discrimination.<sup>87</sup> In recent years, the Service for Combating Racism has awarded assistance to various projects in this area, leading to the production of core documents and tools and the organization of workshops.

50. Since 2020, the Service for Combating Racism and other federal entities, for example the Federal Office of Communications,<sup>88</sup> have been supporting specific projects to combat “online hate”. The Service’s activities in this area are guided by the following three objectives:



(1) supporting stakeholders, such as counselling centres, through financial assistance to combat online racism; (2) substantive work; and (3) outreach and awareness-raising, including within the Government. In addition, the Federal Commission against Racism launched an online platform for reporting racist hate speech, [www.reportonlinracism.ch](http://www.reportonlinracism.ch), in November 2021. The platform has two main purposes: to facilitate the reporting of such speech on the Internet and to provide a better overview of the nature and extent of the problem.<sup>89</sup>

51. Following a parliamentary procedural request,<sup>90</sup> the Federal Office of Communications is currently drafting a report to take stock of existing measures and means for combating hate speech and identify possible gaps.<sup>91</sup> The report will be published in June 2023.

## 7. Minorities

52. Under the Council of Europe Framework Convention for the Protection of National Minorities, members of the Jewish, Yenish and Sinti/Manouche communities and linguistic national minorities are recognized as Swiss national minorities. Switzerland submitted its fifth report on the implementation of the Framework Convention on 1 October 2021. The report shows that there have been positive changes in recent years with regard to the situation of persons belonging to national minorities and the preservation of regional or minority languages.<sup>92</sup>

53. In 2016, the Swiss Confederation published an action plan covering all aspects of the lives of the Yenish, Sinti/Manouche and Roma communities, such as reception areas, education, social issues, culture and identity. In the context of efforts to improve nomadic living conditions and promote Yenish, Sinti/Manouche and Roma culture, increasing the number of permanent and transit sites remains crucial to preserving the way of life of these communities.<sup>93</sup> Although several cantons have made efforts to create new reception areas, the need for such areas remains high.<sup>94</sup> The Confederation supports various organizations' projects to preserve the culture and language of these communities.<sup>95</sup>

54. There are two challenges to address in the area of education: to reconcile the right to education with the right of Travellers to practise their traditional way of life and to ensure that the history and culture of the Yenish, Sinti/Manouche and Roma minorities are taught at school. Where children from itinerant families are part of the school community, the school authorities must be made aware of their specific needs. Several projects have been financed in this area.<sup>96</sup>

55. The Ordinance on Measures to Support the Safety of Minorities in Particular Need of Protection entered into force on 1 November 2019.<sup>97</sup> A minority is deemed to be in particular need of protection if the level of threat that it faces from terrorist or violent extremist attacks exceeds the general threat level faced by the rest of the population.<sup>98</sup> In 2020–2022, the Federal Office of Police supported a total of 27 projects aimed at protecting minorities in particular need of protection.<sup>99</sup> The vast majority of requests for financial assistance were made by Jewish communities.

56. In the wake of the COVID-19 pandemic, combating online hate speech has become a more important component of these efforts, owing in particular to the growth of antisemitic conspiracy theories. The Service for Combating Racism provides financial assistance for various civil society projects that combat online hate speech, debunk conspiracy theories or receive alerts.

57. In 2017, the Confederation, the cantons, cities and communes developed and adopted a national action plan to combat radicalization and violent extremism.<sup>100</sup> The national action plan is interdisciplinary in approach and provides for five areas of action: (1) knowledge and expertise; (2) cooperation and coordination; (3) the combating of extremist ideologies and groups; (4) deradicalization and reintegration; and (5) international cooperation. Some measures are aimed at combating discrimination, and several projects, such as the “interreligious dialogues” of representatives from various religious communities, help to

implement them. The second national action plan to combat radicalization and violent extremism will be adopted at the end of 2022 and enter into force in 2023.

## **8. Sexual orientation and gender identity**

58. Since 1 January 2022, transgender persons or persons with variations in sexual development have been entitled to have their sex marker and first name changed in the civil registry quickly and simply.<sup>101</sup> The amendments, which were adopted by Parliament on 18 December 2020, allow such persons to change their sex marker and first name by submitting a declaration to the civil registry office through a simple and quick procedure. Sterility is not a prerequisite.<sup>102</sup> The declaration may be made by any person who has a deep-seated and abiding belief that he or she does not identify with the sex recorded in the civil registry.<sup>103</sup>

59. Under the Civil Code, as amended on 18 December 2020, same-sex couples may now marry.<sup>104</sup> This amendment was adopted by vote on 26 September 2021 and entered into force on 1 July 2022. Same-sex couples now have the same institutional and legal status as other couples. Same-sex couples may also adopt children. In addition, married lesbian couples may use sperm donor services, subject to the conditions laid down by Swiss law.

60. Pursuant to a federal law of 14 December 2018, sexual orientation has been added to the prohibited grounds of discrimination and incitement to hatred.<sup>105</sup> This federal law entered into force on 1 July 2020, having been adopted by vote on 9 February 2020. Almost all the cantons have measures in place to combat discrimination and harassment against LGBTIQ children and note that LGBTIQ issues are also covered in sex education classes.<sup>106</sup> This helps to raise awareness among children and young people at school and to combat discrimination. Many cantons also have a specialized service for such issues, which offers advice and/or launches specific public awareness projects.

61. Through the “Youth and Media” national platform, the Federal Social Insurance Office promotes the safe and responsible use of digital media by children and adolescents. The platform provides advice and information on promoting media literacy to children, parents, teachers and other relevant professional groups.<sup>107</sup> It also addresses the topics of hate speech, extremism and discrimination, including discrimination against LGBTIQ persons.

## **B. Right to life and prohibition against slavery and torture**

### **1. Combating trafficking in persons and sexual exploitation**

62. Switzerland is a destination and transit country for trafficking in persons and attaches great importance to combating this crime. In 2016, a second national action plan was drawn up by experts from the Confederation, the cantons and international and civil society organizations. Covering the period 2017–2020, it provides for 28 measures split across four pillars: (1) prevention; (2) criminal prosecution; (3) victim protection; and (4) partnership.

63. Beginning in 2017, the implementation of the second national action plan enabled Switzerland to make significant progress: activities were carried out to raise awareness about trafficking among health professionals, consular staff and labour inspectors, as well as in the private sector and among the general public. In addition, a report on child trafficking was drafted, and improvements were made to the statistics on the various forms of exploitation. On the law enforcement side, a list of specialists in combating trafficking in persons was drawn up within the cantonal police forces, and several training courses were organized for law enforcement officers. Training courses were organized for migration authorities, legal uncertainties surrounding residence and victim assistance were addressed, and recommendations regarding the distinction between victim assistance and social assistance were drawn up.<sup>108</sup> Lastly, various projects were carried out to strengthen international and interdisciplinary cooperation, and progress was made in developing international law on trafficking in persons.<sup>109</sup>

64. An evaluation of the second national action plan showed that most of the measures had been implemented successfully and in accordance with the predefined indicators.<sup>110</sup> The national action plan largely reflected the needs of the main actors involved in combating trafficking in persons in Switzerland and followed the recommendations of international bodies. However, the evaluation also showed that greater coordination was needed at the federal level and that a new national action plan would be welcome. The third national action plan will be adopted in 2022.<sup>111</sup>

65. In recent years, Switzerland has investigated several perpetrators of trafficking in persons. Over the period 2017–2020, 120 victims of the crimes of trafficking in human beings and encouraging prostitution were identified each year on average. More victims of labour exploitation are now being identified thanks to outreach work among various front-line actors.

66. Many cantons have set up mechanisms to improve cooperation among the police, the courts, migration authorities and victim support services. These “round tables” are an opportunity to define the powers, shared goals and responsibilities of the various services and authorities, formulate a harmonized approach to the problem and develop solutions.<sup>112</sup>

67. Switzerland works closely with the European Union Agency for Law Enforcement Cooperation (Europol) and the International Criminal Police Organization (INTERPOL) to effectively address cross-border trafficking in persons. For example, the country participates in the efforts made by the European Multidisciplinary Platform against Criminal Threats to combat trafficking in persons and migrant smuggling and has taken part in numerous “joint action days” against trafficking in persons, including children, in recent years. The joint action days are aimed at identifying victims and perpetrators and making participating administrative services aware of the various manifestations of these areas of crime. The checks carried out during the joint action days were coordinated at the national level by the Federal Office of Police and implemented with the participation of various cantons, cities and the Federal Office of Customs and Border Security.<sup>113</sup>

## **2. Prevention of torture and other cruel, inhuman or degrading treatment or punishment**

68. As investigative authorities, independent prosecutors’ offices are responsible for prosecuting and punishing incidents of misconduct by members of the police. Any person who is a victim of police violence may file a complaint directly with the police and demand that the incident be dealt with or file a complaint directly with the public prosecutor’s office, which is independent of the authorities.<sup>114</sup>

69. Great effort is also devoted to preventing police violence. This aspect is taken into account as early as the recruitment stage. Acting in accordance with the principle of proportionality is an important and central theme of the two-year basic training for members of the cantonal police forces and is reiterated in all practical and in-service training. Specific knowledge and experience drawn from practical policing have been incorporated into the training, and police doctrine on the topic is developed on this basis. As part of the training provided for its officials, the Federal Office for Customs and Border Security also places specific emphasis on respect for proportionality in the application of restraint and police measures. It also keeps internal records on all checks on persons that give rise to incidents falling under the criminal or disciplinary law. If staff identify punishable acts as part of this process, a criminal complaint is filed with the competent authorities.<sup>115</sup>

70. Since 2012, the National Commission for the Prevention of Torture, an independent entity, has been working to ensure and verify the proportionate use of restraint during the forcible return of persons by air. In fulfilment of its mandate, the National Commission also monitors medical care, the treatment of especially vulnerable persons, including families with children, and the quality of information provided to those concerned and carries out assessments of compliance with international human rights standards in this regard. The observations and recommendations arising from the monitoring of returns are compiled in an annual report, which is published, and are regularly discussed with the relevant authorities through an institutionalized technical dialogue. In accordance with the recommendations of the National Commission for the Prevention of Torture, the Conference of Cantonal Police

Commanders of Switzerland is currently carrying out a best practice survey with a view to developing police recommendations on the matter.

71. Several projects are under consideration or have been launched in the cantons to increase the capacity of the Swiss prison system.<sup>116</sup> Once implemented, these new projects should solve the prison overcrowding problem encountered in some cantons. There are also projects under way to set up more health-care facilities in prisons for persons with mental disorders, in particular those in respect of whom an in-patient therapeutic measure has been ordered.<sup>117</sup> In addition, the Swiss Competence Centre for the Execution of Criminal Penalties is working to harmonize practices in the area of health care.<sup>118</sup>

72. The vast majority of facilities at which minors are detained before trial grant them at least eight hours a day outside their cells, including two hours in the open air. At facilities where this is not the case, steps are being taken to permanently discontinue non-compliant arrangements or make layout and staffing changes.<sup>119</sup>

73. The Swiss Criminal Code provides for the separation of different categories of prisoners (men from women, and adults from young people).<sup>120</sup> Hence, the rule is to have separate penalties enforcement facilities or separate units for women and minors.<sup>121</sup> In exceptional situations, as may be the case at small facilities, cohabitation for a short period may be justified on social grounds, for example to ensure that a person is not left alone in a particular isolated unit, after the interests at stake have been weighed up on a case-by-case basis.<sup>122</sup>

### C. Administration of justice and a fair trial

74. In February 2020, the Federal Council adopted a message on the revision of the Code of Civil Procedure. To facilitate access to the courts, the Government is proposing to reduce the court fees that have to be paid in advance and to amend the provisions governing the payment of court fees at the end of proceedings such that, if the unsuccessful party is insolvent, the risk of recovery of advances paid will be borne by the State. The draft is currently being discussed in Parliament. In December 2021, the Federal Council also submitted to Parliament a draft aimed at strengthening class action instruments. If adopted, the procedure for group action provided for under existing law would be further developed and it would become possible to assert rights to damages.<sup>123</sup>

75. On 1 July 2021, the Council of Europe Convention on the Prevention of Terrorism and the Additional Protocol thereto entered into force for Switzerland. In accordance with legislative amendments that entered into force on the same date, it was made a punishable offence to travel for terrorist purposes or finance such travel.<sup>124</sup> Concurrently, the powers of the Money-Laundering Reporting Office Switzerland, the Swiss financial intelligence unit, were enhanced to facilitate its cooperation with foreign counterparts in connection with combating money-laundering and the financing of terrorism.<sup>125</sup>

76. Lastly, in March 2021, Parliament adopted amendments to the Federal Act on Combating Money-Laundering and Terrorist Financing and other laws, including the Civil Code, to strengthen measures to prevent money-laundering and the financing of terrorism, including with regard to the establishment of the identity of beneficial owners and the updating of client data. One effect of these amendments will be to increase the transparency of organizations that present a heightened risk of financing terrorism.<sup>126</sup> The new measures, including the necessary implementing provisions, are expected to enter into force at the end of 2022.<sup>127</sup>

### D. Right to seek asylum

77. Switzerland has fully incorporated the 1951 Convention relating to the Status of Refugees into national law and practice and provides protection to refugees in accordance with its provisions,<sup>128</sup> in some cases even going beyond them.<sup>129</sup>

78. Switzerland has restructured its asylum system, and the new provisions entered into force on 1 March 2019. The restructuring is intended to accelerate asylum procedures, thereby accelerating the integration of recognized refugees and temporarily admitted persons and the return of persons who do not need protection by Switzerland.<sup>130</sup> Under the new system, most applications are processed within 140 days. Asylum-seekers are allocated among the cantons only if additional clarifications are required, thereby prolonging the procedure, or after they have already received their asylum decision.

79. To ensure that the new, accelerated procedure is carried out properly and fairly in accordance with the rule of law, asylum-seekers are entitled to independent legal advice and representation free of charge from the outset. The legal representative tells them how likely they are to be granted asylum, accompanies them during the Dublin procedure interview and during the hearing on the grounds for asylum, takes a position on draft decisions of the State Secretariat for Migration and drafts an appeal if necessary. If the asylum application is processed under the extended procedure owing to its complexity or the particularities of the case, the person is allocated to a canton for further accommodation and support. At the decisive stages of the procedure, asylum-seekers can seek assistance, free of charge, from the accredited legal advice office operating in the canton.

80. All federal asylum centres have an internal complaint management system.<sup>131</sup> There are information sessions and notice boards to let asylum-seekers know about the various appeal options. The State Secretariat for Migration is currently carrying out a pilot project to explore the possibility of establishing an information office, where asylum-seekers could file complaints regarding accommodation, support and security at federal asylum centres.

81. An assessment of the new procedures by external experts showed that the accelerated procedures have been successful and are being applied correctly in accordance with the rule of law.<sup>132</sup> Asylum-seekers now find out much more quickly whether they will be granted protection or will have to leave Switzerland. The provision of legal protection was also deemed to be good.<sup>133</sup>

82. In view of the new, accelerated procedures, the Confederation has also increased its accommodation capacity and now has around 5,000 places at federal asylum centres, where asylum-seekers stay for a maximum of 140 days following submission of their asylum application. They can then be assigned to specific cantons and communes for further accommodation and support. In addition, the State Secretariat for Migration deploys its staff resources and accommodation capacities so as to ensure that asylum applications are processed at federal asylum centres, even if there is an increase in the number of such applications.<sup>134</sup> All asylum centres must comply with uniform federal standards.<sup>135</sup> This includes specific rules for the protection of families, unaccompanied minors and vulnerable persons. Compliance with the standards is regularly monitored as part of accommodation quality management.

83. The aforementioned revision of the Asylum Act is consistent with the recommendations of the Swiss Refugee Council regarding unaccompanied minors.<sup>136</sup> For example, legal representation is guaranteed throughout the procedure, as is access to health services and primary education.<sup>137</sup> The particular needs of unaccompanied minor asylum-seekers and the best interests of the child are systematically taken into account from the beginning of the asylum procedure.<sup>138</sup> The accommodation of unaccompanied minor asylum-seekers at federal asylum centres is subject to binding directives set out in a comprehensive manual on the care of unaccompanied minor asylum-seekers, which was drawn up in 2020.

84. Since the revision, unaccompanied minor asylum-seekers have a designated legal representative from the outset of their stay at a federal asylum centre. The legal representative also acts as a trusted person and is responsible for defending the minor's interests and ensuring his or her welfare. Unaccompanied minor asylum-seekers are housed in separate facilities and have their own age-appropriate social and educational support. Once a minor has been transferred to a canton, the cantonal child protection authorities will put in place a guardianship measure and provide age-appropriate care and accommodation.<sup>139</sup>

85. If an asylum application is rejected and it is decided that the asylum-seeker is to be returned from Switzerland,<sup>140</sup> the State Secretariat for Migration ensures that the circumstances are fully and correctly clarified. These investigations cover the general human rights and political situation in the native country or country of origin and the specific threat faced by the applicant.<sup>141</sup> The State Secretariat for Migration determines whether the enforcement of a removal order is lawful, reasonable and feasible.<sup>142</sup> If any one of these three conditions for enforcement is not met, temporary admission is granted.<sup>143</sup> If children are to be removed, special attention must be paid to their welfare.<sup>144</sup>

86. An administrative procedure for recognition of statelessness status is accessible to any person upon application. Applications for recognition of stateless status are processed in accordance with the Convention relating to the Status of Stateless Persons, even though there is no specific national legislation on the processing of such applications.<sup>145</sup> The State Secretariat for Migration is considering the formalization of the statelessness recognition procedure as part of the development of a legislative concept paper involving the cantons.<sup>146</sup>

## **E. Freedom of thought, conscience, religion, expression, assembly and association**

87. In early 2021, the Federal Commission against Racism ordered an analysis of case law relating to the prohibition under the criminal law of discrimination, incitement to hatred and denial or trivialization of genocide.<sup>147</sup> It was concluded that the application of this prohibition has not posed any significant difficulties and has in fact given rise to an established and consistent case law.<sup>148</sup> However, it was emphasized that clarification was needed regarding the issues of criminal responsibility and territorial jurisdiction in cases of racist hate speech on social media.<sup>149</sup>

88. The commitment of Switzerland to atrocity prevention at the national level is reflected in its active role in the International Holocaust Remembrance Alliance.<sup>150</sup> The work done by the Federal Department of Foreign Affairs in this context is closely linked to the efforts of the Federal Department of Home Affairs to combat racism and discrimination. In March 2022, two parliamentary motions<sup>151</sup> requesting the creation of a memorial site in Switzerland to the victims of Nazism were adopted. The memorial site is to serve educational, awareness-raising and preventive purposes, since studying the past helps to develop a thoughtful approach to the challenges of the present and the future, for example the treatment of minorities, human rights, racism, democracy and freedom of the press and opinion. In addition, Switzerland has undertaken to further develop educational materials on the Holocaust through a focus on hitherto overlooked victims, such as Roma and Sinti/Manouche.<sup>152</sup>

89. Dialogue between religious communities and the State takes various forms, often institutionalized, at the cantonal and local levels. Many cantons have created platforms or forums for interreligious dialogue, and outreach days are regularly organized. Some cantons have taken steps to reach a wider audience. The religious affairs services of the authorities play an important role in this regard. They act as a point of contact for religious affairs, facilitate the integration of religious communities and foster a culture of trust.<sup>153</sup>

## **F. Work**

90. As an employer, the Swiss Confederation sets targets in each legislative period for the representation of women and men overall and at the managerial level. Such targets also exist for State-controlled companies. Moreover, the Federal Office for Gender Equality has an annual budget set by Parliament to support non-profit organizations in their projects to achieve equality in the workplace.<sup>154</sup>

91. The order of priority established by the Federal Department of Home Affairs for the granting of financial assistance, which is valid until 2024, contains provisions expressly

aimed at reinforcing equality measures. High priority has thus been assigned to promoting services and products that further the aims of achieving equal pay for women and men and ensuring a good balance between working and family life. High priority has also been assigned to the equal participation of women and men in occupations with skills shortages.<sup>155</sup>

92. In recent years, all parliamentary procedural requests for the introduction of binding measures to promote the representation of women in the National Council have been rejected. Nevertheless, the most recent elections to the National Council showed that the representation of women is improving regardless.<sup>156</sup> The Federal Council will keep working to raise political awareness of the issue of women's underrepresentation through its circular to the cantonal authorities, which should be adopted in autumn 2022.<sup>157</sup>

93. Since 1 July 2020, private and public employers with 100 or more employees have had to conduct regular equal pay analyses. A third party verifies that the analysis has been conducted properly, and the results are communicated to the employees and, for listed companies, to the shareholders. If the analysis demonstrates that equal pay requirements are being met, the employer is exempt from additional reviews.<sup>158</sup>

94. As an employer, the Swiss Federal Government has been conducting these regular equal pay analyses since 2011. To date, no evidence of gender-based wage discrimination in the Federal Government has come to light.

95. On 1 January 2021, a two-week paternity leave entitlement was introduced in Switzerland. Fathers are thus able to take two weeks of paid leave within six months of the birth of their child.<sup>159</sup>

96. The Confederation promotes the creation of third-party childcare spaces through a temporary stimulus programme.<sup>160</sup> A parliamentary procedural request has been made to have this programme replaced with permanent support.<sup>161</sup> Moreover, since 2018, the Confederation has been supporting cantons and communes that increase their subsidies for third party childcare with a view to reducing the costs borne by parents and projects aimed at ensuring that childcare is better tailored to parents' needs. In addition, in the context of direct federal taxation, the annual deduction for third-party childcare expenses will be increased from SwF 10,100 to SwF 25,000 per child from 1 January 2023.

## **G. Adequate standard of living**

97. Between 2014 and 2018, the Confederation implemented the National Programme against Poverty to support the work of the cantons and communes by offering information, facilitating coordination and the sharing of experiences, supporting projects and formulating recommendations. The Programme received a positive evaluation. The Government therefore decided to continue its involvement through the National Platform against Poverty 2019–2024, which, since 2022, has supported the implementation of recommendations arising from the Programme and has gone further in certain priority areas, including family poverty.<sup>162</sup>

98. A poverty monitoring system has been set up. Beginning in 2022 and over five-year cycles, it will track the evolution of poverty in Switzerland and the implementation of the strategies of the various actors. The knowledge thereby gained will help to guide public policies aimed at preventing poverty. The first monitoring report is to be submitted by the end of 2025. The cantons are playing an active role in the National Platform against Poverty and in the roll-out of the poverty monitoring system.<sup>163</sup>

99. Humanitarian aid and development cooperation are an important priority of Swiss foreign policy. Through its international cooperation, Switzerland is helping to reduce poverty and promote sustainable development in developing countries. Swiss international cooperation is based on three pillars: humanitarian aid, development cooperation and the promotion of peace and human security. The specific objectives of Swiss international cooperation are defined in the International Cooperation Strategy for the period 2021–2024. For its implementation, the Federal Council and Parliament have allocated five framework credits totalling SwF 11.25 billion.<sup>164</sup>

100. The ratio of official development assistance (ODA) to gross national income (GNI) reached 0.51 per cent in 2021,<sup>165</sup> which places Switzerland eighth in the international ranking drawn up by the Organisation for Economic Co-operation and Development (OECD). Switzerland recognizes the 0.7 per cent ODA/GNI target adopted by the United Nations and supports it as a non-binding point of reference for the long term.<sup>166</sup> It is for Parliament to determine the guarantee credits relating to the annual budgets for Swiss international cooperation.

101. On the basis of the United Nations Convention against Corruption, Switzerland works to freeze, confiscate and repatriate assets of illicit origin. The country's experience shows that this legal framework has proved successful and is suited to achieving tangible results.<sup>167</sup> At the international level, Switzerland is also involved in asset restitution and regularly organizes meetings of experts, known as the Lausanne Seminars, to facilitate knowledge-sharing and strengthen international cooperation.<sup>168</sup>

## H. Human rights and the private sector

102. The Federal Council expects companies based and/or active in Switzerland to respect human rights in all their activities, regardless of where they operate. This expectation is enshrined in the country's 2016 national action plan for the implementation of the United Nations Guiding Principles on Business and Human Rights and the revised version adopted in 2020. In addition, the action plan on corporate social responsibility was revised in 2020. The action plan is focused on promoting the implementation of the OECD Due Diligence Guidance in general and in specific sectors, such as minerals, agriculture, textiles and finance.<sup>169</sup>

103. Switzerland expects companies active in conflict-affected areas to exercise due diligence, taking into account local conditions. To support Swiss companies in their human rights due diligence process, the Federal Government publicizes diligence procedures, provides relevant training, organizes multi-stakeholder events, strengthens cooperation with Swiss embassies abroad and supports the preparation of specific guides.<sup>170</sup>

104. In November 2020, a popular initiative entitled "Responsible businesses – protecting human beings and the environment" was rejected by popular vote. Parliament's indirect counterproposal will therefore apply.<sup>171</sup> The provisions of the Swiss Code of Obligations that entered into force on 1 January 2022 created two new requirements. First, large companies and financial institutions are required to report non-financial information,<sup>172</sup> including on labour and human rights matters. Second, they have a duty to exercise due diligence and report on minerals from conflict-affected areas,<sup>173</sup> forced labour and child labour. Companies will have to apply the provisions for the first time in the 2023 cycle and publish their first reports in 2024.

## IV. Concluding remarks

105. The promotion and protection of human rights are of great importance to Switzerland, at both the foreign and the domestic policy levels. Human rights and fundamental freedoms are enshrined in the Swiss Constitution. In addition, the Constitution mandates the authorities to promote human rights throughout the world. In this context, Switzerland reaffirms the importance of the universal periodic review, which is grounded in dialogue among States. The universal periodic review has led to positive change for Switzerland, too, as the present report has shown.

106. While the present report provides an overview of human rights developments in Switzerland in recent years, it is obviously not exhaustive, since a comprehensive discussion would greatly exceed its scope. In keeping with its long tradition of human rights, Switzerland is attentive to the role played by human rights standards in guiding State action and considers them to be fundamental to a rich and functional democracy. Switzerland attaches great importance to a high level of human rights protection, which is ensured in



practice by an effective separation of powers with independent courts. Nevertheless, human rights protection must constantly evolve to keep pace with changes in society and the realities of the day, as the COVID-19 pandemic has shown. This naturally entails new challenges and trends that might run counter to the effective implementation of human rights, including in Switzerland. Switzerland thus reaffirms its commitment to human rights and will face its next review in a spirit of open dialogue.

## Annexes

Annex I	List of abbreviations
Annex II	Recommendations made following the third (2017) review of Switzerland: implementation status

### Notes

- <sup>1</sup> Sur les 261 recommandations reçues lors du troisième cycle de l'EPU, la Suisse en a acceptées 160.
- <sup>2</sup> Cf. **Recommandations 146.1 à 146.6.**
- <sup>3</sup> «Kerngruppe internationale Menschenrechtspolitik» (KIM). Le groupe est coordonné par la Division Paix et droits de l'homme du Département fédéral des affaires étrangères (DFAE).
- <sup>4</sup> Cf. **Recommandations 146.20, 146.21 et 147.27.**
- <sup>5</sup> Cf. **Recommandations 146.7 à 146.10.**
- <sup>6</sup> Sur la base d'une étude du Centre de compétence pour les droits humains (CSDH), les services concernés ont décidé, en décembre 2016, de mettre en place un mécanisme qui assure une meilleure coordination de leurs tâches en lien avec ces procédures. Ce mécanisme s'applique aux procédures de rapports nationaux présentés aux comités d'experts de l'ONU et du Conseil de l'Europe ainsi qu'à l'EPU.
- <sup>7</sup> Cf. **Recommandations 146.11 à 146.14.**
- <sup>8</sup> Cf. **Recommandations 147.5 à 147.9, 147.11 à 147.22.**
- <sup>9</sup> Cf. **Recommandations 147.17 à 147.22.**
- <sup>10</sup> Cela signifie qu'elle pourra définir ses propres activités dans le cadre de son mandat et réagir rapidement aux développements qui se présentent. Son indépendance lui permettra de coopérer avec les autorités gouvernementales à tous les niveaux, avec les organisations non gouvernementales, le secteur privé, la recherche et les organisations internationales afin de soutenir leurs activités en matière de droits de l'homme.
- <sup>11</sup> Cf. **Recommandations 147.11, 147.17 et 147.24.**
- <sup>12</sup> Art. 139, al. 3, art. 193, al. 4 et art. 194, al. 2 de la Constitution (Cst.).
- <sup>13</sup> La question de la compatibilité d'une initiative populaire avec les engagements internationaux de la Suisse est d'abord examinée par le Conseil fédéral et le Parlement. Le résultat de cet examen est présenté dans le message du Conseil fédéral à l'attention du Parlement, avec la recommandation d'accepter ou de rejeter l'initiative populaire concernée. Le cas échéant, la question de la compatibilité avec le droit international est également traitée dans les explications du Conseil fédéral qui sont envoyées avant chaque votation à tout citoyen suisse en âge de voter. ; Cf. **Recommandations 146.15, 146.18 et 146.19.**
- <sup>14</sup> Cf. **Recommandation 146.17.**
- <sup>15</sup> Cf. **Recommandations 146.16.**
- <sup>16</sup> La candidature pour le Sous-comité pour la prévention de la torture du Protocole facultatif à la Convention contre la torture et la candidature pour le Comité des droits des personnes handicapées. Cf. **Recommandation 147.23.**
- <sup>18</sup> Art. 54, al. 2, Cst.
- <sup>19</sup> Disponible sur : <https://www.eda.admin.ch/eda/fr/dfae/dfae/publikationen/alle-publikationen.html/content/publikationen/fr/eda/schweizer-aussenpolitik/Aussenpolitische-Strategie-2020-2023.html>
- <sup>20</sup> Pour agir avec efficacité, la Suisse dispose de divers instruments dont elle peut se servir de manière flexible, aux niveaux tant bilatéral que multilatéral. Il s'agit entre autres des activités des représentations suisses à l'étranger, des dialogues sur les droits de l'homme, d'initiatives menées dans le cadre de l'ONU, ainsi que du soutien à des projets et des initiatives de la société civile. La Suisse accorde une importance particulière aux initiatives multipartites favorisant la recherche de solutions pragmatiques et le dialogue dans la promotion et la défense des droits de l'homme. Depuis le 1er avril 2002, la Suisse a transmis une invitation permanente à toutes les procédures spéciales thématiques à mener une visite en Suisse. Elle a ainsi reçu la visite du Rapporteur spécial sur le droit au

- développement en 2019 et du groupe de travail d'experts sur les personnes d'ascendance africaine en 2021.
- <sup>21</sup> Disponible sur : <https://www.news.admin.ch/news/message/attachments/67115.pdf>
- <sup>22</sup> Art. 35 Cst.
- <sup>23</sup> Le CSDH ne recommande pas de créer une loi générale contre la discrimination. Les problématiques de discrimination sont très différentes. C'est pourquoi il serait délicat de créer une loi propre à toutes les couvrir. En outre, une loi générale contre la discrimination pourrait remettre les acquis en question et affaiblir le monitoring, les conseils et le soutien établis dans ces domaines. ; voir « Étude sur l'accès à la justice en cas de discrimination » du CSDH, disponible sur : <https://www.skmr.ch/frz/domaines/genre/publications/etude-discrimination.html>
- <sup>24</sup> Cf. **Recommandation 146.27.**
- <sup>25</sup> Par le biais de la stratégie pour l'égalité 2030 et de son plan d'action, la Suisse contribue également à la mise en œuvre de l'Objectif de développement durable (ODD) 5. Voir le rapport du Conseil fédéral, *La mise en œuvre de l'Agenda 2030 pour le développement durable : rapport national de la Suisse 2022*, p. 24 et suivantes. ; cf. **Recommandations 146.29 et 147.47.**
- <sup>26</sup> Cf. **Recommandations 146.85, 146.86 et 146.87.**
- <sup>27</sup> Disponible sur : <https://www.egalite2030.ch/fr/plan-d-action/> ; Le plan d'action sera actualisé en principe deux fois par années. Un bilan intermédiaire de la Stratégie Egalité 2030 sera réalisé d'ici fin 2025.
- <sup>28</sup> PAN CI disponible sur : <https://www.ebg.admin.ch/ebg/fr/home/themes/violence-domestique/coordination-et-reseautage.html> ; cf. **Recommandations 146.76 à 146.79, 146.81 et 146.82.**
- <sup>29</sup> Cf. **Recommandations 146.55 et 146.80.**
- <sup>30</sup> Art. 28c du Code civil (CC), art. 55a du Code pénal (CP) et 46b du Code pénal militaire (CPM).
- <sup>31</sup> Art. 28b al. 3bis CC ; Une évaluation du droit existant avait montré que l'information insuffisante ou l'implication d'autres autorités dans les cas de violence domestique, qui sont souvent liés à une situation conflictuelle complexe, était due à une lacune spécifique du droit en vigueur. Désormais, le tribunal qui ordonne une mesure pour cause de violence, de menaces ou de harcèlement doit communiquer sa décision à d'autres autorités, notamment à l'autorité de protection de l'enfant et de l'adulte compétente, si cela paraît nécessaire à l'accomplissement de leur tâche ou à la protection du requérant.
- <sup>32</sup> En outre, toutes les procédures et décisions relatives à la violence, aux menaces et au harcèlement au sens des dispositions susmentionnées sont désormais gratuites pour la victime (art. 114 let. f. et art. 115 du Code de procédure civile (CPC)).
- <sup>33</sup> cf. p.ex. : Motion Herzog (20.4463), « Mise en place de permanences destinées aux personnes concernées par des actes de violence, comme le prévoit la convention d'Istanbul ».
- <sup>34</sup> Comme première étape, la Conférence des directrices et directeurs cantonaux des affaires sociales (CDAS) avait déjà adapté son site internet en 2019 et l'avait développé dans ce champ thématique. L'élaboration de possibilités de mise en œuvre d'un numéro de téléphone national est en cours au niveau technique. Des variantes seront prochainement présentées dans le processus politique. ; cf. **Recommandation 146.68.**
- <sup>35</sup> Cf. **Recommandations 146.79 et 146.81.**
- <sup>36</sup> Numéro de téléphone : 0840 212 212 (alternativement, en ligne sur <https://www.act212.ch/fr/hotlinenational>)
- <sup>37</sup> La Confédération a alloué plus de 200'000 francs depuis 2017 à ACT212 pour soutenir la ligne d'appel national. Le « Bureau national d'enregistrement des déclarations contre la traite des êtres humains et l'exploitation » est employé par l'organisation non gouvernementale ACT212 et soutenue, entre autres, par les autorités fédérales. Les signalements qui y sont reçus (de manière anonyme) sont évalués par les expert(e)s de l'organisation et puis transmis aux services administratifs, aux unités spécialisées de la police et aux autres organismes compétents. Les personnes concernées sont mises en réseau avec les services de soutien appropriés. ; cf. **Recommandation 147.49.**
- <sup>38</sup> Art. 124 CP.
- <sup>39</sup> La Confédération a lancé en 2016 le Réseau suisse contre l'excision des jeunes filles <https://www.excision.ch/> et soutient depuis lors ses activités d'information, de conseil et de prévention auprès des communautés de migrants concernées et des groupes professionnels pertinents ; Cf. **Recommandations 146.83 et 146.84.**
- <sup>40</sup> La part élevée des transferts dans les dépenses fédérales limite en principe fortement la possibilité d'une répartition des ressources budgétaires en fonction du sexe. Pour les cantons, les villes et les communes, ainsi que pour les tiers, la charge de travail liée aux relevés serait disproportionnée si une approche de budgétisation sensible au genre était mise en œuvre de manière appropriée.
- <sup>41</sup> Dans ce contexte, le Bureau fédéral de l'égalité entre femmes et hommes (BFEG) prévoit, dans le cadre de la Stratégie Egalité 2030, d'organiser une rencontre au cours du second semestre 2022 afin de faire connaître aux services fédéraux intéressés les pratiques et les expériences d'autres pays dans

- ce domaine. Des spécialistes de pays pratiquant à budgétisation sensible au genre ainsi que d'organisations internationales seront invités à cette occasion.
- <sup>42</sup> Cela est aussi explicitement mentionné dans les directives thématiques de la DDC (2015-2018), qui sont actuellement renouvelées et dans une fiche thématique de la DDC au titre « Budgétisation socialement inclusive et sensible au genre » développée en avril 2019.
- <sup>43</sup> Art. 19 et 62 Cst.
- <sup>44</sup> Voir aussi le rapport du Conseil fédéral, *L'encouragement précoce du langage en Suisse*, 29 juin 2022, qui concerne notamment l'intégration et l'inclusion des enfants en âge préscolaire allophones ou ayant des besoins particuliers, et les pratiques cantonales en la matière.
- <sup>45</sup> Du 16.03.2020 jusqu'au 08.05.2020.
- <sup>46</sup> Art. 314c à 314e CC.
- <sup>47</sup> Postulat Bulliard-Marbach (20.3185), « Protection des enfants contre la violence dans l'éducation ».
- <sup>48</sup> Cf. **Recommandation 146.103.**
- <sup>49</sup> Pour cette raison, la Confédération soutient au moyen d'aides financières les programmes relevant par les cantons. En avril 2021, le Conseil fédéral et les cantons ont conjointement défini les champs d'action importants dans la feuille de route sur la violence à l'égard des femmes et la violence domestique. Il a notamment été stipulé que les projets visant la non-violence et l'égalité entre filles et garçons à l'école et l'éducation sans violence au sein de la famille devaient être encouragés. Ces dernières années, les cantons ont amélioré leurs plans de prévention et d'intervention, notamment en renforçant la formation et la sensibilisation des spécialistes et professionnels travaillant avec des enfants.
- <sup>50</sup> Cf. **Recommandations 146.73, 146.74 et 146.75.**
- <sup>51</sup> Les programmes ainsi que les aides supplémentaires aux projets sont financés par la fondation Promotion Santé Suisse ainsi que par les cantons.
- <sup>52</sup> Cf. **Recommandation 146.75.**
- <sup>53</sup> Pro Juventute gère notamment une hotline ouverte 24 heures sur 24. L'organisation est soutenue par la Confédération à hauteur de près de 4 millions francs (2021–2024).
- <sup>54</sup> [www.parler-peut-sauver.ch](http://www.parler-peut-sauver.ch)
- <sup>55</sup> Cf. **Recommandation 146.75.**
- <sup>56</sup> Le rapport du Gouvernement de 2007 pose, sous forme de lignes directrices, les bases d'une telle politique : Rapport du Conseil fédéral, *Stratégie en matière de politique de la vieillesse*, 29 août 2007.
- <sup>57</sup> Il s'agit d'une réforme du régime de base de l'assurance-vieillesse et survivants (AVS).
- <sup>58</sup> Voir [https://www.admin.ch/gov/fr/accueil/documentation/votations/20220925/stabilisation-de-l-AVS-\(AVS-21\).html](https://www.admin.ch/gov/fr/accueil/documentation/votations/20220925/stabilisation-de-l-AVS-(AVS-21).html)
- <sup>59</sup> Cf. **Recommandation 147.63.**
- <sup>60</sup> Au sein d'un groupe de travail commun de la Confédération et des cantons chargé de piloter les aides financières aux organisations pour personnes âgées actives dans toute la Suisse, les cantons ont obtenu la possibilité de se prononcer sur le versement des aides financières. Le mandat de ce groupe de travail comprend également la planification de mesures d'échange d'informations et d'expériences.
- <sup>61</sup> Cf. **Recommandation 146.109.**
- <sup>62</sup> Cf. **Recommandation 146.107.**
- <sup>63</sup> Cf. **Recommandation 146.109.**
- <sup>64</sup> Cf. **Recommandation 146.107.**
- <sup>65</sup> Au niveau fédéral, on peut citer la Constitution, la Loi fédérale sur l'élimination des inégalités frappant les personnes handicapées (LHand), la Loi fédérale sur la formation professionnelle (LFPr), la Loi sur l'encouragement des hautes écoles et la coordination dans le domaine suisse des hautes écoles (LEHE). Au niveau intercantonal, ce sont le Concordat sur la pédagogie spécialisée et ses instruments de coordination et les différents concepts ou lois cantonaux mis en place pour les élèves ayant des besoins éducatifs particuliers. ; cf. **Recommandation 146.71.**
- <sup>66</sup> Les rapports du Conseil fédéral aussi constituent un cadre propice pour les cantons à cet égard : p. ex. Rapport du Conseil fédéral, *Politique en faveur des personnes handicapées*, 9 mai 2018 ; et Rapport du Conseil fédéral sur les *Possibilités de reconnaissance juridique des langues des signes suisses*, 24 septembre 2021.
- <sup>67</sup> La proportion des élèves scolarisés dans une classe ordinaire, est passée de 94,7 à environ 97% au cours des 15 dernières années. Presque 50% des élèves avec des besoins éducatifs particuliers sont intégrés dans une classe ordinaire. ; cf. **Recommandations 146.105, 146.106, 146.107 et 146.108.**
- <sup>68</sup> Les jeunes peuvent, par exemple, bénéficier d'une orientation professionnelle qui les soutient dans le choix de la formation à entreprendre. D'autres mesures peuvent également s'appliquer, comme un encadrement professionnel individuel. ; cf. **Recommandation 146.108.**
- <sup>69</sup> L'art. 18 de la Loi sur la formation professionnelle (LFPr) prévoit des aménagements, aussi pour des personnes qui ont des difficultés d'apprentissage ou qui présentent un handicap. De plus, l'art. 35 de l'Ordonnance sur la formation professionnelle (OFPr) permet de mettre en œuvre des compensations des inégalités pour les examens de la formation professionnelle initiale et supérieure pour des

- personnes présentant un handicap.
- <sup>70</sup> En prenant des mesures pour faciliter l'exercice du droit de vote des personnes handicapées, la Suisse contribue également à la mise en œuvre de l'ODD 16. Voir le rapport du Conseil fédéral, *La mise en œuvre de l'Agenda 2030 pour le développement durable : rapport national de la Suisse 2022*, p. 48 et suivantes.
- <sup>71</sup> Art. 6 de la Loi fédérale sur les droits politiques (LDP).
- <sup>72</sup> Voir <https://www.ge.ch/votations/20201129/cantonal/1/>
- <sup>73</sup> La modification est entrée en vigueur le 19 novembre 2020 : [https://www.fedlex.admin.ch/eli/cc/2013/1846\\_fga/fr](https://www.fedlex.admin.ch/eli/cc/2013/1846_fga/fr)
- <sup>74</sup> Il s'agit notamment d'examiner l'exclusion des droits politiques. Le rapport sera publié dans le courant de l'année 2023.
- <sup>75</sup> Cf. **Recommandation 146.46.**
- <sup>76</sup> Certains cantons, comme le canton de Neuchâtel (à la condition que la personne soit en possession d'un permis d'établissement et séjourne dans le canton depuis au moins cinq ans) ou le canton du Jura (à la condition que la personne réside depuis dix ans en Suisse, dont au minimum un an dans le canton), offrent la possibilité aux personnes ne détenant pas la nationalité Suisse de voter à l'échelon cantonal. Certaines communes octroient le droit de vote ainsi que le droit d'éligibilité à des personnes d'origine étrangère sous certaines conditions. En revanche, tant le droit de vote que d'éligibilité n'est pas accessibles aux personnes migrantes au niveau fédéral. Pour ce faire, il est nécessaire de détenir la nationalité suisse. Les différentes mesures d'intégration et de soutien existantes visent à permettre à toutes personnes étrangères de satisfaire aux critères juridiquement ancrés relatifs à la naturalisation. Entre autre, en ce qui concerne la promotion de l'apprentissage de la langue.
- <sup>77</sup> En août 2021, le taux de chômage (chômage enregistré) était de 2,0% pour les nationaux et de 4,7% pour les étrangers.
- <sup>78</sup> Cf. **Recommandation 147.60.**
- <sup>79</sup> Par le biais de l'Agenda Intégration Suisse (AIS), la Suisse contribue également à la mise en œuvre de l'ODD 10. Voir le rapport du Conseil fédéral, *La mise en œuvre de l'Agenda 2030 pour le développement durable : rapport national de la Suisse 2022*, p. 34 et suivantes.
- <sup>80</sup> Cf. **Recommandation 147.46.**
- <sup>81</sup> Cf. **Recommandation 146.116.**
- <sup>82</sup> Il convient toutefois de souligner que la transparence nécessaire était déjà assurée les années précédentes, puisque le SEM publiait les chiffres correspondants sur demande à tous les cercles intéressés. ; cf. **Recommandation 146.120.**
- <sup>83</sup> Cf. **Recommandations 146.30, 146.31, 146.34 et 146.37.**
- <sup>84</sup> Par exemple le projet « Dialogue en route » d'IRAS COTIS ou le projet « Feckerchilbi » de l'Association des gens de la route ; cf. **Recommandations 146.24, 146.36 et 146.40.**
- <sup>85</sup> Cf. **Recommandation 146.41.**
- <sup>86</sup> Cf. **Recommandations 146.32, 146.35 et 146.36.**
- <sup>87</sup> Cf. **Recommandations 146.28, 146.33, 146.42, 146.43 et 146.44.**
- <sup>88</sup> En 2021, l'Office fédéral de la communication (OFCOM) a publié un rapport sur la formation de l'opinion publique sur les plateformes en ligne (p. ex. les réseaux sociaux) qui aborde aussi la question des discours de haine sur internet. Par ailleurs, l'OFCOM a lancé un appel à projets (2022–2023) pour soutenir des projets de recherche, notamment en sciences de la communication, en droit ou en sciences politiques, visant à mener des études quantitatives et qualitatives sur les discours de haine et s'intéressant en particulier au rôle des nouveaux médias tels que les réseaux sociaux, les moteurs de recherche, les plateformes de partage de vidéos ou encore les services de microblogage.
- <sup>89</sup> Cf. **Recommandations 146.30, 146.38 et 146.39.**
- <sup>90</sup> Postulat Minder (21.3450) « Discours de haine. La législation présente-t-elle des lacunes? ».
- <sup>91</sup> Cf. **Recommandations 146.38 et 146.39.**
- <sup>92</sup> Cf. **Recommandation 146.114.**
- <sup>93</sup> Voir *Message concernant l'encouragement de la culture pour la période 2021 à 2024*, adopté par le Conseil fédéral le 26 février 2020.
- <sup>94</sup> Selon le plan d'action, la Confédération s'engage à mettre à disposition des moyens supplémentaires pour les cantons qui poursuivent des projets de création de telles aires. Pour la période 2021-2024, le Parlement a augmenté les subventions de 80% par rapport à la période précédente, portant leur total à 5,4 millions de francs.
- <sup>95</sup> La fondation « Assurer l'avenir pour le gens du voyage suisses », entièrement soutenue par la Confédération, est directement impliquée dans la poursuite des efforts visant à améliorer le mode de vie des communautés nomades. L'Office fédéral de la culture (OFC) alloue à la fondation depuis 2017 une subvention supplémentaire annuelle de 50'000 CHF pour des nombreux projets culturels. La Confédération soutien également l'organisation « Radgenossenschaft der Landstrasse », qui est l'organisation la plus active dans le maintien et la documentation du patrimoine linguistique Yéniche. Outre un petit dictionnaire imprimé et un livre d'enfants en langue Yéniche, elle a développé en

2021/2022 une application pour appareils mobiles qui permet d'apprendre des termes Yéniches, de les partager et d'enrichir le lexique de manière interactive. Cette application est destinée à être utilisée par tous les locuteurs Yéniches en Europe. L'organisation « Radgenossenschaft der Landstrasse », en coopération avec la haute école pédagogique de Zurich, a aussi développé un matériel didactique pour les écoles qui sensibilise les élèves à l'histoire et à la culture des Yéniches, Sinti/Manouches et Roms. ; cf. **Recommandation 146.115.**

<sup>96</sup> Cf. **Recommandation 146.115.**

<sup>97</sup> Cf. **Recommandation 147.31.**

<sup>98</sup> Sur la base de cette ordonnance, la Confédération a pu participer financièrement, jusqu'à 500'000 francs par an, aux coûts des mesures de protection architecturales, techniques ou organisationnelles ainsi qu'aux mesures de formation et de sensibilisation destinées à prévenir les infractions contre les minorités menacées. A partir de 2023, 2,5 millions de francs par an seront disponibles. Il est attendu des cantons qu'ils participent financièrement à parts égales avec la Confédération.

<sup>99</sup> Cf. **Recommandation 147.30.**

<sup>100</sup> Cf. **Recommandation 147.28.**

<sup>101</sup> Art. 30b CC.

<sup>102</sup> Cf. **Recommandation 146.48.**

<sup>103</sup> Le consentement du représentant légal est nécessaire si la personne est âgée de moins de 16 ans révolus, si elle est sous curatelle de portée générale ou si l'autorité de protection de l'adulte en a décidé ainsi. La modification de l'indication du sexe dans le registre d'état civil n'a aucune influence sur les relations relevant du droit de la famille. De même, la binarité des sexes (homme/femme) demeure inchangée : à l'avenir, seule reste possible l'inscription d'une personne en tant qu'individu de sexe masculin ou féminin. L'introduction d'une troisième catégorie de sexe ou l'abandon général de la mention du sexe font l'objet d'un rapport en réponse aux postulats des conseillères nationales (Postulat Arslan (17.4121), « Inscription d'un troisième sexe à l'état civil » et Postulat Ruiz (17.4185), « Introduction d'un troisième genre. Conséquences pour l'ordre juridique et pour Infostar »).

<sup>104</sup> En approuvant le mariage pour tous, la Suisse contribue également à la mise en œuvre de l'ODD 10. Voir le rapport du Conseil fédéral, *La mise en œuvre de l'Agenda 2030 pour le développement durable : rapport national de la Suisse 2022*, p. 34 et suivantes. ; Cf. **Recommandation 147.34.**

<sup>105</sup> Art. 261bis CP et art. 171c para. 1 CPM.

<sup>106</sup> Cf. **Recommandation 146.47.**

<sup>107</sup> Cf. **Recommandation 147.32.**

<sup>108</sup> Cf. **Recommandations 146.62, 146.65 et 146.66.**

<sup>109</sup> Cf. **Recommandations 146.61 et 146.63.**

<sup>110</sup> Cf. **Recommandation 146.64.**

<sup>111</sup> Cf. **Recommandations 146.65 et 147.46.**

<sup>112</sup> Cf. **Recommandation 146.64.**

<sup>113</sup> Cf. **Recommandation 146.61.**

<sup>114</sup> En outre, de nombreux cantons prévoient la possibilité de déposer une plainte auprès de l'organe de surveillance compétent pour la police. Comme il s'agit d'une procédure administrative, l'accent est mis ici sur la détection de dysfonctionnements dans l'organisation administrative et non sur la sanction d'une personne concrète. ; Cf. **Recommandations 146.56, 146.57 et 146.58.**

<sup>115</sup> Cf. **Recommandation 146.59.**

<sup>116</sup> Cf. **Recommandations 146.60 et 147.43.**

<sup>117</sup> Cf. **Recommandation 147.43.**

<sup>118</sup> Disponible sur :

[https://www.skjv.ch/sites/default/files/documents/La\\_medication\\_en\\_detention\\_Document\\_cadre.pdf](https://www.skjv.ch/sites/default/files/documents/La_medication_en_detention_Document_cadre.pdf)

<sup>119</sup> La mise à la conformité du secteur pour mineurs à la prison régionale de Thoune en est un exemple récent ; cf. **Recommandation 147.43.**

<sup>120</sup> Art. 377, al. 2 CP et art. 61, al. 2 CP.

<sup>121</sup> Cf. **Recommandation 147.44.**

<sup>122</sup> En se fondant sur les bases légales en vigueur en Suisse, l'Office fédéral de la justice a mené en 2020 une enquête auprès de tous les établissements en milieu fermé pour adultes et a pu constater qu'en 2019, à une exception près, la séparation entre adultes et mineurs (ou jeunes adultes qui ont commis le délit avant 18 ans) a été respectée en détention provisoire ou pour des motifs de sûreté ainsi que lors de la détention administrative relevant du droit des étrangers.

<sup>123</sup> L'action des organisations en Suisse est aujourd'hui limitée aux atteintes à la personnalité. Selon le projet du Conseil fédéral, elle pourra à l'avenir porter sur toutes les atteintes illicites. En outre, la nouvelle procédure d'action des organisations permettra aux parties de trouver un accord amiable. Elle liera toutes les personnes qui participent à l'action de l'organisation. Exceptionnellement, une transaction collective sera possible alors même qu'aucune organisation n'aura intenté d'action au préalable.

- <sup>124</sup> Art. 260sexies CP.
- <sup>125</sup> Art. 11a Abs. 2bis de la Loi sur le blanchiment d'argent (LBA); cf. **Recommandation 146.54.**
- <sup>126</sup> C'est-à-dire les associations qui, à titre principal, collectent ou distribuent directement ou indirectement des fonds à l'étranger à des fins caritatives, religieuses, culturelles, éducatives ou sociales. Ces dernières seront assujetties à des règles de transparence similaires à celles des autres personnes morales, c'est-à-dire l'obligation de s'inscrire au registre du commerce, de tenir une liste de leurs membres ainsi que de désigner un représentant domicilié en Suisse.
- <sup>127</sup> Cf. **Recommandation 146.54.**
- <sup>128</sup> Ainsi, plusieurs règles et garanties de la Convention sur les réfugiés ont été reproduites dans le droit national ou y sont précisées. ; Cf. **Recommandation 146.118.**
- <sup>129</sup> Le droit national s'inspire également d'autres dispositions du droit international public, comme la Convention européenne des droits de l'homme, qui accorde une protection plus étendue aux requérants d'asile dans certaines situations. Dans le cadre de modifications de la loi sur l'asile, les dispositions de la Convention sur les réfugiés ont en outre servi par le passé de normes minimales en ce qui concerne la notion de réfugié et le traitement des réfugiés, cf. Rapport du Conseil fédéral, *Actualité et portée de la Convention de 1951 relative au statut des réfugiés*, 23 juin 2021, p.12 et suivantes.
- <sup>130</sup> Cf. **Recommandation 146. 119.**
- <sup>131</sup> Il s'agit notamment de la permanence régulière du Secrétariat d'État aux migrations (SEM), d'une boîte de feedback librement accessible aux demandeurs d'asile, d'un système de signalement confidentiel en cas de suspicion d'incidents violents et de la possibilité de déposer un recours en cas de mesures disciplinaires. Les demandeurs d'asile disposent également d'un accès au WiFi et d'une ligne téléphonique.
- <sup>132</sup> Cf. **Recommandation 146.119.**
- <sup>133</sup> Cf. Communiqué de presse, *Asile : les procédures accélérées fonctionnent globalement bien ; des améliorations ont été réalisées ou sont en cours de réalisation*, 23 août 2021, <https://www.sem.admin.ch/sem/fr/home/sem/medien/mm.msg-id-84791.html>
- <sup>134</sup> Cf. **Recommandation 146.120.**
- <sup>135</sup> Cf. **Recommandation 147.62.**
- <sup>136</sup> Cf. **Recommandation 147.61.**
- <sup>137</sup> Cf. **Recommandations 146.70 et 146.72.**
- <sup>138</sup> Au cours de la procédure d'asile, les RMNA sont entendus par une personne formée aux spécificités de l'audition des mineurs. Lorsqu'une demande d'asile est rejetée par manque de pertinence des motifs invoqués, l'intérêt supérieur du mineur est un élément fondamental dans l'évaluation de la question d'un éventuel renvoi. Une décision de renvoi n'est prise que s'il existe une garantie de prise en charge adéquate du mineur dans le pays de retour. Dans le cas contraire, les autorités renoncent à un renvoi et prononcent une admission provisoire. Les procédures sont conduites de manière prioritaire afin que les mineurs autorisés à rester en Suisse puissent entamer dès que possible un processus d'intégration sociale et professionnelle. ; cf. **Recommandation 146.104.**
- <sup>139</sup> Les recommandations sur l'hébergement et l'accompagnement et la prise en charge des mineurs non accompagnés publiées par la CDAS en 2016 servent ici de cadre d'orientation aux cantons.
- <sup>140</sup> Art. 44 de la Loi sur l'asile (LAsi).
- <sup>141</sup> Cf. **Recommandation 146.117.**
- <sup>142</sup> Art. 83 al. 2-4 de la Loi fédérale sur les étrangers et l'intégration (LEI).
- <sup>143</sup> Art. 83 al. 1 LEI ; l'exécution n'est notamment pas autorisée lorsque des obligations de droit international public de la Suisse s'opposent à la poursuite du voyage de l'étranger dans son pays d'origine, dans son pays de provenance ou dans un État tiers.
- <sup>144</sup> Voir p. ex. Postulat Marti (20.4421), « Bien de l'enfant dans le cadre du droit de l'asile et des étrangers ».
- <sup>145</sup> Cela résulte de l'application de la loi fédérale sur la procédure administrative et la jurisprudence du Tribunal fédéral administratif et du Tribunal fédéral.
- <sup>146</sup> Cf. **Recommandation 146.121.**
- <sup>147</sup> Art. 261bis CP.
- <sup>148</sup> La CFR publie tous les décisions et les jugements relatifs à l'article en question rendus par les différentes instances judiciaires de Suisse depuis 1995. Ce recueil permet aux personnes intéressées d'effectuer des recherches ciblées et offre aux juristes un aperçu de la jurisprudence. De 2007 à 2020, 88 décisions et jugements cantonaux ont été rendus sur cet article de loi, dont 70 condamnations.
- <sup>149</sup> Cf. **Recommandations 146.22 et 146.23.**
- <sup>150</sup> La Confédération collabore par exemple avec la Conférence des directeurs et directrices de l'instruction publique (CDIP) pour l'organisation de la « Journée de la Mémoire de l'Holocauste et de la prévention des crimes contre l'humanité » dans les écoles. À cette occasion, la Conférence des directeurs de l'instruction publique (CDIP) élabore un dossier destiné à aider les enseignants à aborder le sujet en classe et à leur proposer des activités et des ressources pédagogiques. Dans le

rapport *Définition de l'antisémitisme adoptée par l'International Holocaust Remembrance Alliance (IHRA)* du 4 juin 2021 le Conseil fédéral a en outre récemment reconnu la valeur et la pertinence de la définition opérationnelle de l'antisémitisme adoptée par l'IHRA, notamment comme guide supplémentaire pour identifier les incidents antisémites.

- 151 Motion Heer (21.3181), « Lieu de commémoration en Suisse des victimes du national-socialisme » et Motion Jositsch (21.3172), « Lieu de commémoration en Suisse des victimes du national-socialisme » ; Les deux motions ont également été soutenues par le Conseil fédéral.
- 152 Cf. **Recommandation 146.25.**
- 153 Cf. **Recommandation 146.26.**
- 154 En 2020, ce budget était d'environ 4,5 millions de francs.
- 155 Cf. **Recommandations 146.85, 146.90, 146.92, 146.93, 146.95, 146.96, 146.99, 146.101, 146.102, 147.50, 147.51 et 147.52, 147.54 et 147.56.**
- 156 A l'issue des élections au Conseil national de 2019, 84 femmes et 116 hommes ont prêté serment au sein du Conseil national nouvellement élu. Par rapport aux élections de 2015, la proportion de femmes a donc augmenté de 10 points de pourcentage pour atteindre 42%.
- 157 En assurant une représentation plus équilibrée des femmes et des hommes dans les parlements, la Suisse contribue également à la mise en œuvre de l'ODD 5. Voir le rapport du Conseil fédéral, *La mise en œuvre de l'Agenda 2030 pour le développement durable : rapport national de la Suisse 2022*, p. 24 et suivantes. ; Cf. **Recommandations 146.89, 146.90, 146.91, 146.93, 147.50, 147.51, 147.52 et 147.54.**
- 158 Cf. **Recommandations 146.93, 146.94, 146.95, 146.97, 146.98, 146.99, 146.100, 146.102, 146.110, 146.111, 146.112, 146.113, 147.52 et 147.54.**
- 159 Deux types de congés pour proches aidants ont aussi été introduits en 2021 : un congé rémunéré de 14 semaines pour les parents (salariés ou indépendants) d'un enfant gravement malade ou accidenté et un congé payé en faveur des salariés pour la prise en charge d'un membre de la famille atteint dans sa santé d'une durée maximum de trois jours par cas et de dix jours par an au total.
- 160 Plus de 19 années après son introduction, la Confédération a soutenu la création de 70'000 nouvelles places d'accueil à hauteur de 438 millions de francs. ; cf. **Recommandation 146.88.**
- 161 L'Initiative parlementaire 21.403, *Remplacer le financement de départ par une solution adaptée aux réalités actuelles* demande de remplacer ce programme par un soutien durable visant à réduire considérablement les contributions versées par les parents et à améliorer l'éducation de la petite enfance. Un projet dans ce sens a été mis en consultation élargie par la Commission parlementaire compétente. Cette proposition est étroitement liée aux recommandations sur la qualité et le financement de l'accueil extrafamilial et parascolaire adoptées par la CDAS et la CDIP. Etant donné qu'une solution de remplacement ne pourra être mise au point avant que les mesures d'encouragement en cours n'arrivent à leur terme, la Commission parlementaire compétente a déposé une seconde initiative parlementaire (22.403) qui vise à prolonger la loi actuelle jusqu'à l'entrée en vigueur de la nouvelle loi, mais tout au plus jusqu'à fin 2024. Le Gouvernement est favorable à cette prolongation.
- 162 Avec la plateforme nationale de lutte contre la pauvreté 2019-2024, la Suisse contribue également à la mise en œuvre de l'ODD 1. Voir le rapport du Conseil fédéral, *La mise en œuvre de l'Agenda 2030 pour le développement durable : rapport national de la Suisse 2022*, p. 16 et suivantes. ; Cf. **Recommandations 146.69 et 147.56.**
- 163 En réponse au Postulat 19.3954, un rapport de la Confédération en matière de prévention de la pauvreté a été adopté en avril 2022, qui se fonde déjà sur les activités menées par la Plateform jusqu'à cette date : Rapport du Conseil fédéral, *Maintien du rôle stratégique de la Confédération en matière de prévention de la pauvreté*, 6 avril 2022.
- 164 Cf. **Recommandation 146.52.**
- 165 Entre 2020 et 2021, le coefficient APD/RNB de la Suisse a progressé de 0,49% à 0,51%. Cette augmentation est principalement due à deux crédits supplémentaires approuvés par le Parlement pour faire face aux conséquences de la pandémie et de la crise en Afghanistan.
- 166 Voir p. ex. Message sur la coopération internationale 2017–2020, p. 2180, 2244 et 2520 ; cf. **Recommandations 146.49, 146.50 et 146.51.**
- 167 Par exemple, la Suisse a pu restituer 16 millions de dollars américains au Pérou dans le cadre de procédures basées sur la CNUCC. En 2020, l'Ouzbékistan et la Suisse ont signé un accord-cadre en vue d'une restitution d'environ 131 millions de dollars en faveur du développement durable en Ouzbékistan. Dans un esprit d'amélioration continue, la Suisse révisé actuellement sa stratégie Asset Recovery pour tenir compte des développements en la matière ainsi que des nouvelles connaissances et expériences acquises.
- 168 Cf. **Recommandation 146.53.**
- 169 La Confédération a commandé en outre au printemps 2022 une étude externe visant à évaluer le niveau de connaissance des Principes directeurs de l'OCDE à l'intention des entreprises multinationales et des Principes directeurs de l'ONU relatifs aux entreprises et aux droits de l'homme

ainsi que la mise en œuvre par les entreprises suisses des instruments de diligence raisonnable qu'ils contiennent. Le niveau de mise en œuvre du contrôle de diligence raisonnable doit être examiné aussi bien au niveau intersectoriel que dans les secteurs de la finance, des textiles, de l'agriculture et des minéraux. Les résultats de l'étude sont attendus fin 2022 et serviront de base à d'éventuelles activités supplémentaires.

<sup>170</sup> Cf. **Recommandation 147.39.**

<sup>171</sup> Le Conseil fédéral et le Parlement avaient recommandé de rejeter l'initiative, car ils estimaient qu'elle allait trop loin, notamment en ce qui concerne les règles de responsabilité, et que l'initiative aurait peut-être entraîné une insécurité juridique et une perte d'emplois et de prospérité. Dans le contre-projet indirect du Parlement, ils ont préconisé un système qui mise alternativement sur une action concertée au niveau international.

<sup>172</sup> Similaire à la Directive 2014/95/UE de l'UE.

<sup>173</sup> Similaire au Règlement 2017/821 de l'UE.

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