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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **Switzerland**

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## I. Methodology and consultation

1. Human rights lie at the heart of the political system of Switzerland, based as it is on democratic principles, non-discrimination, gender equality, peaceful coexistence and mutual respect among population groups of different religions, languages, ethnicities and cultures.<sup>1</sup> Respect for human rights requires the State to exercise responsibility towards the population and, generally speaking, to subordinate its own interests to the interests of the people. The Swiss legal order, which is enshrined in the Federal Constitution of 1999 and in its international obligations, including those arising from the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) of 1950 and United Nations conventions, is the embodiment of this principle, in that it explicitly protects the human rights and fundamental freedoms of every individual in the country.

2. It is against this backdrop that action is taken to implement the recommendations accepted during the universal periodic review. In its second national report (4 July 2012<sup>2</sup>), Switzerland described the measures that it had adopted to implement not only the recommendations that it had accepted but also its voluntary commitments. Unless specified otherwise, the observations made in the 2012 report on the Swiss regulatory, institutional and political framework are applicable also to the present report, as regards both general and particular issues.

3. The report seeks to follow the guidance note of the Office of the United Nations High Commissioner for Human Rights for the third cycle of the universal periodic review, and in the order in which it addresses rights and freedoms it follows the structure of the Universal Declaration of Human Rights. It describes the implementation of the recommendations accepted during the second cycle of the universal periodic review,<sup>3</sup> which Switzerland went through on 29 October 2012.<sup>4</sup> Most importantly, it sets out the steps that have been taken in this regard, at the same time providing an account of relevant developments in the field of human rights on certain topics not covered under specific recommendations.<sup>5</sup>

4. Discussion of this report, in the spring of 2017, involved a broad consultation process that included the cantons, extra-parliamentary federal commissions, civil society and sectors with an interest in the report, as well as a round table held on 23 March 2017, bringing together these stakeholders and the relevant government departments. The process set in motion by the universal periodic review has thus made possible greater discussion of human rights issues among the different departments and between the authorities and civil society, thereby helping to enhance follow-up to the implementation of the recommendations accepted during the first two cycles of the universal periodic review.<sup>6</sup>

## II. Regulatory and institutional framework

### A. Regulatory framework

5. Switzerland has stepped up its efforts to ratify international instruments in recent years,<sup>7</sup> acceding to all the conventions that it had undertaken to accede to during the first cycle.<sup>8</sup> As regards the second cycle, Switzerland acceded to the Convention on the Rights of Persons with Disabilities<sup>9</sup> on 15 April 2014 and to the International Convention for the Protection of All Persons from Enforced Disappearance on 2 December 2016.<sup>10</sup> In addition, on 12 November 2014, Switzerland acceded to the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189).<sup>11</sup> On 24 April 2017, Switzerland also acceded to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.<sup>12</sup> The Optional Protocol will enter into force for Switzerland three months after the deposit of the instrument of accession — namely, on 24 July 2017.

6. On 30 October 2013, Switzerland notified the Secretary-General of the United Nations of its decision to withdraw the reservation that it had made to article 16 (1) (g) (same personal rights as husband and wife) of the Convention on the Elimination of All

Forms of Discrimination against Women upon its ratification thereof.<sup>13</sup> The remaining reservation made by Switzerland, which relates to marriage law,<sup>14</sup> involves only a limited and ever-smaller number of marriages of a particular status entered into before 1 January 1988, the date of the entry into force of the new matrimonial regime.<sup>15</sup> In general, Switzerland is constantly keeping under review the possibility of withdrawing the reservations that it made upon the ratification of a number of conventions.<sup>16</sup>

## **B. Institutional framework**

7. On 28 June 2017, the Federal Council began the process of consultation on the draft bill to turn the Swiss Centre of Expertise in Human Rights into a national human rights institution in conformity with the Paris principles.<sup>17</sup> As with the pilot project on the establishment of the Centre itself, the plan is that the national human rights institution will be based in a university and will receive the necessary funding from the Swiss Confederation. The difference from the plans made for the Centre is that the Federal Council's decision provides for a lasting solution with a legal basis and the institution should be able, under its mandate, to decide freely to address the themes or issues that it considers relevant.

8. The issue of appointing an ombudsman was given thorough consideration in the run-up to this decision, but the Council decided not to make such an appointment.<sup>18</sup> There were several reasons for this. For one, Switzerland has an extensive system of legal protection and other means of providing access to justice for persons in vulnerable situations, including free legal advice and aid. For another, a number of cantons and cities already have the equivalent of an ombudsman.<sup>19</sup> Lastly, the ombudsman model would lead to costs significantly higher than those of the option that was chosen.

9. Most cantons have equality offices, although since 2015 the cantonal and municipal offices have been affected to varying degrees by austerity measures and politically motivated initiatives aimed at eliminating them.<sup>20</sup> Nationally, the framework of the Swiss Conference of Equality Delegates has been strengthened and a committee has been set up to improve coordination among the equality offices and the flow of information.<sup>21</sup>

## **C. Swiss foreign policy in connection with human rights**

10. Under the Constitution (art. 54 (2)), the promotion of respect for human rights is a stated goal of the foreign policy of Switzerland.<sup>22</sup> The 2016-2019 Human Rights Strategy of the Federal Department of Foreign Affairs, adopted in February 2016, is aimed at making human rights a systematic component of foreign policy.<sup>23</sup> One of the objectives of the Strategy is to strengthen human rights institutions and mechanisms.<sup>24</sup> This includes the Human Rights Council, to which in 2015 Switzerland was elected for a third term for the period 2016-2018 and of which it is Vice-President in 2017. Switzerland participates actively in the universal periodic review of approximately two thirds of Member States, gives its views and positions on many topics and has strengthened the Council's activities with a number of initiatives on specific topics, including the death penalty, peaceful protests and transitional justice, and also on institutional capacity-building.<sup>25</sup>

11. In addition, Switzerland takes its obligations towards the treaty bodies seriously and cooperates closely with them, including by providing financial support to a forum for the members of the treaty bodies, the Treaty Body Members' Platform, the purpose of which is to improve the knowledge of treaty body members in specific legal fields and facilitate connections with other sources of expertise in Geneva.<sup>26</sup> Lastly, Switzerland provides political support to most of the special procedures mechanisms and works closely on specific issues with some of them. Since 1 April 2002, Switzerland has extended a standing invitation to visit the country to all holders of thematic special procedures mandates, including the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on the human rights of migrants and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or

punishment.<sup>27</sup> There are currently no requests pending for visits from these three Special Rapporteurs.

12. In the Human Rights Council, Switzerland is a member of the group of countries that submitted the resolution on human rights and the environment and it is actively working on the integration of these two topics. Switzerland also works with the Special Rapporteur on human rights and the environment.<sup>28</sup> It also supported a Council resolution on climate change in June 2016. As a signatory to the Geneva Pledge for Human Rights in Climate Action, which seeks to facilitate the exchange of knowledge and best practices among human rights and climate experts, Switzerland also supports the initiatives stemming from the Pledge in the Human Rights Council.<sup>29</sup>

### **III. Promotion and protection of human rights**

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

##### **1. Gender**

13. Switzerland has taken various measures at the level of the Confederation and the cantons to increase and enhance the representation of women, who are still underrepresented, in politics and in the economy.<sup>30</sup> These measures include the 2014 issuance by the Federal Council of a circular urging the cantons, where appropriate, to draw voters' attention to the difference between the number of seats held, respectively, by men and by women and to raise awareness of measures for the promotion of runs for office by women.<sup>31</sup>

14. In addition, on 16 June 2017, the Federal Council instructed the Federal Department of Finance to submit to it by spring 2018 a Message on ending the penalization of married couples as a result of the direct federal tax and thus to eliminate the negative financial repercussions for the spouse, usually the woman, who earns the secondary income. Starting in 2017, the Confederation increased the financial support<sup>32</sup> that it provides for projects that promote the reconciliation of work and family life in companies, while continuing to encourage discussion of good practices among stakeholders, namely cantons or employers.<sup>33</sup>

15. Furthermore, the cantons and municipalities have in recent years greatly expanded the supply of childcare facilities to enable parents to reconcile work and family life. In September 2014, the Federal Assembly (the parliament) decided to extend until January 2019 a promotional programme of financial assistance for the provision of facilities for childcare outside the home and to authorize a new extrabudgetary appropriation of 120 million Swiss francs (SwF) to that end. In June 2017, the parliament decided to increase the financial assistance by SwF 100 million to reduce the costs borne by parents and make progress towards an equilibrium between supply and demand. On 5 April 2017, in a move that may encourage parents, mothers in particular, to take up gainful employment, the Federal Council proposed making childcare costs tax-deductible.

16. In recent years, self-regulation has not led to a balanced representation of men and women in positions of leadership.<sup>34</sup> On 23 November 2016, the Federal Council therefore adopted a draft proposal for revision of the law governing joint-stock companies, setting quotas for the representation of men and women in leadership positions in publicly traded companies. Under this quota, women should account for at least 30 per cent of the members of boards of directors and 20 per cent of the persons in executive management.<sup>35</sup>

17. Combating domestic violence is a priority of the authorities at all levels of the Swiss Confederation.<sup>36</sup> On 11 September 2013, Switzerland signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). Deliberations on its ratification are under way in the parliament. In addition, the relevant federal and cantonal authorities<sup>37</sup> organize training workshops for both victims and perpetrators of domestic violence to enhance efforts to prevent and combat domestic violence. Projects to optimize the application of the law for

specific groups affected by domestic violence, which includes forced marriage, are also carried out by the federal and cantonal authorities.

18. In addition, a federal bill on improving protection for victims of violence is in preparation. The measures proposed include the conduct of proceedings at no charge, abolition of the conciliation procedure, the communication of decisions to all the authorities and persons concerned and other measures involving civil proceedings. The Federal Council is also considering establishing a legal basis for attaching an electronic bracelet or ankle device to ensure that restraining orders are enforced. In the area of criminal law, plans have been made to amend the rules regarding the stay of proceedings in cases of “minor” violence in relationships and regarding the categorization of such cases. As part of the external evaluation of the Assistance for Victims of Crime Act, experts issued 30 recommendations for the cantons, the Confederation or both. Moreover, the feasibility and costs of putting in place a single telephone number for victims are being studied.

19. At the cantonal level, the Swiss Conference against Domestic Violence has since September 2013 brought together the relevant offices of each canton, with one of the objectives being to enhance cooperation among the cantons and increase the visibility of the issue. Several cantons are also in the process of developing a method of managing threats in the context of domestic violence.

20. In addition, under the Foreign Nationals Act,<sup>38</sup> a female foreign national who is a victim of domestic violence has a right of residence<sup>39</sup> after her marriage has been dissolved.<sup>40</sup> The authorities responsible for enforcing the Act must take into account legal precedents relating to spousal violence when considering the cases submitted to them. Those precedents recognize the right of residence on grounds of spousal violence where the offender inflicts systematic abuse on the victim in order to assert dominance and exercise control over the victim.<sup>41</sup>

## 2. Children

21. Since the amendment of the Criminal Code of 1 July 2014, resort to the paid sexual services of persons under 18 years of age has been punishable, under art. 196 of the Criminal Code,<sup>42</sup> by imprisonment of no more than 3 years or a fine.<sup>43</sup>

22. The Civil Code currently in effect does not expressly prohibit the corporal punishment of children, but it is in conformity with the widespread view that corporal punishment is no longer a method of upbringing compatible with the well-being of the child. Switzerland therefore believes that it is not necessary to explicitly incorporate this principle in the Civil Code or to amend the criminal law, since repeated acts of violence against dependants, including children, have been prosecuted automatically since 1990, while bodily harm inflicted intentionally is always prosecuted automatically.<sup>44</sup> The parliament has consistently rejected attempts to introduce such a prohibition.<sup>45</sup>

23. Switzerland relies above all on a support system for children and young people, combined with active awareness-raising measures aimed at changing the views and the conduct of the persons concerned.<sup>46</sup> At the federal level, the Federal Social Insurance Office is active in cases involving families and children, helps coordinate the work of federal offices and the cantons and supports organizations working at the national level for the prevention of the ill-treatment and sexual abuse of children. It is also involved in parental counselling, awareness-raising, education and training. The cantons offer parents a variety of possibilities for assistance and support, including consultation services, counselling for young people and families and early education, in addition to courses specifically for parents who are having problems raising their children or are going through a crisis.

24. The aim of various cantonal projects, involving “educational landscapes” and the concept of double integration for children of immigrant background, is to achieve the best possible integration of young people of immigrant background into the education system.<sup>47</sup> The remit of the members of the Education and Migration Committee, which is part of the General Secretariat of the Swiss Conference of Cantonal Ministers of Education, is to conduct a periodic analysis of the Swiss educational system from this particular perspective. Its latest report stresses that Swiss State schools have made considerable progress in this area over the past decade.<sup>48</sup> The aim of the Confederation and the cantons,

set out in the joint statements of 2011 and 2015 on policy objectives for education in Switzerland, is to ensure that 95 per cent of young people aged 25 years have a secondary school diploma.<sup>49</sup> This objective has already been surpassed for persons in the 26-35 age range who, regardless of their nationality, were born in Switzerland, in part as a result of inter-agency cooperation on unemployment insurance, disability insurance, social assistance and counselling. There are still challenges for young people who were born abroad and arrived later in Switzerland.

25. The Confederation and some cantons subsidize the national hotline of the Pro Juventute foundation.<sup>50</sup> This foundation is also continuing to engage with specialized partners within the framework of the National Action Plan for the Prevention of Suicide,<sup>51</sup> adopted on 24 November 2016.<sup>52</sup> In addition, in the summer of 2016, the Federal Council approved an increase in the dues payable for the general prevention of illness. The Promotion Santé Suisse foundation will thus be able to provide support for the prevention and detection of mental illnesses, in particular, within the framework of the cantonal action programmes. Those programmes now include measures to provide additional resources for children and adolescents and enhance the provision of low-threshold support services for crisis management. This will make it possible to achieve the important goals of the National Action Plan for the Prevention of Suicide.

26. The National Strategy on Addiction, adopted by the Federal Council in November 2015, builds on a tried and tested policy with four components — prevention, therapy, risk reduction and law enforcement — and focuses especially closely on children and adolescents and their environment.<sup>53</sup> Building resilience and skills in the area of health is a central concern — for example, by supporting the prevention work of the cantons and the institutions specializing in school-based activities through the Swiss “Education + Health” network and the Swiss Healthy Schools Network.

### 3. Older persons<sup>54</sup>

27. In a report published in 2007, the Government defined a strategy for a policy on ageing whose objective is to better recognize the contribution made to society by older persons and to ensure their well-being and material security. Ensuring an adequate income and promoting the independence and participation of older persons, while taking into account the specific risks faced by older women, are of particular importance to the Government.<sup>55</sup>

28. In that connection, the “Old-Age Provision 2020” reform adopted by the parliament on 17 March 2017 is worth mentioning. It focuses on a reform of the first two pillars of the pension system and seeks to ensure the system’s financial stability while maintaining the level of benefits. It will be voted on by the people in September 2017. In 2015, moreover, the Confederation launched the National Conference on Older Workers, whose aim was to improve such workers’ integration into the labour market. Lastly, in January 2016, the Government commissioned the Swiss Centre of Expertise in Human Rights to conduct a study on the human rights of older persons, the results of which will be used to develop practical awareness-raising tools.<sup>56</sup>

### 4. Persons with disabilities

29. An external evaluation of the Act on the Elimination of the Disparities Affecting Persons with Disabilities showed that the Act has led to essential improvements in its scope of application, including in the important area of physical access to buildings, facilities and public transport. The evaluation also identified a number of possible improvements in such areas as raising awareness, providing information and extending the scope of enforcement. In January 2017, as a result of this evaluation, the Federal Department of Home Affairs issued a report on the development of a policy for persons with disabilities that seeks specifically to mainstream equality for persons with disabilities in all areas, starting with work and education, and to coordinate the relevant measures taken by the Confederation and the cantons. In addition, the Department organized the first National Conference for the Integration of Persons with Disabilities in the Labour Market, which will meet three times in 2017 (January, May and December). In a bill on the further development of disability insurance, submitted to the parliament on 15 February 2017, the Government proposed new

measures to prevent disability and improve rehabilitation for children, young people and holders of disability insurance with mental health problems.

## 5. Migrants<sup>57</sup>

30. Swiss migration policy has three hubs. Switzerland recognizes, first, that foreign labour is necessary to the country's prosperity. Without it, many economic sectors would be unable to maintain their current level. Second, the aim of migration policy to provide protection to the victims of persecution, in the humanitarian tradition of Switzerland, which is duty-bound to accommodate persons forced to flee war or torture.<sup>58</sup> Third, the integration policy is one of the country's priorities: it seeks to create conditions conducive to equality of opportunity by ensuring that public services are accessible to all. It promotes the coexistence of the Swiss and foreign populations in a spirit of mutual respect and tolerance.

31. The launch of the Cantonal Integration Programmes in 2014 was an important strategic step in promoting the integration of foreign nationals: for the first time, the same objectives, implemented in all the Cantonal Integration Programmes, were pursued throughout Switzerland. These objectives are set in the four-year Programme agreements (currently 2014-2017) between the State Secretariat for Migration and the cantons. The Programmes have three main components: information and counselling, training and work, and understanding and social integration. They recognize the principle that the promotion of integration should go hand in hand with the fight against discrimination and the removal of structural and individual obstacles to accommodation, work, training and leisure. The midterm review of the Programmes shows that they have significantly heightened the visibility and acceptance of efforts to encourage integration. The Programmes have also made it possible to improve the exchange of good practices among the persons responsible for implementing them at the cantonal and municipal levels. Nevertheless, there are still major challenges, mostly regarding the accessibility and financing of the services on offer and the assignment of responsibilities.<sup>59</sup>

32. Protection from discrimination has been a prime component of all the Programmes since 2014. They therefore include anti-discrimination measures, including advice and advocacy, that benefit all the population groups that are discriminated against or are potential victims of racial discrimination. They also involve raising awareness among the authorities, establishing specialized counselling services for victims of racial discrimination, providing in-service training for the staff members of counselling offices and encouraging networking.<sup>60</sup> Accordingly, they are also of use to women victims of multiple discrimination.<sup>61</sup> In addition, the Confederation's Service against Racism supports projects that focus on multiple discrimination on grounds of gender and origin.<sup>62</sup>

33. The Programmes include active measures to reduce unemployment among migrants, particularly women and young people, such as the courses in the country's languages offered by the cantons.<sup>63</sup> The National Programme to Prevent and Fight Poverty 2014-2018, one of whose core themes is to afford greater training opportunities for children, young people and adults, also includes such measures.<sup>64</sup> In addition, there are plans for a federal-level pilot programme, starting in 2018, to improve the integration of young refugees and persons granted provisional admission into the education system and the labour market. One of the programme's goals is to improve the coordination of the occupational integration measures taken by employment and welfare offices.

34. The measures taken to ensure non-discriminatory policing fall into three areas:<sup>65</sup> the inclusion of modules on human rights and racial discrimination in training programmes for police officers; routine monitoring of police practice in identity checks and arrests, in order to combat racial profiling; and the establishment of complaints mechanisms, or even resort to the courts,<sup>66</sup> in the event of racist aggression by a police officer.<sup>67</sup> In addition, Swiss nationals of immigrant background can join the police, a measure that furthers the acceptance of the police by the entire population and reduces the potential for conflict.<sup>68</sup>

35. The right to free legal representation, on certain conditions, is guaranteed by the Federal Constitution (art. 29 (2)), regardless of a person's legal status.<sup>69</sup> Detained asylum seekers are guaranteed access to a lawyer, but the conditions of such access depend on the nature of the deprivation of liberty.<sup>70</sup> In accordance with article 36 of the Vienna

Convention on Consular Relations and other provisions of public international law regarding visits and correspondence that are binding upon Switzerland, the consular authorities of the detainee's State of origin are contacted only if the detainee so requests. Similarly, contact is made with consular officials only if the person concerned does not object.

36. Switzerland has a legal framework establishing uniform grounds for the use of force and other measures by the police.<sup>71</sup> The National Commission for the Prevention of Torture conducts independent monitoring of removals, expulsions and the behaviour of escort officers. The observers record their comments on a standardized form. This information is then processed and discussed by the Commission. The process leads to the formulation of recommendations that are transmitted both orally, as part of a purpose-oriented dialogue, and in writing (for their comments) to the relevant authorities. However, the Commission has no authority to conduct independent investigations into particular cases or make decisions concerning them.

37. Coordination and harmonization of practices among the cantons is achieved through the work of the intercantonal conferences on matters relating to asylum.<sup>72</sup> The recommendations of these conferences apply to all cantons<sup>73</sup> and are made in keeping with the country's obligations in respect of human rights and international humanitarian law.<sup>74</sup>

## 6. Racism<sup>75</sup>

38. Swiss legal provisions in respect of racial discrimination fall under international law,<sup>76</sup> article 8 of the Constitution, criminal law and private law. Article 261 bis of the Criminal Code is one of the key features of this legal framework.<sup>77</sup> This article criminalizes, among other things, public incitement to hatred<sup>78</sup> or to discrimination against a person or group of persons as a result of their racial,<sup>79</sup> ethnic or religious affiliation.<sup>80</sup> Violations of the laws on racism in the Criminal Code are prosecuted automatically, without the victim's having to file a complaint.<sup>81</sup> After a study carried out in 2008 on the desirability of defining racial discrimination as it pertains to criminal law, the Federal Council concluded that, even without a specific legal definition of racial discrimination, the criminal provision met the requirements of the International Convention on the Elimination of All Forms of Racial Discrimination and that, by listing religious affiliation as one of the prohibited grounds of such discrimination, Swiss law even exceeded those requirements.

39. The adoption of an anti-discrimination law has not won the support of a parliamentary majority. Measures to raise awareness and encourage the use of the instruments already provided for in private law are therefore becoming more important. One such measure is to provide victims of racial discrimination with opportunities for consultation, as part of the Cantonal Integration Programmes. The training and awareness-raising activities of the Service for Combating Racism, which was set up by the Confederation to encourage vertical and horizontal cooperation, are another. In 2017, the Service posted online an updated version of its handbook on racial discrimination and the law. The dissemination of the new instrument was accompanied by a one-day training session for legal practitioners active in that field.

40. The distinctive features of Swiss federalism and direct democracy limit the opportunities to centralize anti-discrimination measures. Accordingly, Switzerland does not have a national action plan that defines objectives centrally; instead, it has long-term strategies that are developed jointly with the cantons and municipalities, such as the Cantonal Integration Programmes, in place since 2014.<sup>82</sup> This method makes collaboration and coordination challenging, but it often leads to innovative approaches that involve civil society organizations and that are better suited to the situation as managed at all three levels of the State.<sup>83</sup>

41. In 2014 and 2015, to counter hate speech, Switzerland participated in the No Hate Speech Movement, a campaign of the Council of Europe. In 2015, the Federal Commission against Racism launched "A Switzerland in Our Colours", an Internet campaign to combat hate speech, specifically targeting young people. Furthermore, to encourage tolerance in the education system, most cantons have issued guidelines for their teachers.<sup>84</sup> Lastly, protection from discrimination is one of the main themes of the Tripartite Conference on



Urban Areas, which brings together the Confederation, the cantons and the cities and during which many awareness-raising activities are conducted for all stakeholders.

## 7. Minorities

42. In recent years, religion has become an increasingly prominent subject of discussion in politics and society, and the Swiss authorities are active in interfaith dialogue and the promotion of religious tolerance. The Confederation and the cantons, in accordance with their respective remits and in partnership with civil society organizations, take measures to encourage peaceful coexistence among all population groups and combat the marginalization that can affect some members or communities.<sup>85</sup> At the federal level, the Service for Combating Racism provides financial support in this area, to schools and other organizations, largely with a view to promoting the coexistence of religious communities and tolerance towards ethnic minorities in Switzerland.

43. Furthermore, the cantons and municipalities organize round tables, provide support for projects or arrange activities against the backdrop of Religions Week, which has been observed in early November every year since 2006.<sup>86</sup> In 2016, about 150 such events were held throughout Switzerland. In the educational system, the Swiss Conference of Cantonal Ministers of Education, on the basis of a recommendation dating from 1991, regularly takes measures to counter discrimination and promote tolerance. The Confederation supported the establishment of the Swiss Centre for Islam and Society at the University of Fribourg. Since 2015, the Centre has been contributing to harmonious coexistence by raising the core issues of Muslim religious self-interpretation and by working on responses to social challenges.<sup>87</sup>

44. Furthermore, in each segment of the national dialogue of the Tripartite Conference on Urban Areas,<sup>88</sup> the issue of integration and the prevention of inequality and discrimination is highlighted by specific projects and examples of good practices publicized on a website.<sup>89</sup> It was in this context that in 2017, for example, the Interfaith Work Group in Switzerland launched the project “Dialogue on the Move”, which allows young people to share their experience of the diversity of religious culture in Switzerland with their peers. In addition, the Swiss Council of Religions, and organizations bringing together different religions, are regularly received by members of the Federal Council to discuss topical issues.<sup>90</sup>

45. In 2015, the Federal Council set up a working group to develop measures to fulfil the obligations towards Yenish and Sinti people arising from the Council of Europe’s Framework Convention for the Protection of National Minorities. The greatest challenge, which requires obtaining the trust of local populations and their acceptance of the way of life of Travellers, is to address the shortage of encampment areas. All known Yenish and Sinti organizations and several Roma organizations have participated in this working group. There was discussion on a shared list of proposals, which served as the basis for the ongoing development, under the leadership of the Federal Department of Home Affairs, of a federal action plan. Encampment areas for Travellers are among the areas of work that have been identified. On 21 December 2016, the Federal Council took note of the interim results of the work on the Yenish, Sinti and Roma Action Plan. It confirmed the approach taken by the Plan and asked the Department to continue the consultations with the relevant cantonal conferences on areas that are essentially the responsibility of the cantons, encampment areas in particular.<sup>91</sup>

46. In addition, one segment of the Federal Council’s Message on encouraging culture for the years 2016-2020, approved by the parliament on 19 June 2015, deals specifically with Travellers and Yenish and Sinti people. The aim is to improve the living conditions of these cultural minorities, intensify efforts to raise awareness among the authorities and the public and promote the language and culture of Yenish people. In September 2016, the head of the Federal Department of Home Affairs took part in the Feckerchilbi in Bern, the annual holiday traditionally celebrated by Yenish and Sinti people. He noted on that occasion that the Swiss Sinti and Yenish — itinerant or sedentary — are recognized as national minorities within the meaning of the Framework Convention. That recognition was also made clear in February 2017, in the country’s fourth report on its implementation of the Framework Convention.

47. The aim of recognizing Travellers as a national minority in 1998, at the time of the ratification of the Framework Convention, was primarily to preserve the itinerant way of life led in Switzerland by Yenish and Sinti people. In 2015, Roma organizations submitted a request for Swiss Roma, who are sedentary, to be recognized as a national minority, too. A request has also been submitted for Romani to be recognized as a minority language within the meaning of the European Charter for Regional or Minority Languages. The federal Government is currently determining whether the Roma have fulfilled the requirements, as set out in the interpretative declaration made by Switzerland, for recognition as a national minority under the Framework Convention. The next steps of the process will be to complete the collection of information necessary for a fully informed and objective assessment of the situation. In addition, the Federal Council has expressed its readiness to consider the recognition of the Romani language in the context of the country's next periodic report on the implementation of the European Charter for Regional or Minority Languages.

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

48. The amendment to legislation on adoption adopted by the parliament on 17 June 2016 establishes a procedure that, in similar fashion to the adoption of a spouse's child in a married couple, will enable persons living in a registered partnership or de facto union to adopt the child of their heterosexual or homosexual partner.<sup>92</sup>

49. In a report of 25 March 2015, the Federal Council addressed the modernization of family law and concluded that it was necessary to adopt laws equating registered partnerships with marriage or allowing homosexual couples to marry.<sup>93</sup> The Legal Affairs Committees of the two houses of parliament have in the meantime decided to proceed with parliamentary initiative No. 13.468 on civil marriage for all and will submit proposals for putting it into effect. Moreover, homosexual couples in a registered partnership have been able to use the same family name since 1 January 2013.

50. The Federal Council has expressed its readiness to address the issue of the legal protection of transgender persons<sup>94</sup> and, against that backdrop, to consider acting on the recommendations made in resolution 2048 (2015) of the Council of Europe.<sup>95</sup> The Federal Civil Status Office issued a legal opinion requesting the cantonal civil status authorities not to make surgical sterilization or reconstruction of opposite-sex genital organs a prerequisite for a legal change of sex.<sup>96</sup> This opinion also argues that legal recognition of a sex change should not require dissolution of the marriage or registered partnership of the persons concerned against their will.<sup>97</sup>

51. In principle, in cases of intersexuality, an amendment to the sex recorded in the civil register should also, under current law, be ordered by a judge at the request of the parents, the child him or herself<sup>98</sup> or the cantonal authorities responsible for overseeing civil status.<sup>99</sup> The decision will then be recorded in the civil register and the reference to the sex will be changed. The Federal Civil Status Office has issued official statements setting out the conditions for the automatic correction of records by the civil status authorities or for correction by a judge,<sup>100</sup> the aim being to facilitate corrections.<sup>101</sup> In addition, discussions on drafting a law establishing a simplified procedure for recording a sex change in the civil register are currently under way.<sup>102</sup>

52. Where criminal law is concerned, the parliament decided to proceed with a parliamentary initiative to expand the scope of article 261 bis to include discrimination based on sexual orientation.<sup>103</sup> It has extended the deadline for addressing the initiative to the spring 2019 session.

## **B. Right to life, prohibition of slavery and torture**

### **1. Combating trafficking in human beings and sexual exploitation**

53. Since 2012, the Swiss strategy for combating human trafficking has been defined in national action plans. They are coordinated and drafted by the Coordination Unit against Trafficking in Persons and Smuggling of Migrants attached to the Permanent Secretariat of

the Federal Office of Police. The Coordination Unit brings together all the entities in Switzerland — federal and cantonal services and other organizations — working in this field. The National Action Plan 2017-2020 takes into consideration the recommendations made to Switzerland by the Council of Europe on 30 November 2015, following the evaluation of the country's implementation of the Council of Europe Convention on Action against Trafficking in Human Beings.<sup>104</sup>

54. On 17 March 2017, the parliament authorized the Federal Council to ratify the Protocol of 2014 to the ILO Forced Labour Convention, 1930 (No. 29), which addresses human trafficking. The ratification process will take place in summer 2017, once the period during which a referendum can be called has elapsed.

55. The financial resources earmarked for combating trafficking in human beings take several forms. First, funding for assistance to victims is allocated by the cantons under the Assistance for Victims of Crime Act.<sup>105</sup> The cantons ensure that there are private or public consultation centres, which operate independently in their particular sector.<sup>106</sup> In addition, several non-governmental organizations (NGOs) that specialize in providing assistance to victims of human trafficking have entered into contracts with different cantons and are paid by the latter for the support and assistance they provide to the victims of human trafficking. Lastly, under two edicts that entered into force on 1 January 2014 and 1 January 2016 respectively, the Confederation provides financial assistance to NGOs that specialize in helping victims of human trafficking and to other NGOs involved in the prevention of crime against prostitutes.<sup>107</sup> To raise awareness of sexual exploitation,<sup>108</sup> Switzerland gives priority to outreach projects limited to one or more target groups.<sup>109</sup>

56. Victim protection measures are designed to identify victims of exploitation, help them overcome the exploitation and assert their rights, provide them with aid, resolve their residence status, protect them from offenders and reintegrate them into society. Since the prosecution of the perpetrators is generally the responsibility of the cantonal authorities, there are differences from one canton to another.<sup>110</sup> In many cantons, round tables and other coordination mechanisms have been set up. The strategic actions taken by the Confederation in this area are focused on improving the coordination of procedures at the national and international levels, enhancing international police cooperation, training specialists in the cantonal police forces and establishing specialized investigative units. Swiss criminal law provides for lengthy custodial sentences of up to 20 years for sexual exploitation offences.

57. Between 2011 and 2015, according to police crime statistics, 50 per cent of the trafficking victims identified in Switzerland came from Hungary, Romania, Thailand and Bulgaria. Switzerland is therefore committed especially to strengthening cooperation with these countries.<sup>111</sup> In 2015, Switzerland initiated police cooperation with Romania, under the leadership of the Federal Office of Police, with a view to ensuring improved knowledge management, enhancing the exchange of information and providing the Romanian authorities with logistical resources and information technology. In addition, a project aimed at establishing a transnational referencing mechanism for Switzerland and Hungary was initiated in 2017. As part of the Swiss contribution to the enlargement of the European Union, a project to enhance cooperation between Switzerland and Bulgaria in the fight against human trafficking was launched on 1 July 2004.<sup>112</sup> Lastly, since 2014 Switzerland has had a police officer stationed in Thailand, which has made it possible to improve cooperation between the criminal prosecution authorities of the two countries.<sup>113</sup>

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

58. On the basis of general provisions criminalizing acts of violence that threaten a person's life, physical and mental integrity and liberty, the Criminal Code criminalizes all acts of torture, even without a specific definition thereof. Switzerland therefore does not consider it necessary to introduce a definition of torture in its legal order, as the current situation is satisfactory.

59. The Code of Criminal Procedure states that force should be used only as a last resort and only in the execution of coercive measures. It must be used in accordance with the

principle of proportionality. Otherwise, the excessive use of force is penalized under the Criminal Code, particularly when it causes bodily harm or results in a person's death and thus becomes murder. In such cases, a complaint may be sent direct to the Office of the Attorney General without going through the police.<sup>114</sup>

60. The Bangkok Rules<sup>115</sup> are not more stringent than the European Prison Rules, which Switzerland already applies.<sup>116</sup> The regulations in force thus ensure compliance with the Bangkok Rules. In practice, however, some difficulties have been noted, as sufficient consideration is not always given to the specific rights and needs of women, particularly in cases of pretrial detention.

### C. Administration of justice and fair trial

61. Combating terrorism and transnational crime are priorities for the country in the current international context.<sup>117</sup> On 18 September 2015, Switzerland adopted a national counter-terrorism strategy.<sup>118</sup> In response to the challenges posed by the threat of terrorism, it has also strengthened its legislative framework in this area in recent years. The Federal Act on the Proscription of the Groups Al-Qaida and Islamic State and Associated Organizations, which provides for the absolute prohibition not only of the activities of these groups but also of any action taken to support them, whether through financial support, propaganda, recruitment of new members or in any other way, entered into force on 1 January 2015.<sup>119</sup> In addition, on 26 June 2016 the Federal Council instructed the Federal Department of Justice and Police to prepare amendments to national laws to allow the relevant authorities to take preventive policing measures to prevent jihad sympathizers from leaving for conflict areas.<sup>120</sup>

62. As with the fight against terrorism, combating organized crime requires close collaboration and coordination between the federal and cantonal authorities. At the federal level, the Federal Criminal Police, who are part of the Federal Office of Police, conduct preliminary investigations and undertake criminal procedures, by order of the Attorney General, in connection with all offences under federal jurisdiction.<sup>121</sup> The Federal Office of Police provides support to the law enforcement authorities of the Confederation and the cantons with its reports on organized crime. Lastly, there is the Money-Laundering Reporting Office Switzerland, which receives, analyses and transmits to the law enforcement authorities' suspicious activity reports in connection with money-laundering, terrorist financing, the proceeds of crime or money belonging to criminal organizations.

63. The forms of legal protection against discrimination are an integral part of law studies in Switzerland.<sup>122</sup> In May 2016, further to the study "*Accès à la Justice dans des cas de discrimination*" (Access to justice in cases of discrimination), which was produced by the Swiss Centre of Expertise in Human Rights at the request of a number of departments, the Federal Council expressed the view that raising awareness among the persons concerned of the possibilities of protection and advice was an ongoing task that should be predicated on the specific kind of discrimination under consideration. Similarly, the management of diversity and issues related to protection from discrimination are an integral part of police training, including in-service training. The cantons, which are responsible for policing in the Swiss federal system, have developed various forms of cooperation, one such form being their joint police academies. The basic training provided to future police officers in the academies involves instruction not only in ethics but also in approaches to different cultures, ethnic minorities and topics related to migration and human rights.<sup>123</sup> Psychology, police ethics and human rights are an integral part of the professional examination to become a police officer and account for more than a third of the hours scheduled. The in-service training seminars organized by the Swiss Police Institute in Neuchâtel, among others, also deal with these issues regularly.

### D. Right to seek asylum

64. The Federal Council intends to expedite significantly the execution of asylum procedures, while ensuring that they remain consistent with the principles of the rule of

law. Henceforth, 60 per cent of them will lead to an enforceable decision within no more than 140 days, including removal. These procedures will be carried out in Federal Centres for Asylum Seekers. To ensure that the procedural guarantees enshrined in the Constitution are respected, the legal protection of asylum seekers, who will have the right to counsel, will be expanded. These procedural guarantees also apply to minors. Having legal representation facilitates an understanding and acceptance of decisions by asylum seekers and is thus key to expediting proceedings.<sup>124</sup> Following its acceptance by popular vote on 5 June 2016, the Federal Council will decide on the entry into force of the amendment.<sup>125</sup>

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

65. The fundamental guarantee of religious freedom<sup>126</sup> is contained in article 15 of the Federal Constitution and article 9 of the European Convention on Human Rights.<sup>127</sup> Like other human rights, religious freedom may be restricted in accordance with article 36 of the Constitution.<sup>128</sup>

66. In 2013 and 2015, further to cases concerning Muslim schoolchildren in Bürglen (Thurgau Canton) and St. Margrethen (St. Gallen Canton), the Federal Supreme Court held that wearing a veil in schools could not be prohibited without violating a person's right to religious freedom. The European Court of Human Rights, for its part, held that "by ensuring that the children's obligation to follow school programmes in full and their successful integration took precedence over the applicants' private interest in having their daughters excused from mixed-sex swimming classes on religious grounds, the Swiss authorities have not gone beyond their considerable scope for the exercise of discretion in the present case, which concerns compulsory education".<sup>129</sup>

67. The full facial veil has been a subject of political debate, particularly after the introduction in the Constitution of Ticino Canton of a prohibition on wearing such veils in public was approved by the people of the Canton in the fall of 2013 and entered into force on 1 July 2016.<sup>130</sup>

68. In addition to the provisions of United Nations instruments, including the International Covenant on Civil and Political Rights, freedom of expression is guaranteed in Switzerland by article 16 of the Constitution and article 10 of the European Convention on Human Rights. Freedom of expression is not absolute, however. It may be restricted in accordance with article 36 of the Constitution, article 10 (2) of the Convention and article 19 (3) of the Covenant: the restriction must have a legal basis, pursue a legitimate aim and respect the rules of proportionality. Swiss regulations and practice are also consistent with the principles set out in general comment No. 34 of the Human Rights Committee, which, rather than establishing new standards, clarifies the interpretation of article 19 of the Covenant.<sup>131</sup>

69. There are periodic debates in Switzerland on how far article 261 bis of the Criminal Code, which criminalizes several forms of racial discrimination or discrimination on religious grounds, is compatible with freedom of expression. Under this article, a person who publicly expresses certain views is punishable only when those views harm or threaten other legally protected interests. The law thus provides for an individualized assessment of each case, in accordance with the principles of freedom of expression.<sup>132</sup>

70. In its judgment in the case of *Perinçek v. Switzerland* of 15 October 2015, the Grand Chamber of the European Court of Human Rights found a violation of article 10 of the European Convention on Human Rights. It concluded that the complainant's conviction pursuant to article 261 bis (4), of the Criminal Code for denying the Armenian genocide constituted a violation of the Convention. The Court did not question the compatibility of article 261 bis of the Criminal Code and article 10 of the Convention as such; indeed, it acknowledged that this criminal provision was a sufficient legal basis for criminalizing the denial of genocides. While criticizing the application of the law in the particular case, the judgment of the court leaves room for cases in which a conviction would be consistent with freedom of expression.

## **F. Participation in political life and the right to vote**

71. Since the turn of the millennium, the Confederation and the cantons have been working together on the process of digitizing political rights and the gradual introduction of electronic voting for referendums and elections. With postal voting, Switzerland has had a form of distance voting for decades. In the digital age, the introduction of electronic voting, which meets the needs of an increasingly mobile society, is a logical development in respect of voting methods. In 2013, within the framework of the third report on electronic voting, the Federal Council defined the requirements for making electronic voting available on a large scale. The corresponding legislation, brought into line with the strategy that had been defined, entered into force on 15 January 2014. Fourteen cantons have since offered electronic voting in federal elections.<sup>133</sup> In addition, measures have been taken to encourage young people to take an interest in and participate in politics and to introduce them to the exercise of direct democracy, for example by providing financial support for projects involving setting up mock law-making bodies.

## **G. Work**

72. Since 2010, the difference between the unemployment rate for women in Switzerland and the rate for men has almost vanished (narrowing from +0.8 to +0.1 per cent). While the rate of low-wage employment increased slightly among men, from 5.2 per cent in 1996 to 5.9 per cent in 2010, the rate for women fell from 23 to 18.4 per cent in the same period.

73. From the start of their careers, women are paid less than their male peers, without objective justification. Part of the gender wage gap is the result of structural effects related to a combination of the person's background (age, education, years of service), the characteristics of the particular position held in the company and the particular field of activity. The other part of the wage gap remains unexplained. In the private sector as a whole, in 2014 women earned on average 19.5 per cent less than their male co-workers, as against 23.6 per cent in 2010. The cause of 39.1 per cent of those wage differentials has not been found. In the entire public sector (Confederation, cantons and municipalities), the wage gap between women and men amounted, on average, to 16.6 per cent in 2014 (16.5 per cent in 2012), of which 41.7 per cent was unaccounted for.<sup>134</sup> The Federal Council therefore included action against pay inequality in two successive legislative agendas (2011-2015 and 2015-2019).<sup>135</sup> In 2015 and in 2016, the Federal Department of Home Affairs organized two national meetings on the promotion of equal pay in the public sector. Since the meeting of 6 September 2016, 30 cantons and municipalities, in addition to the Confederation, have signed the charter for equal pay in the public sector. The charter reaffirms the determination to give effect to the constitutional principle of equal pay for work of equal value. In addition, the Federal Public Procurement Act made respecting the principle of equal pay a requirement for companies bidding to provide services to the Confederation.<sup>136</sup> The same is true for the cantons and other procuring entities.<sup>137</sup> To achieve equality of opportunity, the Federal Council intends, among other amendments to the Gender Equality Act, on which comments were called for in October 2016, to require employers with at least 50 employees to assess their wage practices every four years and have the results audited by an outside oversight body.

74. Employers in Switzerland are not required by law to offer paternity leave, as the parliament rejected a motion to establish two weeks of paid paternity leave in April 2016. In response to this decision, a people's initiative calling for the establishment of paid paternity leave of at least four weeks was launched in May 2016. The deadline for the collection of signatures is in November 2017.

## **H. Adequate standard of living**

75. On 15 May 2013, in follow-up to the National Anti-Poverty Strategy adopted in March 2010, the Federal Council adopted the National Programme to Prevent and Fight Poverty 2014-2018.<sup>138</sup> The Confederation intends thus to enhance the effectiveness of the

existing measures to prevent and combat poverty and ensure that they are better coordinated, at the same time strengthening the ties between relevant organizations.<sup>139</sup>

76. Switzerland campaigned actively for the adoption of the 2030 Agenda for Sustainable Development, which was adopted by the United Nations General Assembly in September 2015. Achieving the Goals defined in the 2030 Agenda is a priority of the country's international cooperation efforts. Moreover, Swiss development programmes take a human rights-based approach, as they are intended to help States better fulfil their obligations in that respect and to strengthen the capacity of individuals to know and advocate for their rights. Switzerland actively follows international and multilateral discussions on the right to development.<sup>140</sup> It maintains that the right to development is not a collective right of a group of countries in respect of others but that it is the responsibility of each State to respect the human rights of its people, including the right to development.

77. The objective of having official development assistance account for 0.5 per cent of gross national income was reached between 2014 and 2016. However, as a result of cost-cutting measures taken as part of the Stabilization Programme 2017-2019, there is no guarantee that that objective will continue to be pursued in the medium term. The Message of 17 February 2016 on Swiss international cooperation 2017-2020, which establishes the financial and strategic framework for the country's international cooperation for the coming years, states that official development assistance should be around 0.48 per cent of gross national income. That figure is provisional, however, and may change, depending in particular on fluctuations in gross national income and the costs of asylum, which accounted for nearly one fifth of official development assistance in 2016. For example, the ratio of official development assistance to gross national income reached 0.54 per cent in 2016, while the Confederation's expenditure on international cooperation and humanitarian aid accounted for 0.39 per cent of gross national income. Having the ratio reach 0.7 per cent in the long term is still recognized as an objective of Switzerland in the aforementioned Message. With that recognition, Switzerland reiterates its support for an international objective, as an expression of both a political and a moral commitment.<sup>141</sup>

## I. Human rights and the private sector

78. Switzerland is committed to the protection of human rights in the context of economic activity and promotes respect for human rights by companies based in Switzerland.<sup>142</sup> In 2012, the parliament instructed the Federal Council to submit a report on a strategy for the implementation in Switzerland of the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework.<sup>143</sup> Against that background, Switzerland adopted a national action plan for the implementation of the Guiding Principles on 9 December 2016, on the basis of consultations with the private sector, civil society and the scientific community. It sets out what the Government expects of Swiss companies in their operations in Switzerland and abroad and establishes a combination of legally non-binding measures, accompanied, if necessary, by supplementary legal requirements.<sup>144</sup> The plan, which is made up of 50 policy instruments, also seeks to improve collaboration among the Government's different agencies and contribute to the harmonization of their policies, focusing initially on the period 2016 to 2019. The implementation of the plan, and future updates to it, are expected to take place every two years, or when necessary. In recent years, Switzerland has also supported the development of various guidelines on respect for human rights by businesses.<sup>145</sup> In particular, it reported on progress on projects in that area at the United Nations Forum on Business and Human Rights in 2015 and 2016 and at the tenth anniversary of the Human Rights Council in February 2016.

## IV. Concluding remarks

79. The Federal Council is of the view that the level of protection for human rights in Switzerland can be described as good. The present report demonstrates that Switzerland takes its international obligations and commitments in the field of human rights seriously. While presenting the main measures taken by the Confederation and the cantons in areas

where the protection of human rights must be strengthened, in particular in the areas covered by the recommendations accepted by Switzerland in the second cycle of the universal periodic review, the report also shows that there are still challenges to protecting human rights more comprehensively still.

80. In this context, Switzerland recognizes the universal periodic review's importance as a pillar of the implementation of human rights in general, in line with the sector-based approach adopted by Switzerland, and in supporting the procedures already launched in this area, in particular with regard to the implementation of the international instruments ratified by Switzerland. Switzerland also recognizes the importance of monitoring the implementation of human rights outside the formal setting of the universal periodic review and will continue to meet its commitments in this regard, including by pursuing dialogue with all parties for the purpose of implementing as sustainably as possible the recommendations that it accepts during the third cycle.

#### **Views of civil society (Swiss NGO Coalition for the universal periodic review)**

81. The main views of NGOs, transmitted during the panel discussion held in Bern on 23 March 2017, can be found in annex 2.<sup>146</sup> In general, the NGO Coalition, although it recognizes the difficulty of the exercise, is somewhat disappointed by the report submitted by Switzerland. It would have liked it to be more critical and thereby, in its view, more credible. The coalition is of the view that, in order to continue to play a primary role in the promotion of human rights throughout the world, Switzerland should not simply stress the importance that it accords to respect for human rights but also be more critical of its own efforts and take more decisive action when following up the recommendations made under the universal periodic review. The coalition is thus in favour of relaunching the establishment in the federal administration of an interdepartmental coordinating body that, by acting as a link between the cantons and the Confederation, would enable better preparation of the State's reports and enhanced coordination in the follow-up to the recommendations received by Switzerland.

#### *Notes*

- <sup>1</sup> Par souci de lisibilité, le masculin générique est utilisé pour désigner les personnes des deux sexes.
- <sup>2</sup> Il s'agit de la date d'adoption du rapport par le Conseil fédéral. La date d'enregistrement et de publication de la part du Haut-Commissariat des Nations Unies aux droits de l'homme est le 6 août 2012.
- <sup>3</sup> Sur les 140 recommandations reçues lors du deuxième cycle de l'EPU, la Suisse en a acceptées 99.
- <sup>4</sup> Le rapport porte sur la période du 4 juillet 2012 au 28 juin 2017.
- <sup>5</sup> De manière générale, la Suisse considère également les recommandations reçues lors du deuxième cycle de l'EPU dont elle a pris note mais qu'elle n'a pas été en mesure d'accepter en les intégrant dans le tableau récapitulatif relatif à la mise en œuvre spécifique de chaque recommandation annexé au présent rapport.
- <sup>6</sup> Cf. Recommandations 122.48 et 122.49. Cet engagement se déploie en conformité avec l'engagement volontaire à cet égard pris par la Suisse conformément à la résolution 60/251 de l'Assemblée générale ainsi que dans le contexte de la candidature de la Suisse pour le Conseil des droits de l'homme pour les années 2016-2018. Concrètement, le suivi général de la mise en œuvre des recommandations de l'EPU est effectué par le Groupe interdépartemental «Politique internationale des droits de l'homme» (KIM), qui réunit, sous la conduite du Département fédéral des affaires étrangères (DFAE), l'ensemble des départements fédéraux intéressés, des représentants de la Conférence des gouvernements cantonaux ainsi que des représentants des commissions extraparlimentaires. Ce groupe de coordination constitue une structure légère qui ne remet pas en cause le lead thématique exercé par les offices compétents pour le suivi de la mise en œuvre de chaque recommandation.
- <sup>7</sup> En conformité avec l'engagement volontaire à cet égard pris par la Suisse conformément à la résolution 60/251 de l'Assemblée générale ainsi que dans le contexte de la candidature de la Suisse pour le Conseil des droits de l'homme pour les années 2016-2018.
- <sup>8</sup> Cf. Recommandations 122.3 et 122.4.
- <sup>9</sup> Cf. Recommandation 122.2. Entrée en vigueur en Suisse le 15 mai 2014.
- <sup>10</sup> See recommendation 122.1. This Convention's entry into force in Switzerland on 1 January 2017 1 was accompanied by the inclusion in the Criminal Code of enforced disappearance as a specific offence (art. 185 *bis*).



- <sup>11</sup> Cf. Recommandation 123.6.
- <sup>12</sup> Cf. Recommandation 123.4.
- <sup>13</sup> Cf. Recommandation 123.12.
- <sup>14</sup> Réserve aux art. 15, al. 2, et 16, al. 1, let. h.
- <sup>15</sup> La Suisse n'a pas pour l'heure l'intention de retirer cette réserve, sachant que les bureaux cantonaux du registre des régimes matrimoniaux ne sont pas en mesure d'avoir des informations sur lesquels, parmi les couples ayant déclaré conjointement, au plus tard un an après l'entrée en vigueur du nouveau régime matrimonial, qu'ils veulent conserver la communauté de biens selon l'ancien droit, subsistent aujourd'hui.
- <sup>16</sup> En conformité avec l'engagement volontaire à cet égard pris par la Suisse conformément à la résolution 60/251 de l'Assemblée générale ainsi que dans le contexte de la candidature de la Suisse pour le Conseil des droits de l'homme pour les années 2016-2018.
- <sup>17</sup> Cf. Recommandations 123.18 à 123.22.
- <sup>18</sup> Cf. Recommandation 123.17.
- <sup>19</sup> Une telle structure d'ombudsman existe aux cantons de Bâle-Ville, Bâle-Campagne, Vaud, Zoug et Zurich et, notamment, dans les villes de Berne, Saint-Gall, Winterthur et Zurich.
- <sup>20</sup> Dans un arrêt rendu le 21 novembre 2011, le Tribunal fédéral oblige tous les cantons à prendre les mesures qui s'imposent en vue de la réalisation de l'égalité des genres, notamment via l'établissement des bureaux de l'égalité des genres. En 2017, 17 cantons connaissent de tels bureaux (état au 3 avril 2017).
- <sup>21</sup> Cf. Recommandation 123.74.
- <sup>22</sup> Cf. Recommandation 122.50. Pour la période sous revue, voir notamment le Rapport du Conseil fédéral sur la politique extérieure de la Suisse en matière de droits de l'homme: bilan 2011-2014 et perspectives, 9 janvier 2015.
- <sup>23</sup> La Stratégie Droits de l'homme du DFAE 2016-2019 ouvre explicitement la porte à une éventuelle stratégie du Conseil fédéral portant sur la politique extérieure en matière de droits de l'homme, au plus tôt après 2019.
- <sup>24</sup> Cf. Recommandation 122.47.
- <sup>25</sup> Parmi ces dernières, la Suisse a notamment lancé l'Appel du 13 juin 2016 pour mettre les droits de l'homme au centre de la prévention des conflits, une initiative soutenue par 70 Etats membres de l'ONU et qui vise à renforcer la prise en compte des droits de l'homme dans les activités de paix et sécurité. La Suisse co-organise également depuis 2014 le Dialogue sur les droits de l'homme de Glion, qui constitue une plateforme de discussion annuelle dédiée au renforcement des institutions internationales de droits de l'homme, en particulier le Conseil des droits de l'homme.
- <sup>26</sup> En vue de la prochaine considération du système des organes de traité en 2020 prévue par la résolution 68/268 de l'Assemblée Générale de l'ONU, la Suisse soutient également un projet pour un réseau académique qui encourage des recherches académiques indépendantes visant à informer le processus de renforcement des organes de traités.
- <sup>27</sup> Cf. Recommandation 123.61.
- <sup>28</sup> La Suisse a notamment figuré parmi les premiers soutiens de la création de ce mandat initié par les Maldives et établi par les Nations Unies en mars 2012.
- <sup>29</sup> Cf. Recommandation 123.86.
- <sup>30</sup> Cf. Recommandations 122.26 et 123.72. Le gouvernement Suisse (Conseil fédéral) compte actuellement deux femmes parmi ses sept membres, après en avoir compté trois pendant la précédente législature (2011-2015). Dans la législature actuelle (2015-2019), on compte 15,2% de femmes parmi les 46 membres du Conseil des Etats. Les femmes sont représentées à raison de 32,5% (65 femmes) parmi les 200 membres du Conseil national, en augmentation depuis 2011. Au sein des parlements cantonaux, la part des femmes varie entre 14% et 37,8%. Deux gouvernements exécutifs cantonaux connaissent une majorité de femmes, tandis que deux cantons n'ont pas de femmes au sein de leur gouvernement (état au 23 mars 2017).
- <sup>31</sup> Celles-ci sont définies dans le Guide à l'usage des groupes voulant lancer des candidatures publié par la Chancellerie fédérale. De plus, sur la plate-forme électorale conjointe nouvellement créée par la Chancellerie fédérale, les Services du Parlement, l'Office fédéral de la statistique et le site ch.ch, un dossier porte sur «Les femmes et les élections».
- <sup>32</sup> Ce soutien financier est prévu par la Loi fédérale sur l'égalité entre femmes et hommes (RS 151.1).
- <sup>33</sup> Notamment via le site internet [www.personnelqualifie-suisse.ch](http://www.personnelqualifie-suisse.ch).
- <sup>34</sup> Bien que la proportion de femmes dans les conseils d'administration des 100 plus grandes sociétés suisses soit passée de 13% en 2014 à 16% en 2016, au sein des directions des mêmes entreprises, la représentation des femmes au sein de la direction de ces mêmes entreprises stagne à 6% depuis 2013.
- <sup>35</sup> En tant qu'employeuse exemplaire, la Confédération se fixe des objectifs plus élevés. Dans sa Stratégie du personnel 2016-2019, elle vise une proportion de 33 à 40% de femmes cadres et de 20 à 25% de femmes exerçant des fonctions de direction.

- <sup>36</sup> Cf. Recommandations 122.35 à 122.37.
- <sup>37</sup> Bureau fédéral de l'égalité entre femmes et hommes (BFEG), Secrétariat d'Etat aux migrations (SEM).
- <sup>38</sup> Loi fédérale sur les étrangers (RS 02.024) et Ordonnance relative à l'admission, au séjour et à l'exercice d'une activité lucrative (RS 142.201).
- <sup>39</sup> Un droit à la prolongation de l'autorisation de séjour au motif de violence conjugale est prévu pour les conjoints de citoyens suisses ou titulaires d'une autorisation d'établissement (art. 50 LEtr). Par ailleurs, la loi prévoit que l'autorisation des conjoints de titulaires d'une autorisation de séjour peut être prolongée (art. 77 OASA).
- <sup>40</sup> Cf. Recommandations 123.70 et 123.71. Le règlement du séjour reste inchangé après la dissolution du mariage ou de la communauté familiale, lorsque la communauté de mariage a perduré pendant au moins trois ans et que l'intégration est avancée ou que des raisons personnelles majeures, telle que la violence conjugale, justifient la prolongation du séjour en Suisse.
- <sup>41</sup> La violence conjugale peut être de nature tant physique que psychique, mais elle doit être intense au point que l'intégrité physique ou psychique de la victime soit gravement compromise en cas de maintien de la communauté conjugale et que la poursuite de l'union conjugale ne puisse être raisonnablement exigée. Selon l'art. 77, par. 5 à 6 bis OASA, les autorités compétentes s'appuient sur des éléments objectifs, tels que les rapports de police, des certificats médicaux de même que des indications et des renseignements fournis par les services spécialisés (p.ex. les centres d'aide aux victimes et les maisons d'accueil pour femmes victimes de violences). Chaque cas faisant l'objet d'un examen approfondi et individuel.
- <sup>42</sup> Cf. Recommandation 122.43.
- <sup>43</sup> Cette modification est une des mesures prises par la Suisse suite à la ratification par la Suisse le 18 mars 2014 de la Convention du Conseil de l'Europe sur la protection des enfants contre l'exploitation et les abus (Convention de Lanzarote).
- <sup>44</sup> Comme le Conseil fédéral l'a exposé dans son avis sur l'intervention parlementaire «Pour une éducation non violente» (13.3156), il estime qu'avec l'art. 126, al. 1 et 2, let. a (voire de fait) du CP et l'art. 123 CP (lésions corporelles simples), la Suisse remplit les exigences de la CEDH concernant la protection des enfants contre toute forme de violence physique ou mentale. Le Parlement a rejeté cette intervention parlementaire le 17 juin 2014.
- <sup>45</sup> Voir l'avis du Conseil fédéral du 19 août 2015 sur la motion «Suppression du châtement corporel» (15.3639), rejetée par le Parlement le 3 mai 2017.
- <sup>46</sup> Cf. Recommandation 122.44.
- <sup>47</sup> Cf. Recommandation 122.46.
- <sup>48</sup> Equité — Discrimination et égalité des chances au sein du système éducatif. Migration et origine sociale (Berne, 2015). En outre, le rapport sur l'éducation en Suisse, qui paraît tous les quatre ans, permet entre autres de dresser un état des lieux de l'éducation dont peuvent bénéficier les jeunes issus de milieux défavorisés et/ou d'origine étrangère. La dernière édition de ce rapport date de 2014 («L'éducation en Suisse : rapport 2014». Aarau: Centre Suisse de coordination pour la recherche en éducation [CSRE]).
- <sup>49</sup> Diplôme secondaire II (certificat de maturité gymnasiale, certificat de maturité spécialisée, certificat de maturité professionnelle, certificat de capacité ou attestation de formation professionnelle).
- <sup>50</sup> L'équipe spécialisée de Pro Juventute apporte chaque jour un soutien à environ 400 enfants et jeunes de moins de 18 ans dans toute la Suisse, 24h/24, de manière anonyme et gratuite, au téléphone, par SMS ou sur Internet («Conseils + aide 147»).
- <sup>51</sup> Cf. Recommandation 123.82.
- <sup>52</sup> L'objectif du plan d'action national, qui formule 10 objectifs et 19 mesures qui s'adressent aux enfants et aux jeunes, est de réduire de 300 le nombre annuel de suicides d'ici 2030. La moyenne annuelle s'élevait à 1050 suicides par année entre 2009 et 2014. Les chiffres ne sont pas encore disponibles pour 2015 et 2016 (état au 11 mai 2017).
- <sup>53</sup> Cf. Recommandation 123.82.
- <sup>54</sup> Cf. Recommandation 122.41.
- <sup>55</sup> Les mesures prises en faveur des personnes âgées relèvent de domaines très divers: sécurité sociale, logement, travail, droit à la protection de l'adulte, soins et prise en charge. Dans ce contexte, la Confédération s'occupe de la prévoyance sanitaire, c'est-à-dire de la prévention, de l'assurance-maladie et du financement des soins de longue durée, tandis que les cantons et les communes veillent à ce que les personnes âgées disposent d'assistance et de soins, tant à domicile que dans les établissements médico-sociaux. De plus, des subventions sont également versées à des institutions privées actives à l'échelle nationale pour certaines tâches en faveur des personnes âgées, notamment de conseil, d'assistance, d'occupation ou de formation en vue de renforcer leur indépendance et leur capacité à établir des contacts avec leur entourage.
- <sup>56</sup> «Etat des lieux juridique et pratique des obstacles à la mise en œuvre et à l'exercice des droits humains des personnes âgées en Suisse», disponible sur le site internet du CSDH.

- <sup>57</sup> Cf. Recommandations 122.16, 122.7, 122.13, 122.19, 123.40, 123.42.
- <sup>58</sup> Cependant, toutes les personnes ayant déposé une demande d'asile ne sont pas reconnues en tant que réfugiés, ni admises au titre de l'admission provisoire. Les requérants d'asile déboutés sont tenus de quitter notre pays, mais leur retour doit être favorisé.
- <sup>59</sup> Les cantons et la Confédération ont d'ores et déjà décidé de lancer une deuxième période de PIC (2018 à 2021), dont les objectifs seront de consolider les acquis, d'améliorer la qualité et l'efficacité des offres et d'augmenter la visibilité de l'intégration ainsi que la coordination entre les différentes structures impliquées.
- <sup>60</sup> Cf. Recommandations 122.10 et 122.18.
- <sup>61</sup> Cf. Recommandation 123.73.
- <sup>62</sup> Il s'agit d'environ 50 projets depuis 2001 pour un montant total de 700'000 francs.
- <sup>63</sup> Cf. Recommandation 123.55.
- <sup>64</sup> Une étude portant sur la réduction de la dépendance des jeunes par rapport à l'aide sociale a également été réalisée et ses résultats, dont la publication est prévue dans la deuxième moitié de 2017, devraient permettre d'apporter un soutien ciblé aux jeunes, notamment issus de la migration, pour leur entrée dans le monde professionnel.
- <sup>65</sup> Cf. Recommandation 123.46.
- <sup>66</sup> Les mécanismes de plainte ont fait l'objet d'une étude que le CSDH a publiée en 2014: «La protection juridique contre les abus de la part de la police. Présentation des mécanismes de plainte possibles en Suisse». Le document est disponible sur le site internet du CSDH.
- <sup>67</sup> Cf. Recommandation 123.46.
- <sup>68</sup> Le Réseau des centres de consultation pour victimes de discrimination raciale a enregistré 17 incidents racistes en lien avec la police en 2013 (sur un total de 238 cas), 19 en 2014 (sur un total de 298 cas) et 23 en 2015 (sur un total de 317 cas), dont 16 en lien avec des allégations de profilage ethnique.
- <sup>69</sup> Cf. Recommandation 122.11.
- <sup>70</sup> Dans les cas de détention administrative, la Loi fédérale sur les étrangers garantit qu'un étranger en détention puisse avoir accès à un avocat et s'entretenir et correspondre avec son mandataire, les membres de sa famille et les autorités consulaires. Dans les cas de détention provisoire ou détention pour des motifs de sûreté, le Code de procédure pénale (CPP) suisse prévoit que tout prévenu peut communiquer en tout temps et sans surveillance avec son défenseur pendant la procédure de détention devant le ministère public et les tribunaux, que ce soit oralement ou par écrit. Selon le CP, les relations avec les défenseurs doivent être autorisées pendant l'exécution des peines.
- <sup>71</sup> Cf. Recommandation 123.47. Loi sur l'usage de la contrainte et de mesures policières dans les domaines relevant de la compétence de la Confédération (RS 364) et l'Ordonnance relative à l'usage de la contrainte et de mesures policières dans les domaines relevant de la compétence de la Confédération (RS 364.3), entrée en vigueur le 1er janvier 2009.
- <sup>72</sup> Il s'agit principalement de la Conférence des directrices et directeurs cantonaux des affaires sociales (CDAS), de la Conférence des directrices et directeurs des départements cantonaux de justice et police (CCDJP) et de la Conférence des commandants des polices cantonales (CCPCS).
- <sup>73</sup> Voir notamment les recommandations de la CDAS du 29 juin 2012 et respectivement du 20 mai 2016 relatives à l'aide d'urgence destinée aux personnes tenues de quitter le pays dans le domaine de l'asile ainsi que relatives aux enfants et aux jeunes mineurs non accompagnés dans le domaine de l'asile.
- <sup>74</sup> Cf. Recommandation 123.56.
- <sup>75</sup> Cf. Recommandations 122.5, 122.6, 122.8, 122.12, 122.30, 123.31, 123.38, 122.9.
- <sup>76</sup> Convention internationale pour l'élimination de toutes formes de discrimination raciale; Convention européenne contre le racisme et l'intolérance; art. 20, par. 2 du Pacte international relatif aux droits civils et politiques.
- <sup>77</sup> Cf. Recommandation 122.42.
- <sup>78</sup> Cf. Recommandation 123.58.
- <sup>79</sup> Cf. Recommandation 123.37.
- <sup>80</sup> L'analyse et la documentation de la jurisprudence de l'art. 261bis du CP menées par la Commission fédérale contre le racisme (CFR), qui observe en particulier l'application de la norme pénale contre la discrimination raciale, indique que, entre 1995 et 2015, 737 décisions des tribunaux se sont fondées sur cette norme. La procédure judiciaire a été interrompue après examens des faits dans 267 cas, tandis que 400 cas (sur les 470 où un jugement matériel a été prononcé) ont abouti à un verdict de culpabilité. Au cours des dernières années, cette norme a donné lieu à 34 condamnations en 2012, 41 en 2013, 38 en 2014, 72 en 2015 et 31 en 2016 (jusqu'au 8 novembre). L'année 2015 a constitué un pic de condamnations en lien avec des actes antisémites (35 cas). En revanche, la norme antiraciste est rarement invoquée pour des actes à l'encontre de musulmans ou de tsiganes.
- <sup>81</sup> Cf. Recommandation 123.53.
- <sup>82</sup> Cf. Recommandations 123.32 à 123.34.
- <sup>83</sup> Cf. Recommandations 123.50 et 123.51.

- <sup>84</sup> Par exemple, en 2013, le Secrétariat général de la CDIP et son centre d'information et de documentation ont publié sous le titre «Liberté de conscience et de croyance à l'école: bases légales et matériel d'information» un guide visant à présenter les bases légales, la jurisprudence et les lignes directrices cantonales pertinentes en la matière. Ce guide est régulièrement remis à jour.
- <sup>85</sup> Cf. Recommandation 123.52.
- <sup>86</sup> Cf. Recommandation 122.15.
- <sup>87</sup> Cf. Recommandations 122.14 et 122.17.
- <sup>88</sup> Ce dialogue a été lancé en 2012 avec les partenaires essentiels dans le domaine de l'intégration des étrangers et comprend trois volets: «Au travail», «Dès la naissance» et «Au quotidien».
- <sup>89</sup> [www.dialog-integration.ch](http://www.dialog-integration.ch).
- <sup>90</sup> Il s'agit d'une plateforme créée pour promouvoir le dialogue entre les trois communautés religieuses chrétienne, juive et musulmane, les principales de Suisse.
- <sup>91</sup> Cf. Recommandation 122.20.
- <sup>92</sup> Les nouvelles dispositions entreront en vigueur le 1er janvier 2018.
- <sup>93</sup> Rapport adopté le 25 mars 2015 en réponse au Postulat Fehr (12.3607) «Code civil. Pour un droit de la famille moderne et cohérent».
- <sup>94</sup> Réponse à l'interpellation Fiala 15.3521 «Personnes transgenres. Cohérence de la législation suisse et de la pratique dans le cas de la résolution 13742 du Conseil de l'Europe».
- <sup>95</sup> L'Assemblée parlementaire du Conseil de l'Europe a adopté le 22 avril 2015 la Résolution (numéro 2048) «La discrimination à l'encontre des personnes transgenres en Europe». La Résolution invite les Etats membres à instaurer des procédures rapides, transparentes et accessibles fondées sur l'autodétermination qui permettent aux personnes transgenres de changer de nom et de sexe, à abolir l'obligation légale de stérilisation et de soumission à d'autres traitements médicaux et à supprimer les dispositions limitant le droit des personnes transgenres à demeurer mariées à la suite d'un changement de genre reconnu.
- <sup>96</sup> Avis de droit OFEC: Transsexualisme, 1er février 2012.
- <sup>97</sup> La pratique des autorités suisses telle que préconisée dans cet avis de droit du 1er février 2012 a été citée et approuvée par la Cour européenne des droits de l'homme. Voir l'arrêt *Hämäläinen c. Finlande* du 16 juillet 2014 (requête n° 37359/09) et l'arrêt *Y.Y. c. Turquie* du 10 mars 2015 (requête n° 14793/08), § 43, et Opinion concordante aux Juges Keller et Spano, § 24.
- <sup>98</sup> Art. 42 al. 1 CC.
- <sup>99</sup> Art. 42 al. 2 CC.
- <sup>100</sup> Ces communications officielles se concluent comme suit: «Les autorités de l'état civil traitent le domaine sensible de la détermination du sexe et le cas échéant du prénom du nouveau-né et son changement avec soin, prévenance et sensibilité. Cela suppose d'une part [...] d'assister rapidement et de manière non bureaucratique les personnes concernées lors de l'inscription de sexe du prénom et d'autre part [...] de soutenir au mieux le juge, si nécessaire, dans la mise à disposition des connaissances spécifiques afin de garantir une décision et une nouvelle inscription dans le registre de l'état civil dans les meilleurs délais. Les autorités de l'état sont conscientes qu'une solution équitable qui répond au mieux aux besoins des personnes concernées doit être trouvée dans chaque cas». Communications officielles OFEC no 140.15 du 1er février 2014: *Intersexualité: Inscription et modification du sexe et des prénoms dans le registre de l'état civil — Intersexualité*.
- <sup>101</sup> Cf. la réponse du Conseil fédéral à la Question John-Calame 13.5300 *Intergenre. Eviter la stigmatisation*. Voir aussi la prise de position CNE no 20/2012, p. 16.
- <sup>102</sup> Voir les Communiqués de presse du Conseil fédéral «Renforcer la protection contre la discrimination», du 25 mai 2016 et «Personnes aux caractéristiques sexuelles ambiguës: sensibiliser davantage», du 6 juillet 2016; Postulat Naef 12.3543 *Rapport sur le droit à la protection contre la discrimination*.
- <sup>103</sup> Initiative parlementaire Reynard 13.407 «Lutter contre les discriminations basées sur l'orientation sexuelle».
- <sup>104</sup> Cf. Recommandations 122.27, 122.30, 122.31, 123.68, 122.32, 122.34.
- <sup>105</sup> Cf. Recommandation 123.66.
- <sup>106</sup> Cf. Recommandation 123.67.
- <sup>107</sup> Ordonnance sur les mesures de prévention des infractions liées à la traite des êtres humains (RS 311.039.3) et Ordonnance sur les mesures de prévention des infractions liées à la prostitution (RS 311.039.4). Sur la base de l'Ordonnance sur les mesures de prévention des infractions liées à la traite des êtres humains, la Confédération a accordé 361'000 francs en 2015 et 325'000 francs en 2016 pour le soutien de projets et d'organisations spécialisés dans l'aide aux victimes de la traite des êtres humains. Le DFJP et le DFAE soutiennent notamment différents projets de rencontres d'experts, contribuant à développer les capacités des employés de la Confédération, particulièrement des autorités policières, dans ce domaine.
- <sup>108</sup> Cf. Recommandation 122.33.
- <sup>109</sup> Par exemple, jusqu'en 2015, la Confédération a soutenu le service ECPAT («End Child Prostitution,

Child Pornography and Trafficking of Children for sexual purposes») de la Fondation Suisse pour la Protection de l'Enfant, en étroite collaboration avec les autorités de poursuite pénale, les gouvernements, l'économie privée et notamment le secteur du tourisme ainsi que les organisations de protection de l'enfant. Dans le domaine de la prévention et de la lutte contre le tourisme sexuel impliquant des enfants, ce projet concernait notamment une campagne de sensibilisation du secteur suisse du tourisme.

- <sup>110</sup> Cf. Recommandations 122.28 et 122.29.
- <sup>111</sup> Cf. Recommandation 123.69.
- <sup>112</sup> Ce projet a pour objectif l'élaboration de lignes directrices bilatérales en matière d'identification, de protection, d'accompagnement et de réintégration des victimes de la traite des êtres humains. Dans le cadre de cette collaboration, le DFAE a soutenu un projet de l'Organisation internationale pour les migrations (OIM) à Budapest.
- <sup>113</sup> Cette bonne coopération a permis de démanteler un important réseau de traite d'êtres humains aux fins de prostitution forcée. Les premières poursuites pénales ont été lancées en Suisse en octobre 2014.
- <sup>114</sup> Cf. Recommandation 122.39.
- <sup>115</sup> Règles des Nations Unies concernant le traitement des femmes détenues et les mesures non privatives de liberté pour les femmes délinquantes («Règles de Bangkok»).
- <sup>116</sup> Cf. Recommandation 123.78.
- <sup>117</sup> Cf. Recommandation 122.40.
- <sup>118</sup> La Stratégie de la Suisse pour la lutte antiterroriste est disponible sur internet. La coordination des efforts en la matière est confiée depuis l'automne 2014 à la Task Force TETRA (Terrorism tracking), qui réunit notamment l'ensemble des services impliqués de la Confédération ainsi que les commandements de plusieurs polices cantonales. Cette task-force, qui assure la coordination des cas concrets et optimise l'arsenal des instruments contreterroristes, a été transformée en une structure fixe et ainsi institutionnalisée dès le début de l'année 2017.
- <sup>119</sup> Sur la base de cette loi et de l'article du CP punissant tout soutien et participation à une organisation criminelle (art. 260ter CP), des poursuites pénales ont été engagées contre plusieurs personnes en 2015 et 2016.
- <sup>120</sup> La prévention de l'extrémisme violent constitue également une priorité de l'engagement international de la Suisse, dont les efforts se déploient sous l'égide du Plan d'action de politique étrangère pour la prévention de l'extrémisme violent adopté en avril 2015, qui sera complété par un Plan d'action national contre la radicalisation et l'extrémisme violent d'ici la fin 2017.
- <sup>121</sup> Il s'agit de la grande criminalité transfrontalière, dont font partie le crime organisé et la criminalité économique ainsi que des demandes d'entraide judiciaire internationales, entre autres dans le domaine de la criminalité organisée.
- <sup>122</sup> Cf. Recommandation 122.38.
- <sup>123</sup> Cf. Recommandations 123.43, 123.44, 123.48.
- <sup>124</sup> Les rapports finaux relatifs à l'évaluation de la phase de test, qui a été menée dans le canton de Zürich entre le 1<sup>er</sup> juillet 2014 et le 31 août 2015, confirment que la représentation juridique a une incidence positive sur l'acceptation des décisions. Lors de deux conférences nationales sur l'asile organisées respectivement le 21 janvier 2013 et le 28 mars 2014, la Confédération, les cantons et les représentants des villes et des communes ont convenu de coopérer à la mise en œuvre de l'accélération des procédures d'asile.
- <sup>125</sup> Le Conseil fédéral a adopté le projet de la réforme le 3 septembre 2014 et soumis la révision au Parlement, qui l'a approuvée durant la session d'automne 2015 après y avoir apporté quelques retouches. Un référendum a été lancé contre la loi visant à accélérer les procédures d'asile, mais la réforme a été adoptée à 66,8% par le peuple le 5 juin 2016.
- <sup>126</sup> Cf. Recommandations 123.62 et 123.63.
- <sup>127</sup> Selon l'art. 15 Cst., «toute personne a le droit de choisir librement sa religion ainsi que de se forger ses convictions philosophiques et de les professer individuellement ou en communauté». L'art. 15 Cst. garantit aussi le droit pour toute personne «d'adhérer à une communauté religieuse ou d'y appartenir et de suivre un enseignement religieux». La disposition fixe de plus que «nul ne peut être contraint d'adhérer à une communauté religieuse ou d'y appartenir, d'accomplir un acte religieux ou de suivre un enseignement religieux».
- <sup>128</sup> La restriction doit être fondée sur une base légale et justifiée par un intérêt public ou par la protection d'un droit fondamental d'autrui. Elle doit être proportionnée au but visé et ne doit pas violer l'essence de la garantie fondamentale. La conviction intérieure de la liberté religieuse est protégée de manière absolue. Par contre, l'Etat a le droit de limiter certaines pratiques religieuses (conviction externe).
- <sup>129</sup> Cour européenne des droits de l'homme, arrêt Osmanoglu et Kocabaş c. Suisse du 10 janvier 2017 (requête n° 29086/12), § 105.
- <sup>130</sup> La modification de la constitution tessinoise a été approuvée par le Conseil national et le Conseil des Etats en mars 2015, après une proposition correspondante du Conseil fédéral. Dans sa prise de

position, ce dernier s'est appuyé sur un jugement de la Cour européenne des droits de l'homme du 1er juillet 2014 qui validait une loi française portant sur l'interdiction du voile intégral dans l'espace public (arrêt S.A.S. c. France, Grande Chambre, requête n° 43835/11).

<sup>131</sup> Cf. Recommandation 123.64.

<sup>132</sup> Cf. Recommandation 123.65.

<sup>133</sup> Up to 160,000 have been able to cast a vote electronically (as of 31 December 2016). Tous les cantons qui participent au projet offrent le canal du vote électronique aux Suisses de l'étranger. D'autres cantons ont élargi cette possibilité à d'autres citoyens, comme les cantons de Genève et de Neuchâtel, où jusqu'à 30% des électeurs ont la possibilité de voter via Internet, ou celui de Bâle-Ville, où les personnes avec un handicap peuvent s'inscrire pour bénéficier du vote par voie électronique.

<sup>134</sup> Voir l'Enquête suisse sur la structure des salaires 2014, de l'Office fédéral de la statistique.

<sup>135</sup> Cf. Recommandations 122.21, 122.22, 122.23, 122.24, 122.25.

<sup>136</sup> Depuis 2016, celles-ci doivent apporter la preuve du respect de l'égalité salariale pour tout marché public à partir d'un certain seuil.

<sup>137</sup> L'Accord Intercantonal sur les Marchés Publics (AIMP) règle de manière transparente la procédure d'adjudication des commandes de fournitures, services et de construction des pouvoirs publics et des entreprises qui en dépendent. Il a pour but l'ouverture du marché des achats publics des cantons, communes et autres entités chargées des tâches cantonales ou communales. Le respect de l'égalité salariale entre hommes et femmes n'y est pas encore formellement inscrit mais est déjà mis en œuvre par la plupart des cantons. Cette lacune juridique devrait bientôt être comblée, dans le cadre de l'harmonisation des procédures d'adjudication des marchés publics entre la Confédération et les Cantons.

<sup>138</sup> Doté de neuf millions de francs, ce programme est mis en œuvre par l'OFAS en collaboration avec les cantons, les villes, les communes, des partenaires sociaux et des ONG.

<sup>139</sup> Cf. Recommandation 122.45.

<sup>140</sup> Cf. Recommandation 123.83.

<sup>141</sup> Cf. Recommandation 123.84.

<sup>142</sup> En conformité avec l'engagement volontaire à cet égard pris par la Suisse conformément à la résolution 60/251 de l'Assemblée générale portant sur la création du Conseil des droits de l'homme, ainsi que dans le contexte de la candidature de la Suisse pour le Conseil des droits de l'homme pour les années 2016-2018.

<sup>143</sup> Réponse au Postulat von Graffenried 12.3503 «Une stratégie Ruggie pour la Suisse».

<sup>144</sup> Par exemple, la Loi fédérale sur les prestations de sécurité privées fournies à l'étranger contraint les entreprises de sécurité privées domiciliées en Suisse d'adhérer au Code de conduite international des entreprises de sécurité privées (ICoCA).

<sup>145</sup> A titre d'exemple, un groupe multipartite composé d'ONG, de représentants du secteur privé, du DFAE et du Secrétariat d'Etat à l'économie (SECO) travaillent en 2017 à l'élaboration d'un guide pour la mise en œuvre des Principes directeurs de l'ONU pour les entreprises et les droits de l'homme par le secteur du négoce des matières premières. Une cartographie du secteur a déjà été présentée aux partenaires.

<sup>146</sup> Conformément à la recommandation 122.49, la Suisse compte donner une importance spécifique à la prise de position des ONG reçues dans le cadre de la consultation externe du projet de Troisième rapport national. La prise de position des ONG fait référence audit projet de rapport (version du 6 janvier 2017) et non pas à la version finale du Troisième rapport national (version du 28 juin 2017).