



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**

Twenty-eighth session

Summary record of the 596th meeting

Held at Headquarters, New York, on Friday, 17 January 2003, at 10 a.m.

Chairperson: Ms. Açar

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention *(continued)*

Combined initial and second periodic report of Switzerland (continued) (CEDAW/C/CHE/1-2 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Switzerland took places at the Committee table.*

2. **Ms. Schulz** (Switzerland) said that her delegation had been impressed by the interest shown by the Committee in the Swiss federal system. The many questions about its mechanisms indicated that from the outside, it could appear very complex. The federal system was based on balance and cooperation between the Confederation and the cantons, respecting the diversity of each member of the system.

3. **Ms. Dusong** (Switzerland) expressed surprise at the number of members of the Committee who saw federalism as an obstacle to the full implementation of the Convention. In Switzerland, a federal State, the principle of subsidiarity enabled the cantons to take on all rights and duties not specifically attributed to the Confederation, hence it was the cantons that were responsible for the application of many international conventions. Federal law took precedence in cases of conflicting norms. The federal system actually had some distinct advantages in the implementation of the Convention: it promoted change and progress while respecting the rights of linguistic and cultural minorities, and it was also possible for social progress to begin at the canton level and eventually spread throughout the country. To cite some examples, women had been given the right to vote in certain cantons well before the granting of that right by the Confederation; such structures as Equality Offices had first been established at the canton level before becoming national.

4. **Mr. Spenle** (Switzerland) said that in the monist tradition of Switzerland, domestic law and international law formed a single legal order. On their entry into force, the norms of international law became an integral part of the legal order and must be respected by all authorities at the federal, cantonal and municipal level.

5. **Ms. Ramseyer** (Switzerland) said there was no Constitutional Court as such. Proposals to extend constitutional jurisdiction to federal laws had been put forward during the revision of the Constitution in the 1990s, but had not been adopted by Parliament. Oversight responsibility in constitutional matters lay with a network of bodies at both cantonal and federal level. During the preparatory phase, the constitutionality of a new law was examined in detail by the Federal Council, which communicated its view to Parliament. Constitutional jurisdiction was very important, as it allowed individuals to lodge a complaint against decisions of the State which violated a constitutional right.

6. **Ms. Müller** (Switzerland) acknowledged that there were dangers in using functional differences between men and women as justification for differential treatment. The issue had not arisen, however, as no court rulings had cited them as grounds for unequal treatment. To date, the Convention had been invoked specifically before the Federal Tribunal in only one instance. The definition of discrimination contained in article 1 of the Convention had not been incorporated into the Constitution, which contained no definitions but left that function to the courts. Switzerland's report (CEDAW/C/CHE/1-2) had been approved by the Government before being transmitted to the Committee.

7. **Ms. Schulz** (Switzerland), noting Switzerland's reservations to the Convention concerning military service, surnames and marital property schemes, referred the members of the Committee to her delegation's detailed written replies on those issues.

8. **Mr. Spenle** (Switzerland) said that the Government favoured the adoption of the Optional Protocol in principle, but that under the Constitution, the cantons must be consulted on foreign policy decisions that affected their competence. The ratification of an international treaty required the approval of both houses of Parliament.

9. **Ms. Schulz** (Switzerland), in reply to questions regarding the institutions for equality, said that four institutions made up the national equality network. The Federal Office for Gender Equality, which she headed, was part of the federal administration and reported directly to the head of the Department of the Interior. The Office could make proposals but could not give orders to other federal or cantonal offices. Its budget

had increased by 117 per cent between 1996 and 2003; much of the increase was used in promoting equality in professional life. Its staffing had more than doubled since its establishment in 1988, increasing from four to 11 posts.

10. **Ms. Freivogel** (Switzerland) said that another part of the system, the Federal Commission on Women's Issues, was not part of the federal administration, but an independent, extra-parliamentary commission whose role was to analyse the situation of women, make recommendations and conduct projects with other partners. It reviewed draft legislation in the area of gender equality and could propose amendments. In addition, 16 of the 26 cantons and five major cities had equality offices, with varying resources. Finally, the Swiss Conference on Gender Equality Delegates was composed of all official services and offices for the promotion of equality at the federal, canton and municipal levels.

11. **Ms. Haug** (Switzerland), turning to questions regarding gender stereotypes, said that it was likely that the protracted effort to obtain the vote had delayed important legislative reform in such areas as matrimonial law and political participation. However, it was not possible to determine whether such a cause-and-effect relationship had existed, as gender role stereotypes depended on a number of factors that evolved over time.

12. No statistics or studies were available concerning discrimination against migrant women based on their religion.

13. **Ms. Groux** (Switzerland), in reply to questions concerning women's participation in higher education, said that women's enrolment in academic universities was equal to that of men. However, they were less well-represented in the schools for advanced and specialized training, which had originally been oriented towards economics and technical subjects, where women were traditionally in the minority. Those schools currently included programmes in social sciences and education, where women were in the majority. No statistics on the dropout rate by gender were available.

14. With regard to stereotypes in the media and advertising, the Swiss Fairness Commission, composed of representatives of consumers, the media and advertisers, could receive complaints from individuals regarding sexist advertising, and could prohibit its use.

15. **Ms. Haug** (Switzerland), replying to questions about the participation of women in the media, said that between 1970 and 1990 the percentage of women journalists had increased from 19.5 to 32.8. However, only 15.4 per cent of editors and managers were women.

16. **Ms. Ramseyer** (Switzerland), explaining the low representation of women in the federal administration, said that the most recent data, from 2002, showed that 25.4 per cent of all federal employees were women. The largest employer among the federal administration was the Department of Defence, a traditionally male area. If that Department was excluded from the statistics, the proportion would rise to 32.8 per cent. In most departments, women represented over 40 per cent of staff, and the proportion of women continued to increase despite recent major staff reductions. All federal employees were offered flexible hours and the possibility of part-time work, as well as childcare subsidies.

17. **Ms. Freivogel** (Switzerland) reported that the National Council had postponed the planned review of its job evaluation system from a gender perspective. However, due in part to successful court cases in the area of equal opportunities, a number of cantons had carried out reviews of their salary structures. Faced with the potential threat of legal action, many cantons and communes were attempting to rectify discrepancies within their systems and were calling on experts to help them study the issue of gender discrimination.

18. Unfortunately, the salary situation was different in the private sector, since the State authorities did not have the power to intervene. Trade unions and professional organizations would have to exert effective pressure on companies, in particular by exercising their right to take industrial action.

19. **Ms. Ramseyer** (Switzerland), in reply to a question by Ms. Schöpp-Schilling about the case law of the Federal Supreme Court on wage differences between women and men, said that the decision mentioned in paragraph 371 of the report had met with considerable opposition in Switzerland. In view of legal writings and recent court rulings, however, it was reasonable to expect that it would not have an influence on case law for many years.

20. In answer to a question by Ms. Patten, she confirmed that Article 3 of the Equality Act prohibited discrimination against women on the grounds that they

might become pregnant. Article 336c of the Swiss Code of Obligations prohibited employers from terminating employment contracts for the duration of pregnancy and for 16 weeks after confinement. Exceptions to Article 336c were not permitted, and it was strictly enforced before the courts. She confirmed that the rights of domestic workers were protected by the provisions of ordinary domestic labour law.

21. **Ms. Dusong** (Switzerland), addressing the issue of violence against women, said that awareness of domestic violence was increasing in Switzerland. Primary responsibility for policing and judicial matters lay with the cantons, and many of them had set up working groups to create victim support networks. At the national level, legislation was being amended to ensure that victims were better protected and perpetrators more severely punished. In 2002, approximately 100 police officers and magistrates had attended a week-long “training for trainers” course on victim support run by the Swiss Institute of Police. Similar courses were now being given at the cantonal level. In 2003 a massive nationwide campaign would be launched on domestic violence which, it was hoped, would serve to break the silence surrounding the issue. She added that General Recommendation 19 would be taken into account by the cantons when designing measures to combat violence against women.

22. **Mr. Naudi** (Switzerland), in answer to a number of questions relating to the situation of foreign women, said that the National Council did not consider it necessary to cease issuing visas to foreign women who came to Switzerland to work as cabaret dancers, since visas afforded those women legal protection. However, the Government was aware of the need to take further measures to control the situation and would, if necessary, amend entry requirements. At present, the cantons could issue foreign cabaret dancers with special work permits for a maximum of eight months. Upon expiry of their permits, the dancers were obliged to leave the country, but they could return the following year for the same purpose. The minimum age for cabaret dancers was 20. Their working conditions were subject to inspection by the cantonal authorities, and the police also carried out various on-site monitoring activities.

23. There was no evidence to suggest that the increase in the number of prostitutes was due to human trafficking. However, in certain cantons foreign prostitutes had been entering into fictional marriages

with Swiss citizens in order to obtain residence permits.

24. Trafficked women were unlikely to be granted asylum in Switzerland, as it would be difficult to prove that they were being directly or indirectly persecuted by a State rather than by an individual. Switzerland took an active part in international action to protect trafficked women who were sent back to their countries of origin by financing projects carried out by the International Organization for Migration and other non-governmental organizations. The Government was also proposing to include in the new draft Aliens Act a provision on reintegration assistance for people leaving Switzerland.

25. Turning to legislative matters, he said that Article 196 of the Penal Code, which dealt exclusively with human trafficking, was due to be amended to include references to organ trafficking and forced labour. Sentences for those found guilty of human trafficking ranged from 6 months’ to 20 years’ imprisonment. There were no plans to increase those penalties.

26. **Ms. Ramseyer** (Switzerland) said that, because Switzerland was a host country for immigrant women from Africa, an estimated 6,700 girls living in Switzerland were affected by female genital mutilation. Fortunately, support structures for women affected by the practice existed in large towns and cities.

27. **Ms. Freivogel** (Switzerland) said that the Federal Supreme Court had explicitly recognized that the Swiss Constitution allowed for the introduction of positive measures to promote equality, including quota systems. It had ruled that the implementation of quota systems in respect of bodies whose members were not directly elected by popular vote was admissible, but that the use of fixed results-oriented quotas in the context of directly-elected bodies was unlawful because they restricted citizens’ electoral freedom. The Court had also explicitly declared that electoral nomination quotas were lawful, as they did not guarantee a specific result or interfere with voters’ electoral freedom.

28. Several gender-related quotas were already in place at the national level: for instance, at least 30 per cent of the members of extra-parliamentary committees must be female.

29. **Ms. Haug** (Switzerland), in answer to Ms. Morvai’s question about economic trends, said that between 1997 and 2001, Switzerland’s GDP had

increased. During that period, salaries had increased by 1.3 per cent in real terms and women's salaries had increased more than men's (1.9 per cent as compared to 1.1 percent). Women were more likely to be classified as "working poor", and their risk of falling into that category increased if they were employed on short-term contracts or were foreign.

30. **Ms. Schulz** (Switzerland) noted that more detailed replies to members' questions could be found in the written document that had been distributed. By way of conclusion, she said that the struggle to achieve formal and substantive gender equality was ever changing and never-ending. In Switzerland's multilingual and multi-ethnic environment, respect for minorities was essential, but any significant legislative and constitutional changes needed to be initiated at the popular level — top-down governance was not feasible. In order to implement the provisions of the Convention nationwide, there was a need for adequately resourced and active national machinery for the advancement of women and the gender mainstreaming strategy had to be developed. Current priorities were to increase women's participation in professional and public life and to prevent all forms of violence against them.

31. **The Chairperson** said she looked forward to the day when the definition of discrimination as set out in the Convention would be incorporated into Swiss legislation. Speaking in her personal capacity, she said that she found it very difficult to understand why the reporting State could not provide any statistics on the situation of immigrant women. Experience suggested that they often suffered discrimination not only on the basis of their gender but also on account of their race or religion, and might also be subject to discriminatory practices as part of their own culture. She urged Switzerland to study the issue carefully and to collect relevant data relating to employment, education, health and violence.

32. She also encouraged the reporting State to review the reservations it had entered to the Convention with a view to lifting them as soon as possible. With regard to the Optional Protocol, she urged both the Government and civil society to make efforts to raise awareness at the cantonal level in order to create an environment favourable to ratification.

33. **Ms. Schulz** (Switzerland) informed the Committee that Switzerland did have statistics relating

to the employment and training of immigrant women. More detailed information would be provided in the next report.

34. **Ms. Dusong** (Switzerland) observed that a lack of statistics did not mean a lack of action. The cantonal authorities were aware of the problems faced by immigrant women — in some cantons up to 30 per cent of the female population were immigrants — and had already taken a range of measures, in particular the establishment of training and language courses, to address them. She assured Committee members that their remarks would serve to accelerate work in that area.

The meeting rose at 11.25 a.m.