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COMMITTEE ON ECONOMIC, SOCIAL  
AND CULTURAL RIGHTS  
Forty-third pre-sessional working group  
23-26 November 2009

**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON  
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**List of issues to be taken up in connection with the consideration of the second and third periodic reports of Switzerland concerning the rights covered by articles 1 to 15 of the International Covenant on Economic, Social and Cultural Rights (E/C.12/CHE/2-3)**

**I. GENERAL INFORMATION**

1. Please indicate the measures taken or mechanisms put in place by the State party to ensure that the rights enshrined in the Covenant are fully implemented countrywide in the State party. In this regard, please indicate the measures taken to avoid inconsistencies in the State party in implementing the provisions of the Covenant, regarding in particular the rights to social security, adequate standard of living, health and education.
2. Please indicate whether the provisions of the Covenant have been invoked before or directly applied by national courts at all levels, in line with the Committee's general comment No. 3 (1990) on the nature of States parties' obligations (art. 2, para. 1, of the Covenant).
3. Please indicate the view of the State party in relation to the establishment of a national human rights institution in conformity with the Paris Principles.
4. Please indicate to what extent the State party takes account of its obligations under the Covenant in its multilateral negotiations and bilateral agreements and how it ensures that such negotiations and agreements do not have a negative effect on the realization of economic, social and cultural rights, in particular for developing countries, including in relation to access to medicines. In particular, please also provide information as to the manner in which the State party implements its

GE.09-46779

patent law to allow export of generic drugs produced in Switzerland to developing countries, following the World Trade Organization amendment to the Trade-related Aspects of Intellectual Property Rights (TRIPS) Agreement in 2005, which was adopted by the State party in 2006.

5. Please indicate whether and to what extent the bilateral agreements concluded by the State party with the European Union and European Free Trade Association countries discriminate or not against citizens from non-European Union and European Free Trade Association countries, in regard to the enjoyment of economic, social and cultural rights, in particular regarding access to the labour market (paras. 15 and 75 of the report of the State party).

6. Please indicate whether human rights education is provided in schools at all levels and whether awareness-raising measures on human rights, in particular economic, social and cultural rights, are undertaken among State officials and the judiciary.

## **II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (arts. 1-5)**

### **Article 2 (2) - Non-discrimination**

7. Please indicate what concrete measures have been taken by the State party, in addition to article 8 of the Constitution which prohibits discrimination, to counter the problem of discrimination faced by people of foreign origin and provide them with an effective legal remedy to discrimination. Please also indicate whether the State party intends to adopt a comprehensive legal framework on discrimination and provide the Federal Commission against Racism with a mandate to investigate cases relating to discrimination, in particular on economic, social and cultural rights.

8. Please indicate what kind of protection is granted to undocumented persons in relation to enjoyment of all their Covenant rights.

### **Article 3 - Equal rights of men and women**

9. Please provide accurate and detailed information on the mechanisms put in place by the State party to increase the number of women participating in political and public life in the State party. In this regard, please indicate whether the State party intends to review its position concerning the fixed quotas (para. 82 of the report of the State party) in order to promote equality between men and women in political and public life. Please provide information on the results achieved by the Action Plan on Equality between Men and Women (para. 439 of the report of the State party), as well as other measures adopted at federal or cantonal level (para. 443 of the report of the State party).

10. According to information received by the Committee, women in the labour market are discriminated against in terms of access to responsibility, equal pay for work of equal value and in addition they are mostly assuming part-time jobs. Please provide information on the outcomes of different campaigns conducted by the State party, such as “Fair play at work”, aimed at combating

stereotypes, as well as other specific programmes carried out by the State party on the question of equality between men and women (para. 90 of the report of the State party).

### **III. ISSUES RELATING TO THE SPECIFIC PROVISIONS OF THE COVENANT (arts. 6-15)**

#### **Article 6 - The right to work**

11. Please provide information on the steps taken by the State party to firmly combat the unemployment rate among certain peoples, such as foreigners, women, in particular migrant women, as well as young persons, in particular those of foreign origin. In this regard, please provide detailed information and statistics on the practical results of measures and programmes carried out by the State party to reduce unemployment in the State party (paras. 118-120 and 140-151 of the report of the State party).

12. Please provide information on measures and mechanisms aimed at effectively combating informal employment. Please also provide statistics on persons in informal employment, disaggregated by sex, origin and age (paras. 158-159 of the report of the State party).

#### **Article 7 - The right to just and favourable conditions of work**

13. In light of information provided by the State party (para. 127 of the report of the State party), in certain economic sectors, foreigners are paid less than persons of Swiss origin for work of equal value. Please provide information on the effective measures taken or to be taken by the State party to publicize the law on equality of 1996 among workers to enable them to lodge complaints, and to train lawyers and judges on this law. Please also provide the Committee with examples of decisions adopted by national courts at all levels, relating to the law on equality of 1996, in particular relating to inequality of remuneration (paras. 172-173 of the report of the State party).

14. In light of information provided by the State party, what was the practical impact of measures taken to counter the inequality of remuneration between men and women for work of equal value (paras. 175-176 of the report of the State party)?

#### **Article 8 - Trade union rights**

15. Please provide information on concrete measures, legislative or otherwise, adopted by the State party to combat arbitrary anti-union practices, as well as anti-union dismissals. Please also provide detailed information on decisions taken by national courts at all levels in this respect, as well as any form of redress provided.

16. Please provide information as to what extent conditions on the legality of a strike, as defined by the Federal Tribunal in 1999, comply with the provisions of the Covenant (para. 226 of the report of the State party).

### **Article 9 - The right to social security**

17. Please provide information on measures taken by the State party to ensure that its health-care system is more accessible to persons or families living on low incomes, such as migrant workers, migrant families, young persons and women living in poverty. Please provide information as to whether undocumented persons and asylum-seekers whose asylum request has been rejected are excluded from benefiting from social security programmes. Please also indicate measures taken to provide social assistance to low-income groups, such as migrant workers, migrant families, young persons and women.

18. In light of information before the Committee, the LAMal Law on compulsory health insurance states that persons who do not pay premiums can be excluded from the compulsory health care system. Please indicate as to whether low-income groups, such as migrant workers, migrant families, young persons and women are excluded from compulsory health insurance, as well as measures taken to ensure that they have access to basic medical care.

19. Please indicate whether rural women working on family farms without salary can also benefit from paid maternity leave, or please provide information on which social security regime rural women are covered under in relation to maternity leave.

### **Article 10 - Protection of the family, mothers and children**

20. According to information provided by the State party, violence against women remains high, e.g. physical or sexual abuse or rape (para. 438 of the report of the State party). Please provide the Committee with updated and comprehensive data on violence against women.

21. Please provide detailed information on measures taken by the State party to protect women, in particular foreign women who are victims of domestic violence, including by providing them with residence permits. In this regard, does the State party intend to revise or repeal conditions set out in article 50 of the Law on Foreigners?

22. According to information provided by the State party, violence against children remains high, e.g. sexual abuse, neglect and ill-treatment (para. 417 of the report of the State party). Please provide information on the results of different measures taken in the State party. Please also indicate whether complaints can be easily lodged by victims even against their relatives and whether perpetrators are prosecuted and punished. In this regard, please provide information on decisions taken by domestic courts, as well as the protection offered. Please also indicate whether the State party intends to fully abolish corporal punishment in the home. In this regard, does it intend to repeal articles 301-303 of the Civil Code of 1907, which oblige parents to direct their child's education and to determine the care and education to be given to children for "their good"?

23. Please provide information on concrete measures taken by the State party to combat forced marriage (paras. 349-351 of the report of the State party), including implementation of recommendations formulated by the Commission on Political Institutions of the National Council.

Please also provide the Committee with updated information on forced marriages in the State party, disaggregated by origin and age. Does the State party intend to conduct awareness-raising campaigns on the negative effects of forced marriages, as stated in the report (para. 351).

24. Please indicate measures to be taken by the State party to harmonize the treatment of refugees and persons with complementary protection status (*admission provisoire*), concerning, in particular, the reunification of the family. Does the State party intend to revise the conditions for the above-mentioned reunification of families?

25. In light of information before the Committee, please provide information as to whether undocumented persons are allowed to get married in the State party.

### **Article 11 - The right to an adequate standard of living**

26. Please provide information on concrete measures taken by the State party to combat poverty, especially of single-parent households, poor families and migrant workers, as well as for persons working in precarious conditions with low incomes and young persons, in particular of foreign origin. Please also provide information on the outcomes of the proceedings to adopt the draft law which is before the parliament aimed at creating supplementary allowances for families with low incomes (para. 379 of the report of the State party). Please indicate whether the State party has adopted and implemented the draft national plan against poverty (para. 384 of the report of the State party). Please further supply the Committee with updated and comprehensive data concerning the “working poor”, disaggregated by sex, age and origin.

27. Please indicate whether the State party has adopted a national plan on housing. Please provide information on the practical impact of the implementation of the federal law aimed at encouraging the construction of and access to property and housing (LCAP) (para. 400 of the report of the State party). Please also provide information on the practical results of the federal law on housing (LOG) which encourages lower prices for poor people of foreign origin and disadvantaged and other marginalized individuals.

28. Please provide information on measures taken by the State party to eliminate discrimination faced by foreigners and migrant families in getting access to housing.

### **Article 12 - The right to physical and mental health**

29. Please provide information on concrete measures taken by the State party to combat the phenomenon of suicide, including by legally restricting access to and use of firearms and by conducting studies on the root causes of suicide and their outcome. Has the State party adopted a national plan for preventing suicide and coordinated efforts at all levels in this respect? Please also provide information as to whether the draft federal law on the prevention and promotion of health deals equally with suicide and mental depression. Please provide the Committee with data on the number of suicides in the State party, disaggregated by sex, age and origin.

### **Articles 13 and 14 - The right to education**

30. Please indicate the proportion of children from immigrant families who acquire advanced vocational training or a university-entrance school leaving certificate (*matura*). Please provide additional information on specific measures taken to ensure access to higher education for children from low-income families and in particular those living in rural areas.

31. According to information provided by the State party, children from migrant families encounter more difficulties in schooling and in acquiring an apprenticeship. Please provide information on effective measures taken by the State party to remedy this situation. In particular, please indicate whether the federal programme, “*Egalité des chances 2008-2011*”, also promotes the integration of children from migrant families into the normal schooling system and apprenticeships.

32. Please indicate the steps taken by the State party to ensure the right to education both in pre-schooling and compulsory schooling, including attendance at school, for children belonging to families where parents are undocumented, as well as foreign unaccompanied children.

33. Please also indicate the measures taken by the State party to harmonize the treatment in schools of children with disabilities between the different cantons, and ensure that children with disabilities with their special educational needs can be integrated at all levels of school, including in private schools, and that they are not discriminated against on the basis of disability.

### **Art. 15 - Cultural rights**

34. Please provide information on whether the Roma and Yenish minorities in the State party are provided with sufficient resources to promote and protect their cultural heritage and life, including through the media. In this regard, please provide the Committee with information on the programme aimed at promoting the cultural life of the Yenish, supported by the Association of Travellers in 2007 (para. 577 of the report of the State party). Please provide information on the steps taken by the State party to allow sufficient living and transit sites to persons belonging to such minorities.

35. Please provide information on measures adopted by the State party to promote a culture of tolerance between different ethnic, religious and linguistic groups living in the State party, including by combating stereotypes and discrimination between them.

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