



E-Learning Box

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Swiss Equality Policy

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Gender Equality in the Constitution and the Law

The [Swiss Constitution](#) has contained an article on gender equality since 1981. Swiss women's organisations² and international agreements³ had promoted gender equality from the beginning of the twentieth century, and in the 1970s close cooperation between the new women's movement and the traditional women's organisations resulted in the 1976 popular initiative "equal rights for men and women". The principle of gender equality was finally adopted in the constitution in 1981. The article on equality promotes the equality of women and men in the family, education, and work. It guarantees not only equal pay for the same work, but also for work of equal value (Lanfranconi 2014a: 47-48).

Not least because of the small number of claims brought on the basis of this article, women worked both inside and outside parliament to develop a basis for its legal implementation. After many years of negotiations in both the Federal Council and the Council of States, as well as a huge women's strike in 1991 (Kaufmann & Steiger-Sackmann 2009; see Lanfranconi 2014a: 47-48), the [Gender Equality Act](#) (GEA) came into effect in July 1996.

The [Federal Office for Gender Equality](#) (FOGE) and the [Federal Commission for Women's Issues](#) (FCWI / EKF) are responsible for equality issues at the federal level. Cantonal procedures regulate the implementation of the GEA at the cantonal level, as well as underwriting the corresponding [arbitration procedures](#) and establishing cantonal measures and bodies devoted to equality. Such [bodies](#) are in place in 16 cantons, most of which have advisory equality commissions, too.

The GEA focusses exclusively on the area of work, and prohibits discrimination of employees on the basis of gender particularly in relation to "hiring, allocation of duties, setting of working conditions, pay, basic and continuing education and training, promotion and dismissal" (Articles 2 and 3 GEA). The law offers a good basis for complaints against discrimination, as the evaluation of its effectiveness shows (Stutz et al. 2005). The evaluation also reveals a number of problems with the implementation of the law. Many of those affected by discrimination are reluctant to complain and have only limited information at their disposal. Lengthy legal procedures present a further obstacle (Stutz et al. 2005). As well as providing a legal basis for complaints, the GEA also underwrites the activities of the FOGE and provides for programmes and advisory services promoting gender equality in working life (Articles 5-7 and 14-15). Advisory services for individuals received financial support until 2018, after which the cantons assumed responsibility for the provision of such services.

From 2017 onwards, the FOGE is allocating funding for [gender equality projects](#) in order to develop products and services which promote the compatibility of work and family life and equal pay. Money also goes to projects which support women working in [professions with skill shortages](#) such as information technology, natural sciences and technology. Priority is given to the support of projects which have an impact on the frameworks of working life, such as flexible working times or models of fair pay in companies. Such equality projects can be

¹ The project was conducted by [Lucerne University of Applied Sciences and Arts – Social Work](#) and financed by the [Swiss National Science Foundation \(Agora\)](#).

² An example is the Second National Congress for the Interests of Women, which was organised by the middle-class women's movement in 1921 (EKF 2001).

³ Two examples are the agreements reached by the International Labour Organisation since 1919, and the UN since 1948 (EKF 2001).

implemented by various external organisations such as societies and associations, municipal or cantonal bodies and the federal government itself.

Switzerland as a Late-Comer to Gender Equality

International comparisons show that Switzerland – as can be seen in Table 1 – can be described a late-comer to equality politics (Bothfield et al. 2010; Schär Moser & Strub 2011). England had already introduced equality measures which prohibited gender discrimination in the 1970s, Germany and Sweden had done so in 1980, and all these countries had introduced general anti-discrimination laws in the 2000s. But Switzerland had no such measures in place and clearly lagged behind (Bothfield et al. 2010; Schär Moser & Strub 2011). Today, unlike many other European countries, Switzerland has few binding mechanisms of enforcing gender equality regulations. While Sweden, for example, has both gender equality plans and public and private sector audits in place, and England has compulsory gender equality plans in the public sector, there are no such compulsory plans in Switzerland and only a few regulations on [equal pay](#) apply to companies supplying public bodies (see Table 1).

Table 1: Comparison of equality policies in selected European countries

<i>Land</i>	<i>policy area</i>	
	<i>equality policies</i> Year of introduction a. gender equality b. general anti-discrimination	<i>most important features</i> (statutory mechanisms of observation*, monitoring and verification of gender equality in the workplace)
Germany	a. single articles since 1980 b. 2006	no statutory mechanisms of observation and monitoring of gender equality in the workplace
Great Britain	a. 1970 / 1975 b. 2010	statutory gender equality plans in the public sector workplace, no monitoring mechanisms
Sweden	a. 1980 b. 2009	statutory gender equality plans, monitoring of gender equality in the public and private sector workplace
Switzerland	a. 1996 b. none	no statutory mechanisms of observation and hardly any monitoring of gender equality in the workplace

Note: *These are, for example, statutory gender equality plans that require employers of companies with a certain number of employees to develop equality goals and monitor their implementation.

Sources: Bothfield et al. (2010); Schär Moser & Strub (2011)

Switzerland's Voluntary Route – Risks and Opportunities

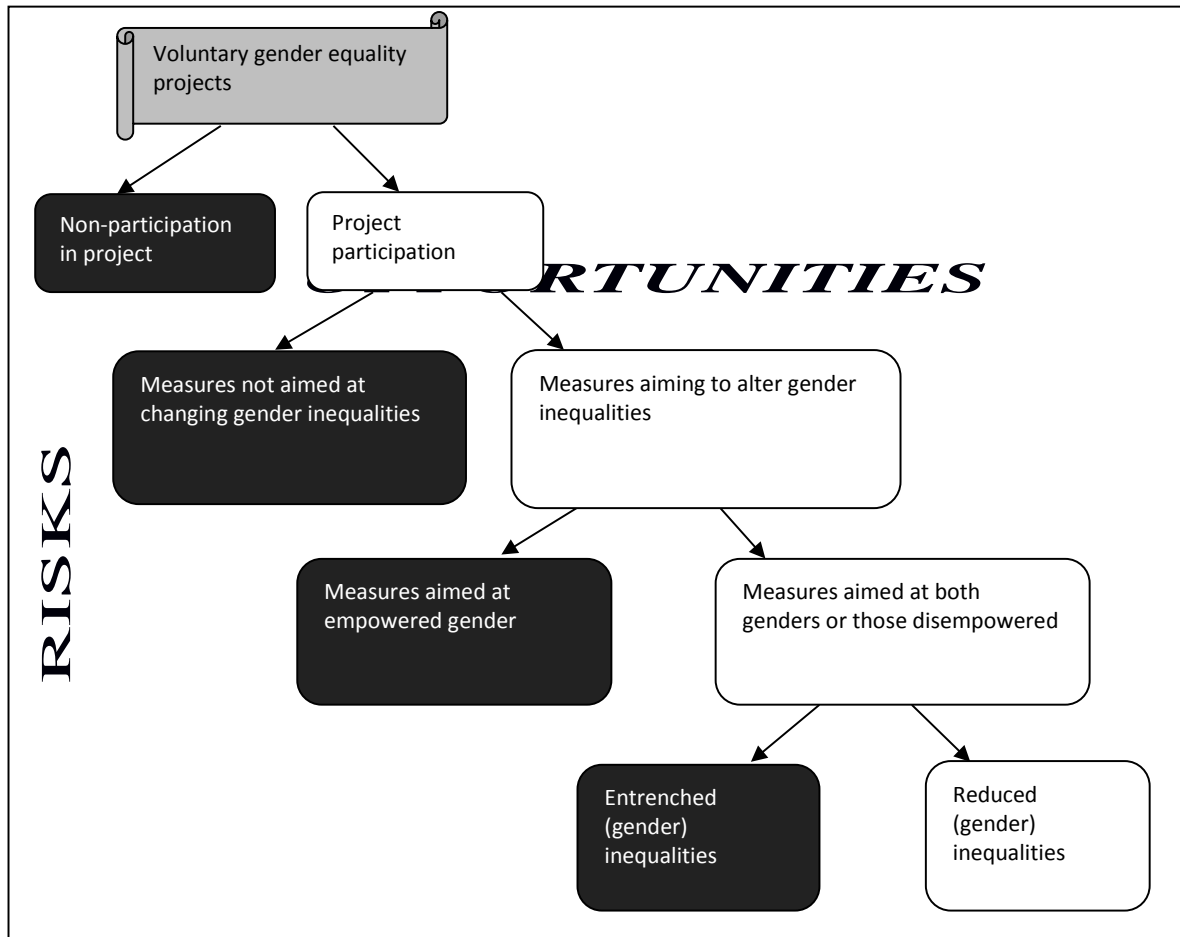
In the early years of the GEA, women's and employees' representatives developed political demands and programmes to enforce gender equality on the company level with public, binding measures under threat of legal claims (the arguments here concerned mainly standards of justice and equality). Politically, these largely remained minority positions,⁴ and in the course of the 2000s they were complemented by new recommendations and programmes proposed by representatives of employers and the business community for voluntary, flexible, and individual measures at the company level (the main arguments here concerned the economic value of equality measures). More such voluntary programmes were introduced in the wake of the evaluation of the GEA (Lanfranconi 2015: 136-138).

Such voluntary gender equality projects include the establishment of awards and prizes for gender equality achievements and family friendly companies, as well as programmes for companies at the cantonal level (Lanfranconi 2014a: 48-50). In addition to grants to external bodies, the FOGE also awarded direct financial assistance to companies for gender equality projects (see EBG 2015).⁵ In 2009 the Federal Council established the "[Lohnleichheitsdialog](#)" (equal pay dialogue) in an effort to examine the wage structures of voluntarily participating companies by a tripartite committee of Federal bodies (FOGE, Secretariat for Economic Affairs, Federal Office of Justice) as well as employers' and employees' representatives.

⁴ An exception is the [monitoring of companies engaged in procurement](#) in terms of [equal pay](#) for women and men, in force since 2004.

⁵ This is established in the [regulations](#) of a pilot project on the financing of gender equality measures in companies, 7th March 2008.

Figure 1: Risks and opportunities of voluntary gender equality projects



Source: Lanfranconi (2014b): 343

The Limited Scope of Current Gender Equality Policies in Working Life

Current Swiss gender equality policy is of limited scope (see Figure 1). It consists mainly of voluntary measures and projects, with few binding regulations and sanctions of the kind common to other areas of the labour market (e.g. monitoring the effects of freedom of movement, see Erne & Imboden 2015). Increased employee satisfaction and loyalty are amongst the incentives for companies to participate in voluntary programmes to promote equality (see Lanfranconi 2014b), but for several reasons they can also feel that non-participation is legitimate.

In the *first* place, only employers who are already sensitive to the issues tend to participate in such projects (Schön 1999; Lanfranconi 2012). The evaluation of the GEA (Stutz et al. 2005) has shown that most of the personnel managers surveyed are of the view that their companies already offer equal opportunities and therefore see no need to participate in voluntary projects. *Secondly*, as Lanfranconi (2014b) shows, even sensitive companies have no incentive to participate in gender equality projects. Because of the argument that companies are already doing a lot for equality is often used to motivate participation in voluntary projects, this can endorse the decision to do nothing more.

Against this backdrop it is hardly surprising that very few companies have participated in the equal pay dialogue or the programmes for financial assistance for internal company projects. Because so few companies had taken part, the equal pay dialogue was declared a failure in 2013 by Simonetta Sommaruga, the Federal Councillor with responsibility for this area: The participation of at least 100 companies had been anticipated, but by the end of 2013 only 18 had completed the procedure by (including the Federal administration), and 23 remained in the

process (SDA 2013). The number of companies in receipt of financial support for internal [projects](#) is also very small: in 2009 there were five; six years later, in the first eight months of 2016, there were twelve. Most of these projects concern the compatibility of working and family life or equal pay (EBG 2015: 7).

Voluntary gender equality projects can motivate companies to introduce relevant operational measures (Jüngling & Rastetter 2011; Lanfranconi 2014b), but even the implementation of such measures runs the risk that existing gender imbalances will only be reduced in a limited sense. Three levels of risk can be identified (Lanfranconi 2014b):

- *First* there is a risk that measures will be introduced which do not aim to change gender specific inequalities. Lanfranconi (2014b) analysed equality projects in which employers could choose which measures to implement. When selected on the basis of the greatest utility, they can often have a positive effect on the employee satisfaction without leading to a change in terms of gender equality. This can then mean that the voluntary monitoring or adjustment of salaries is undertaken even less frequently, or that the [recruitment](#) or [promotion practices](#) are not reflected upon or changed.
- *Secondly*, there is a risk that measures will be implemented which are aimed at the gender in the greatest position of power. If men are disproportionately represented in a company, it is often rational for that company to take steps to increase the satisfaction of as many employees as possible – in this case the men (Lanfranconi 2014b). Similarly, Ostendorp (2009) and Nentwich et al. (2010) are amongst those who show that measures taken in the context of voluntary gender equality projects are often aimed specifically at young, healthy, full-time and successful male workers.
- The *third* risk is that the introduction of gender equality measures can result in the counterproductive strengthening of existing inequalities. This risk arises when, for example, a company increases the availability of [part-time posts](#) in an effort to improve gender equality, but then offers these posts to women as a result of the prevailing gender stereotypes. And when, as is the case in many companies, part-time work is accompanied by poorer prospects of promotion, existing inequalities are *de facto* reinforced. Offering so-called "individual solutions" on the company level in such areas as the compatibility of working and family life can also be problematic. Unlike binding measures applicable to all, such solutions tend to be demanded by employees who see themselves as important and useful to the company, and these employees tend to be well-educated male nationals. This can also strengthen rather than reduce existing inequalities (Lanfranconi 2014b).

The largely voluntary nature of Swiss gender equality policy bring both risks and opportunities for current equality practices. An alternative would be to introduce appropriate statutory means of implementation and the effective monitoring of compliance. Such statutory programmes are currently under discussion,⁶ and there is also debate about [reforming](#) the GEA. A consultation process on "company self-regulation and responsibility", launched at the end of 2015, could see companies with 50 or more employees being legally obliged to conduct a [salary review](#) subject to external controls every four years.

⁶ The introduction of women's quota is widely discussed. Such quotas for large companies were [debated](#) at the level of the Federal Council in 2014.

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