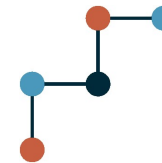




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**Schweizerischer
Nationalfonds**

Law and Reality in Social Assistance

Legal Norms and the Non-Take-Up of Social Assistance: Validating Objective Factors through Qualitative Inquiry

2026 Congress of the Swiss Sociological Association (2–4 September 2026, Fribourg), Workshop “(Non-)Access to Welfare and the shifting boundaries of inclusion”, September 3th

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Contribution Overview

- (1) Starting Point and Research Question
- (2) A quick Overview of the Project Framework
- (3) Results of Legal Norm Analysis
- (4) Qualitative Inquiry: two indicators in Focus
- (5) Approaches to Recommendations for Action
- (6) Concluding remarks

(1) Starting Point and Research Question

Starting Point: Identification of a Contradiction

Social Assistance plays a major role in the social welfare system



High non-take-up rate: about one quarter of those persons eligible for social assistance do not claim it, meaning they do not mobilise the right to assistance.

Why?

(1) Starting Point and Research Question

Legal Mobilisation

«Putting into Action» the Right to Social Assistance by asserting a claim under Social Welfare law.

Subjective factors in mobilisation are independent of legal norms: lack of knowledge about what can be claimed, where, and how; psychological factors (shame, fear of stigmatization) ⇒ have already been relatively well researched

Objektive factors in mobilisation are dependent on law: the legal, institutional, and cost-related framework conditions for mobilization are largely reflected in cantonal legislation of social assistance: cantonal «barriers», such as extensive eligibility requirements, non-professional enforcement structures, procedural costs, ... ⇒ have hardly been studied

(1) Starting Point and Research Question

Key question of the SNF project

How do cantonal social assistance laws compare across cantons in terms of objective factors relating to mobilisation?

Approach to answering the question:

Prospective analysis of legal norms and evaluation of the 26 cantonal social assistance laws against indicators at two levels (“law in the books”)

- (1) Rights and obligations (‘individual legal position’)
- (2) Implementation (statutory ‘organisational and structural framework conditions’)

 What the analysis of norms does not provide: findings on the non-take-up rate and their correlation with mobilisation factors

(2) A quick Overview of the Project Framework

The 5-step approach

- (1) Develop well-founded assumptions regarding the mobilisation of the law (based on the literature and practical experience)
- (2) Develop indicators (10) and sub-indicators (32) from these well-founded assumptions

Indicators at the individual level	Indicators at the implementation level
The welfare state and integration orientation of social assistance (within the cantonal legal system)	Structure of the procedure
Right to financial social assistance	Access to legal remedies
Right to p Example of a sub-indicator: level of benefits	Support measures in the context Example of a sub-indicator: Decision by a political or technical body
Structure of obligations	Arrangements of funding
Structure of enforcement mechanisms (sanctions)	Organisational structures

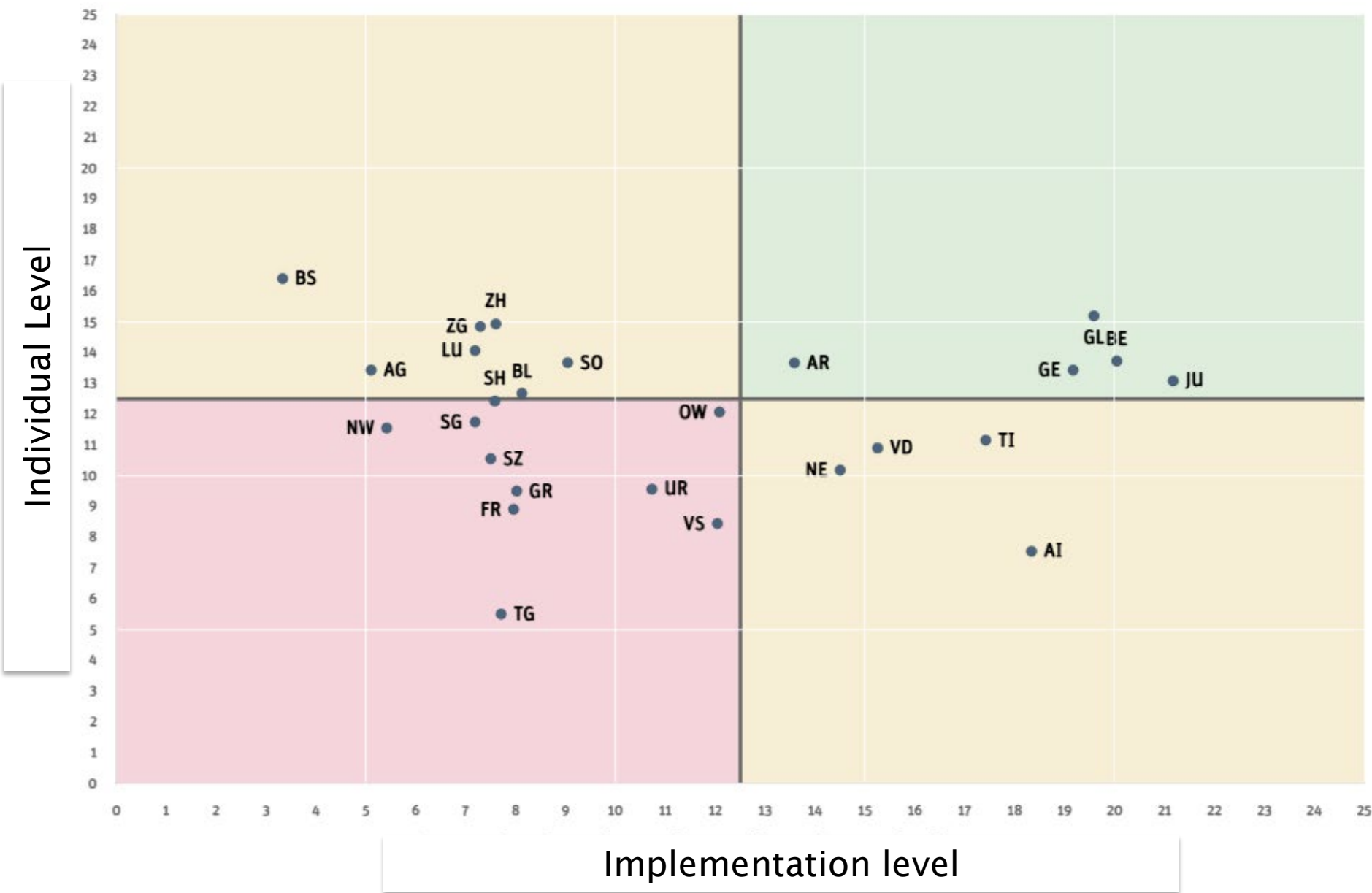
(2) A quick Overview of the Project Framework

5-step approach

- (3) Compiling the provisions of the 26 cantonal social assistance laws in accordance with the defined indicators
- (4) Assessing the compiled provisions at the level of the sub-indicators (on a scale from 0 = hindering mobilization of the right social assistance to 5 = promoting mobilization of the right to social assistance)
- (5) Calculating the weighted value of the indicator (i.e. the arithmetic average of the sub-indicators)

At each level, the maximum score is 25 (5 indicators each, worth a maximum of 5 points).

(3) Results of Legal Norm Analysis



(4) Qualitative Inquiry: two indicators in focus

Consecutive research steps:

- 1) In-depth analysis to determine whether patterns (similarities and differences) can be identified between «similar» cantonal legislation
 - 2) Validation of the developed indicators through interviews (and case law and document analyses (e.g. manuals))
 - 3) Analysis of current practice through interviews, case law and document analysis (e.g. manuals)
 - 4) Development of recommendations for action
- Focus on 2) → 4) in regard of 2 indicators:
- Definition of Obligations
 - Organisational Structures

(4) Qualitative Inquiry: two indicators in Focus

Obligations

Assumption/thesis: The clarity, proportionality, and the spirit in which duties are enforced determine whether the system acts as a safety net or as a deterrent to claiming legal entitlements. The duty to reimburse is a strong mobilisation hindering factor.

Main findings:

- Duties to disclose intimate personal and biographical details are experienced as shameful and controlling; some recipients describe intimidation, powerlessness, even a sense of coercion — with the caseworker relationship as the decisive variable.
«Entweder spure ich und bekomme dann auch, oder ich spure nicht und Lande unter der Brücke» - 'Either I comply and I get benefits or I don't and I end up under a bridge.'
- Or: Persons in need choose refrain from touching benefits and exit in a precarious situation (non-living wage)

(4) Qualitative Inquiry: two indicators in Focus

Obligations / Main Findings (II)

- Across all interviewed groups — recipients, non-claimants, caseworkers, and NGOs — the **reimbursement obligation** emerges as a powerful barrier to claiming social assistance.
- Recipients frame social assistance not as relief but as a **loan, a debt, or even a "punishment"** — turning support into a lasting source of anxiety.
«Wenn es dir besser geht, geht es dir doch nicht besser, weil du alles zurückzahlen musst. (...) Das war ein Gedanke, ganz am Anfang.» - 'If things get better for you, they don't really get better, because you have to pay it all back. (...) That was a thought at the very beginning'
- Reimbursement fears are entangled with residence-permit and naturalization concerns, making them a structural driver of non-take-up rather than an individual attitude.
«Die ganze Aufenthaltsbewilligungsgeschichte ist für mich absolut ausschlaggebend. Das ist für mich schon eines der grossen Themen für den Nicht-Bezug.» - 'The whole residency permit-history is absolutely crucial. (...) That is certainly, I'm convinced, one of the big issues behind non-take-up.'

(4) Qualitative Inquiry: two indicators in Focus

Organisational Structure

Assumption/thesis: Professional social services and services of a certain minimum size make it easier to access social assistance because they are more likely to treat people without prejudice and ensure anonymity, which helps reduce feelings of shame.

Main findings:

- At least indirect confirmation by persons in need through positive experiences and effective help by trained staff in professional structures;
- lay bodies who are politically constituted and meeting only once a month for decision making are named as a specific mobilisation-hindering factor
- Trained professionals involved in decision-making would build trust and barriers to be lowered. However: resources (case-load) is also a relevant factor.

(4) Qualitative Inquiry: two indicators in Focus

Organisational Structure / Main Findings II

- Lack of personal and spatial distance is confirmed as problematic, especially in rural-right wing areas.

«Ich glaube, das [Anm. politische Kampagnen gegen Sozialhilfebeziehende] wirkt sich schon ganz massiv aus, auch dass man nicht bezieht. Weil man kennt sich. Und die wissen ja auch, der Antrag, den sie uns stellen, der geht ja gleich wieder dorthin [Anm.: in die Gemeinde]. (...) Und das Problem ist ja auch der fehlende Datenschutz, dass sie tatsächlich auch reden.»

'I think that [note: political campaigns against welfare recipients] has a massive impact—even on people who aren't receiving benefits. Because we all know each other. And they know, too, that the application we submit goes right back to them [note: municipalities]. (...). And the problem is also the lack of data protection—the fact that they actually talk about it.'

(5) Recommendations for action

Obligations:

- ▶ Obligations have to strictly observe constitutional barriers, legal norms should be formulated accordingly
- ▶ Abolish reimbursement duties, at least from income → adapt legal norms and stricter formulation in SKOS-Guidelines

Organisational-structure:

- ▶ Decisions regarding social assistance benefits must be made by social work professionals (lay bodies must no longer be involved in operating business) → legal norms should be adapted (at least in some cantons)
- ▶ Social services should be of a minimum size and be equipped with enough resources necessary for professionalization and ensure anonymity → Regionalisation and/or minimum size requirements

(6) Concluding remarks

- ▶ Neither objective nor subjective factors should be regarded isolated. Legal norms shape social reality influencing inclusion and exclusion.
- ▶ Even with the most mobilisation friendly legal-framework non-take-up rates would not drop to zero (varying non take-up rates in the same canton; differences in organisational-structures...).
 - ▶ However: legislators and policy makers are under a (constitutional) obligation to improve the legal framework and make the (right to) social assistance accessible.
 - ▶ However: legal norms, such as labeling social assistance as a (human) right, might help to address subjective factors as well as it might be changing the narrative around social assistance.
- ▶ «rating» of legal norms as a analytical framework: adaptable to other fields of (comparative) social policy research? National and International potential?
 - ▶ Other cantonal means-tested-benefits?
 - ▶ Equality and anti-discrimination law and enforcement i.e. in employment (similar idea: <https://rainbowmap.ilga-europe.org/> - «ranks 49 European countries on their respective legal and policy practices for LGBTI people, from 0-100%» - but no enforcement-dimension)

Publications and more

Forthcoming: Schlussbericht (approx. Nov. 2026)

COULLERY, PASCAL / GERBER, JAN / GROB, DOMINIK / HÄNGGELI, ALISSA / STUDER, MELANIE (2025): Die Mobilisierung des Sozialhilferechts im interkantonalen Vergleich. Eine Normenanalyse als Schritt zur Untersuchung der Wirklichkeit in der Sozialhilfe, LeGes 36 (2025) S. 1 ff.

COULLERY, PASCAL/GROB, DOMINIK (2024): Die Soziale Arbeit im Spiegel des kantonalen Sozialhilferechts, in: Schweizerische Zeitschrift für Soziale Arbeit/Revue suisse de travail social, Band 32.24.

COULLERY, PASCAL / STUDER, MELANIE (2024): Verfassungs- und völkerrechtliche Rahmung des schweizerischen Sozialhilferechts: Stand der Debatte und Denkanstösse, in: ZBl 125/2024 S. 287 ff.

<https://www.bfh.ch/de/forschung/referenzprojekte/recht-und-wirklichkeit-in-der-sozialhilfe/>