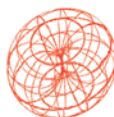
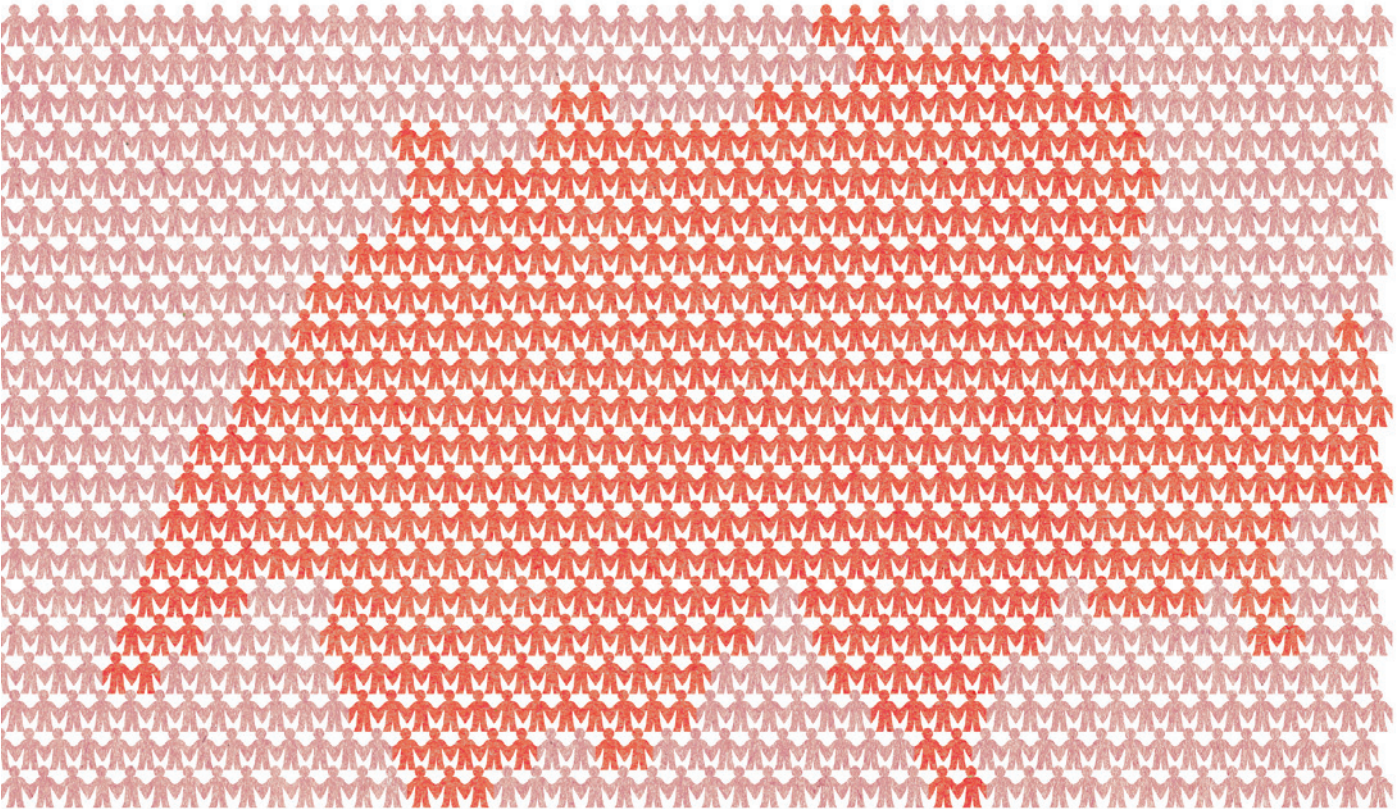


# CHILD RIGHTS NETWORK SWITZERLAND

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## SECOND AND THIRD NGO REPORT TO THE COMMITTEE ON THE RIGHTS OF THE CHILD



Netzwerk **Kinderrechte** Schweiz  
Réseau suisse des **droits de l'enfant**  
Rete svizzera **diritti del bambino**  
**Child Rights** Network Switzerland

**CHILD RIGHTS NETWORK SWITZERLAND**  
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Supplementary Report the Second, Third and Fourth Report of the Swiss Confederation to the United Nations pursuant to Article 44, para. 1 (b) of the Convention on the Rights of the Child

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## Introduction

In their second and third report to the Committee for the Rights of the Child after 2002, the 43 member organisations of the Child Rights Network Switzerland and other professional organisations state that the implementation of child rights in Switzerland still varies greatly between the 26 cantons.

Seventeen years after the UN Convention on the Rights of the Child (CRC) entered into force, such variations continue to give rise to inequalities. As a result, children in different cantons enjoy different rights. This applies in particular to children belonging to vulnerable groups, such as refugee children, minor asylum seekers, unaccompanied foreign children, children without legal residence status, migrant children, and children with a disability. Furthermore, even where rights are identical, they are not necessarily implemented in the same manner.

The new Child and Youth Promotion Act of 2012 provides the legal basis for the horizontal coordination of child and youth policies at the federal level. Whilst this measure is a step in the right direction, it does not comply with the Committee's concluding observation which recommended that Switzerland elaborate an action plan and a sustainable coordination mechanism. In particular, mandatory vertical coordination between the federal government and the cantons is missing. Current coordination mechanisms are restricted to certain aspects of child and youth policy (such as the promotion of children and youth, child and youth protection, raising public awareness for the rights of the child) but fail to cover the entire range of issues addressed by the Convention.

The Swiss Centre of Expertise in Human Rights carried out a study on the implementation of international human rights recommendations in Switzerland. This study reveals that the federal government, cantons and NGOs are largely dissatisfied with current reporting and follow-up processes. There is no mechanism in place which prescribes how the federal government and the cantons should follow-up on the Committee's recommendations, in other words how to adopt and implement the Committee's recommendations.

These structural gaps are root causes for the shortcomings in the implementation of child rights in Switzerland. The limitations listed have major repercussions: the child as a rights holder and individual is insufficiently respected and his/her participation in decisions affecting his/her life is far too rarely guaranteed. For example, whilst specific training courses on procedural rules for the hearing of children in victim assistance cases are available and supported by the Federal Office of Justice, no such training exists in the administrative area.

The best interest of the child – which after all is one of the overarching principles of the Convention on the Rights of the Child – is often neglected in Swiss administrative procedures, and it is not systematically and explicitly embedded in Swiss legislation. A legal provision stipulating the obligation to adhere to the principle of the best interest of the child does not exist. De facto, consideration of this principle remains exceptional and limited to very specific bills. Legal provisions are also not assessed for their compatibility with the CRC. Hence, child rights are generally insufficiently integrated into Swiss law. This failing has two main reasons: 1) the federal government does not systematically raise public awareness of child rights, hence public knowledge of child rights is fragmentary, and 2) there is no targeted child rights training for specific professions such as judges, lawyers, law enforcement personnel etc.

The private sector does not take sufficient responsibility for the implementation of child rights either, and legal provisions effectively obliging companies with Swiss headquarters to respect child rights worldwide are not in place.

The specific needs of children belonging to particularly vulnerable groups (children in poverty, children with a disability, unaccompanied children, minor asylum seekers and children without a legal residence status) are still inadequately met, and the situation of many must be described as precarious. Most cantons lack adequate protection measures and child-friendly care facilities for unaccompanied children and minor asylum seekers. These children are foremost seen as foreigners, and their rights to freedom and education are rarely taken into consideration.

Today, children are still not sufficiently protected against physical, psychological or sexual violence. For example, Switzerland continues to refuse the explicit prohibition of corporal punishment of children, and as new communication technologies increase, more and more children become victims of sexual violence (e.g. through grooming or sexting) when they use the Internet or smartphones.

In view of this situation, the Child Rights Network Switzerland formulates the following demands:

- 1 The federal government must have a clear mandate to implement child rights. To this effect, the Federal Council must establish explicit legal foundations.
- 2 Political strategies as well as legislative, administrative and judicial systems have to implement the principle of the best interest of the child according to the recommendations formulated in the General Comment No. 14.
- 3 The federal government and the cantons have to jointly elaborate a general national strategy for the implementation of child rights; they must take concrete measures

to raise public awareness and sensitize the population for the issue. Sufficient resources have to be made available for these steps.

- 4 The federal government and the cantons have to establish national coordination and monitoring mechanisms, for example a national human rights institution, with a clear mandate in the field of child rights.
- 5 For the purpose of continuous reporting, the federal government must improve the current inadequate data collection on child rights and formulate guidelines for data collection by the cantons.
- 6 The federal government, in collaboration with the cantons, has to introduce nationwide uniform protection measures for particularly vulnerable groups of children (children in poverty, children with a disability, unaccompanied children, minor asylum seekers and children without a legal residence status). In particular, Parliament must abolish the enforcement of measures involving imprisonment against minor asylum seekers and youth without legal residence status; cantons and municipalities have to guarantee access to basic education and vocational training for unaccompanied minors and asylum seeking children.
- 7 In administrative and judicial proceedings, children concerned must be systematically given the opportunity to participate in a manner in accordance with their age and situation (particularly through being heard or represented by appropriate representatives).
- 8 Parliament has to formulate the necessary legal foundations to implement the recommendations of the UN Committee on the Rights of the Child and the Human Rights Council relating to the prohibition of corporal punishment of children.
- 9 Parliament has to adapt the protection of minors under penal law to new technological developments in the Internet and explicitly make sexual harassment of minors via the Internet a criminal offence.
- 10 Companies with headquarters in Switzerland must be obliged to respect child rights worldwide.

## Summary

This complementary report to the Committee on the Rights of the Child refers to the combined 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Swiss state report pursuant to article 44 (1) (b) CRC. It was elaborated by the Child Rights Network Switzerland in collaboration with a number of professional institutions and experts.

Each chapter of the report is structured as follows:

- Reference to the concluding observations by the Committee on the Rights of the Child in relation to the first Swiss state report (2002);
- Assessment by the Child Rights Network Switzerland as to which important developments have taken place since the time of the last concluding observations;
- Recommendations by the Network as to which demands the Committee should address to Switzerland.

Chapter 1 “General measures of implementation” focuses on the general attitude vis-à-vis the Convention on the Rights of the Child and its implementation in a federal system. Switzerland has still not adopted the CRC without reservation. No major progress was made in the fields of coordination and monitoring. Training on and dissemination of the Convention remains selective and unsystematic, there are no discernible pro-active efforts in this respect. Federal and cantonal authorities maintain an open dialogue with civil organisations, and the federal government supports the monitoring of CRC implementation in Switzerland. However, coordinated efforts by NGOs to implement federal legislation in the cantons are insufficiently supported or even unwelcome. There are no legal provisions in place which oblige companies with Swiss headquarters to respect child rights worldwide. According to reports under the National Research Programme 52, data collection shows glaring gaps, and continuous reporting is not guaranteed.

Chapter 2 “Definition of children” highlights three areas where Swiss age limits are incompatible with the spirit of the CRC: the minimum age for criminal responsibility (10), the age limit for hazardous activities (16), and the age limit when care measures for unaccompanied minor asylum seekers and youth benefiting from child protection measures can be abruptly withdrawn without transitory measures (18).

Chapter 3 “General principles” concentrates on four areas highlighted by the Committee. 1) Groups of children who face multiple disadvantages are de facto less able to enjoy their rights; civil child protection measures, educational opportunities and material subsistence can differ from canton to canton without any justification. 2) With respect to the principle of the best interest of the child, shortcomings in Swiss

legislation in general as well as specific problems in criminal proceeding and child protection procedures persist. 3) With respect to the right to life, measures to curb the above average suicide rate continue to be insufficient. 4) With respect to the right to be heard, a sharp discrepancy between the declaration of legislative intent and reality is noticed as children are de facto not heard in proceeding concerning them.

Chapter 4 “Civil rights and freedoms” identifies concerns in the following areas: ensuring the right to know one’s identity in cases of medically assisted procreation and adoption, registration of children whose parents are unable to identify themselves legally, baby windows, ensuring the right to gender identity, ensuring freedom of media and the freedom of assembly and movement. Swiss legislation does not explicitly prohibit corporal punishment, and there is no nationwide representative statistical data on threatened, suspected and proven cases of ill-treatment of children. In this context, Chapter 4 highlights problems with protection against violence, in particular with respect to non-violent up-bringing and corporal punishment, domestic violence, sexual violence and female genital mutilation.

Chapter 5 “Family environment and alternative care” calls for measures to improve the situation for foster children, for children whose parents are in prison and for children whose parents suffer from a mental illness. More extra-familial childcare facilities are required, and their quality has to be improved. With respect to adoption and surrogate motherhood, the report recommends that the Committee oblige Switzerland to revise its adoption legislation in such a way that international adoptions are only permitted if carried out by an accredited adoption agency. It also wants the formulation of an international regulation of surrogate motherhood to be promoted. In the context of family reunification under the Foreign Nationals Act and the Asylum Act three areas in need of action are identified: cantons must be obliged to implement more uniform practices; the best interest of the child needs to be placed in the centre; and the opinions of children concerned have to be acknowledged.

Chapter 6 “Basic health and welfare” identifies what Switzerland needs to do to improve the implementation of the right of the child to health. Areas of concern are excessive prescription of psychotropic drugs, the interests of children who need treatment or care, children with rare diseases, maternity protection, paid leave to care for ill children, children and youth with adiposis, regulation of food publicity targeted to children, breastfeeding, and sex education. With respect to children with disabilities, the report notes that integrative education for children with disabilities is legally recognised, but de facto insufficiently guaranteed. Integrative vocational training for young persons with disabilities faces

similar difficulties. Urgent measures to combat poverty affecting children and youth are required to ensure social welfare.

Chapter 7 “Education and leisure” looks, among other subjects, at truancy and early school drop-out rates and states that respective data and prevention programmes are lacking. The report demands the abolishment of hurdles which prevent youth without legal residence status from enjoying post-obligatory schooling and vocational training, and asks for assistance to enable them to take up an apprenticeship without jeopardising their stay in Switzerland. It calls for the explicit integration of human rights education into harmonised curricula for linguistic regions and for easier access to leisure and cultural activities for children and youth who are particularly disadvantaged. Furthermore it identifies the need that primary school children be offered appropriate courses in their mother tongue.

Chapter 8 “Special protection measures” firstly focuses on the situation of foreign children whose stay in Switzerland is precarious, such as minor asylum seekers, refugee children, unaccompanied minors seeking asylum, and children without legal residence status. Independently of their length of stay in Switzerland, these children suffer under a lack of prospects for the future. The second focus lies on sexual exploitation of and violence against children. Here, improved protection against sexual exploitation via the Internet and measures in intervention, prevention and victim assistance are demanded. Thirdly, and with respect to the imprisonment of minors, the report demands CRC provisions be implemented during pre-trial detention, and the abolition of measures involving deprivation of liberty against minor asylum seekers and youth without legal residence status.

Chapter 9 “Optional Protocols to the Convention on the Rights of the Child – ratification of other international human rights treaties” focuses on the Optional Protocol to the Convention on the Rights of the Child (individual complaints procedure) which Switzerland should ratify.

# 1 General measures of implementation

## 1.1 Reservations

### Concluding observations 2002

7 In light of the 1993 Vienna Declaration and Programme of Action, the Committee recommends that the State party:

c Expedite the current revision of the Foreign Nationals Act (formerly Federal Act concerning the Permanent and Temporary Residence of Foreigners) and withdraw as soon as possible after the approval of the revision the reservation made to article 10, paragraph 1, regarding family reunification;

d Expedite the approval and enactment of the new Juvenile Penal Law in order to start as soon as possible thereafter the withdrawal of the reservation to article 40 (2) (b) (ii) regarding legal assistance and to article 37 (c) regarding separation of juveniles deprived of their liberty from adults;

e Reconsider the reservation made with regard to the possibility of having the same juvenile judge as an investigating and a sentencing judge since the requirement of an independent and impartial authority or judicial body (art. 40 (2) (b) (iii)) does not necessarily and under all circumstances mean that investigating and sentencing juvenile judges cannot be the same person.

8 The Committee urges the State party to complete the withdrawal of all reservations before the submission of the next report.

### Assessment by the Child Rights Network Switzerland

Switzerland has not withdrawn all reservations since the Committee's last concluding observations of June 7, 2002.

– On January 1, 2008, the new *Ausländergesetz* (AuG, SR 142.20) (Foreign Nationals Act, FNA) came into force, and the *Asylgesetz* (AsylG, SR 142.31) (Asylum Act, AsylA) has been revised several times since. Despite the Committee's recommendation, it is not possible to withdraw the reservation concerning article 10 (1) CRC. In direct contradiction to the Convention is namely a) article 85 (7) FNA stipulating a waiting period for family reunification

for temporarily admitted persons and refugees, and b) the fact that asylum seekers are not entitled to family reunification. Family reunification is admissible at the earliest three years after temporary admission has been granted, although admitted persons and refugees may remain in Switzerland for the long term.

– The reservation concerning article 37 (c) CRC stipulating separation of juvenile persons and adults in the implementation of measures involving the deprivation of liberty was not withdrawn. Withdrawal of the reservation concerning article 10 (2) (b) of the International Covenant on Civil and Political Rights however was made possible by article 6 (2) of the *Jugendstrafgesetz* (JStG, SR 311.1) (Juvenile Penal Law, JStG) calling for separation during detention awaiting trial. In cases of deprivation of liberty other than sentence or custody, separation is not guaranteed. This applies in particular to administrative detention such as detention in preparation for departure, detention pending deportation or coercive detention under article 75 et seq. FNA. In 2006, the National Council Control Committee recommended to clarify whether specific imprisonment standards – in particular the requirement to separate minors and adults during detention pending deportation – can be derived from the CRC. The Committee suggested collaboration with the cantons in order to identify practical solutions if such imprisonment standards were indeed required. A 2009 report by the Federal Council set out to assess whether coercive measures under the FNA are compatible with the CRC does not give a conclusive answer in that matter, and the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> state reports do not address the subject at all. On October 16, 2012, the National Council Control Committee decided to conclude its examination of child rights in the context of coercive measures under the FNA.

– The new *Jugendstrafprozessordnung* (JStPO, SR 312.1) (Youth Criminal Procedure Ordinance, JStPO) confirms that criminal proceedings involving juveniles should have an educational component and it acknowledges in principle that under-age offenders have special pedagogical needs in penal procedures. However, it leaves cantons the option to choose organisational forms which do not guarantee a strict separation between the examining and the sentencing functions of the juvenile attorney or juvenile judge. At least, accused under-age persons and their legal representatives are granted the right to reject a juvenile judge who is involved in leading the examination. They do not have to state reasons for their rejection and their attention is drawn to this right (art. 9 JStPO). It was not evaluated whether in view of this situation the reservation concerning article 40 (2) (b) (iii) CRC can be withdrawn.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- **to suspend the three year waiting period for family reunification under article 85 (7) FNA, and grant temporarily admitted persons and refugees the same rights to reunite with their family and children as foreign nationals with a residence permit or a short-term residence permit;**
- **to guarantee separation of juveniles and adults during administrative detention;**
- **to evaluate by means of an independent assessment under which circumstances the remaining reservations regarding the CRC can be withdrawn.**

## 1.2 Legislation (Art. 4 CRC)

### **Concluding observations 2002**

10 The Committee recommends that the State Party:

- a Ensure, through an appropriate mechanism, that national and cantonal laws conform with the Convention in order to avoid discrimination which may arise from existing disparities in the State party;
- b Rigorously review and ensure that these and other laws concerning children as well as administrative regulations, both at the federal and at the cantonal level, are rights based and conform to the Convention and other international human rights instruments and standards;
- c Ensure that adequate provision is made for their effective implementation, including budgetary allocation; and
- d Ensure their smooth and rapid promulgation.

### **Assessment by the Child Rights Network Switzerland**

Without claiming to be exhaustive, the state report lists revisions of federal and (sporadically) cantonal legislation pertaining to children and youth (par.20–31), but information on laws and law revisions which violate the rights of the child is not brought forward. Modernisation of laws pertaining to children and youth is noticeable at both federal and cantonal levels, however such modernisation is limited to selective core areas (e.g. education, child protection) and does not refer systematically to child rights. Three principal weak points need to be pointed out:

- Contrary to the claims voiced in the state report (par.22, in initio), federal laws are not systematically put into practice by cantons because federal support required for their implementation is frequently missing. This is for example the case with respect to the right of the child to participate in divorce or child protection proceedings.
- Legislative procedures at federal and at cantonal level fail to ensure a comprehensible and professional assessment of whether draft laws are compatible with the CRC. The state report's claim to the contrary (par. 25) has no grounds. Under article 141 (2) of the Bundesgesetz über die Bundesversammlung (SR 171.10) (Federal Act on the Federal Assembly), Federal Council Messages on legislative bills are required to evaluate their compatibility with superior law. But in reality, considerations concerning the legal provisions of the CRC only take place as a matter of form or when specific bills are being discussed (such as the Bundesgesetz über internationale Kindesentführungen (BG-KKE, SR 211.222.32) (Federal Act on International Child Abduction). A corresponding obligation for cantons to assess the compatibility of cantonal legislation and the CRC is not guaranteed.
- Popular votes in Switzerland sometimes adopt revisions of the Constitution which violate international law. When assessing the validity of popular initiatives, both Federal Council and parliament only evaluate their compatibility with peremptory international law. For example, the Federal Council does not consider the primacy of the interests of the child in the spirit of article 3 CRC to be international jus cogens. For this reason, the deportation initiative adopted in a referendum on November 28, 2010, was not declared invalid from the start. This initiative demanded that, in certain criminal offences, delinquent parents can be forced to leave the country irrespective of the situation of their children.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- **to support the cantons in the implementation of child rights related federal legislation;**
- **to review the effects of federal and cantonal legislation on child rights in a systematic and comprehensible manner;**
- **to declare as invalid all constitutional initiatives which clearly violate the CRC and other international human rights treaties and standards.**



## 1.3 Coordination

### Concluding observations 2002

- 12 The Committee recommends that the State party establish an adequate permanent national mechanism to coordinate the implementation of the Convention at the federal level, between the federal and the cantonal levels and between cantons.
- 14 The Committee recommends that the State party prepare and implement a comprehensive national plan of action for the implementation of the Convention, undertaken through an open, consultative and participatory process. This national plan of action should adopt a rights-based approach and not be limited to protection and welfare. In addition, the Committee recommends that equal attention should be paid both to young and older children. Finally, the Committee recommends that the State party make use of child-impact assessments in the formulation of legislation, budgets and policies.

### Assessment by the Child Rights Network Switzerland

Whilst timid improvements are noticeable with respect to the establishment of an “adequate permanent national mechanism”, no progress has been made in the elaboration of a “national plan of action for the implementation of the Convention”. The Child Rights Network wishes to underline the following points:

- In its response to interpellation 05.3126 “Nationale Aktionspläne für Kinder und Jugendliche” (National action plan for children and youth) of June 3, 2005, the Federal Council implicitly rejected the elaboration of a national plan of action for the implementation of the Convention. The Council is of the opinion that the system of state reporting and the second state report on the Convention due in 2007 serve the same purpose. However, this report was submitted five years too late and in the form of a consolidated 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> state report. Over such an extended reporting period, a logical follow-up is impossible. Furthermore, neither cantons nor State had a plan on how the recommendations to the first report ought to be implemented. The Federal Council’s negligence to comply with its reporting duties received parliamentary blessings when the annual report 2012 of the Control Committees and Delegation of both chambers of the parliament was passed. A study by the Swiss Centre of Expertise in Human Rights on the implementation of international

human rights recommendations in Switzerland reveals that federal government, cantons and NGOs are largely dissatisfied with national mechanisms of reporting and follow-up.

- In late August 2008, the Federal Council issued the report “Strategie für eine schweizerische Kinder- und Jugendpolitik” (Strategy for a Swiss policy on children and youth). In this report the Federal Council announces the intention to strengthen cantonal coordination mechanisms and to support cantons in their efforts to develop their policy on children and youth by concluding programme agreements. In addition, the Council intends to strengthen horizontal coordination at the federal level in matters concerning children and youth. The new Kinder- und Jugendförderungsgesetz (KJFG, SR 446.1) (Child and Youth Promotion Act, KJFG) provides the legal foundation for these efforts. These measures are welcome, but they fail to comply with the recommendations of the Committee. In particular, the obligatory vertical coordination between the federal government and the cantons is missing. Planned coordination mechanisms are limited to certain aspects of a policy on children and youth (such as promotion of children and youth, child and youth protection, raising public awareness for the rights of the child) but fail to cover the entire range of issues addressed by the Convention. Therefore, the Network welcomes a constitutional article drafted by the Committee for Science, Education and Culture of the National Council seeking to enable the federal government to issue principles on the protection, promotion and participation of children and youth. The Federal Council however rejects such draft because it deems it unnecessary. In view of this situation, the Committee in charge has postponed any further activities until winter 2014/2015, intending to decide on what action to take once the Federal Council’s interim report on the state of implementation of existing measures has been submitted.
- Some cantons demonstrate ad hoc efforts to strengthen a coordinated implementation of the Convention. However, these approaches lack inter-cantonal coordination, are highly different in structure, frequently limited in time, and insufficiently funded. For example:
  - In canton Zurich, a two-year “best interest of the child / child rights” project position was not extended. The position was aimed – among other things – at introducing a child-rights-oriented view when legislature objectives are being implemented.
  - In canton Fribourg, a cantonal child and youth advocate position was created, based on article 18 of the Jugendgesetz vom 12. Mai (Youth Act of May 12, 2006.).

- In canton Aargau, a “child rights” project position was created with the intention to develop measures to fill gaps in the canton’s implementation of the Convention. The position expires in 2015.
- In canton Geneva, the Office for Human Rights created in 2008 was closed down on January 1, 2013.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- **to take into account the study by the Swiss Centre of Expertise in Human Rights on the implementation of international human rights recommendations in Switzerland and elaborate a mechanism to follow-up on recommendations by the Committee on the Rights of the Child;**
- **to elaborate a plan of action and a sustainable co-ordination mechanism for the implementation of the Convention as part of the new legislation on child and youth promotion;**
- **to establish a material constitutional basis to enable the federal government to issue principles on the protection, promotion and participation of children and youth.**

## 1.4 Monitoring structures

### Concluding observations 2002

16 The Committee recommends that the State party establish a federal independent human rights institution in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134) to monitor and evaluate progress in the implementation of the Convention. It should be accessible to children, empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner, and address them effectively.

### **Assessment by the Child Rights Network Switzerland**

In October 2002, the Council of States supported a parliamentary initiative (postulate 02.3394) requesting the Federal Council to report on the creation of an independent human rights institution. In June 2003, the National Council

proposed the setting-up of a federal commission for human rights (initiative 01.461). Following these developments, several expert opinions and working groups examined the pertinence and potential structure of an independent Swiss human rights institution. Since April 1, 2011 – having been mandated by the federal government – a network of academic institutions, the Swiss Centre of Expertise in Human Rights, is undertaking comprehensive groundwork on human rights issues with child rights as one of six focal points. The pilot project is limited to five years. This centre of expertise – presented in the state report in par. 45 – is not an independent human rights institution in the spirit of the UN Paris Principles on the National Institution of Human Rights. Project extension beyond the five-year pilot phase is currently not guaranteed.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- **to establish a legally based independent human rights institution in the spirit of the Paris Principles which, in line with the General Comment No. 2 of the Committee on the Rights of the Child, has a clear mandate with respect to matters arising from the Convention.**

## 1.5 Training and dissemination of the Convention

### Concluding observations 2002

20 The Committee recommends that the State Party:

- Strengthen and continue its programme for the dissemination of information on the Convention and its implementation among children and parents, civil society, and all sectors and levels of Government, including initiatives to reach vulnerable groups, especially migrant and asylum-seeking children;
- Develop and disseminate systematic and ongoing training programmes on human rights, including children’s rights, for all professional groups working for and with children (e.g. federal and cantonal parliamentarians, judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, teachers and health personnel).

## Assessment by the Child Rights Network Switzerland

As the state report shows, the federal government and the cantons make selective efforts to make the Convention known to children, parents and civil society (par. 48 et seq.). The government supports dissemination projects with an annual budget of approximately 200,000 francs. In 2009 and 2010, an additional amount of 100,000 per annum was made available for human rights education projects in schools. However, the measures taken lack continuity and an overall programme framework. Below are five selected areas of concern as an example:

- Neither the federal government nor the cantons show efforts to systematically implement international programmes on human rights education – for example in the spirit of the United Nations Declaration on Human Rights Education and Training of February 16, 2012 (GA-Resolution A/Res/66/137).
- The inter-cantonal agreement on the harmonization of compulsory schooling (HarmoS agreement) does not mention human rights education as an explicit educational objective of obligatory schooling. Core documents for a harmonised curriculum for German-speaking cantons (Curriculum 21) do not refer to child rights, and general human rights education is only mentioned in passing as one element of a generic subject “political education”. The “Plan d’Etudes Romand” (PER) of the French-speaking cantons is slightly more elaborate and contains several references to the Convention and to human rights as a desirable educational content. These shortcomings can largely be attributed to the fact that the legal foundation for both, PER and Curriculum 21 lack reference to the Convention on the Rights of the Child, the International Covenant on Economic, Social and Cultural Rights (Pact 1) and the Convention on the Rights of Persons with Disabilities.
- Under the reformed Swiss system for universities of applied sciences, accredited universities of applied science are obliged to promote sustainable development (Bundesgesetz über die Fachhochschulen, FHSG, SR 414.7, art. 3). However, human rights education is not listed as a prerequisite for the accreditation of universities of applied science, not even for those offering occupational courses in subjects such as health, social work, applied psychology and pedagogics.
- The Confederation is responsible for the regulation of vocational training and training at universities of applied science. Occupational courses for activities with children are part of such training. The revised curriculum frame-

works for social pedagogics and child education do not exclude CRC content as an educational objective, but they do not explicitly state that it should be taught. The training plan for specialist carers mentions child rights as a training element only in the annex of an ordinance rather than in the body of the plan.

- In point 3.4 of this present document (Respect for the views of the child), the Child Rights Network Switzerland points out that the implementation of child rights-oriented procedural rules is hindered by the federal structures of the Swiss judicial and administrative system. Whilst in the area of victim assistance, specific training courses for the hearing of children exist and are supported by the Federal Office of Justice, no coordinated training programmes exist for civil and administrative areas.

### The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:

- **to make human rights education a prerequisite for the accreditation of universities of applied science offering courses in the fields of health, social work, applied psychology and pedagogics;**
- **to include the CRC as a mandatory training element in ordinances and training plans for professions involving work with children;**
- **to integrate age-appropriate human rights and child rights education into Curriculum 21 as an element of obligatory schooling;**
- **to support cantons in providing training opportunities for courts and authorities in order to ensure that the procedural rights of children are effectively implemented.**

## 1.6 Cooperation with civil society

### Assessment by the Child Rights Network Switzerland

Federal and cantonal authorities maintain an open dialogue with civil organisations. In particular, the federal government supports youth and child organisations belonging to the Child Rights Network Switzerland and assists them in their joint monitoring of the implementation of the CRC in Switzerland. Federal, cantonal and municipal authorities support civil society organisations – namely those engaged in extra-curricular activities with children and youth – in their efforts

to provide practical measures. At regional level and in a targeted manner, government authorities also make use of services (such as socio-educational family support, and parent's education) offered by private institutions.

However, coordinated efforts by NGOs to implement federal legislation in the cantons are insufficiently supported or even rejected. For example: In 2008 and jointly commissioned by the Federal Social Insurance Office and private organisations, a national child protection strategy was elaborated in collaboration with professional experts from all over Switzerland. Its implementation failed because the cantons refused to cooperate with civil society organisations. In 2009, the Federal Act on International Child Abduction came into force. Article 3 obliges the Federal Office of Justice to see, in cooperation with the cantons, to the establishment of a network of experts and institutions that are in a position to provide advice, to carry out conciliation or mediation, to represent individual children, and that are capable of acting expeditiously. Cooperation with private organisations, as stipulated by the law, only took place in the very beginning and was soon abandoned.

### **The Child Rights Network Switzerland recommends that the Committee obliges Switzerland:**

- to continue to seek and strengthen the dialogue with civil society organisations;
- to actively promote coordinated efforts by civil society organisations to implement federal legislation in the cantons.

## 1.7 Responsibilities of the private sector in relation to child rights

### **Assessment by the Child Rights Network Switzerland**

In summer 2012, a coalition of NGOs called "Corporate Justice" handed in a petition with over 135,000 signatures, calling Parliament to formulate binding rules that compel firms headquartered in Switzerland to respect human rights and the environment worldwide. On June 20, 2013, the Council of States charged the parliamentary commission concerned with elaborating an initiative in the spirit of the petition. A slim majority of the cantonal representatives had supported this mandate. The National Council, for its part, submitted a

postulate calling for a comparative legal study on how a board of directors can be obliged to carry out a "due diligence" assessment of possible human rights and environmental impacts of their company's future range of activities abroad (in line with the "due diligence" definition by John Ruggie), and how public reporting about such measures can be regulated. The Federal Council does not intend to draft a special bill and relies on self-regulation by companies. The narrow majorities in the Federal Assembly and the position of the Federal Council oscillate between state regulation and pure self-regulation by the private sector.

### **The Child Rights Network Switzerland recommends that the Committee obliges Switzerland:**

- to formulate legal provisions which effectively obligate companies headquartered in Switzerland to respect child rights worldwide.

## 1.8 Data collection

### **Concluding observations 2002**

- 18 The Committee recommends that the State party collect disaggregated data on all persons under 18 years for all areas of the Convention, with specific emphasis on those who are particularly vulnerable and on fields which are not yet covered by current data, and use this data to assess progress and design policies to implement the Convention.

### **Assessment by the Child Rights Network Switzerland**

The National Research Programme 52 "Childhood, Youth and Intergenerational Relationships in a Changing Society" provided important insights into the situation of children and youth in Switzerland. In addition to a wide range of individual research papers a number of summary reports were generated, in particular a report titled "Kindheit und Jugend in der Schweiz" (Childhood and Youth in Switzerland). The summary reports highlight glaring gaps in data collection and reporting. Data on the situation of children and youth are dispersed in numerous statistics and studies. Studies by the Federal Statistical Office generally cover only persons above 16 years. There is neither representative combining of data on childhood and youth, nor periodic reporting in the form of a regular report on childhood and youth in Switzerland.

Data collection on the situation of particularly vulnerable persons is unsystematic. For example, there is no statistical data on children in foster care, no coordinated registration system for child abuse, no systematic data on criminal investigation into sexual crimes against minors abroad or into criminal acts relating to child pornography.

### **The Child Rights Network Switzerland recommends that the Committee obliges Switzerland:**

- **to follow-up on the National Research Programme 52 and create the foundations for the collection of -representative data and for periodic reporting on the situation of children and youth in Switzerland;**
- **in particular, to create the foundations for the collection of representative data on particularly vulnerable groups of children and youth;**
- **to collect national data on child abuse.**

## **2 Definition of “children”**

The Committee did not issue any recommendations to Switzerland on article 1 CRC. With respect to the administration of juvenile justice it recommended:

- 58. As part of this reform, the Committee particularly recommends that the State party:
  - a) Raise the minimum age for criminal responsibility to above 10 years and amend accordingly the federal bill on the criminal status of minors;

With respect to article 1 CRC, the state report (par. 61–64) elaborates on different age limits in various fields of justice. It mentions that the new Juvenile Penal Law raises the minimum age for criminal responsibility from seven to ten years and that the age limit for the protection of juvenile employees was lowered from 20 to 18 years.

### **Assessment by the Child Rights Network Switzerland**

- The new Juvenile Penal Law raised the minimum age for criminal responsibility to ten years, but this age limit is still below the recommended minimum threshold of 12 years (CRC/C/GC10, N 16). As stipulated in article 21 JStG, at least fines and custodial sentences are only permissible for persons over 15 years of age. However, under international standards, offences committed by children below 14 should give rise to measures by the child and youth welfare authorities. Such measures should not be imposed in juvenile criminal proceedings but through cooperation between parents and child protection authorities.
- The current labour legislation allows exceptions from the prohibition of hazardous activities for vocational trainees above 16 years of age. Vocational training professionals are currently discussing ways to reduce the age limit to 15 or even 14 years (Interpellation 12.4060 Schwaab).
- Majority at 18 years implies that young persons can lose special protection without having access to temporary assistance. For example: unaccompanied under-age asylum seekers lose special protection (detention practices, care, assessment in view of return) when they turn 18. This situation can encourage them to refrain from filing an asylum application and prefer life without legal residence status. The legal right to child protection measures also comes to end once the legal age is reached. As a result, the financing of places in institutions or alternative care changes. A regulated follow-up is not in place.

**The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- to raise the minimum age for criminal responsibility to 14 years in favour of child and youth welfare measures, or at least to commission a feasibility study on the subject;
- to refrain from further lowering the age limit for hazardous activities;
- to ensure adequate follow-up solutions in particular for unaccompanied asylum seekers and for youth benefiting from child protection measures.

## 3 General principles

### 3.1 Non-discrimination

#### Concluding observations 2002

22 In light of article 2 and other related articles of the Convention, the Committee recommends that the State party carefully and regularly evaluate existing disparities in the enjoyment by children of their rights and undertake on the basis of that evaluation the necessary steps to prevent and combat discriminatory disparities. It also recommends that the State party strengthen its administrative measures to prevent and eliminate de facto discrimination against foreign children or children belonging to minorities.

#### Assessment by the Child Rights Network Switzerland

The National Research Programme NRP 52 “Childhood, Youth and Intergenerational Relationships in a Changing Society” highlights inequalities pertaining to children and youth which are, among other reasons, a result of the Swiss federal system. The programme confirms that some groups of children face multiple disadvantages and are less able to enjoy their rights under the CRC than others. There are multiple factors leading to unfavourable living conditions such as poverty, precarious employment of parents, poor educational level in the family, migrant background, and poor housing and social environment. So far, no policies have been developed to purposefully improve equal enjoyment of child rights for these groups. The Child Rights Network wishes to highlight the following disadvantages in respect of rights under the CRC.

#### – Access to education, in particular for children with a migrant background

The state report’s chapter on non-discrimination (par. 65 et seq.) lists a number of integrative measures in the education sector (par. 71 et seq.). However, researchers offer substantiated proof that social background, education and professional and social status remain closely linked and that the education system plays a central role in reproducing social inequality.

The likelihood of being transferred to a special class for children with learning disabilities varies from canton to canton. In some cantons, one child in 200 is likely to be transferred, in others one child in 25. Differences in treatment are even more pronounced for children with a migrant background. According to a study in canton Zurich,

school work by children speaking a foreign language is marked lower than the work of their peers. Children with a migrant background producing the same standard of work have less access to vocational education as well.

So-called “sans-papiers” children without cantonal residence permits have no access to vocational training. This is justified by invoking humanitarian grounds. Subsequent to a revision of the relevant ordinance, it is now possible to obtain such authorisation provided the person has stayed in Switzerland for a certain number of years. However, in practice, obtaining authorisation for vocational training depends on the willingness of the canton of residence. Furthermore, if a young person applies for such authorisation but fails to obtain it, the entire family risks to be expelled from Switzerland.

#### – Cases of particular hardship with respect to asylum

Under article 14 (2) AsylA, cantons are entitled to request that the Federal Office grant a residence permit to an asylum seeker who has resided in the canton for a minimum of five years, provided, in light of the person's advanced stage of integration, that there is a case of serious personal hardship. According to a study of the Swiss Refugee Council, canton Valais has obtained 500 residence permits for persons suffering serious personal hardship since 2007, canton Geneva and canton Berne more than 200, whilst the cantons Zurich, Grisons, Aargau and Zug have granted less than 20.

#### – Access to child and youth welfare services

The Schweizerische Zivilgesetzbuch (ZGB, SR 210) (Swiss Civil Code, SCC) regulates the material conditions for officially imposed child protection measures in a uniform way. However, a study in the framework of the National Research Programme 52 reveals that legal provisions are implemented differently in the various cantons, without objective foundations. Canton Neuchâtel for example prescribes measures for 4.3 per cent of all children, whilst Canton Uri does so for 0.3 per cent only.

Child protection measures are not only available by way of an injunction. There is a whole range of additional services such as educational counselling, parents' training, socio-educational family support, mediation, and placement outside the family. In case of need, these services should be available on a voluntary basis as well. A report by the Federal Council on child and youth welfare measures (state report par. 193) provides a systematic list of basic services offered by child and youth welfare services. A reliable overview of the range of services – which differ in cantons and regions in terms of quantity and quality – is not available. Minimum basic service is not guaranteed for all children.

#### – Material subsistence

Studies by the Schweizerische Konferenz für Sozialhilfe (SKOS) (Swiss Conference for social assistance) reveal large cantonal differences in the disposable income of persons receiving social assistance. Whilst a family headed by an unemployed single mother with one child in Sion (Valais) has approximately 38,000 francs at its disposal, a similar family in canton Schwyz has about 18,000 francs less. Differences of such magnitude cannot be attributed to different costs of living.

#### – Discrimination of LGBTI children

Children and youth who do not identify with a heterosexual orientation (lesbian, gay, bi-sexual, transgender, intersex) suffer from negative prejudices and lack of understanding by their family and peer groups. They need special protection against mobbing and discrimination, particularly when they are coming out. Studies confirm that this complicated socio-affective context is a risk factor. For example: the prevalence of suicide attempts is higher among homosexual youth than among their heterosexual peers. Parents and professionals working with such children and youth in- and outside of school know little about their situation and how to assist them.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- **to develop strategies for the implementation of the CRC which ensure that child rights are applied in the entire country in an equal manner;**
- **to revise the ordinance on the access of “sans papiers”-children to vocational training in such a way that they can apply without jeopardizing their or their family's stay in Switzerland;**
- **to plan for special measures within the framework of a national poverty reduction strategy which provide specialised support for children in poverty;**
- **to ensure appropriate nationwide provision of basic services by child and youth welfare institutions;**
- **to take measures to raise public awareness of the situation of LGBTI children and youth and to promote the prevention of mobbing and discrimination, particularly in schools.**

## 3.2 Best interest of the child

### Concluding observations 2002

25 The Committee recommends that the State party take all appropriate measures to ensure that the general principle of the best interests of the child is appropriately integrated in all legislation and budgets, as well as judicial and administrative decisions and in projects, programmes and services which have an impact on children.

### Assessment by the Child Rights Network Switzerland

The Child Rights Network Switzerland wishes to draw the Committee's attention to three focal points:

#### – Interest of the child in legislative procedures

Swiss legislative procedures do not guarantee a systematic professional assessment as to whether draft bills are consistent with the principle of the best interest of the child. Under article 141 (2) (i) of the Bundesgesetz über die Bundesversammlung (Parlamentsgesetz; SR 171.10) (Federal Act on the Federal Assembly), Federal Council Messages on legislative bills for example are requested to elaborate on the bill's impact on gender equality. A comparable requirement with respect to the principle of the best interest of the child however does not exist. In reality, consideration of this principle remains exceptional and limited to the discussion of specific bills (such as the Federal Act on International Child Abduction).

A baseline report by the Swiss Centre of Expertise in Human Rights highlights discrepancies in the formulation of the term "best interest of the child" (art. 3 (1) CRC) in Swiss legislation. What the German translation of the CRC calls "Wohl des Kindes", the French text calls "intérêt supérieur de l'enfant". Article 307 of the Swiss Civil Code is central for civil child protection measures. Whilst the German text refers to threats to the "Kindeswohl", the French text does not use a corresponding term.

#### – Interest of the child in criminal proceedings

A baseline report of the Swiss Centre of Expertise in Human Rights reveals inadequacies in criminal proceedings and in the legislation on victim support. Article 154 of the Strafprozessordnung (StPO, SR 312) (Swiss Criminal Procedure Code, CrimPC) stipulates special measures to protect child victims during hearings. Similar standards for the hearing of children who are not victims are not in place. The Opferhilfegesetz (OHG, SR 312.5) (Swiss Victim

Assistance Act, OHG) lacks special provisions for proceedings involving children and its provisions on reparations (art. 19 et sub. OHG) fall short of the recommendations provided by the UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (E/CN.15/2005/14/Add.1; par. 35 and 27).

#### – Best interest of the child in cross-border child protection cases

If the well-being of the child is threatened, competent authorities have to order appropriate protective measures. This also applies to cases where minors move to or away from Switzerland. The Child Rights Network is aware of cases where authorities – as a result of ignorance or lack of willingness – derogated from their obligation to react to reports of threat or to immediately appoint assistance in support of the child. They justify their attitude (sometimes at length) by invoking lack of jurisdiction (as a result of geographical location) if measures had already been ordered at the child's habitual residence abroad. In so doing, they neglect their mandate to act in cases where children are threatened by serious danger or in cases of urgency, as stipulated in article 8 and 9 of the Hague Protection of Minors Convention (SR 0.211.231.01) or articles 11 and 12 of the Hague Convention on Parental Responsibility and Protection of Children (SR 0.211.231.011). The Child Rights Network also knows of cases where measures ordered at the child's residence in Switzerland were immediately lifted after the child's departure from Switzerland, irrespective of the possible need to issue an international report of threat and continue the follow-up of the case abroad, whether in a State party to the Hague Convention or not (equal level of protection in the spirit of non-discrimination).

The principle of the best interest of the child is not adequately respected when decisions about the repatriation of children who are brought to Switzerland by parents without custody are made. In 2009, the Hague Convention on Parental Responsibility and Protection of Children of 1996 and the Federal Act on International Child Abduction came into force. The new legislation brings positive changes. It accelerates legal processes, calls for an interdisciplinary network of professional experts, promotes the consideration of the child's well-being in return procedures and strengthens child participation in the procedures. However, its implementation remains unsatisfactory. Mediation procedures stipulated by the new legislation are only rarely applied and lack professionalism. The network of experts was set-up without involving NGOs working in the field; it should also be called upon in cases of child abduction from Switzerland to other countries.



– **Best interest of the child in the Foreign Nationals Act**

In specific cases, the Federal Supreme Court and the Federal Administrative Court have repeatedly ruled in favour of the relationship between the child and his or her parents residing in Switzerland (granting the right to stay to a foreign parent who is legally obliged to leave the country if the child has Swiss nationality, considering the best interest of the child as an obstacle to deportation). Nevertheless, the principle of the best interest of the child remains insufficiently acknowledged by the Foreign Nationals Act. If a parent with custody over the child loses his or her right to stay and faces deportation, his or her children are de facto deported as well even if they have no connection to the country of origin. Assessments as to whether parents and children are entitled to be granted residence on the grounds of serious personal hardship demonstrate similar de facto results. If a parent with the right to visit his / her child is deported from Switzerland, he / she will practically lose all personal contact with the child. There are documented cases demonstrating that decisions on the residential status of foreigners do not consistently acknowledge the best interest of the child, despite Supreme Court rulings. The state reports fails to mention that the new article 121 (3–6) of the Federal Constitution actually aggravates the situation by obliging foreign offenders convicted of certain crimes to leave the country irrespective of their status under the law and of the best interest of children concerned.

**The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- **to implement the principle of the best interest of the child in Swiss legislation, administration and justice;**
- **to clarify the different usage of the terms “vorrangige Kindesinteressen” (best interest of the child) and “Kindeswohl” (well-being of the child) in the Swiss legislation and its implementation;**
- **to consider the best interest of the child in cross-border child protection cases when evaluating which authority is competent to act;**
- **to allocate sufficient resources for the effective implementation of the Federal Act on International Child Abduction, including resources to set-up the professional network, promote its use, train mediators, child representatives and lawyers and create intercantonal networks;**

- **to extend, in implementation of article 11 CRC, the applicability of the Swiss Federal Law to States that have not yet signed the Hague Conventions on the Protection of Minors and on Parental Responsibility and Protection of Children;**
- **to take into greater account the situation of the children involved when withdrawing a residence permit of a foreign national.**

### 3.3 Right to life: Suicide

#### Assessment by the Child Rights Network Switzerland

In chapter 5 Basic health and welfare (par. 40 et sub.) of its concluding observations to Switzerland’s first state report, the Committee on the Rights of the Child expressed its ongoing concern “about the high number of suicides among adolescents and the limited measures to prevent this phenomenon ...”. A baseline report by the Swiss Centre of Expertise in Human Rights mentions that other human rights institutions issue similar recommendations (SCHR, par. 106–109). Referring to article 6 (2) and 24 of the Convention as well as to paragraph 22 of the General comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child article, the Child Rights Network invites the Committee on the Rights of the Child to give this question particular attention.

Swiss suicide rates lie well above the global average, and they vary considerably from canton to canton. They are particularly high in the cantons Appenzell, Basel, Berne, Zurich, Neuchâtel and Fribourg. After road accidents, suicide is the second most important cause of death among 15 to 19 year old youth. One out of twenty young people has attempted suicide at least once. The baseline report by the SCHR draws attention to suicide attempts by children between 5 and 12 years of age (SCHR, par. 112). It highlights risks caused by the Internet and social networks, and identifies an elevated risk for homosexual youth (SCHR par. 115). A 2006 report by the Federal Office for Public Health on suicide and suicide prevention underlines the importance of trans-regional and – in line with WHO recommendations – national strategies for the prevention of suicide. Reducing the access to lethal substances and methods, for example through the tightening of weapons legislation, is mentioned as a possible measure.

Switzerland does not have a national suicide prevention programme. The federal government is of the opinion that there is no legal basis for such programme and that it can only assist in elaborating national suicide prevention strategies.

Measures were envisaged in connection with a national health policy, but so far there are no concrete results. The baseline report by the SCHR underlines this shortcoming (SCHR par. 121, 127).

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- **to elaborate a national strategy for suicide prevention or to integrate such a strategy into the national action plan for the implementation of the CRC.**

## **3.4 Respect for the views of the child**

### **Concluding observations 2002**

27 The Committee recommends that further efforts be made to ensure the implementation of the principle of respect for the views of the child. In this connection, particular emphasis should be placed on the right of every child to participate in the family, at school, within other institutions and bodies, and in society at large, with special attention to vulnerable groups. This general principle should also be reflected in all policies and programmes relating to children. Awareness-raising among the public at large as well as education and training of professionals on the implementation of this principle should be reinforced.

### **Assessment by the Child Rights Network Switzerland**

In view of the developments that have taken place since the concluding observations to the first Swiss state report, the Child Rights Network wishes to concentrate attention to the participation of children in socio-political processes (art. 12 (1) CRC) and to the need to hear the child in any proceedings affecting the child (art. 12 (2) CRC).

#### **– Participation of children in socio-political processes**

Efforts to involve children and youth in political planning and decision processes are noticeable at the municipal level, either in individual projects or by way of children or youth councils. Several cantons have formulated child or youth laws or municipal regulations which foresee non-binding participation opportunities of such nature. However, most municipalities and cantons as well as the Con-

federation itself have no legal foundations that oblige them to involve children and youth in political processes, neither in form of motions involving compulsory treatment nor by lowering or abolishing age limits for the enjoyment of political rights. Canton Glarus is the only Swiss canton that has lowered the right to vote to 16 years. In general, the political system refuses any serious discussion on granting political rights from birth.

The Federal Council's report on Swiss child and youth strategy endorses a large interpretation of the term "participation". However, the Federal Council refuses to involve children and youth in the running of its political business. A draft of a constitutional article on child and youth policy intends to give the federal government the right to issue principles on the participation of children and youth. However, the draft is currently blocked in Parliament.

#### **– Participation of children in daily life**

State institutions where children pass part or all of their daily lives have special responsibility to ensure that children are appropriately and effectively involved in shaping their environment. This concerns children in extra-familial child care facilities, pupils and foster children who live separated from their families alike.

Some cantonal school legislation provides for the participation of pupils in daily life at school. However, implementation of such regulation largely depends on the sensitivity of individual teachers or public authority staff. Priority consideration of child interests and participation is not sufficiently established – neither by way of structure or concept, nor culturally. This lack is likely to become apparent when strategic decisions are taken or conflicts need to be resolved.

Extra-familial pre-school facilities need to promote child-centred high-quality care, for example in the spirit of the framework of orientation for early childhood development, education and care (Orientierungsrahmen für frühkindliche Bildung, Betreuung und Erziehung) elaborated by the Swiss UNESCO Commission and Swiss Child Care Network (Netzwerk Kinderbetreuung Schweiz).

Not all of the regionally very diverse foster care schemes in Switzerland can guarantee that the interests and opinions of children who are officially placed in their care can duly be taken into consideration, beyond the administrative procedures and throughout the time of their placement.

### – Child participation during proceedings and child-friendly justice

Article 12 (2) CRC stipulates that the child shall be heard in any judicial and administrative proceedings affecting the child. Consideration of the right to participation is best put into practice in family proceedings. However, a study in the context of the National Research Programme “Childhood, Youth and Intergenerational Relationships in a Changing Society” reveals that only about 10 per cent of children affected by a divorce are indeed heard. In approximately 20,000 divorce cases per annum involving some 15,000 minors, only 130 child representatives are solicited in the whole of Switzerland per year. Most of the cases where child representatives were involved are concentrated in a handful of cantons. According to a study of current practice in canton Basel-Stadt, even in child protection proceedings, 8 per cent of children were not heard without parents present and not a single child had an independent advocate at his/her disposal. With article 314a<sup>bis</sup> SCC, the new legislation on the protection of the adult and the child explicitly stipulates that in child protection proceedings the child has to be represented by a child’s deputy. However, the formulation of the article remains non-committal. It is modelled on the wording of an earlier article on child representation in divorce proceedings (art. 146 SCC) which has proven to be ineffective. Hence, the new legislation cannot be expected to strengthen child representation in child protection proceedings. The current practice with respect to the child’s right to be heard and to be represented in divorce proceedings shows that non-committal federal regulation is implemented very differently in a strong federal administrative and judicial system, and that only a fleeting handful of representations are ordered. Independent professional child representation is de facto not possible because it is difficult to finance such a mandate.

Administrative authorities, courts and persons involved in proceedings are insufficiently sensitised to the right of the child to participate in proceedings. Representative studies on the participation of children in administrative proceedings are not available. The Federal Supreme Court tends towards a practice which de facto undermines article 12 (2) CRC. Foreign National Act jurisdiction limits implementation of article 12 CRC to proceedings where essential interests pertaining to the personality of the child are at stake. In school related proceedings, the Federal Supreme Court is contented with representation by parents and general talks between teachers and pupils. The Child Rights Network Switzerland is of the opinion that particularly vulnerable groups, for example children with a dis-

ability, are not sufficiently heard in decisions relating to their special needs, in particular as article 2 (d) of the intercantonal agreement on cooperation in the field of special needs education only stipulates the involvement of parents but not of the child. This practice contradicts the spirit of article 12 CRC and does not reflect the General Comment of the Committee on the Rights of Child on article 12 CRC.

The central principles on the participation of children and youth in the justice system are comprehensively covered by the Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice of November 17, 2010. So far, neither the cantons nor the federal government show any active efforts to implement these guidelines in a coordinated manner.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- **to promote the participation of children and youth in administrative preparations of political business;**
- **to approve the drafted constitutional article on the protection, promotion and participation of children and youth, to enshrine legally binding participation forms for children and youth in the Swiss legislation and to evaluate abolishing the minimum age limits for the exercise of political rights;**
- **to promote the elaboration and implementation of concepts aimed at involving children and youth in shaping their living environment in the entire country, namely by implementing the “Cadre d’orientation pour la formation, l’accueil et l’éducation de la petite enfance” in the context of extra-familial pre-school facilities;**
- **to effectively implement existing legal provisions on the participation of children in family, criminal and administrative proceedings, particularly by providing national training programmes for courts, administrative authorities and child representatives in proceedings affecting the child, and to ensure funding of independent child representation;**
- **to invite the Federal Supreme Court to reassess its jurisdiction on the implementation of article 12 CRC in administrative proceedings;**
- **to ensure the implementation of the Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice of November 17, 2010.**

## 4 Civil rights and freedoms

### 4.1 The right to know one's identity

#### Concluding observations 2002

29 In light of article 7 CRC, the Committee recommends that the State party ensure, as far as possible, respect for the child's right to know his or her parents' identities.

#### Assessment by the Child Rights Network Switzerland

##### – Right to know one's identity in medically assisted reproduction

The Committee's concluding observations expressed concern about article 27 of the Bundesgesetz über die medizinisch gestützte Fortpflanzung (FMedG, SR 814.90) (Law on Medically Assisted Procreation) which stipulates that a child can only be informed of the identity of the sperm donor if he / she has a "legitimate interest" (par. 28). This clause can be construed as a contradiction to the right of the child to obtain age-appropriate information about his / her origin. The provision corresponds to article 268c (1) (2) SCC on information about biological parents in cases of adoption. Whilst the latter does not explicitly stipulate the duty to inform the adopted child about his / her parent's identity, it at least acknowledges the possibility to do so. A duty to inform the child about the medically assisted reproduction and about his / her right to obtain information of the sperm donor on the other hand does not exist.

##### – Right to know one's identity in adoption

Swiss law adopts the concept of confidential full adoption, seeking to establish a clear break of relations between the adopted child and his / her biological parents. Whilst the duty to inform the child about that fact that an adoption took place is acknowledged, the child him- / herself has no express right to claim this information, and the adoption is not stated on civil registration papers. As of 2003, the SCC contains new regulation on informing the adopted child about the personal data of his / her biological parents. Under the new provision – and in line with the Law on Medically Assisted Procreation – the right of an under-age child to obtain information regarding the identity of his / her biological parents depends on the condition that he / she has a "legitimate interest" in so doing

(art. 268c (1) (2) SCC). The right of the adopted child to know his / her lineage must not be viewed in isolation but needs to be seen in connection with the personal rights of the adoptive parents and the biological parents. However, the current legislation omits to contextualise the rights and duties to confidentiality and information, in particular it fails to acknowledge the right of the under-age child to obtain information.

##### – Registration at birth

In 2007, the Child Rights Network learned about several cases where the civil registration of children of foreign nationals was delayed. In some cases effective registration happened months after the registry office had been informed of the birth. Delays were justified by claiming that the parents of these children had failed to submit legally valid proof of their identity. In cases where the parents of a child were not married, acknowledgement of paternity of the biological father was not registered on the same grounds. As a result, the father was denied legal recognition.

The Federal Council has published a report on the registration of foreign children and the Federal Civil Status Office, which is entitled to give directives, has issued a circular letter and instructions specifying government policy.

Based on self-declarations by civil registries, the report comes to the conclusion that as of the deadline (October 1, 2007), approximately 1100 births had not been registered because parents had difficulties proving their identity. About half of the applications were dealt with within a period of three months, one third in three to six months, and the rest within nine months or later. However, referring to the term "immediately" in article 7 CRC, UNICEF's "Implementation Handbook for the Convention on the Rights of the Child" requests registration to take place within a "a defined period of days rather than months". It can be deduced that significantly more than 1000 foreign children in Switzerland are not registered in time.

The revised guidelines and circular letters by the Federal Civil Status Office explain under which circumstances a birth or acknowledgement of paternity can exceptionally be registered in cases where legally valid proof of the parents' identity is absent. However, a number of points remain unresolved. For example: the birth of a child will only be registered despite incomplete personal data when no legally valid documents can be presented "within reasonable time". This instruction is still likely to contradict the principle of first registering the birth in the interest of the child and subsequently proving the identity of the parents. Furthermore, vague delays do not guarantee that civil registration offices apply a uniform practice. The cur-

rent possibility of obtaining a confirmation of declaration of birth as a substitute for registration has to be welcomed. However, such confirmations also require certain preconditions to be met (Circular letter 4.1).

#### – Restrictions on the freedom of marriage and on parentage with the father

Motivated by considerations on the legal status of foreigners, legislation relating to marriage and civil status underwent several revisions. Some of these revisions have an impact on the right of the child to have his / her parentage with the father legally recognised. There are no figures available as to how many children are affected by this.

Under the new article 105 (4) SCC, a marriage can be annulled if it was contracted to circumvent the provisions on the admission and residence of foreign nationals. Contrary to all other grounds for annulment of marriage, the assumption of paternity in favour of the husband lapses retroactively for all children born during this marriage (art. 109 (3) SCC). Hence, children born to an annulled fictitious marriage lose legally recognised parentage with their father. Without any justification, these provisions disregard the principle of status consistency which is generally acknowledged in Swiss child law.

Under article 98 (4) SCC, foreign nationals can only marry when they can prove their lawful residence in Switzerland. Children of a couple that is not allowed to marry do not benefit from the assumption of paternity in favour of the husband. In these cases, parentage with the father can only be established through official recognition or judgement of parentage. Today, some civil registry offices apply stricter practices in the acknowledgement of paternity of foreign fathers who are unable to identify themselves legally.

#### – Baby windows

Increasing numbers of so-called baby windows are created in Switzerland, some of them in cantonal hospitals with official authorisation. These are set up to allow the anonymous safe abandonment of babies. Baby windows exist in Einsiedeln, St. Gallen, Olten and Bern, and several others are being planned. Baby windows are politically supported by the cantonal authorities of canton Valais, Bern and Solothurn. Baby windows are in contradiction with the right of the child to know his / her identity and to enjoy a relationship with his / her parents. The possibility of placing a baby in a baby window can help obscure criminal acts (such as incest or human trafficking) without providing effective support for destitute mothers. Parliament does not see any cause for action; parliamentary initiatives launched in 2009 seeking alternatives for

baby windows were not followed up. In view of an increasing number of baby windows and of recent comprehensive studies this standpoint is unacceptable. Official tolerance of such development in a regulatory grey zone poses a threat to basic child rights. In a non-committal response to a parliamentary interpellation (13.3418), the Federal Council promised to keep an eye on development in the cantons.

#### – Gender identity: Transgender

Specialised circles report on growing numbers of children and youth who seek advice because they are unable to identify with their gender at birth (transgender). There are no ethical guidelines on how to assess, handle, care for or treat such cases. The range of procedures can include the changing of the first name or civil statuses as well as possibly treatment with blockers which prevent puberty development in the undesired gender.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- **to complement the Law on Medically Assisted Procreation by provisions which enshrine the right of the child to obtain age-appropriate information on his / her lineage;**
- **to reorganise and clarify the right to information of adoptive parents, biological parents and adoptive children and to base this reorganisation and clarification on the right of the under-age child to obtain information about his / her lineage;**
- **to support the implementation of directives and circular letters on birth registration and paternity acknowledgement in all civil registry offices in such a way that all births are registered immediately as stipulated in article 7 CRC;**
- **to ensure, that restrictions on the freedom of marriage of foreigners have no negative impact on the acknowledgement of parentage for joint children and that acknowledgements of paternity in cases of annulled fictitious marriages are registered;**
- **to prevent the provision of baby windows and to offer alternative forms of anonymous delivery which protect the right of the child to obtain information on his / her lineage;**
- **to elaborate medical-ethical guidelines for the assessment and treatment of children and youth who are unable to identify with their gender at birth.**

## 4.2 Freedom of the media

In its concluding observations to the first Swiss state report, the Committee did not comment on the implementation of the CRC in the media sector. Articles 12–17 CRC bearing relevance to media legislation are covered by the chapter on civil rights and freedoms. The Child Rights Network Switzerland wishes to draw attention to shortcomings with respect to the implementation of article 17 CRC.

### Assessment by the Child Rights Network Switzerland

On its General Day of Discussion on October 7, 1996, the Committee on the Rights of the Child discussed the subject “The Child and the Media”. The discussion resulted in twelve recommendations, amongst which were:

- 4. Media education: Strengthening competence to handle technical and thematic aspects of media and publicity;
- 6. Constructive agreements with media companies to protect children against harmful influences; among other aspects: evaluation of the current application of voluntary ethical guidelines on restricted access to media content which is unsuitable for children and youth;
- 7. Comprehensive national plans of action to empower parents in the media market: elaboration of national plans of action to strengthen parental abilities to help their children in handling the media.

Since then, new media have exploded. Violent and sexually explicit content has become widely accessible to children and youth, and its portrayal has become increasingly realistic and drastic.

Federal legislation on the protection of youth in the media is largely limited to radio and television. Age-rating for cinema films and video rentals are regulated in an intercantonal agreement. The computer and console game sector practices self-regulation under private law. The mobile phone and Internet sector has de facto no regulation at all.

The Federal Social Insurance Office currently runs a programme “Jugend und Medien” (Youth and Media) which will come to an end in 2015. Aimed at strengthening media competence, the programme elaborates recommendations for future protection of minors in the media in Switzerland and for regulatory needs at federal level.

A well-equipped office for media information and promotion of media competence would help close significant gaps in the current protection of minors in the media. Voluntary self-

regulation by sectors alone is not sufficient. The protection of minors in the media is a task of general public interest. It requires governmental frameworks obliging all sectors concerned to apply supervised effective self-regulation.

### The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:

- to implement the measures described in the report on youth violence in an effective manner;
- to create a governmental framework for mandatory protection of minors in the media.

## 4.3 Freedom of assembly and movement

### Assessment by the Child Rights Network Switzerland

Some municipalities forbid children and adolescents below a certain age to stay in public places at certain times unless they are accompanied by an adult or are on their direct way back home. Such police regulations stipulate different age limits, times of day and venues. Communal police regulations are an insufficient legal basis for such far-reaching restrictions of the civil liberty of children and youth. They also violate the principle of proportionality because general curfew measures curb the liberty of all children and youth whilst only a very limited number of individuals cause disturbance. Furthermore, measures of this kind are unnecessary since offences can be prevented by appropriate youth promotion measures or, should they still occur, prosecuted. Less restrictive and repressive measures than those excluding all children and adolescents from public spaces are more suitable to achieve the same results.

Today, public spaces are increasingly monopolised for private and public purposes or used to offer ready-made commercial consumer experiences. This means that environments which stimulate the development and empowerment of children and youth are increasingly reduced. Instead of applying repression when written and unwritten rules are violated, children and youth should be invited to participate in long-term sustainable planning and implementation of their social environments and living spaces.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- to respect the need of children and youth to enjoy free spaces by inviting them to participate actively in the development and use of public spaces;
- to refrain from unlawfully excluding children and youth from public spaces.

## **4.4 Protection against abuse: Non-violent upbringing and corporal punishment**

### **Concluding observations 2002**

33 The Committee recommends that the State party explicitly prohibit all practices of corporal punishment in the family, schools and in institutions and conduct information campaigns targeting, among others, parents, children, law enforcement and judicial officials and teachers, explaining children's rights in this regard and encouraging the use of alternative forms of discipline in a manner consistent with the child's human dignity and in conformity with the Convention, especially articles 19 and 28, paragraph 2.

### **Assessment by the Child Rights Network Switzerland**

In 1978, the explicit right of parents to inflict corporal punishment was deleted from the Swiss Civil Code without introducing the explicit prohibition to do so. At the time, the Federal Council was of the opinion that parental custody included the parental authority to chastise children. The Council maintained its opinion during the 1985 revision of the Swiss Criminal Code (StGB) and confirmed it in 1995 in its response to a parliamentary interpellation. Following the ratification of the CRC in 1997, the Federal Council initially made no further statement on the question of explicit prohibition of corporal punishment. Finally, on June 12, 2008 and in the context of the first Universal Periodic Review (UPR) by the Human Rights Council, Switzerland accepted the recommendation to consider the explicit prohibition of all physical punishment of children. However, no action was taken until the second UPR in November 2012, and the readiness to accept recommendation 123.81 relating to this subject was withdrawn.

With reference to article 126 StGB, the Federal Supreme Court classifies corporal punishment that gives rise to criminal court proceedings as acts of aggression. However, this offence is limited to impacts that do not exceed the customary and socially acceptable extent. Physical punishment of children is considered an "act permitted by law" in the meaning of article 14 StGB. It is not liable for persecution as long as it is viewed as a right pertaining to parental custody. Following the concluding observations on the first Swiss state report, the Federal Supreme Court has examined the legality of corporal punishment in a landmark ruling. In its deliberations, the Court referred – among other things – to the CRC and to the European Convention on Human Rights. The Court did not rule on the question whether parental custody includes the right to inflict corporal punishment, nor whether there is ground for justification in the meaning of article 14 StGB. However, the Court came to the conclusion that a "possible" right to inflict light physical punishment cannot be used to justify forms of chastisement which have to be qualified as a repeated offence.

Parliament discussed the prohibition of corporal punishment in the context of a parliamentary initiative of March 24, 2006, seeking to formulate a law protecting children from physical punishment and other forms of ill-treatment. On December 2, 2008, the National Council finally denied this initiative with 102 votes against 71.

A 1991 study on forms of punishment inflicted by parents was repeated in 2004. Results reveal an increase in parental readiness to punish. This increase is substantial with respect to parental readiness to forbid and to withdraw affection; physical punishment on the other hand has decreased slightly. Younger children are more often victims of physical punishment, with children in the youngest age group being affected to an alarming extent. Projections on the basis of this study suggest that in Switzerland, every second child between one and four years is physically punished once a month or even once a week. Updated follow-up research is not yet available.

Since the concluding observations to the first state report, the Federal Supreme Court has reduced the level of physical punishment permitted by law but the actual prohibition is still pending. Parliament has clearly refused such prohibition. The Federal Council presented complex legal reports which, after many pages of analysis of the StGB and SCC, come to the conclusion that as violence is inadmissible in bringing-up and educating children, there is no need to clarify the situation by way of legislation. Conclusion: After the 2008 campaign by the Council of Europe against corporal punishment, Switzerland's legislation in this respect lags behind practically all those of other West European countries.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- **to ensure that its government takes a clear stance against corporal punishment of children and for non-violent up-bringing and education;**
- **to implement an effective awareness campaign, sensitising the public that corporal punishment is not a legitimate means in up-bringing and education;**
- **to enshrine the imperative of non-violent education in its legislation and to substantiate it by prohibiting corporal punishment;**
- **to develop support systems for parents under stress and to take measures to ensure that such systems are efficiently used.**

## **4.5 Protection against abuse: Domestic violence, sexual violence**

### **Concluding observations 2002**

- 39 In light of article 19, the Committee recommends that the State party:
- a Undertake studies on violence, ill-treatment and abuse against children, especially vulnerable groups of children and, including sexual abuse, particularly within the family, and bullying in schools in order to assess the extent, scope and nature of these practices;
  - b Develop awareness-raising campaigns with the involvement of children in order to prevent and combat child abuse;
  - c Evaluate the work of existing structures and provide training to the professionals involved in these types of cases; and
  - d Investigate effectively cases of domestic violence and ill-treatment and abuse of children, including sexual abuse, within the family through a child-sensitive inquiry and judicial procedure, in order to ensure better protection of child victims, including of their right to privacy.

### **Assessment by the Child Rights Network Switzerland**

For aspects pertaining to the commercial exploitation of children, please consult the complementary report to the first Swiss state report on the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography of May 25, 2000.

Switzerland has no representative national statistics on the ill-treatment of children and child abuse. Studies by the child protection team at the children's hospital Zurich show that the numbers of reported and discovered cases were rising in 2008. Swiss children's hospitals are planning to coordinate a nationwide statistical evaluation of their individual experiences. There is insufficient data on the ill-treatment of children who do not come to paediatric health institutions for treatment.

The National Research Programme 52 implemented a study on domestic violence from the viewpoint of children and youth. The study revealed that measures and preventive interventions in relation to domestic violence primarily focus on the perpetrator and the victim whilst the impact of domestic violence on children is underestimated. In the framework of this study and of the project "Detailkonzept für ein Nationales Kinderschutzprogramm" (detailed concept for a national child protection programme) (see par. 1.6), a number of measures were defined. They include guidelines specifying at what time child protection authorities ought to intervene, protocols for police intervention (employment of specially trained police officers, involvement of professional youth welfare officers), procedures for rapid and independent assessment of the situation of children concerned and for the setting-up of easily accessible information-, counselling- and targeted support services for children who grow up in violent domestic contexts.

There are no representative national studies on sexual violence against children. The baseline study by the Swiss Centre of Expertise in Human Rights suggests that 22 per cent of all girls and 8 per cent of all boys are subjected to sexual violence (par. 100). Experts working in the above-mentioned project (see par. 1.6) are of the opinion that one third of all sexual attacks on children are committed by (mainly male) minors. Violent conduct at an early age is considered to be an early indicator, and sexual delinquency a risk factor for recidivist behaviour. Early diagnosis of sexually conspicuous minors and appropriate prevention of such behaviour are seen as corner stones in a strategy to combat sexual violence against children. The SCHR baseline study identifies the need to develop a national platform which provides a clear man-



date for the prevention of sexual violence against children. Such platform should include prevention programmes which are coordinated at national level.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- **to develop representative statistics on threatened, suspected and proven cases of ill treatment of children and child abuse that were reported to all child protection authorities in the country, and to implement a representative study on the prevalence of sexual violence against children;**
- **to take measures for early detection of sexually conspicuous minors and carry out appropriate prevention;**
- **to develop classroom concepts for the prevention of domestic violence and take nation-wide coordinated measures to assist children who grow up in domestic violence;**
- **to implement fact-based national prevention strategies against sexual abuse of children.**

## **4.6 Protection against abuse: Genital mutilation**

### **Assessment by the Child Rights Network Switzerland**

Legislative measures against female genital mutilation and awareness raising measures supported by the Federal Government are presented in par. 262 et sub. of the state report. In the meantime, UNICEF Switzerland has published study results obtained from approximately 1000 professional experts in the fields of paediatrics, midwifery, gynaecology, parental counselling, social work, intercultural translation, asylum and sexual health. The report suggests that approximately 10,000 girls and women in Switzerland are affected or threatened by FGM. In addition to the need to raise general awareness for the issue, the report identified the need to train and support professionals in aspects outside their immediate field of expertise (conversation techniques, psychological or medical aspects). All professional groups expressed the need to incorporate the subject FGM into training and further training curricula.

Since 1950, children with atypical sex anatomies (intersex, DSD, hermaphrodites) are systematically subjected to irreversible, medically unnecessary interventions in an attempt to fix their sex. Such interventions include cosmetic genital surgery, castration, sterilisation and hormone treatment. Swiss clinics were significantly involved in the global propagation of “genital correction surgeries”. As female sex organs are surgically easier to shape than male organs, most children were made into girls, often by amputating their “enlarged” clitoris. Parents were misinformed, kept in the dark and received no appropriate support. Treatment of such nature leads to serious physical and psychological complications. For the last 20 years, victims and NGOs have been criticising these interventions as a massive violation of human rights, including the right to physical integrity, denouncing them as “intersex genital mutilation”. The UN-Committees CEDAW and CAT, the UN Special Rapporteur on Torture (SRT), the UN High Commissioner for Human Rights (UNHCR), the Council of Europe (COE) and the National Advisory Commission on Biomedical Ethics (NEK) criticise these interventions as a violation of human rights and demand legislative measures (NEK, SRT, COE), historical reappraisal, acknowledgement by society of suffering inflicted (NEK) and compensation for victims (NEK, CAT).

A controversial ruling by a German District Court on the criminal nature of non-medically prescribed male circumcision (such as ritual circumcision) initiated discussions in Switzerland as to whether such practices are admissible. As a medically unnecessary violation of the physical integrity of a child who is not in the position to consent, such interventions are problematic from a child rights perspective. However, whether the well-being of a child is seriously threatened or not will depend on the specific circumstances of the individual case (general state of health, medical expertise and care etc.)

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- **following the revision of the Swiss Criminal Code, to reinforce the prevention of female genital mutilation, promote public awareness on the issue, and commission the national working group on FGM to elaborate and implement a national strategy;**
- **to reinforce FGM prevention particularly among high-risk religious and ethnic groups (community-based prevention) and to integrate FGM-related issues in the training of professionals concerned;**

- to implement the full range of recommendations by the National Advisory Commission on Biomedical Ethics “On the management of differences of sex development” (intersex, DSD), to consider legislative measures banning cosmetic genital surgery on intersex children, to conduct a historical appraisal of the human rights violations inflicted on intersex children and youth in society, and to compensate victims in an appropriate manner;
- to issue guidelines for male circumcisions that are not medically prescribed.

## 5 Family environment and alternative care

### 5.1 Rights of foster children who are separated from their parents

#### Assessment by the Child Rights Network Switzerland

Par. 178 of the state report mentions the government’s intention to revise the ordinances on foster care and child care. Out of those, at least the revision of the legislation on foster care was brought to a close. Article 1 of the new Pflegekinderverordnung (PAVO, SR 211.222.338) (Foster Care Ordinance PAVO) in particular, seeks to strengthen the rights of the child. Organisations involved in procuring care facilities are now under the obligation to report, and their activities are monitored. The new articles on the protection of adults and children that came into force on January 1, 2013 strengthen and professionalise the role of authorities in decisions on the placement of children outside their family.

Placement processes need to ensure that an appropriate place is found for the child and that the child is not just placed anywhere. In order to achieve this, specific protection measures have to be put into place. Private individuals involved in the placement of children must be obliged to have a license. In addition, they need to be made responsible to report and be supervised. Highly diverse cantonal regulations cannot guarantee that only high quality organisations are considered.

The new legislation on the protection of adults and children intends to raise quality in the field. However, better quality can only be brought about if authorities and services engaged in child and youth welfare have sufficient resources at hand. Unfortunately there are worrying signs that these authorities and services are overloaded with work. Extended processing time, high number of dossiers per staff member (sometimes more than 120 mandates), compromises to the careful involvement of persons concerned and outsourcing of dossiers to uncontrolled third-party service providers are prime signs of overload.

The “Quality4Children” standards for out-of-home child and youth care developed by international professional organisations are used as a guideline for high-quality placement of children. They were adapted to the Swiss context and are observed on a voluntary basis. However, they are not enshrined in Swiss law or guidelines relating to child protection.

This shortcoming is one of the reasons why participation is neither wide-spread nor firmly established.

De facto, the right of the foster child to have continuity in his/her up-bringing and have his/her origins taken into consideration (art. 9 CRC) is not guaranteed. As a result of changes in placement or in the responsibility of mandate holders, out-of-home children are subjected to frequently changing reference persons.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- to make the placement of foster children subject to official authorisation and mandatory monitoring;
- to provide child protection authorities and executive service with appropriate resources;
- to make the “Quality4Children” standards and their implementation obligatory;
- to take measures to ensure that foster children and children in institutions enjoy more stability and continuity during their up-bringing and to establish binding procedural rules so they can exercise their participation rights in all matters concerning them.

## **5.2 Rights of children with a parent in jail**

### **Assessment by the Child Rights Network Switzerland**

Whilst criminal and judicial statistics provide relatively exact data on the nationality, residence, gender and age of offenders, reliable data on the number of children whose parents serve custodial sentences are not available. Their number is estimated between 7000 and 9000. Given the special situation of these children, their rights under article 5 and article 9 (3) CRC are threatened. Their visits to prison are not always made easy, and they do not necessarily receive the required assistance. Security measures during visiting hours impact negatively on the relationship between parent and child and the child’s development. Logistical restrictions (relocation, geographical distance, travel fees, etc.) make contact difficult.

The Child Rights Network Switzerland is of the opinion that children with a parent in jail need socio-educational support and that appropriate structures need to be put in place. The

penal system has to be sensitized to the overriding interest of these children, and prison staff need to be trained by external professionals. In addition to physical visits, contact through new media technologies (e.g. Skype) should be made possible. Decisions on which sentence to impose ought to consider the interests of the children concerned (electronic tagging, semi-imprisonment, etc.).

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- to gather data on how many children are affected and to study their particular life situation;
- to develop targeted socio-educational support for children concerned;
- to support civil society initiatives which cooperate with institutions in providing assistance for children concerned; such assistance is particularly absent in German-speaking Switzerland;
- to sensitize prosecution authorities to the special situation of children concerned.

## **5.3 Rights of children whose parents suffer from a mental illness**

### **Assessment by the Child Rights Network Switzerland**

A representative study in canton Zurich (2006) suggests that in canton Zurich alone, approximately 4000 children have at least one parent who suffers from a mental illness. Reliable data for the country as a whole is not available, although mental illness of a parent is considered to be one of the most important risk factors for the well-being of a child.

Health care for adults with a mental disorder is de facto solely geared towards the treatment of the individual. There is no guarantee that comprehensive information on the situation of children concerned is obtained, nor that the family as a whole receives appropriate assistance. There is very little specific institutionalised assistance at the interface between adult psychiatry and child and youth welfare that children could use. A positive example of project-oriented improvement of cooperation between services is the Winterthurer Präventions- und Versorgungsprojekt für Kinder psychisch kranker Eltern (WIKIP) (prevention and assistance for

children of parents with a mental disorder). However, it is uncertain whether this project will be extended beyond December 2013.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- to put support systems for parents with a mental disorder in the position to provide appropriate assistance to children concerned;
- to institutionalise specific child and youth welfare services for children of parents with a mental disorder.

## 5.4 Childcare services for children of working parents

### Concluding observations 2002

35 Article 18, paragraph 3, of the Convention, the Committee recommends that the State party:

- a Take measures to establish more childcare services to meet the needs of working parents; and
- b Ensure that the childcare services provided promote early childhood development, in light of the principles and provisions of the Convention.

### **Assessment by the Child Rights Network Switzerland**

According to a study under the National Research Programme 52 focusing on supplementary childcare, the current offer of pre-school places covers only 40 per cent of the potential demand. Respective data for after-school services is not available. The quantitative impact of a federal programme to boost availability of supplementary childcare is described in par. 274 et sub of the state report. This programme will end in 2015. An attempt to enshrine the promotion programme in the Federal Constitution failed due to an accidental refusal. Cantonal promotion programmes are under way but being cantonal they may well result in a regionally unbalanced distribution. Rural areas tend to have a structural shortage of places in supplementary childcare facilities. Foreign workers in tourist locations are likely to face particular difficulties.

The Orientierungsrahmen für frühkindliche Bildung, Betreuung und Erziehung (framework for early childhood education, care and up-bringing) elaborated by the Swiss UNESCO Commission and the Netzwerk Kinderbetreuung Schweiz (Swiss Child Care Network) can serve as a guideline for the qualitative development of extra-familial pre-school facilities.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- to develop binding national legislation to establish and promote extra-familial and extra-curricular child care;
- to promote the implementation of the above mentioned framework for early childhood education, care and up-bringing in extra-familial child care services.

## 5.5 Adoption and surrogate motherhood

### Concluding observations 2002

37 The Committee recommends that the State party take the necessary measures to avoid children adopted abroad becoming stateless or discriminated against because of the time between their arrival in the State party and their formal adoption. In addition, the Committee further suggests that the State party systematically review the conditions of these children by means of an adequate follow-up with a view to eliminating ill-treatment and violations of their rights.

### **Assessment by the Child Rights Network Switzerland**

Every year, there are about 300 international adoptions in Switzerland. Three out of the 15 most important countries of origin are not members of the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption. In canton Zurich, almost 50 per cent of adopted children come from non-member states. Approximately one quarter of international adoptions are not supervised by a recognised adoption agency.

In its concluding observations to the first Swiss state report, the Committee welcomed the ratification of the Convention on Protection of Children and Cooperation in respect of Inter-

country Adoption and its implementing legislation. The revised law on adoption has entered into force on January 1, 2003. The Network wishes to forward three comments:

– **Adoptions without using a recognised adoption agency**

Swiss legislation on adoption does not oblige parents wishing to adopt to use a recognised adoption agency. International adoptions which are organised independently without the involvement of a recognised adoption agency harbour an increased risk of not giving supreme priority to the well-being of the child. In particular, adherence to the principle of subsidiarity, the prohibition to derive improper financial gain, and obtaining informed consent by persons concerned cannot be sufficiently guaranteed. Neither cantonal central authorities nor diplomatic consulates abroad are in the position to supervise an international adoption in such a way that procedures in the full interest of the child can be guaranteed.

– **Adoptions from countries which are not party to the Hague Convention**

International adoptions from non-member states are subject to authorisation under Swiss legislation relating to foreigners and adoption. In such cases, the cantonal central authority and the Swiss diplomatic representation abroad have to assess whether the preconditions for an adoption are met. Under the Bundesgesetz zum Haager Adoptionsübereinkommen (BG-HAÜ, SR 211.221.31) (Federal Act on the Hague Convention on Intercountry Adoption), the responsibility of the federal central authority is limited to adoptions from member states. This situation discriminates children from non-member states where necessary guarantees are frequently unavailable.

Switzerland counts approximately one third more international adoptions than corresponding entry permits. The flagrant variance between data provided by the Federal Statistical Office and the Federal Office for Migration cannot be explained. It gives rise to the question of which travel documents were used to bring the adopted children into Switzerland, as no entry permits were issued.

The risk of violation of article 21 CRC is particularly high when international adoptions from non-member states are processed without involving a recognised adoption agency. For this reason, adoptions without involvement of a recognised adoption agency should be prohibited. The activities, competencies and responsibilities of such agencies should be clearly defined. In addition, the remit of the federal central authority should be extended to enable it to ensure to the greatest possible extent that the material minimum standards enshrined in the Hague Conven-

tion are adhered to in adoptions from non-member states as well.

– **Organisation of the adoptive system**

The number of adoptions is dropping in Switzerland. In 2007, only seven cantons accounted for 71 per cent of all international adoptions. 13 cantons had less than six international adoptions. Between 2000 and 2003, only eight cantons counted over 20 international adoptions. In 2003, international adoptions totalled approximately 650, today this number is about half. The number of cases processed by the cantonal central authorities is likewise dropping. By now, only a very limited number of central authorities handle a sufficient number of cases to be able to develop professional procedures. Those that have not, are unable to guarantee professional decisions. So far, the cantonal central authorities have not been able to harmonise their assessment and decision practices, nor have they developed uniform guidelines, models or model documents.

A major Zurich study on adoptions came to the conclusion that knowledge and experience need to be more centralised, and adoption dossiers more systematic. Easily accessible, experience-based follow-up services should be provided to complement strictly formalised processing procedures.

– **Surrogate motherhood and medically assisted reproduction**

Surrogate motherhood and some forms of medically assisted reproduction (for example for unmarried heterosexual or same sex couples) are prohibited under Swiss law. Some heterosexual and same sex couples domiciled in Switzerland bypass the ban and go to countries (e.g. Ukraine, India, USA) where such practices are allowed. Children of these parents suffer under conflicting national regulations on parentage with respect to the legal relationship between the child and his/her biological and socio-psychological parents. As a result of the Swiss prohibition of surrogate motherhood and other prohibitions, immigration authorities may refuse to grant the child an entry permit and civil registry authorities may refuse to register the de facto parentage to the socio-psychological parents. Despite a de facto relationship between the child and his or her parents, such situation may result in a refusal of Swiss nationality, deprive the child of a legally protected parentage or establish a fictive parentage which the law at the place of birth does not recognise. It is possible that – contrary to the applicable law in the surrogate mother's country of domicile – only the surrogate mother will be registered in the Swiss civil registry as mother of the child. On the other hand, monitoring in Switzerland is

not always thorough and births abroad are only checked superficially. Such *laissez-faire* approaches facilitate baby trafficking abroad, a practice that is largely unregulated and open to abuse.

In late 2012, the National Council, with the consent of the Federal Council, submitted a postulate requesting a report on possible solutions in the interest of the children concerned. This report reveals that current legal provisions are primarily orientated towards the model of married heterosexual parents and that the Fortpflanzungs-medizingesetz (FMedG, SR 810.11) (Reproductive Medicine Act) is restrictive for other forms of partnership. However, there is no evidence to justify why regulating medically assisted reproduction in the interest of child should exclusively focus on the model of a heterosexual married couple. Furthermore, in view of diverging international regulations, favouring a restrictive and prohibitive legislation in Switzerland is likely to be at the expense of the children concerned. In the interest of the child, solutions that give equal legal status to socio-psychological parent-child-relationships for all children have to be identified, irrespective of the family model.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- **to revise the legislation on adoption in such a way that international adoptions can be processed by recognised adoption agencies only;**
- **to clearly define activities, competencies and responsibilities of recognised adoption agencies, this applies to adoptions from member states and non-member states of the Hague Convention alike;**
- **to ensure that cantonal and federal central authorities can guarantee that the material adoption requirements under the Hague Convention are met in adoptions from non-member states as well;**
- **to further centralise and systematise the adoption system and to provide more easily accessible follow-up services for adoptive parents;**
- **to provide transparent reliable statistical data;**
- **to revise the Reproductive Medicine Act, to give equal legal status to socio-psychological parent-child-relationships for all possible forms of partnerships, and to commit itself to the elaboration of international regulation on surrogate motherhood.**

## **5.6 Family reunification under the Foreign Nationals Act and the Asylum Act**

### **Assessment by the Child Rights Network Switzerland**

Switzerland has made a reservation on article 10 CRC in favour of its domestic legislation on family reunification under the Foreign Nationals Act and the Asylum Act as both are not compatible with the CRC. Quite obviously incompatible with the CRC is for example the regulation which excludes certain groups of foreigners from reuniting with their families. Even in the regulatory area of article 10 CRC that is not covered by the reservation, asylum and immigration practices are often in contradiction to article 10 CRC.

The Foreign Nationals Act restricts family reunification, but where reunification is allowed, it has to be applied for within tight deadlines (art. 47 FNA). In particular children over twelve have to be reunified with their families within twelve months. Subsequent family reunification can be authorised “only if there are important family reasons” (art. 47 (4) FNA). Cantons implement this exemption clause very differently, and the principle of the best interest of the child is not consistently respected. This is most obvious when family reunification is linked to grace periods (in particular in the case of temporary admission). In some cantons (e. g. Lucerne) only children under twelve are allowed to reunite with their families, whilst other cantons admit children under 18 years. The same practice is applied to children who, after a long disappearance due to a crisis (such as the one in the Democratic Republic of Congo), are finally found as temporarily admitted refugees in a different country. Since provisionally admitted persons (F permit) are subject to travel restrictions, parents of such children are not even allowed to visit their children.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- **to ensure that cantons implement regulations on family reunification in a more harmonised manner, in particular in respect of “important family reasons”,**
- **and in doing so, respect the principle of the best interest of the child and the opinion of the child.**

## 6 Basic health and welfare

### 6.1 Right to health

#### – ADHD and medical treatment

Over the last few years, there has been a significant increase of ADHD diagnosis (CD-10 F90.0 and F90.1) followed by medical treatment (Ritalin, Concerta) in Switzerland. The prevalence differs in the linguistic regions. Numerous players whose interests are not necessarily transparent are involved in political discussions on the subject. They include pharmaceutical companies and their connections, self-help groups, professional associations, medical specialists and sect-like groups offering ADHD therapies without medication.

In 2011, the National Advisory Commission on Biomedical Ethics regretted – despite numerous parliamentary motions – that no comprehensive representative up-to-date report on the nation-wide prescription and use of psychotropic drugs by children has yet been made available. Such a report would be very useful in revealing why the use of e.g. Ritalin – which has been prescribed in Switzerland for over 55 years – has exploded over the last 15 years. The Commission recommends reviewing the current prescription practice of psychotropic drugs for children, to investigate the causes of increased consumption, and to protect children against excessive use (Opinion No. 18/2011 p. 6, recommendation 6 and 7).

As a response to a number of parliamentary motions, the Federal Council has promised to submit a report in the second half of 2014 (postulate 13.3157). Conclusions of the report are expected to provide information on what could be done to address the situation.

#### – Children in hospitals

Since January 1, 2012, costs for all hospital treatment are calculated under the “SwissDRG” flat rate payment system. The flat rate is based on the medical treatment of adults and neglects special requirement of paediatric hospitals treatment and care. The Charter for Children in Hospital of the European Association for Children in Hospital sets standards for the hospital treatment of children. Without sufficient funding, special services such as parent counselling, rooming-in or gentle handling of child patients are threatened. Up to now, authorities concerned have been unable to agree on the long-term funding of paediatric hospitals and clinics.

In 2008, the cantons agreed to centralise highly specialised medical care. Creating centres of excellence for rare diseases and disabilities may sound plausible at first sight. However, in the meantime centralisation efforts have spread to areas which form part of basic paediatric health services, and today, even child oncology and neonatal care are candidates for centralisation. Centralised paediatric medicine is likely to make it very difficult for families to be involved in caring for their children. Regular and long travels to centres of excellence are an additional burden for already stressed parents whose children suffer from long-term or chronic diseases.

Most paediatric hospitals adhere voluntarily to the Charter for Children in Hospitals, but cantonal health legislations lack provisions obliging hospitals to adopt these principles as mandatory elements of paediatric hospital treatment.

#### – Paediatric primary health care

Professional circles indicate shortfalls in the area of family paediatrics – despite increasing numbers of paediatricians – to the extent that sometimes patients have to be turned away. At the same time, consultations at emergency paediatric surgeries or wards are increasing. A general shift from consulting a family paediatrician to consulting an outpatient emergency service is not in the interest of high-quality paediatric primary health care. Reasons for this development are not clear yet, and the Child Rights Network Switzerland is not aware of any efforts to mitigate the situation.

Specialised training in paediatric nursing was abolished in the late 1980 in favour of generalist nursing training. As a specialisation on “children, adolescents, women and families” is only available in the third year of training, there is not enough time to acquire the knowledge and skills required to care for children and adolescents of a wide range of ages and developmental stages. A shortage of qualified paediatric nursing staff is foreseeable, and paediatric hospitals increasingly employ nurses who lack experience in caring for children.

#### – Rare diseases

Between 6 and 8 per cent of the population suffer from a rare disease, approximately half of them because of genetic disposition. The Swiss health system does not meet the special needs of children with rare diseases, neither with respect to their treatment and care, nor in terms of research and development. Research funding for and approval of specialised medication for children of all ages are insufficient and administrative procedures to obtain health care insurance and social insurance benefits are

complicated. The special needs of children and families concerned are insufficiently known and acknowledged.

#### – Parental leave to care for ill children

Working parents whose children are ill are not legally entitled to take paid leave to look after their children. Some employers are kind enough to grant parents paid or unpaid leave when their children require their care. By introducing maternity insurance and ratifying the ILO Maternity Protection Convention No. 183, Switzerland has at least improved the protection of mothers. Mothers are now entitled to 14 weeks of paid maternity leave and to paid breastfeeding breaks during working hours once they have gone back to work. However, the legal framework for maternity protection and for absence for reasons of care to not comply with recognised standards.

#### – Adiposis

The state report mentions that a growing number of children are overweight (par. 237, 250). The Child Rights Network is of the opinion that projects and programmes at national, cantonal, municipal and community level are affected by two shortcomings:

There is an estimated number of 60,000 overweight children in Switzerland. Their health care is not guaranteed. In 2007, treatment of overweight children was integrated into the Krankenpflege-Leistungsverordnung (SR 832.112.31) (Health Care Benefits Ordinance) but only partially, temporarily and within tight limits. Under these tight conditions, between 2008 and today, only some 1000 children in need had access to treatment which was at least partially covered by statutory health insurance. In 2013, even this insufficient cover will end.

A study on advertising in children's TV-programmes (KIWI 2) revealed that – despite self-regulation by the food industry – there is excessive publicity for products that are high in fat, sugar or salt. In their Vienna Declaration on Nutrition of 2013, the World Health Assembly (WHA) together with the WHO European Ministerial Conference confirmed their intention to create health-promoting framework conditions for the nutrition of all population groups. Primary focus lies on "... taking decisive action to reduce food marketing pressure to children with regard to foods high in energy, saturated fats, trans-fatty acids, free sugars or salt" (Vienna Declaration on Nutrition of 2013, par. 12).

#### – Breastfeeding

The state report points out that the percentage of mothers who breastfeed their babies has slightly increased (par. 249). However, Switzerland still has a long way to go before WHO breastfeeding recommendations are met. They advise exclusive breastfeeding for the first six months and continued breastfeeding once complementary food has been introduced are met. There is no national strategy (with earmarked funding and staffing) for the promotion of breastfeeding and healthy infant and early childhood nutrition. A project run by the Health Department of canton Geneva – "marchez et mangez malin" – proposes exemplary measures to promote breastfeeding. Professional staff such as medical doctors and pharmacists do not have a sufficient number of independent training and sensitisation opportunities at their disposal. Swiss legislation does not sufficiently recognise the International Code of Marketing of Breast-milk Substitutes and subsequent resolutions by the World Health Assembly. The Swiss Codex only refers to nutrition for infants up to six months and does not prescribe standards for complementary foods and breast milk substitutes, feeding bottles or teats.

#### – Sexual education

Switzerland lacks nation-wide professional sexual education. Some children and adolescents are offered high-quality sexual education through teachers and professional experts; others do not have this opportunity. If and to what extent children and adolescents have access to sexual education depends on where they live, which school they attend and how well equipped these specialised services are. The "Kompetenzzentrum Sexualpädagogik und Schule" (Competence Centre for sexual education and school) mentioned in the state report (par. 251) had to be closed due to a lack of funding. All children of all ages ought to have access to age-appropriate, professional, high-quality sex education. This can only be achieved if sexual education modules are firmly established in teaching plans and appropriate curricula are developed. Persons involved in these tasks need to have adequate well-recognised training. An evaluation of educational offers has to assess whether vulnerable groups are reached, and whether these groups may require specifically targeted programmes.



### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- **to take measures to protect children against excessive prescription of psychotropic drugs;**
- **to give priority to the interests of children who need treatment and care when reforming the health system;**
- **to raise awareness for the special needs of children with rare diseases, to promote research, to set-up reference centres for treatment and to unburden families concerned by removing administrative hurdles;**
- **to improve maternity protection and to create a minimum legal framework which entitles working parents to paid leave when their children need their care;**
- **to establish statutory health care for children and youth suffering from adiposis;**
- **to develop, in cooperation with independent experts, efficient regulation on government-controlled publicity in accordance with the WHO guidelines, and to enshrine them in Swiss legislation;**
- **to develop and implement a national strategy for the promotion of breastfeeding and of healthy early childhood nutrition, and to enshrine the relevant WHO and WHA guidelines in Swiss legislation;**
- **to offer nation-wide, high-quality sexual education programmes for all children and adolescents.**

## **6.2 Children with disabilities**

### **Concluding observations 2002**

- 43 The Committee recommends that the State Party:
- a Reinforce the collection of data regarding children with disabilities;
  - b Undertake an assessment of the existing disparities in the integration of disabled children in mainstream education across the country and take all necessary measures to eliminate these differences which may amount to discrimination;
  - c Review its home care support system in order to eliminate de facto discrimination between children born with disability and children who become disabled as a result of disease or an accident.

### **Assessment by the Child Rights Network Switzerland**

Legislation in favour of inclusive education has improved since the Committee's last concluding observations. Under article 62 (3) of the Federal Constitution, cantons ensure that adequate special needs education is provided, and article 20 of the Behindertengleichstellungsgesetz (BehiG, SR 151.3) (Federal Act on the Elimination of Discrimination against People with Disabilities, BehiG) obliges them to integrate children with a disability as much as possible in mainstream schools. The National Council and the Council of States have approved the ratification of the UN Convention on the Rights of Persons with Disabilities and it will enter into force in April 2014 (provided that it will not be called for a referendum). However, the overarching norms fail to enshrine the principle of inclusive education with sufficient force. For this to be achieved, constitutional articles on education would have to explicitly stipulate inclusive education at all educational levels, or cantonal education agreements to be aggregated to an agreement on inclusive education.

Under the new financial compensation scheme, cantons are now fully responsible for the education of children with disabilities and the federal government is no longer in charge of finance. Legal provisions in the Sonderpädagogikkonkordat (intercantonal agreement on cooperation in the area of specialised schooling) of 2007 only regulate objectives and requirements of integrative approaches to schooling but not the funding required to achieve them. So far, only 15 cantons representing just above 43 per cent of Switzerland's population have signed the agreement. Eleven cantons – among them Zurich, Bern, Aargau and St. Gallen representing just under 57 per cent of the population – have not yet decided on the matter. Integrative education is organised very differently in the various cantons. Individual cases demonstrate that children with disabilities such as Asperger's syndrome or ADHD may have considerable difficulties in receiving appropriate socio-educational support. Local education authorities and schools lack the financial, structural and human resources required for high-quality implementation of integrative education.

In addition, the Child Rights Network wishes to draw attention to three areas that pose particular obstacles for inclusive education:

- Vocational training: Young people with a disability face considerable difficulties finding an apprenticeship in a regular training company. The Federal Constitution and the BehiG prohibit discrimination and disadvantages with respect to training and further training, and the Berufsbildungsgesetz (BBG, SR 412.10) (Vocational and Professional Education and Training Act, VPETA) and the

Invalidenversicherungsgesetz (IVG, SR 831.20) (Federal Act on Invalidity Insurance) stipulate individual support. The latter, however, is only applicable to persons with an officially recognised disability. Legal foundations for integrative training after mandatory education which is comparable to provisions on obligatory schooling (art. 62 (3) Federal Constitution, art. 20 BehiG) are not in place. There are hardly any internships after school which could help a person develop a professional perspective.

- Pre-school: Concepts and projects on inclusive education for children with disabilities or behavioural problems in pre-school settings (playgroups, day care centres, playgrounds etc.) are sporadic and unsystematic.
- Switzerland has an increasing number of highly qualified foreign employees taking up temporary work in leading positions (expat parents). Children with disabilities of such families have no guaranteed access to appropriate support.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- **to provide sufficient resources to ensure that integrative education and socio-educational measures are implemented;**
- **to provide the legal basis to extend the principle of inclusive education to vocational training;**
- **to promote inclusive education in pre-schools;**
- **to oblige companies employing foreign temporary personnel to ensure access to appropriate support for children with disabilities or behavioural problems.**

## **6.3 Standard of living and social assistance**

### **Concluding observations 2002**

47 The Committee recommends that the State party take all appropriate measures to prevent poverty in light of the principles and provisions of the Convention, especially its articles 2, 3, 6, 26 and 27, and that it review its system of family allowances and benefits, taking due account of the means-testing system, especially for families without gainful employment and self-employed families.

### **Assessment by the Child Rights Network Switzerland**

National data on social assistance regularly confirms that children and adolescents living in single-parent families or large families are more likely to need social assistance than others. With a ratio of almost 5 per cent, minors are at a higher risk than any other age group. 17.6 per cent of single parents receive social benefits. Social assistance ratios differ from canton to canton, namely between 7.1 per cent (Basel-Stadt) and 0.9 per cent (Nidwalden). To what extent individuals experience poverty depends on where they live. The aim should be to implement a social policy which harmonises the risk of dependence on social assistance between age groups and cantons. The introduction of a harmonised minimum child benefit in 2009 is a welcome first step in the right direction. However, this measure alone does not suffice to efficiently lower the above average poverty risk for single-parent children. The Child Rights Network identifies need for action in three main areas:

- An attempt to complement child benefits by means-tested assistance for families with dependent children, in particular single parents, failed after elaborate parliamentary work. Several cantons have individually adopted such schemes in the meantime, however such action increases discrepancies within the Swiss social system even further.
- If single parents are not in the position to provide for their children, survivors insurance (widows and orphans pensions) or alimony assistance (alimony advances and debt collection assistance) step in. The high percentage of single parents who rely on social assistance demonstrates that this system is not very efficient. In addition, there is a range of confusingly diverse (and at times discriminatory) cantonal regulations on alimony assistance.
- Parents of foreign children are in a particularly difficult situation as dependence on social benefits goes along with the risk of losing their residence permit. Foreigners without residential status are not entitled to receive social assistance and depend solely on supplementary benefits (vouchers for food, clothing, health care, etc.).

**The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- to complement flat-rate child benefit by means-tested supplementary assistance for low-income families;
- to guarantee maintenance payments that cover vital needs by harmonising alimony assistance and to supplement such assistance with additional services;
- to provide easily accessible support for parents who are not entitled to receive social welfare benefits.

## 7 Leisure time and recreation

### Concluding observations 2002

- 49 The Committee recommends that the State party provide information in its next report on how the aims of education have been reflected in the curricula at the cantonal level.

### Assessment by the Child Rights Network Switzerland

#### 7.1 Right to education (Art. 28 CRC)

The state report provides a comprehensive overview of the Swiss education system (par. 297 et sub.) With respect to the right to education, the Child Rights Network wishes to draw attention to two aspects:

State measures to curb early school leaving are necessary to ensure implementation of the right to education. Studies on truancy and early drop-outs (2006–2011) show a remarkably high number of children who leave school before completing compulsory education. Reliable figures are unavailable, but their number is estimated to be around 5000 a year. Subsequent to the study, a so-called “stop drop-out programme for schools” was elaborated, recommending a number of different preventive measures and interventions. The Child Rights Network has no information on how these measures are implemented and whether they are effective.

With the revised Verordnung über Zulassung, Aufenthalt und Erwerbstätigkeit (VZAE, SR 142.201) (Ordinance on admission, residence and gainful employment (OASA)) the Federal Council has given cantons the possibility to apply for the authorisation to grant a young person without legal residence status the right to take up vocational training. However, this application can only be made if the person concerned finds him-/herself in a situation of serious personal hardship. Not all cantons will make use of this possibility to the same extent. As a result, nation-wide access to vocational training for youth without legal residence status will not be guaranteed. Problems relating to the entitlement to apprenticeships begin in school. Cases are known where children without residence status were not allowed to take part in taster weeks which are regularly held during the last year of school.

## 7.2 Educational objectives (Art. 29 CRC)

With respect to the implementation of educational objectives under article 29 CRC, the Child Rights Network would like to draw attention to two problem areas: shortcomings in human rights education and a shortage of courses in a child's native language and culture.

Human rights education is not enshrined as a guiding principle in Swiss educational laws. The comprehensive revision of education articles in the federal constitution – adopted on May 21, 2006 in a popular referendum – did not focus on educational objectives. Several cantons have revised their education laws in the last few years. Some of their legislation refers to educational objectives, but explicit mention of human rights and the rights of the child are conspicuously absent. Examples:

- Canton Appenzell I. Rh., Schulgesetz vom 25. April 2004 (education act, April 25, 2004), article 2;
- Canton Geneva, Loi sur l'instruction publique (education act), article 4;
- Canton Grisons, Gesetz für die Volksschulen des Kantons Graubünden vom 26. November 2000 (education act for primary school in Canton Grisons, November 26, 2000), article 1;
- Canton Obwalden, Bildungsgesetz vom 16. März 2006 (education act, March 16, 2006) article 2;
- Canton Zurich, Volksschulgesetz vom 7. Februar 2005 (education act for primary schools, February 7, 2005), par. 2.

Educational objectives and educational content are constantly being harmonised within the national education system. The inter-cantonal agreement on the harmonisation of compulsory schooling of June 14, 2007 neither lists human rights education as an educational objective (art. 3 HarmoS agreement) nor calls for human rights education to be integrated into curricula. Whilst this approach does not exclude that such content is integrated in cantonal curricula at sub-national level (state report par. 357 et sub.), it does not oblige cantons to do so. French- and German speaking cantons are presently working at harmonising curricula across linguistic regions. Core documents for a harmonised curriculum for German-speaking cantons (Curriculum 21) do not refer to child rights, and general human rights education is only mentioned in passing as one element of a generic subject "political education". The "Plan d'Etudes Romand" for French-speaking cantons is slightly more elaborate and introduces

several references to the Convention and to human rights as desirable educational content.

Article 29 (1) (c) CRC stipulates that education should be directed to development of respect for the child's language. Article 4 (4) of the inter-cantonal agreement on the harmonization of compulsory schooling obliges the cantons to provide only organisational support for courses in the language and culture of the child. In reality, some traditional countries of emigration have supported and financed courses in the language and culture of foreign children. In view of current budgetary deficits and debt pressures such support is no longer guaranteed. Neither the Confederation nor the cantons are sufficiently committed to filling the gaps by integrating courses in native languages and culture into the public education system. For example: In connection with a Universal Periodic Review, Switzerland has rejected a recommendation by Turkey (UPR on Switzerland 2012–2013, par. 123.57) to increase collaboration with Swiss authorities in order to offer effective mother-tongue classes for foreign children.

## 7.3 Right to leisure and cultural activities

All children have the right to leisure, holidays and cultural activities. However, particularly vulnerable groups of children and youth – such as those living in poverty, illegal residents, or children and youth with a disability – encounter practical hurdles which prevent them from having equal access to such activities.

Standardised preconditions regulating the right to social welfare (e.g. for children living in poverty) or services (e.g. for children with disabilities) rarely offer sufficient margins to consider individual needs and wishes, let alone dreams which can be so important for a child. Financial contributions for a holiday have to be painstakingly collected, and often parents do not know where to begin. In canton Grisons, a proposed chapter for the new bill on disability focusing on leisure and cultural activities was rejected.

**The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- to collect detailed data on truancy and early school leaving and to implement preventive programmes;
- to monitor how opportunities under the OASA which open access to vocational training for youth without legal residence status are implemented;
- to abolish all hurdles which prevent youth without legal residence status from enjoying post-obligatory schooling and vocational training, and to enable them to take up an apprenticeship without jeopardising their stay in Switzerland;
- to explicitly integrate human rights education into harmonised curricula for linguistic regions;
- to facilitate access to leisure and cultural activities for children of particularly vulnerable groups;
- to ensure that all primary school children can enjoy appropriate courses in their mother tongue.

## 8 Special protection measures

### 8.1 Refugee, asylum-seeking and unaccompanied children

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#### Concluding observations 2002

- 51 The Committee recommends that the State party simplify its approach regarding the procedures for requesting asylum and take all necessary measures to expedite them and to ensure they take into account the special needs and requirements of children, in particular unaccompanied children; these include the designation of a legal representative, the placement of such children in centres, and their access to health care and education. In addition, the Committee recommends that the State party review its system for family reunification, notably for refugees who stay for a long period in the State party.
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#### Assessment by the Child Rights Network Switzerland

The Child Rights Network wishes to draw particular attention to the situation of unaccompanied under-age asylum seekers, defined as asylum seekers below the age of 18 who come to Switzerland without a parent or guardian. From 1999 to 2008, approximate numbers of unaccompanied minor asylum seekers in Switzerland have dropped from 15,000 to 2000. The number of new asylum applications by unaccompanied minors reported by the Federal Office for Migration reflects this development (824 in 2004, 631 in 2008, 485 in 2012). Repeated tightening of Swiss asylum legislation gives rise to the fear that unaccompanied minors tend not to file asylum applications but struggle along without legal papers.

Under article 32 (2) (a) AsylA, applications for asylum are dismissed if the asylum seeker fails to hand over travel documents or identity papers within 48 hours of filing the application. Exceptions from this rule under article 32 (3) do not specifically refer to the situation of unaccompanied minors.

Representation of unaccompanied minors has tightened under the new asylum legislation. A civil rights principle stipulates that in absence of a legal representative, a guardian or advisor has to be provided. This principle – which was actu-

ally never consistently implemented – is further undermined by the new article 7 (2) of the Asylverordnung 1 (SR 142.311) (Ordinance on asylum 1) which entitles the cantonal authority to appoint a “person of trust” without applying custodial procedures. Whilst in divorce and child custody proceedings the court has to designate a person experienced in welfare and legal matters (art. 147 SCC), there are no such requirements for persons of trust in the context of asylum procedures. Independent legal representation of unaccompanied minors seeking asylum are rare exceptions because legal representation free of charge is seldom granted and professional legal assistance is too expensive.

Unaccompanied minor asylum seekers have serious problems enjoying their right to secondary education as stipulated in article 28 (1) (b, c, and d) CRC. In reality, there is no harmonised practice in granting authorisations to take up vocational training. In addition, training companies are reluctant to offer apprenticeships to trainees who are uncertain whether they can remain in Switzerland until the end of the training.

The Child Rights Network estimates that the majority of unaccompanied minors is between 15 and 18 years old at the time of arrival (although the exact age cannot always be established). There are reasons to assume that the official attitude when dealing with this group is not always guided by the principle of the best interest of the child, nor that the benefit of the doubt is given to the minor. On the contrary, there seems to be tendency to wait until the person has doubtlessly reached majority age. As a result, unaccompanied minors are utterly deprived of any perspective and prevented from tackling the challenge of either staying in Switzerland or returning back home.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- **to facilitate access to asylum procedures for unaccompanied minors and to renounce from dismissing asylum applications;**
- **to reassess – under the angle of the well-being of the child – the legal framework stipulating that unaccompanied minor asylum seekers whose application was dismissed or refused are only entitled to emergency assistance;**
- **to designate as representatives of unaccompanied minor asylum seekers only such persons of trust who are experienced in the areas welfare, migration and child-rights;**

- **to assess whether all unaccompanied minor asylum seekers in Switzerland can be placed and cared for in four trans-regional centres, as this would reduce the striking cantonal differences in handling this group of persons, or if such measure proves impossible, to assess to what extent the federal government can propose minimal standards for housing and care to the cantons;**
- **to elaborate solutions as to how unaccompanied minor asylum seekers can be supported in developing life perspectives; such solutions need to consider adulthood and in particularly vocational training;**
- **to take steps towards identifying a long-term practical solution for each unaccompanied minor asylum seeker, either in the country of origin, in Switzerland or in a third country, and furthermore, to assess how the best-interest-determination process (BID) for unaccompanied minor asylum seekers can be implemented in cooperation with the cantons. In the near future, UNICEF and UNHRC will publish guidelines on how sustainable solutions in the best interest of the unaccompanied child can best be identified. Such guidelines will be useful for the host country (Switzerland) as well.**

## **8.2 Sans-papiers children**

In its chapter on Special protection measures, the concluding observations of the Committee on the Rights of the Child address the situation of refugee, asylum-seeking and unaccompanied children. The Child Rights Network wishes to draw attention to the situation of children whose stay in Switzerland is precarious.

### **Assessment by the Child Rights Network Switzerland**

Persons without a valid residence permit who have stayed in Switzerland for a number of weeks and intend to do so for an indefinite period of time are considered sans-papiers. Estimates suggest that there are at least 100,000 sans-papiers in the country. Up to 30 per cent live with their children in Switzerland, between 10 and 40 per cent have children abroad. Based on these figures it is likely that there are over 10,000 sans-papiers children in Switzerland.

Today, cantonal and federal authorities accept that schools enrol sans-papiers children without informing the authorities.

However, at local level this rule does not mean that all children are indeed enrolled. In reality, enrolment rates are estimated to be somewhere between 80 and 95 per cent. Precarious living conditions can cause parents to change living quarters frequently, and, with that, schools. School-related but not necessarily school-linked services such as school meals, excursions etc. may be hard to access. Sans-papiers children have hardly any access to secondary education beyond obligatory schooling. Under the revised OASA (see Chapter 7.1), even those who managed to find an apprenticeship are not entitled to obtain the residence permit required for vocational training. Whilst their right to obligatory education is accepted, sans-papiers children grow up without any perspective for the future because there are no solutions beyond obligatory schooling.

Administrative guidelines require sans-papiers children to have obligatory health insurance. De facto, implementation of this principle is not guaranteed, neither is payment for health services that are not covered by statutory health insurance (e.g. dental treatment). Some sans-papiers avoid medical consultation or treatment for fear of being reported to the immigration police. The Child Rights Network is aware that only a very limited number of hospital departments are prepared to offer medical consultation to sans-papiers without reporting patients to the authorities.

Studies confirm that sans-papiers children are subjected to multiple forms of discrimination. They live below the poverty line, stay in poor accommodation and are excluded from numerous opportunities for personal development outside school. Their access to pre-school extra-familial childcare and socio-cultural leisure activities is restricted. Access to youth welfare services is equally limited.

Feedback by counselling centres advising sans-papiers on administrative matters suggests that the situation of children is insufficiently taken into account. For example: departure deadlines do not necessarily consider needs of children and enforcement of departure can involve raid-like actions.

Under the new Foreign Nationals Act, persons who support sans-papiers children, privately run a risk of criminal sanctions. Under article 116 (1) FNA, anyone who facilitates the unlawful period of stay in Switzerland of a foreign national is liable to a custodial sentence of one year or to a fine.

Official Swiss responses to sans-papiers children are not guided by the principle of the best interest of the child but by the police's interest to maintain a restrictive policy towards foreigners. We welcome selective local efforts to establish support systems for sans-papiers families. However concepts, strategies and guidelines on how to handle sans-papiers children in all spheres of life are sadly missing.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- to establish and support interdisciplinary services that mediate between authorities and sans-papiers families and develop appropriate individual solutions;
- to grant temporary residence to sans-papiers children which enables them to participate equally in day-to-day life;
- to provide sans-papiers parents and their children access to youth welfare services, to extra-curricular child and youth work and to pre-school extra-familial child care services;
- to give sans-papiers children access to post-mandatory schooling and vocational training;
- to grant sans-papiers children full access to health care;
- to assess the feasibility of implementing a nationwide study in order to elaborate proposals on how the rights of children without legal status can be implemented in Switzerland.

## **8.3 Sexual exploitation and sexual violence**

### **Concluding observations 2002**

53 In light of article 34 and other related articles of the Convention, the Committee recommends that the State party undertake studies with a view to assessing the extent of sexual exploitation and trafficking of children, including prostitution and child pornography (including on the Internet), and implement appropriate policies and programmes for prevention and for the recovery and social reintegration of child victims, in accordance with the 1996 Declaration and Agenda for Action and the 2001 Global Commitment adopted at the World Congresses against Commercial Sexual Exploitation of Children.

## Assessment by the Child Rights Network Switzerland

For aspects pertaining to the commercial exploitation of children we refer to the complementary report to the first Swiss state report on the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography of May 25, 2000.

Under Swiss law, buying sexual services from minors between 16 and 18 years of age was not illegal. With the ratification of the Lanzarote Convention and the revised articles 196 and 197 StGB this gap was closed. In favour of a request by the Federal Council and against recommendations of professional organisations, Parliament refused to make sexually motivated contact and harassment of minors via the Internet (grooming) an express criminal offence. In Swiss legislative opinion, such acts should only be punishable if an attempt to actually meet can be proven. For this reason, Switzerland had to file a reservation against article 23 of the Lanzarote Convention.

### The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:

- **to adapt the protection of minors under penal law to new threats posed by technical developments in the Internet, to withdraw its reservation to article 23 of the Lanzarote Convention and to explicitly make all sexually motivated contacting of minors by adults via the Internet (grooming) a criminal offence;**
- **to explicitly make sexual harassment of minors via the Internet (including sexual harassment by word, image, video) liable to punishment and qualify it as a criminal offence;**
- **to take regulatory measures which make it harder for children to access sexual representation in the Internet;**
- **to strengthen protection of minors against sexual abuse and sexual exploitation through additional measures, in particular with respect to intervention, prevention and victim assistance, namely through education and sensitisation of professional circles and the public.**

## 8.4 Imprisonment

### Concluding observations 2002

- 57 The Committee recommends that the State party take additional steps to reform legislation and the system of juvenile justice in line with the Convention, in particular articles 37, 40 and 39, and other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, and the Vienna Guidelines for Action on Children in the Criminal Justice System.
- 58 As part of this reform, the Committee particularly recommends that the State party:
- a Raise the minimum age for criminal responsibility to above 10 years and amend accordingly the federal bill on the criminal status of minors;
  - b Systematize the provision of legal assistance to all children in pre-trial detention;
  - c Separate children from adults in pre-trial detention or detention;
  - d Introduce systematic training programmes on relevant international standards for all professionals involved with the system of juvenile justice;
  - e Take into consideration the deliberations of the Committee during its day of general discussion on juvenile justice (CRC/C/46, paras. 203–238).

### Assessment by the Child Rights Network Switzerland

With respect to the minimum age for criminal responsibility, please see our comments on the best interest of the child in chapter 3.2 on General Principles. Current legislation on the separation of children and adults in pre-trial detention and detention is explained in the state report (par. 394 et. sub. and 417) and in the baseline report of the Swiss Centre of Expertise in Human Rights (par. 31 et sub.). The baseline report also highlights continuous problems with enforcement (par. 35 et sub.) For example: according to an unpublished report by the Federal Department for Justice and Police (2009), enforcement practices have not markedly improved (par. 37). A report by the National Commission for the Prevention of Torture (NCPT) on the central prison in Fribourg comes



to the conclusion that detained minors live de facto in solitary confinement because they are so few in numbers. It argues that this group of detainees cannot be accommodated under suitable conditions because being so few, they lack contact with the community. With the opening of the “Etablissement de détention pour mineurs aux Léchaies” in canton Vaud in 2014, this situation is expected to improve. Another NCPT report on the cantonal prison in Appenzell-Innerrhoden states that separation of minors and adults in detention is not ensured (par. 19).

Coercive measures under the new Foreign Nationals Act (art. 73 et sub.) can affect unaccompanied and accompanied minor asylum seekers and sans-papiers youth alike. The Child Rights Network is of the opinion that these measures are contrary to the CRC, in particular to article 37 (b), because they do not respect the principle that imprisonment shall be used only as a measure of last resort and for the shortest appropriate period of time. Instead, the FNA – assuming the same reasons for detention as in the case of adults – limits the maximum term of detention for minors aged between 15 and 18 to twelve months. A report by the National Council Control Committee reveals that, on average, unaccompanied minors remain longer detained than adults. Substantial differences in cantonal practices result in appallingly unequal treatment. Depending on where the person lives, certain acts or behaviour can result in detention for preparation of deportation for several months or in no detention at all. The state report mentions that the average detention period for minors appears to be longer for statistical reasons (par. 410 et sub.). Different implementation practices are explained as a result of discretionary provisions by cantons whose impact is unknown (par. 412 et sub).

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- to ensure that the implementation of pre-trial detention of youth complies with CRC provisions;
- to refrain from enforcing measures involving deprivation of liberty against minor asylum seekers and sans-papiers youth and, at least, to issue a regulation that obliges all cantons to order the same measures and implement them in the same manner.

## **9 Optional Protocols to the Convention on the Rights of the Child – ratification of other international human rights treaties**

### **Concluding observations 2002**

- 61 The Committee encourages the State party to ratify and implement the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

### **Assessment by the Child Rights Network Switzerland**

By now, Switzerland has ratified the two Optional Protocols and has submitted initial reports on their implementation. Accession to the Convention on the Rights of Persons with Disabilities has been approved by the Parliament. The Optional Protocol to the CRC on a Communications Procedure however is currently not subject of discussion.

For the time being, the Federal Council is opposed to signing and ratifying the Optional Protocol to the CRC on a Communications Procedure and hence does not plan to submit it to Parliament. However, the Federal Council has expressed its readiness to comprehensively assess impacts of the Optional Protocol and its implementation on the Swiss legal system. On September 19, 2013 the Swiss National Council for its part has passed a clear vote for ratification of the 3<sup>rd</sup> Optional Protocol to the CRC.

### **The Child Rights Network Switzerland recommends that the Committee oblige Switzerland:**

- to elaborate the report on the importance of the 3<sup>rd</sup> Optional Protocol for the Swiss legal system as soon as possible;
- to ratify the 3<sup>rd</sup> Optional Protocol to the CRC.

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**At the time of the preparation of this report, the following organisations were members of the Child Rights Network Switzerland:**

- ATD Vierte Welt
- Berner Rechtsberatungsstelle für Menschen in Not
- Berufsverband der Früherzieherinnen und Früherzieher der deutschen, rätoromanischen und italienischen Schweiz
- Défense des Enfants International, Section Suisse
- Enfants du Monde
- Verein mira
- FICE Schweiz
- Fondation Suisse du Service Social International
- Women's World Summit Foundation
- Fondation Terre des Hommes
- Geneva Infant Feeding Association
- Humanrights.ch/MERS
- Innocence in Danger
- Integras Fachverband Sozial- und Sonderpädagogik
- Institut international des Droits de l'Enfant
- Jacobs Foundation
- Juris Conseil Junior
- Kind und Spital
- Kinderanwaltschaft Schweiz
- Kinderbüro Basel
- Kinderlobby Schweiz
- Kindernothilfe Schweiz
- Kinderschutzzentrum St. Gallen
- Kinderschutz Schweiz
- Kinderkrebshilfe Schweiz
- Kovive
- Limita Zürich
- MADEP-ACE Romand
- Pfadibewegung Schweiz
- Pflegekinder-Aktion Schweiz
- Plan International Schweiz
- Pro Juventute
- Save the Children Schweiz
- Schweizer Arbeitsgemeinschaft der Jugendverbände
- Stiftung Kinderdorf Pestalozzi
- Terre des enfants «Tous respectés»
- Terre des hommes Schweiz
- Verband Heilpädagogischer Dienste Schweiz
- Verein Espoir
- Schweizerische Vereinigung der Berufsbeiständigen und Berufsbeistände
- Vereinigung Cerebral Schweiz
- Verband des Personals öffentlicher Dienste

