



Convention on the Rights of the Child

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Committee on the Rights of the Child

Combined fifth and sixth periodic reports submitted by Switzerland under article 44 of the Convention pursuant to the simplified reporting procedure, due in 2020* **

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** The annexes to the present report are available on the Committee's web page.



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I. New developments

Reply to the questions raised in the list of issues prior to submission of the combined fifth and sixth periodic reports of Switzerland (CRC/C/CHE/QPR/5-6)

Reply to the issue raised in paragraph 2 (a)

1. Switzerland has ratified the Third Protocol to the Convention on the Rights of the Child and the Protocol to the Forced Labour Convention, 1930 (No. 29) of the International Labour Organization (ILO), which also covers human trafficking.
2. The Swiss Nutrition Policy 2017–2024 lays the foundation for a healthy lifestyle according to the principle, “Eat well and stay healthy”. Special attention is given to infants and children, with nutritional information and training provided to parents and caregivers. Switzerland is working on a voluntary basis with the business community to improve overall conditions.
3. In 2015, the Government decided to continue some of the activities of the national Youth and the Media programme, as it noted gaps in prevention/awareness (the educational component) and in regulations for the protection of youth in the media (films/video games). The Government introduced a bill on 11 September 2020.
4. An evaluation of the Extracurricular Activities Act conducted in 2018 shows that stakeholders involved in children and youth policy are satisfied with the law and its implementation. The law has a sound basis and is used correctly by the Federal Social Insurance Office. All types of financial aid are in demand. Extracurricular activities have been developed and there has been greater exchange of information and experience between the Confederation and the cantons. Communication among the federal services has been more structured and strengthened. The evaluation identified opportunities to improve the law’s implementation. Based on its recommendations, the Federal Social Insurance Office has defined measures within its competence to achieve the desired objectives. A new evaluation of the Extracurricular Activities Act is planned for 2024.
5. The Swiss Parliament has instructed the Government to draw up a strategy to strengthen early childhood encouragement.
6. For the well-being of children, Switzerland ranks fourth out of 41 countries of the European Union and the Organization for Economic Cooperation and Development (OECD), according to a report issued in September 2020 by the Office of Research-Innocenti of the United Nations Children’s Fund (UNICEF). Among 15-year-old girls and boys, 82 per cent have a high level of life satisfaction. The data relate to the mental and physical health of children, their academic and social skills and the overall conditions in society.

Reply to the issue raised in paragraph 2 (b)

7. As children and youth policy is primarily a matter for the cantons and communes, the secondary role played by the Confederation sometimes presents a challenge to meeting the Parliament’s expectations, for example in the field of early childhood encouragement.
8. Cooperation between the cantons and the Confederation has been stepped up since the entry into force of the Extracurricular Activities Act and the creation of the Children and Youth Policy Conference, a technical body of the Conference of Cantonal Directors of Social Services, whose members are responsible for the protection and promotion of children and young people in the cantons. The Federal Social Insurance Office and the Conference of Cantonal Directors of Social Services have set up an electronic platform providing an overview of cantonal policies.

Reply to the issue raised in paragraph 3

9. The Sustainable Development Goals have an impact on the lives and development of children,¹ and the measures taken in Switzerland to implement and promote the Convention contribute to achieving the goals.²

10. For example, the interests and rights of children are taken into account in the following areas:

- Sustainable Development Goal 1: Switzerland fights poverty in order to improve the opportunities and living conditions of the children concerned (see reply to question 26 (a)).
- Sustainable Development Goal 3: The Federal Office of Public Health selects different means of participation when its products or projects are directly aimed at young people (for example, by developing them with young people or by consulting them in one or more phases of development). In 2020, the priority theme of the national strategies for the prevention of addiction and non-communicable diseases has been health among children and young people; various tools are used to promote their participation, including through articles in the periodical publication of the Federal Office of Public Health, *spectra*, and participation in conferences at different levels (as moderators, or helping with workshop content, etc.).
- Sustainable Development Goal 4: Switzerland considers it essential to ensure quality education beginning in early childhood and in informal and non-formal education and to strengthen education for sustainable development (ESD) at all levels; non-governmental organizations (NGOs) implement programmes on ESD and the rights of the child. Switzerland is developing a national strategy to strengthen early childhood encouragement (see reply to question 26 (a)).
- Sustainable Development Goal 5: Switzerland combats domestic violence, violence against women and girls and female genital mutilation.
- Sustainable Development Goals 8 and 12: Switzerland emphasizes minimizing negative effects on other countries of its consumption and procurement of goods and services (with attention to environmental protection and social issues such as human rights, labour rights and protection against child labour or slavery).
- Sustainable Development Goal 10: Through the Extracurricular Activities Act, Switzerland encourages extracurricular activities in order to promote the social, cultural and political integration of children and young people. Its three strategic objectives (encouragement, protection, participation) are applicable as well to children who are in particular need of support (such as children from disadvantaged backgrounds or from migrant families).
- Sustainable Development Goal 13: Initiatives such as the Youth Climathon can help foster active civic participation by young people in favour of the environment, through innovative and sustainable solutions.
- Sustainable Development Goal 16: Switzerland is committed to providing financial support to reduce all forms of violence against children.³

¹ https://unicef.at/fileadmin/media/Kinderrechte/SDG/UNICEF_SDG-KRK-Mapping.pdf.

² Swiss report on the implementation of the 2030 Agenda.

³ Ordinance on measures to protect children and young people and to strengthen children's rights.

II. Rights under the Convention and its Optional Protocols

Reservations

Reply to the issue raised in paragraph 4

Regarding article 10 (1)

11. According to the case law of the Federal Supreme Court, article 10 of the Convention does not confer on all foreigners an absolute and justiciable right to family reunification; it leaves the States parties a margin of appreciation in their immigration laws (Decisions of the Swiss Federal Supreme Court 124 II 361 ff.). Swiss law does not provide for the family reunification of foreigners with residence permits of limited duration (students, foreigners with authorization for a short stay in Switzerland) or of asylum seekers during pending asylum procedures. For recognized refugees and persons temporarily admitted to Switzerland, family reunification is possible under certain conditions. In responding to parliamentary procedural requests, the Government has considered that the present reservation is still justified, particularly with regard to asylum.

Regarding article 37 (c)

12. The type of administrative detention must take into account the needs of protected persons, unaccompanied minors and families with children (art. 81 (3) of the Foreign Nationals and Integration Act). The Confederation provides financial support for the construction, enlargement, conversion and fitting out of cantonal administrative detention facilities, provided that unaccompanied minors and families with children are housed in premises separate from other detainees (art. 15 (j) (d) of the Ordinance on the Enforcement of the Refusal of Admission to and Deportation of Foreign Nationals).

13. There is a legal basis in Switzerland for the separation of children from adults during deprivation of liberty. The cantons had until 2017 to establish the facilities required for the implementation of secure custody and deprivation of liberty. Pretrial detention or detention for security reasons is carried out in facilities reserved for minors or in special sections of detention facilities where minors are kept separately from adults (Juvenile Criminal Procedure Code, art. 28). Appropriate case management must be ensured. New youth-only detention centres have been set up and new sections at adult facilities comply with the principle of total separation of minors and adults. Therefore, to the extent possible, it has been proposed to withdraw this reservation.

14. However, in its report of 19 December 2018, the Government notes that there is no overview of implementation in the execution of sentences and no information on the separation of minors and adults during administrative detention under the Foreign Nationals and Integration Act. An inventory has to be taken of the situation in all the establishments concerned. An analysis is planned, based on a survey conducted in September 2020 and a review of the data that has been collected (results are expected at the end of 2020).

Regarding article 40 (2) (b)

(ii) Free legal aid or other appropriate assistance

15. The right to legal assistance for children in conflict with the law is guaranteed (Juvenile Criminal Procedure Code, arts. 23–25), but that is not the case for free assistance. The cost of the necessary or ex officio defence may be charged to young persons or their parents if they are able to pay.

(iii) Separation of the investigation body and the adjudicating authority at the personal and organizational levels

16. This separation does not correspond to the Swiss legal tradition. The focus of the Juvenile Criminal Law Act is the personal quality of the perpetrator; it is primarily aimed at educating young offenders. It is thus important that the juvenile defendant should have

contact if possible with a single representative of the authorities for the entire duration of the proceedings so that a personal relationship can be forged. Since the combination of the two functions in one person may give rise to reservations with regard to the principles of the rule of law, the juvenile judge who conducts the investigation may be disqualified, without grounds for recusal, before the proceedings take place in the juvenile court (Juvenile Criminal Procedure Code, art. 9). As it stands, the combination of the two functions in one person is not incompatible with the country's international commitments (under the European Convention on Human Rights and the Convention on the Rights of the Child).

Comprehensive policy, strategy and coordination

Reply to the issue raised in paragraph 5

17. The Committee's recommendations have been translated into the national languages and widely distributed. Their analysis and distribution to the respective federal or cantonal authorities was carried out with the cantons and the Child Rights Network Switzerland organization. This process produced the Government's report of 19 December 2018, with a package of 11 measures to fill in gaps in the implementation of the Convention (the "package of measures"). It was implemented with the help of an accompanying group composed of 10 federal offices and 4 intercantonal conferences.

18. In the Swiss federal structure, which brings together conferences of cantonal administrations, implementation of the Convention is in many respects a cantonal task, with the Confederation playing only a subsidiary role. As the federal Government's specialist body for child and youth policy, the Federal Social Insurance Office provides support for the services responsible for child protection and children's rights by preparing reports and studies and by promoting the exchange of information and experience. It provides financial aid to organizations nationwide and in the language regions. One measure in the package of measures enables the Confederation to support the cantons as they develop tools to effectively implement their child and youth policies. The Conference of Cantonal Directors of Social Services brings together the members of the cantonal administrations who head social affairs departments. Its aim is to promote cooperation between the cantons and to help harmonize their policies. It is responsible for child and youth policy and for family policy. Specifically, the Child and Youth Policy Conference is committed to implementing children's rights and developing child and youth policies and ensuring coordination among the cantons.

19. Thanks to an allocation for the promotion of children's rights, the Confederation provides subsidies to various NGOs in order to raise awareness and strengthen the implementation of children's rights in Switzerland.

20. It financially supported the preparation of the report (the third round of reporting on the Convention on the Rights of the Child).

21. Financial support from the Confederation was provided to 22 cantons between 2013 and 2022 to develop their child and youth policy (Extracurricular Activities Act, art. 26).

22. The Confederation regularly and systematically exchanges information on children and youth issues within the framework of a federal coordination group. Coordination and a systematic exchange of information are also guaranteed with the cantons.

Data collection

Reply to the issue raised in paragraph 6 (a)

23. An increasing number of cantons collect data on the implementation of the Convention. Eight cantons have processes in place to collect this type of data and six of them use it to define or evaluate strategies, programmes and projects for the implementation of children's rights.

24. In 2015, the national Youth and the Media and Youth and Violence programmes were favourably evaluated. On this basis, the Government decided to continue the Youth and

Media activities. The Youth and Media platform was set up in 2016 and its activities are assessed every five years (with evaluation results published at the end of 2020).

25. See the section on paragraph 2 (a) (assessment of the Extracurricular Activities Act).

Reply to the issue raised in paragraph 6 (b)

26. See paragraphs 37, 40, 41, 45 and 46.

27. Data on the number of unaccompanied minors are available via the Central Migration Information System (Ordinance on the Central Migration Information System, annex 1).

28. Statistics from the invalidity insurance service include data on the number and age of children receiving benefits.

29. There are no nationally representative statistics on the situation of all children in alternative care settings. The Confederation and the cantons have developed a platform called Casadata to collect data on placements in educational institutions and foster homes. The current data are incomplete in two respects: only institutions subsidized by the Federal Office of Justice are required to provide information, and there is a lack of cantonal statistics to complement the platform. In its report of 19 December 2018, the Government instructed the relevant offices to examine to what extent the Casadata system could be developed into a national statistic to be integrated into the statistics produced by the Federal Statistical Office. In December 2019, a working group that included the Federal Office of Justice and the Federal Statistical Office was established with the assistance of the Conference of Cantonal Directors of Social Services and the Conference for Child and Adult Protection. It is expected to produce a report at the end of 2020.

30. The statistics on victim assistance and the Swiss crime statistics provide information on the age of victims of human trafficking, and thus on the number of children identified as victims in Switzerland. In addition, the Swiss crime statistics allow data to be filtered according to the residence status of victims, and among the children identified by the police as victims, it is possible to know how many were engaged in the asylum process. According to these statistics and information from the police, child trafficking is limited to isolated cases in Switzerland. In order to improve knowledge in this area, an independent report is being prepared, in accordance with measure No. 12 of the National Action Plan to Fight Human Trafficking 2017–2020. The report is expected to produce results in 2021.

Independent monitoring

Reply to the issue raised in paragraph 7

31. On 13 December 2019 the Government approved a project for the creation of a national human rights institution that will be independent, guarantee a pluralist representation of social forces and benefit from federal aid of 1 million francs a year. The project is currently being discussed in the Parliament. Upon request or at its own initiative, the national human rights institution can provide advice on human rights to the authorities at the various levels of government, NGOs, private companies and international organizations. It will not take on administrative tasks, act as an ombudsman's office or deal with individual cases, but it will cover all human rights, including children's rights.

32. The criminal law, juvenile criminal law, civil law on child protection, family law and civil procedure law include provisions on the procedural rights of children. If the conditions are met, children can receive free legal aid and assistance from lawyers specializing in children's rights in order to assert their rights in the relevant proceedings. If protective measures are ordered by the child and adult protection authority or a court, children and young people and their guardians can contact the KESCHA (Child and Adult Assistance and Reception Centre) independent information and counselling service or Kinderanwaltschaft Schweiz (the Swiss Child Advocacy Service). They also have available the information and advice offered by Pro Juventute's 147 hotline (available around the clock) or ciao.ch, which provide initial consultations and referrals to other competent bodies. Lastly, Switzerland has acceded to the third Optional Protocol to the Convention on the Rights of the Child.

33. The Parliament has adopted a motion for the establishment of an ombudsman's office for children's rights.

Cooperation with civil society

Reply to the issue raised in paragraph 8

34. Cooperation with civil society is part of our human rights policy. Switzerland thus supports a number of organizations that are committed to children's rights. For example, between 2017 and 2018 it supported the NGO Defence for Children International for the global study on children deprived of their liberty, and since 2017 it has supported the Child Rights Connect NGO, thus providing NGOs with a coordination platform for advocacy with United Nations human rights mechanisms.

35. With regard to the first and second Optional Protocols to the Convention, Swiss NGOs receiving financial contributions from the Swiss Agency for Development and Cooperation for their international cooperation programmes implement child protection and children's rights programmes (related to health, education or training, etc.). Such programmes are aimed at combating poverty and abuse and offering a brighter future and at preventing the involvement of children in armed conflicts. Switzerland actively contributes to preventing the sale of children, child prostitution and child pornography through international judicial and police cooperation.

36. Legislative projects of significant political, financial, economic, environmental, social or cultural scope are open to public consultation, thus allowing civil society to express its views about them. Anyone can comment on projects subject to consultation. For example, a third of the submissions concerning accession to the third Optional Protocol to the Convention came from organizations engaged in related fields, and the Federal Social Insurance Office has reached out to youth organizations for the evaluation of the Extracurricular Activities Act.

37. The Confederation provides financial support to the Child Rights Network Switzerland organization and to other NGOs through the Ordinance on measures to protect children and young people and to strengthen children's rights.

38. The Conference of Cantonal Directors of Social Services and the cantons work together with NGOs active in the field of child and youth policy.

39. The Federal Commission for Child and Youth Affairs, an extraparliamentary commission, advises the Government on child and youth policy, and thus also on implementation of the Convention. It is responsible for examining, among other things, the consequences of new legislation for children and young people, and it publishes information at each session to raise parliamentarians' awareness of topical problems.

40. The integration of foreigners, regardless of age, is an essential task for society as a whole; it is carried out within the framework of existing structures. The Confederation and the cantons promote the integration of children and young people through cantonal integration programmes, with specific proposals. The integration of children in the asylum system has been intensified since May 2019 (Swiss integration agenda). The cantons have focused their action more clearly, and federal grants for promoting integration have tripled.

41. The invalidity insurance system grants subsidies to organizations providing private support for disabled people – specialized assistance or mutual aid organizations that are active either nationally or in a language region – for their social integration measures. Specifically, such organizations offer advice and courses for people receiving invalidity insurance benefits and for their relatives. Financial support is also given to actions to carry out work behind the scenes, to offer mediation services and to make information accessible to all.

Children's rights and the business sector

Reply to the issue raised in paragraph 9

42. Respect for human rights is an objective enshrined in the Constitution. The Confederation uses non-binding and, if necessary, binding instruments (such as the Public Procurement Act) to encourage and require companies to respect human rights in a manner proportionate to the risks.

43. Under the Public Procurement Act, public contracts for services to be performed abroad are awarded only to bidders who comply with at least the ILO core conventions, including those on the elimination of child labour.

44. Since the adoption of the national action plan on business and human rights 2016–2019 for the implementation of the United Nations Guiding Principles on Business and Human Rights and the adoption of the position paper and action plan 2015–2019 on corporate social responsibility, Switzerland has developed many awareness-raising measures (training for companies, brochures, guides, website, etc.) and has supported numerous multi-stakeholder initiatives. An external review of the national action plan on business and human rights has shown that Switzerland has an adequate framework for implementation of the Guiding Principles and that the national action plan achieves its protection objective, in line with the country's international obligations; the review also makes recommendations for revision of the plan. On 15 January 2020, a revised national action plan and a revised corporate social responsibility action plan for 2020–2023 were adopted.⁴ The national action plan puts forward 35 key measures and focuses on three priorities: communication, support for business and policy coherence. One of the measures calls for combating exploitation of children in supply chains and considering a due diligence requirement in respect of child labour. The Confederation plans to develop tools and to organize events to raise awareness among companies on the issue of child exploitation and to pursue partnerships with the private sector, civil society and international networks. For both action plans, an assessment of the implementation of the supply chain guidance issued by the Organisation for Economic Co-operation and Development and the United Nations is planned, including in respect of child labour.

45. The popular initiative for responsible multinational companies calls for a due diligence procedure for human rights and environmental protection to be enshrined in law. At present, Swiss law has no requirement for general and binding due diligence in this field. In June 2020, the Parliament decided to recommend that the population reject the initiative. It adopted a counterproposal imposing on companies the requirement to report on respect for human rights and environmental protection and a requirement of due diligence in respect of minerals originating in conflict zones and also in respect of child labour.⁵ As the initiators of the popular initiative maintained submission of their text, the initiative was put to a popular vote on 29 November 2020 and was rejected.⁶ The counterproposal comes into force if the referendum does not take place or is rejected.

46. Human rights and environmental issues are addressed separately in various government strategies, for instance, the Green Economy 2016 report.

Non-discrimination

Reply to the issue raised in paragraph 10

47. Each canton has measures for the integration of marginalized and disadvantaged children and for combating discrimination against them in terms of access to education, in particular for children with disabilities or with immigrant backgrounds. All cantons but one

⁴ <https://www.nap-bhr.admin.ch/napbhr/fr/home.html>.

⁵ <https://www.parlament.ch/centers/eparl/curia/2016/20160077/Texte%20pour%20le%20vote%20final%202%20NS%20F.pdf>.

⁶ <https://www.admin.ch/gov/fr/accueil/documentation/communiqués.msg-id-79692.html>.

have such measures for child refugees and asylum seekers; 20 cantons have introduced specific measures for undocumented migrants (see also the section on question 29).

48. Measures to raise awareness of racial discrimination are implemented through projects developed by the cantons or NGOs and subsidized by the Service for Combating Racism (including school projects and projects for the general public).

49. Almost all cantons have measures in place to combat discrimination against LGBTI children and report that the diversity of sexual orientations and of LGBTIQ people is addressed in sex education classes. This helps to raise awareness of this subject on the part of children and young people at school and thus to combat discrimination. School social work and school psychological services can provide advice when problems arise. In many cantons, there is a specialized body dedicated to this subject, which offers advice and/or launches specific projects to raise awareness. Open-environment children's and youth work has also been dealing with this subject for some years. There are increasingly opportunities for LGBTIQ youth to meet. The cantons do not have an explicit legal basis to combat discrimination against LGBTI children. Only one canton has established in its education legislation the right of students to teaching that respects gender equality and their gender identity.

50. The canton where a centre is located organizes basic education for asylum seekers and persons in need of protection of school age in that centre. The State Secretariat for Migration supports it in implementation, among other things, by making the necessary premises available.

51. In its report of 25 May 2016 based on a study by the Swiss Centre of Expertise in Human Rights entitled "Access to justice in cases of discrimination", the Government concluded that the existing law and precedents provided sufficient protection against discrimination and that the available legal instruments made it possible for victims to defend themselves. It decided to implement some recommendations by means of legislation (see below). The prohibition of discrimination is enshrined in the Constitution, and laws and provisions such as the Gender Equality Act, the Disability Discrimination Act and article 261 bis of the Criminal Code directly address certain types of discrimination. Other general provisions that protect against discriminatory acts are contained in private law (Civil Code, arts. 27 and 28). The Swiss Centre of Expertise in Human Rights considers that it is not advisable to create a general anti-discrimination law, as issues of discrimination vary widely. Such a law could undermine the progress made and adversely affect monitoring and the provision of advice and support in these areas. The Centre identifies shortcomings in judicial procedures. The fact that court cases are rarely brought could indicate that victims are unaware of the legal instruments available to them or that these instruments are relatively ineffective owing to procedural barriers. The Government intends to check whether it is possible to reduce court costs in civil cases. It recalls that the Confederation and the cantons are responsible for providing information on protection and counselling services for victims of discrimination. The study points to significant gaps in the protection of LGBTI people against discrimination (see below).

52. A parliamentary procedural request calling for the drawing up of an action plan against discrimination to implement the proposed measures was rejected by the National Council in 2017.

Civil registers

Exception to the principle of reporting offences, for residence by foreigners with children

53. In carrying out its duties, civil status authorities report any criminal offences that they discover to the cantonal prosecution authorities, in particular under articles 115 to 122 of the Foreign National Act; they submit documents to them when there is a reasonable doubt that they have been falsified or used illegally. The prosecution authorities then take the necessary protective measures without delay. The guidelines entitled "Measures to combat forced marriages and partnerships" specify that in cases of illegal residence discovered during the birth registration or recognition of a child, no report should be filed, even if by law the authorities are required to register the child and report the illegal residence of the applicants.

As these obligations are at cross purposes, it is possible to determine which one prevails only by weighing the respective interests involved. In Switzerland, the obligation to register the child is deemed to take precedence over the obligation to report illegal residence: the Constitution (arts. 7, 14, 37, 38 and 122), the Convention on the Rights of the Child and other international instruments require births to be registered quickly and without exception. Reporting would seriously undermine such registration and could lead to the persons concerned forgoing care during childbirth, thus endangering the health of the mother and child.

Change of sex and first name; introduction of a third gender category

54. A draft amendment to the Civil Code is currently before the Parliament. It would allow transgender persons or persons with variations in sexual development to have their sex and first names changed in the civil register without bureaucratic complications by means of a declaration to the registrar.⁷ Under the amendment, children capable of discernment will also be able to make the declaration, with the consent of their legal representatives. The amendment does not call into question the binarity of the sexes and does not introduce a third gender option, but this question will be the subject of a response to two parliamentary procedural requests.⁸

Criminal law

55. In its report, mentioned above, on protection against discrimination, including for LGBTI persons, the Government considers that the criminal law offers sufficient protection. In 2018, the Parliament extended the criminal anti-discrimination standard (Criminal Code, art. 261 bis) to cover acts based on sexual orientation, but without adding the criterion of gender identity, which was considered too vague. The people accepted the new provision, which entered into force on 1 July 2020. Public incitement to hatred or discrimination, propaganda aimed at systematically belittling or denigrating people, any public act of denigration or discrimination that violates human dignity, and the refusal of a service intended for public use are now punishable if motivated by the sexual orientation of the victim.

Children with disabilities

56. See the section on question 20 (a).

57. The Federal Bureau for the Equality of People with Disabilities carries out awareness-raising and information work for all persons with disabilities, including children. The Government's 2018 disability policy report includes the goal of enabling people with disabilities to participate fully, independently and on an equal footing in political, economic, social and cultural life. The Confederation and the cantons have launched a programme called "Autonomy", which focuses on five areas: free choice of a place of residence; free choice of a care facility; flexibility and customization of available support structures; accessibility of services and infrastructure; and participation in decisions made by the authorities and by institutions.

Culture

58. The Confederation's cultural policy is aimed inter alia at promoting access to and participation in cultural life regardless of socioeconomic status, education level or other factors. Emphasis is placed on removing barriers to access to cultural life, in particular for young people, people with disabilities and people with immigrant backgrounds. The measures for children and young people are mainly financed by the communes, the cantons and private institutions. The Federal Office of Culture finances national projects that promote access to cultural life for young people, for example theatre festivals, film projects for young people and musical education and competitions for young talent. Some of these projects

⁷ <https://www.bj.admin.ch/bj/fr/home/gesellschaft/gesetzgebung/geschlechteranderung.html>.

⁸ Postulates 17.4121 and 17.4185.

target specific groups, such as girls, young people with immigrant backgrounds or young persons with disabilities.

59. With regard to the children of the Yenish and Sinti national minority, long absences from school can lead to gaps in knowledge, the dropout rate from compulsory education is higher than for sedentary children and most of these do not engage in secondary education. These issues are addressed in the Confederation's "Yenish, Sinti, Roma" action plan. As compulsory education is under the responsibility of the cantons, the Confederation has limited room for manoeuvre, but it facilitates exchanges between the cantons and communes concerned and can – on request – co-finance pilot projects. The city of Bern provides intensive support for Traveller children during the winter in special workshops and during the travel period, through the use of laptops, with online follow-up. In addition to Bern, other cantons have expressed interest in this approach, including Fribourg. Another frequent demand of the Yenish, Sinti and Roma communities is that their history and culture should be better known in schools. The Confederation supports projects for the development of teaching materials at various educational levels. There are already teaching materials at the secondary level. At the primary level, a project run by the main Yenish and Sinti organization, representatives of the Roma community and educational experts is under way.

Best interests of the child

Reply to the issue raised in paragraph 11

60. In Switzerland, "Kindeswohl/bien de l'enfant/bene del figlio", or "the good of the child", became a constitutional right in 2000, when the right of children and young people to special protection of their integrity and to the encouragement of their development was introduced into the new Constitution (Constitution, art. 11). This term is used in several pieces of legislation, and specifically in family and child protection laws. The Government considers it regrettable that discussions have arisen around this term, which could give the impression that the expressions the "good of the child" and the "best interests of the child" do not have the same meaning, which is untrue.⁹ In Switzerland, the "good of the child" corresponds in essence to the term "best interests" in article 3 of the Convention. In the German version of the Convention, the "best interests of the child" has been translated as "Kindeswohl". According to the Committee's general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, three concepts are included in the best interests of the child: first, it is a subjective right; it is also a rule of procedure; and lastly an interpretative legal principle. These principles are applicable in Switzerland, with no restrictions. The welfare of the child has been the focus of all amendments recently introduced in family and child protection laws: support for the recovery of maintenance claims under family law; the obligation to notify the child protection authorities; the right to adopt; the right to receive maintenance support; the right to parental authority; and the placement of children outside the family home. For its part, the Federal Supreme Court regularly refers to the main idea of article 3 of the Convention and article 11 of the Constitution, according to which the good of the child must be a primary consideration in all decisions concerning him or her (Decisions of the Swiss Federal Supreme Court 143 I 21, preambular para. 5.5.2 and 142 III 612, preambular paragraph 4.2). There is thus no need to replace the term "good of the child" with "best interests of the child" in the Swiss legal order. Priority should not be given to the question of terminology, but to the proper implementation of the rights guaranteed by the Convention. The good of the child must be considered whenever a decision is made, taking into account the situation and the child in question.

61. Unaccompanied minors have a legal representative from the beginning of the asylum procedure. The legal representative defends their interests as a trusted person in the federal centres. Once unaccompanied minors have been assigned to a canton, responsibility for their support is transferred to the cantonal authority, in coordination with the State Secretariat for Migration.

⁹ <https://www.parlament.ch/fr/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20193184>.

62. See question 7 (on legal aid/legal assistance).

Respect for the views of the child

Parliamentary postulate 14.3382: Right of the child to be heard. Assessment of the implementation of article 12 of the Convention in Switzerland

63. As part of the follow-up to this postulate, the Government asked the Swiss Centre of Expertise in Human Rights to examine, in cooperation with the cantons, the implementation of this right and to identify good practices and weaknesses in the following areas: health, education, justice (family law and the Juvenile Criminal Law Act) and child protection. The Swiss Centre of Expertise in Human Rights collected data from cantonal authorities and youth parliaments, and also through exchanges with experts in the various fields of the study, the Conference of Cantonal Directors of Social Services, the Federal Commission for Child and Youth Affairs and the NGOs of the Child Rights Network Switzerland. The study was conducted in nine cantons (Vaud, Fribourg, Bern, Aargau, Schwyz, Ticino, Zurich, Basel and St. Gallen), among the departments of health, education, justice and social affairs. The 2020 study by the Swiss Centre of Expertise in Human Rights notes that the legal scope of article 12 of the Convention in Swiss law is clear: it is a directly applicable norm. In practice, however, the scope of the rights ensured by article 12 has not yet been fully grasped. This article is not limited to hearing the child in proceedings concerning him or her; it encompasses several forms of participation of the child, such as the right to information, to be present, to freely form and express his or her views and to have them taken into account, and the right to have a representative. The Swiss Centre of Expertise in Human Rights, considering that strategies need to be developed at the federal and cantonal levels to improve understanding of the scope of article 12, has drawn up 28 recommendations, mainly for the cantons, but also for the Confederation. The Government, in its report of 2 September 2020, acknowledges that there is room for improvement, mainly in the area of information and awareness. It will therefore continue to support cantonal initiatives in these areas as far as possible. In view of the criticisms made by the Centre concerning the regulations on the placement of children and young people in care, the Government has instructed the Federal Department of Justice and Police to evaluate these regulations.

Parliamentary postulate 13.4304: Strengthening the Federal Youth Session

64. In its report issued in May 2017, the Government identifies the Federal Youth Session as an important annual event for youth political education and participation. Precisely because the rules are relatively flexible, in the past, young people have been able to constantly make this event evolve and to quickly implement concrete ideas. The current formula works well (petitions to the Parliament) and it is therefore not appropriate to introduce more binding instruments.

Political participation

65. The Confederation provides financial support for the Youth Session, the children's conference held at the same time and other political participation projects and organizations (Extracurricular Activities Act, arts. 7 and 10).

Reply to the issue raised in paragraph 12 (a)

66. Almost all the cantons report that the right to be heard is generally guaranteed.

Private law

67. The perception of the child in society and in the law has changed considerably in recent years. The child is now recognized as an independent subject endowed with rights. This is reflected in recent legislative changes in the areas of civil procedure and child protection law. The new Civil Procedure Code provides for special norms concerning the proceedings applicable to children in family law cases and guarantees their right to be heard personally, as appropriate, and to be represented (Civil Procedure Code, arts. 298 and 299). The new child and adult protection law contains provisions of the same nature (Civil Code,

arts. 314 (a) and 314 (a) bis). The child and adult protection authority ensures that children placed in foster families or institutions are involved in all decisions affecting their lives, in accordance with their age (Ordinance on the Placement of Children in Foster Care, art. 1 (a) (2) (c)). According to the case law of the Federal Supreme Court, children may be heard as soon as they have reached the age of 6. The amended adoption law provides that children must be heard before adoptions take place, even if they are not yet capable of discernment and are not yet required to give formal consent to the adoption (Civil Code, arts. 268 (a) bis and 265).

Criminal law

68. The right of child victims to be heard is based on article 29 (2) of the Constitution and article 3 (2) (c) of the Criminal Procedure Code. The authorities are obliged to respect the dignity and the right to be heard of the persons involved in criminal cases, at all stages of the proceedings. Children whose physical, psychological or sexual integrity has been directly affected by an offence are considered to be victims, not injured parties. Victims have special rights (in particular under art. 117 of the Criminal Procedure Code). For child victims (i.e., persons under 18 years of age at the time of the examination hearing or hearing in the presence of the accused), article 154 of the Criminal Procedure Code provides for the following measures:

- A rapid hearing and, in principle, a maximum of two hearings in the entire procedure;
- A hearing in the presence of the accused only at the express request of the child, unless the accused's right to be heard cannot be guaranteed otherwise;
- A hearing by a trained investigator, in the presence of a specialist;
- Video recording of the hearing if no hearing can be arranged in the presence of the parties.

69. In all procedures, child victims may be accompanied by a confidant, in addition to their legal counsel (Criminal Procedure Code, art. 152 (2)). The authority may exclude the confidant if he or she could exert a decisive influence on the child (Criminal Procedure Code, art. 154 (3)). Special protection provisions apply to victims of sex crimes: they may insist upon being heard by a person of the same sex and may request that at least one member of the court should be of the same sex as themselves (Criminal Procedure Code, arts. 153 (1) and 335 (4)).

Asylum

70. The situation of a child capable of discernment is assessed individually when the child is accompanied by the parents. For unaccompanied minors, the confidant must have knowledge of asylum law and of the law relating to the Dublin procedure and the rights of the child, and must have experience working with minors. The confidant supports the unaccompanied minor during the asylum procedure and specifically carries out the following tasks: providing advice before and during hearings; supporting the person in pointing out and obtaining evidence; and assisting the person in communicating with the authorities and health-care institutions (Asylum Ordinance, art. 7 (3)).

Reply to the issue raised in paragraph 12 (b)

71. All cantons recognize the right of children to express their opinions freely, although some consider that more could be done. See question 12 (a).

Reply to the issue raised in paragraph 12 (c)

72. Fourteen cantons consider that professionals in the judicial, welfare and other sectors receive sufficient training to ensure the meaningful participation of children.

73. In the Government's report of 2 September 2020, mentioned above, the Government states that it would like to work with the cantons to promote interdisciplinary exchanges on children's participation in health matters.

74. The persons responsible for interviewing asylum seekers who are minors must take account of the particular aspects of their status as minors (Asylum Ordinance, art. 7 (5)). The State Secretariat for Migration trains staff working in the asylum field with two compulsory training modules on minors; they cover the specificities of processing asylum applications from minors, such as guidance and supervision, accommodation, the Dublin and asylum procedures, techniques for conducting hearings and the best interests of the child. Training courses provided by external partners are organized on a one-off basis.

75. Measure 2 (b) of the package is aimed at raising awareness among professionals working with or for children, to ensure that they have greater involvement, and measure 3 is aimed at giving more importance to children's participation in the allocation of the financial support provided under the Extracurricular Activities Act.

76. The Confederation provides financial support for training projects for professionals working in the school and other environments (Extracurricular Activities Act, arts. 18–21).

77. The State Secretariat for Education, Research and Innovation, in its vocational training work, has carried out an analysis of occupational profiles (and specifically, of occupations in which people work with children). The analysis shows that training is implicitly addressed in all fields. To ensure that it is explicitly taken into consideration, the State Secretariat will draw attention to these points when revising the training regulations. However, employers' and labour organizations are free to design the content of their own training courses.

78. In order to be able to lead Youth and Music camps and courses, future instructors have to complete three training modules, thus ensuring that they have the appropriate skills in music and in teaching techniques. Only instructors certified by Youth and Music can receive federal subsidies for camps and courses. In addition, at least two further training education modules must be completed every three years in order for the certificate to remain valid.

Nationality

Reply to the issue raised in paragraph 13 (a)

79. Although Switzerland has not ratified the Convention on the Reduction of Statelessness, our law includes a regulation allowing for the acquisition of Swiss nationality by stateless children. They may apply for simplified naturalization if they have lived in Switzerland for a total of five years, including the year preceding the application (Federal Act on Swiss Citizenship, art. 23). Applicants must be under 18 years of age and their statelessness status must be recognized by Switzerland or a signatory State of the Convention relating to the Status of Stateless Persons. They are thus deprived of their nationality and no longer have the possibility of recovering it. The fact that children have no identity documents from their countries of origin is not sufficient for them to be considered stateless; it is also necessary to ensure that no States consider them to be their nationals. Only stateless children who have lived in Switzerland in accordance with the legal provisions on foreigners are eligible for simplified naturalization. The applicant must be successfully integrated and must not endanger the internal or external security of Switzerland. Simplified naturalization is the exclusive responsibility of the Confederation, which allows for uniform procedures and decision-making in this area.

Reply to the issue raised in paragraph 13 (b)

80. In Switzerland, surrogate motherhood is forbidden (Constitution, art. 119 (2) (d)). Parentage ties established by a private surrogacy contract are recognized in Switzerland only within the limits of public policy (Decisions of the Swiss Federal Supreme Court 141 III 312 and 328). As a matter of principle, persons residing in Switzerland who use the services of surrogate mothers abroad are not legally considered in Switzerland to be the parents of the child, even though they are usually listed as parents on foreign birth certificates. If the intended father is also the biological father, he can recognize the child as soon as paternity by a possible husband of the surrogate mother is disproven. His wife can then adopt the child.

Since 2018, same-sex partners or unmarried partners of the biological father have also been able to adopt the child.

81. Children of spouses, when at least one is Swiss, and children of Swiss women who are not married to the father are Swiss from birth. The minor foreign child of a Swiss father who is not married to the child's mother acquires Swiss citizenship as if at birth on establishing filiation with the father before reaching the age of majority (through a voluntary recognition of paternity, paternity judgment or adoption) (Federal Act on Swiss Citizenship, art. 1 (2)). A foreign child born to a Swiss father before 2006 may apply for simplified naturalization provided he or she meets the requirements set out in the above-mentioned article and has close ties with Switzerland (Federal Act on Swiss Citizenship, art. 51 (2)). If a child cannot be given any nationality for example because no filiation can be established, he or she is granted Swiss nationality, in accordance with article 3 of the Federal Act on Swiss Citizenship (on the nationality of foundlings). Lastly, children born abroad who have at least one parent who is Swiss must register with a Swiss authority before their twenty-fifth birthday (Federal Act on Swiss Citizenship, art. 7).

Right to know and to be cared for by one's parents, and right to identity

Reply to the issue raised in paragraph 14 (a)

82. In Switzerland, everyone has access to data on their ancestry. Children who are adopted, born through medically assisted reproduction or found, including in a baby box, in principle have an absolute right to obtain information about their origins.

Adopted children

83. The right of adopted children to know their origins derives from the right to personal freedom (Constitution, art. 10 (2)). The amendment of the adoption law, which has been in force since 2018, introduced innovations in this area. Adoptive parents must inform the children that they have been adopted, taking into account the children's age and degree of maturity; minor children have the right to obtain information about their biological parents which does not allow them to be identified; they have the right to obtain information about their identity only if they can demonstrate a legitimate interest; children who have reached the age of majority may, at any time, request to know the identity of their biological parents and to receive other information about them, regardless of whether the parents are opposed to any personal contact; lastly, they may request information about the direct descendants of their biological parents if the descendants have themselves reached the age of majority and have given their consent. The request for information is submitted to the cantonal information service specialized in tracing, which notifies the persons concerned and, if necessary, requests their consent to be contacted; it may also mandate a specialized tracing service. If the person in question refuses to meet the applicant, the authority or the mandated tracing service notifies the applicant. The cantons designate a service that advises, at their request, the biological parents, their direct descendants and the child. By putting the interests of the child ahead of those of the biological parents in the event of conflict, the law avoids any case-by-case weighing of interests. The provisions of the revised adoption law relating to the secrecy of adoption and the communication of information on the biological parents and their descendants also apply to adoptions pronounced before the entry into force of the new law and to proceedings pending when the law came into force.

84. Tracing and counselling services also support adoptees in intercountry adoption, but the results are mainly dependent on the cooperation of the authorities in the country of origin. The cantonal information service will help the person in question to gain access to the documents in the possession of the Swiss authorities and to file a request for mutual assistance with the country of origin (for the States party to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, via the central authorities). However, the Swiss authorities cannot influence procedures in the country of origin, which depend on the legislation and the resources available locally.

85. Following a parliamentary postulate, the Government on 11 December 2020 published a report shedding light on the allegations of illegal adoptions of Sri Lankan children in the 1980s, analysing the current legislation governing intercountry adoption procedures and examining the efforts and means available to support those affected in their attempts to trace their origins.

Children conceived by medically assisted reproduction

86. The right of children conceived by medically assisted reproduction to know their origin is explicitly provided for in article 119 (2) (g) of the Constitution, which resolves a conflict between the interests of sperm donors to remain anonymous and the interests of the child to know the identity of the donor. The person storing or using donated semen (i.e., institutions receiving the semen and physicians using it in their treatment) is obliged to securely record the identities of the donor and the recipient of the donation. Immediately after the birth, the doctor must transmit these data to the Federal Civil Status Office, which keeps them for 80 years (Reproductive Medicine Act, arts. 25–26). From the age of 18, the child may request the following data from the Federal Civil Status Office: the surname, first name, physical appearance, date and place of birth, place of residence, nationality, occupation and education of the donor (Reproductive Medicine Act, art. 27). Where children can show a legitimate interest (in particular related to health reasons), they may obtain data on the donor even before the age of 18. In such cases, the child's legitimate interest is balanced against the other interests involved, specifically those of the donor and the donor's family. A child wishing to obtain information about the donor must apply to the Federal Civil Status Office; if the legal requirements are met, the Office must search for the donor's address; the federal, cantonal and communal authorities must assist the Office if it requests their help. The Office informs the donor that the donor's identity will be communicated to the child and gives the donor a reasonable period to say whether there is consent to have contact with the child (Reproductive Medicine Ordinance, art. 21 ff.). In its report on the adoption of the constitutional article on medically assisted reproduction, the expert commission considered that disclosing to the child his or her birth by heterologous medically assisted reproduction is one of the elementary duties and the personal responsibility of the legitimate parents. It rejected the idea that children should be informed of their origins by third parties (such as doctors or registry offices) and the idea that information relating to this should be entered in the civil status registers.

87. Children born following surrogacy procedures carried out abroad have the right to know their origins. According to the Convention on the Rights of the Child, the State party must safeguard the rights of children falling within its sovereignty. It must therefore document the child's parentage to ensure the child's right to know. This obligation includes the act of keeping a record that the genetic or biological parentage on the mother's side is unknown. If the child in question would like to have information on parentage, an indication of the egg donation or of an anonymous surrogate mother must be included in the register when the donation is known to the authorities. Where biological and legal parentage differ, information on the biological parentage is entered in the civil status register as data supplementing the information on the legal parentage (Decisions of the Swiss Federal Supreme Court 141 III 312 and III 328, preambular para. 8.1). Switzerland takes part in Experts' Group on the Parentage/Surrogacy Project of the Hague Conference on Private International Law.

Baby boxes

88. Children left in baby boxes have the right to information about their origins. However, this right cannot be guaranteed when such devices are used. This is why many hospitals offer confidential childbirth services, sometimes on the basis of cantonal legislation. Information about the mother is then treated confidentially by the hospital and the civil registration authorities. Children who are adopted will be able to assert their right to know their ancestry, since their legal relationship with their biological mothers will be registered before being

replaced by that of the adoptive mother.¹⁰ In Switzerland, there are six baby boxes, all located in hospitals.¹¹ The hospital must inform the competent authority when it finds a child in a baby box. The child and adult protection authority appoints a guardian for the child and notifies the civil register office, which registers the birth, the place, time and circumstances of the discovery, the sex, the presumed age and any distinguishing marks (Civil Status Ordinance, art. 20 (3)); these measures facilitate the search for the biological parents. The child is placed and an adoption procedure is initiated. The parents may claim their child for one year. On its website, the Swiss Aid for Mother and Child organization expressly states that biological parents must be aware of the right of children to know their origins and urges them to leave information about the circumstances that led to the use of the baby box.

Reply to the issue raised in paragraph 14 (b)

89. Even after the amendments of the adoption law, adopted children who are minors can obtain information about the identity of their biological parents only if they can demonstrate that they have a legitimate interest. However, the new law gives children the right to obtain information about their biological parents that does not allow them to be identified (Civil Code, art. 268 (c) (2)), such as health data, age of the biological parents or number of siblings. This solution makes it possible to take into account the child's basic need for information while safeguarding the process of integration into the adoptive family.

Reply to the issue raised in paragraph 14 (c)

90. The protection of life and physical integrity is given priority over the right to know one's ancestry. Therefore, there are no plans to introduce a general prohibition of baby boxes. As the parents using such a system certainly have the child's best interests at heart and are in a situation of extreme distress, the Conference of Cantonal Directors of Social Services has considered that a prohibition could lead to infanticide or abandonment and have an effect contrary to the Committee's wishes. Only one of the above-mentioned cantons is taking steps to end the use of this system.

Freedom of the child from all forms of violence

Reply to the issue raised in paragraph 15 (a)

91. Children and young people have the right to special protection of their integrity (Constitution, art. 11 (1)). Since 1978, the Civil Code has no longer provided for the parents' "right of correction", and since 2014 the new rules on parental authority explicitly enshrine the principle that parental authority must serve the best interests of the child (Civil Code, art. 296 (1)). The duty to raise the child is an integral part of parental authority. The parents direct the child's upbringing with his or her best interests in mind (Civil Code, art. 301 (1)) and encourage and safeguard the child's physical, mental and moral development (Civil Code, art. 302 (1)). There is no doubt that the systematic use of violence in raising a child is detrimental to the best interests of the child. Violence is grounds for the withdrawal of parental authority if other measures to protect the child are unsuccessful or appear insufficient (Civil Code, art. 311 (1)).

92. The new provisions of the Civil Code on the right and obligation to notify the child and adult protection authority have been in force since 2019. They strengthen the protection of children against abuse¹² by giving anyone, including persons subject to professional secrecy, the right to notify the child and adult protection authority that the physical, psychological or sexual integrity of a child appears to be threatened. Persons who are in regular contact with children in their work – and who are not subject to professional secrecy – have an obligation to report. The right or obligation to report is applicable whether the professional is made aware of the threat by the perpetrator, the parents, third parties or the

¹⁰ Government report of 12 October 2016, "Mieux soutenir les mères en détresse et les familles vulnérables" (Better supporting mothers in distress and vulnerable families).

¹¹ Einsiedeln (Schwyz), Basel, Bern, Davos (Graubünden), Bellinzona (Ticino), Olten (Solothurn).

¹² <https://www.bj.admin.ch/bj/fr/home/gesellschaft/gesetzgebung/archiv/meldepflicht.html>.

children themselves. The interests of other children (for example, siblings or schoolmates) who need to be protected from the same threats must also be taken into consideration. The child and adult protection authority can order the necessary measures to prevent harm. The law makes provision for a palette of child protection measures, ranging, as a last resort, up to the withdrawal of parental authority.

93. Children also benefit from protection under the Criminal Code. Perpetrators of acts of aggression are prosecuted *ex officio* if they commit the offence repeatedly against a person under their protection or in their care, in particular if the victim is a child (Criminal Code, art. 126 (2) (a)). The Government considers that with this provision and article 123 of the Criminal Code (common assault), Switzerland meets the requirements of the Convention on the Rights of the Child concerning the protection of children against all forms of violence, and the introduction of a specific criminal offence is apparently neither relevant nor appropriate. It would be contrary to the spirit of the Criminal Code, would be redundant and would create problems in defining the limits of existing offences.

94. A well-developed system of assistance for children and youths is also of great importance in preventing and combating violence. The Government supports the competent actors at the cantonal level in developing their assistance systems. For example, the Confederation financially supports child and youth programmes developed by the cantons (Extracurricular Activities Act, art. 26). The cantons offer various assistance and support structures for parents: marital and personal counselling services, youth and family counselling, early education counselling based on therapeutic education, school psychology, speech therapy and courses for parents facing problems in raising their children or in crisis situations. Advice is also given to parents by telephone or email, by private organizations. Various cantons run learning and play programmes in which at-risk families take part to improve future prospects, especially for their children. The cantons have improved their prevention and intervention plans, including by strengthening the training and awareness of specialists and professionals working with children. Continuing education is available for nurses, nurses' aids and nursery staff working with infants and children. Like paediatricians and family doctors, they play an important role in preventing violence.

95. In response to various parliamentary procedural requests, the Government has repeatedly stated that there is no need for an explicit prohibition of corporal punishment in the Civil Code.¹³ The Parliament agrees and considers the existing laws sufficient. In response to parliamentary motion 19.4632, the Government reiterated its position but, on the basis of the opinion of the Federal Commission for Child and Youth Affairs entitled, "The right of the child to an education without violence", said that it was prepared to consider in a report how best to meet the demands expressed in the motion. Parliamentary postulate 20.3185 was therefore submitted, requesting the preparation of the report in question, and the Government supported its adoption.

Reply to the issue raised in paragraph 15 (b)

96. The cantonal police forces record reported offences in detail and according to uniform counting, coding, data entry and operational principles in the police crime statistics. The JUSUS minors' criminal judgments statistical information sheet provides information on the number, structure and trends of judgments and on the persons judged, offences, penalties and recidivism. The Optimus 3 study on the frequency of child welfare risks, support measures and protection and assistance offers in Switzerland supplemented the police crime statistics in 2018 with data on the extent of maltreatment of children.

97. The Federal Statistical Office, with the support of the Federal Office for Gender Equality, is conducting a five-year survey (2019–2024) of homicides reported in the police crime statistics to gather information on the living conditions of victims and perpetrators and the circumstances, motives and causes of homicides, which will support prevention work. The results are expected to be published in 2025.

98. The Federal Statistical Office, in collaboration with the Federal Office for Gender Equality, is drawing up a detailed plan for a comprehensive survey of the incidence of

¹³ In particular, parliamentary motions 13.3156 and 15.3639.

violence against women and domestic violence. The survey would also provide information on the number of children exposed to such violence.

Reply to the issue raised in paragraph 15 (c)

99. An assessment of the prevalence of violence against children would involve the use of data on registered cases (official figures) and unrecorded cases (a grey area), which by definition is difficult, time-consuming and uncertain. As the costs are disproportionate to the knowledge that would be gained from such a survey, the Government considers that this measure is not called for.¹⁴

100. Through article 26 of the Extracurricular Activities Act, several cantons have improved their child and youth protection systems by developing a cantonal prevention and intervention strategy.

101. The “Your Story Matters!” project, which is a good practice supported through article 11 of the Extracurricular Activities Act, is implemented by the cantons of Bern and Fribourg for children affected by domestic violence.

102. The Youth and Violence programme for 2011–2015 (a tripartite programme involving the Confederation, the cantons and communes) made it possible to develop various prevention tools to help professionals.

103. The Confederation has supported the development of a child protection strategy for women’s shelters throughout Switzerland. In 2021, the Federal Office for Gender Equality will carry out an analysis of the current situation and the need for shelter placements for girls and young women at risk of violence. The analysis will also look at existing statistics and draw up recommendations for Switzerland.¹⁵

Reply to the issue raised in paragraph 15 (d)

104. Since 2015, the Swiss Crime Prevention service, an intercantonal service specializing in crime prevention and safety promotion, has taken over the role of coordinator.

105. With regard to measures 4 and 5 of the package of measures, an interdisciplinary working group has analysed needs on the basis of existing studies and proposes to adapt and use a German instrument¹⁶ in the Swiss context in order to strengthen the right of children to be heard in proceedings concerning them and to improve the coordination of the authorities involved.

106. An evaluation of the Victim Support Act and the standards of the Criminal Procedure Code for the protection and rights of victims has shown that the amendment of the Act and the Code’s provisions have proven their worth and that their implementation is working well, but it has also identified a number of possible improvements, and makes recommendations for the Confederation and the cantons. On that basis, it was not considered urgent to amend the Victim Support Act. As for the recommendations on criminal procedure, they have been analysed in the context of the Criminal Procedure Code’s revision aimed at improving the position of crime victims. The revision is now being discussed in the Parliament.¹⁷ For the support of child victims, the evaluators did not make any recommendations regarding the Victim Support Act, although its implementation could be improved. With regard to counselling and support for child victims, they proposed that networking of the counselling centres, the child and adult protection authorities and the prosecution authorities should be studied, or even improved. The following work is related to this recommendation.

¹⁴ Parliamentary interpellation 18.4122.

¹⁵ Postulate 19.4064.

¹⁶ Frankfurter Leitfaden “Zur Prüfung und Gestaltung von Umgang für Kinder, die häusliche Gewalt durch den umgangsberechtigten Elternteil erlebt haben” (The Frankfurt guidelines for examining and structuring contact with children who have experienced domestic violence by their parents with access rights).

¹⁷ <https://www.bj.admin.ch/bj/fr/home/sicherheit/gesetzgebung/aenderungstpo.html>.

107. Various amendments to civil and criminal law¹⁸ which entered into force on 1 July 2020 improved the protection of victims of domestic violence and harassment. Specifically, they call for the judge to communicate judicial decisions relating to civil law protection against violence (Civil Code, art. 28 (b)) to the competent child and adult protection authorities, to the competent cantonal crisis service and to other authorities or third parties if this appears to be necessary for the performance of their tasks or for the protection of the applicant, or if it is in the interests of enforcement of the decision. In its report in response to parliamentary postulate 13.3441, the Government deals with the networking of the authorities involved, such as the child and adult protection authorities.

108. The Government's report in response to postulate 12.3206 and the detailed study on which it is based focus on the early detection of domestic violence against children and young people and include explanations of other early detection measures.

109. See question 15 (a) (right and obligation to notify the child and adult protection authority).

110. Since 2019, the website on victim support of the Conference of Cantonal Directors of Social Services has had a specific section for children and adolescents.

111. Lastly, the guide to determining the amount of moral compensation awarded under the Victim Support Act, which was revised in 2019, contains various improvements for victims. Specifically, the range of amounts has been increased for sexual offences and, for the first time, a range was set for offences against a person's psychological integrity.

Harmful practices

Reply to the issue raised in paragraph 16 (a)

112. Owing to immigration, Switzerland is increasingly confronted with the problem of female genital mutilation. In 2013, there were an estimated 15,000 women and girls affected by this practice or at risk, compared with approximately 22,000 in 2017 (precise and differentiated figures are not available).

113. Between 2003 and 2015, various measures were taken to combat this practice. In order to improve their sustainability and impact, the Confederation has promoted the establishment of the Network against female genital cutting Switzerland and has provided support of 300,000 francs per year between 2016 and 2021 to the Network's information, awareness-raising, prevention and counselling activities. One of the Network's tasks is the establishment of regional contact points to protect, advise and care for affected or threatened women and girls. The Government's report of 25 November 2020 in response to parliamentary postulate 18.3551 summarizes existing measures in the field of prevention and advisory services and identifies the future actions that are required.

114. Any person who mutilates the genitals of a female person, impairs their natural function seriously and permanently or damages them in some other way is liable to a custodial sentence not exceeding 10 years or to a monetary penalty of no less than 180 daily penalty units (Criminal Code, art. 124).

Reply to the issue raised in paragraph 16 (b)

115. On behalf of the Government, the National Advisory Commission on Biomedical Ethics has dealt with issues relating to intersex persons and has published a position paper containing several recommendations, most of which have been implemented or are about to be implemented by the Confederation.

116. With regard to medical and surgical treatment, the Government considers that the current practice respects the rights of intersex persons. Premature or unnecessary interventions are contrary to the law governing physical integrity. To the extent possible, children must be old enough to be able to make a decision when treatments have irreversible

¹⁸ <https://www.bj.admin.ch/bj/fr/home/sicherheit/gesetzgebung/gewaltschutz.html>.

consequences. According to experts, the best interests of the child take precedence over all medical interventions and treatments.

117. Legally, the generally applicable rights of patients are valid for the treatment of intersex children. Intersex children have the right to receive medical treatment and care based on current medical science and practice, the right to be informed and to give consent and the right to the protection of their personal data. In this regard, it is important to cite the position taken in 2016 by the Central Ethics Committee of the Swiss Academy of Medical Sciences: “The support provided to the families concerned has been improved in Switzerland and the recommendations of the National Advisory Commission on Biomedical Ethics as well as international standards are respected as far as possible. In principle, parents who find themselves in this difficult situation are now advised and supported by an interdisciplinary team, from the birth of the child. All decisions regarding treatment and interventions must be made with the child’s well-being in mind and with a sense of shared decision-making.”

118. Social protection benefits offer appropriate coverage of necessary treatments. In the social law, such treatments are handled as a congenital disorder, or “an illness present at the time of the child’s birth”. Coverage by government invalidity insurance ends at the insured person’s twentieth birthday. After this period, the basic insurance scheme takes over.

119. A surgical operation for the purpose of sexual assignment on a child who is incapable of discernment constitutes in principle an illicit physical assault if it is not required to save the life or safeguard the health of the child (Criminal Code, art. 122 (2)). The offender could be the doctor in the case of an intervention without the consent of the legal representatives, or even the legal representatives themselves, if they have consented to the unnecessary intervention.

120. See question 10 (draft law on sex change in civil status).

121. According to data from the Federal Office of Public Health, every year there are about 40 children born in Switzerland for whom it is not clear whether they are male or female. For other children, it is their later sexual development that leads to this uncertainty.

122. According to the University Children’s Hospital Basel, in Switzerland, these cases are usually managed by interdisciplinary teams. Surgical indications are nowadays handled in an extremely restrictive manner. Data on intersex children are recorded in the European disorder of sex development (DSD) registry. Patients have the right to consult their files at any time. All over Switzerland, meetings of all the specialists involved in the care of intersex children are held regularly; such specialists usually practise in paediatric hospitals.

123. Information from the cantons confirms these statements. Intersex children are examined in university centres or specialized hospitals and are cared for by interdisciplinary teams. Unnecessary medical and surgical interventions are avoided. Children and parents benefit from careful guidance and monitoring.

124. See question 23 (d) (invalidity insurance measures).

Reply to the issue raised in paragraph 16 (c)

125. The federal programme to combat forced marriage 2013–2017 did a great deal to strengthen awareness-raising and networking at the regional and national levels. The Government has continued with this commitment by supporting a centre of expertise in this field for the period from 2018 to 2021. With this commitment, the State Secretariat for Migration hopes to ensure that those affected by forced and/or underage marriage and their relatives can receive help and advice. Prevention and awareness-raising measures are carried out in the context of knowledge sharing.

126. The federal law on measures to combat forced marriage provides for preventive measures and establishes civil, administrative and criminal penalties. It stipulates that the officiation of weddings in Switzerland is exclusively governed by Swiss law. Thus, marriages with minors can no longer take place in Switzerland. For a marriage concluded abroad, the fact that a minor is involved constitutes grounds for annulment. It is not necessary to prove that coercion has taken place (Civil Code, art. 105 (6)). These provisions are set out in the

Civil Status Ordinance and the guidelines issued by the Federal Civil Status Office under the title “Measures to combat forced marriages and forced registered partnerships”.

127. In its report in response to postulate 16.3897 on the evaluation of the provisions of the Civil Code relating to forced and underage marriages, the Government noted that some measures are needed with regard to underage marriages. Specifically, it would like to make it possible to have marriages annulled over a longer period of time. A draft amendment to the Civil Code will be made available for consultation in 2021.

Family environment

Reply to the issue raised in paragraph 17

128. The incentive programme established in 2003 under the Federal Act on Financial Aid for Child-Care outside the Family has been extended until 31 January 2023. Since its establishment, the Confederation has provided 400 million francs to support the creation of 64,150 childcare places (37,250 in collective day-care facilities and 26,900 in after-school care facilities). In July 2018 two new types of financial aid were introduced: support for cantons and communes that increase their subsidies for childcare outside the home, to reduce the costs borne by parents; and support for projects aimed at better matching available solutions to the needs of parents (for example, outside normal opening hours, or offering all-day care for school-age children, organized with the schools). For these measures, a subsidy of 100 million francs has been allocated for five years, 85 per cent of which is intended to reduce the costs of childcare for parents. So far, three cantons have had their applications approved for this component. The federal Government’s financial support will enable the cantons to increase their subsidies to parents by 54.4 million francs over three years.

129. In 2019, the Parliament approved further measures for families, for example by increasing the maximum federal tax deduction for out-of-home childcare costs from 10,100 francs to 25,000 francs per child per year, and the introduction of two weeks of paid paternity leave. In a referendum on 27 September 2020, the first component (the tax deductions) was rejected, but the paternity leave was accepted. In 2021, paid leave of 14 weeks will be introduced for parents of seriously ill or injured children, and also paid leave for employees caring for family members with health problems (up to 3 days per case, and a total of 10 days per year).¹⁹

130. The Government supports two weeks’ paid leave for adoption and proposes to extend paid maternity leave if the child remains in hospital for at least three weeks after delivery. These proposals are now under discussion in the Parliament.

131. In 2019, the Government adopted a draft reform of taxation for couples and families. The Parliament referred it back to the Government to present alternative models.

132. Since 2014, joint parental authority has been the rule: the parents determine the care required for their children, guide their education and make the decisions necessary to promote and protect their physical, intellectual and moral development (Civil Code, arts. 301–302). According to the legislature, joint parental authority is for the good of the child, even when the parents are not married or are no longer living together. Parental authority is granted to just one parent only if the welfare of the child so requires, by decision of the judge in the case of divorce, or of the child and adult protection authority for children born out of wedlock.

133. Joint parental authority does not automatically mean that the child lives with each parent, with joint custody for more or less equal periods. The legislature adopted provisions to encourage a more balanced participation of both parents in the daily care of the child after separation or divorce. If one of the parents or the child so requests, the judge or the child and adult protection authority will consider the establishment of joint custody for the good of the child. A Government report based on a study by the University of Geneva²⁰ shows that in countries that have promoted joint custody, there has been a boost in alternative methods of

¹⁹ Federal Act of 20 December 2019 on Improving the Compatibility of Employment and Caring for Family Members.

²⁰ https://www.bj.admin.ch/bj/fr/home/aktuell/news/2017/ref_2017-12-08.html.

parental conflict management, and that some cantons in Switzerland offer interdisciplinary support to parents undergoing separation. The Government is interested in considering these models. It evaluates cantonal practices in mediation and conflict intervention in separated families and analyses how various tools (such as accompanied visits, counselling sessions or coercive measures) influence conflicts between the parents and the well-being of the children.²¹

Children deprived of a family environment

134. The Casadata system offers a national platform for “knowledge management” which will be extended to all forms of placement. Currently, the Confederation, the cantons, institutions, associations, higher education institutions and universities enter information on placements in educational institutions and foster care. Data are collected on the effectiveness and quality of care.

Reply to the issue raised in paragraph 18 (a)

135. Placement with foster parents or in an institution is ordered only if less drastic measures cannot guarantee the protection of the child and if the child’s endangerment cannot be countered in any other way (principles of proportionality and subsidiarity).

136. The placement of children is subject to authorization and supervision; the cantons designate the authorities responsible for this and may issue provisions that go beyond the Ordinance on the Placement of Children in Foster Care.

137. The welfare of the child is the primary criterion to be considered in granting or withdrawing authorization and in exercising the supervision. The child and adult protection authority ensures that children placed in care are informed of their rights, and specifically their procedural rights, in accordance with their age, that they have confidants to whom they can turn in the event of questions or problems and that they are involved in all decisions affecting their lives, in accordance with their age (Ordinance on the Placement of Children in Foster Care, art. 1 (a)). The relationship between the child and the foster family is monitored by the authority that made the placement decision; the supervision of placement arrangements (foster families or institutions) is the responsibility of the authority that issued the authorization. The competent cantonal authority must visit foster families as often as necessary, but at least once a year, and must visit placement institutions at least every two years (Ordinance on the Placement of Children in Foster Care, arts. 10 and 19).

138. As a reaction to a case that took place in the village of Flaach, in Zurich, the cantonal Department of Justice and Home Affairs issued a guideline that calls for the provision of qualified legal representation to be considered when there is a placement. Reasons must be given for any refusal.

139. The Conference of Cantonal Directors of Social Services and the Conference for Child and Adult Protection are preparing recommendations for the cantons on out-of-home care, to define minimum quality standards (see question 18 (c)). The recommendations are specifically inspired by the Quality4children standards.

140. The Government commissioned National Research Programme 76 through the Swiss National Science Foundation to study coercion measures for assistance and out-of-home placements that took place before 1981, including private initiatives, in a broader context. Two projects within the National Research Programme deal with the placement of children, under the titles: “Private and public actors in out-of-home child care processes” and “Unaccompanied minor refugees in institutional care”. As it has considered that the coverage of the subjects of the withdrawal of children and adoption in coercive contexts and placement in foster homes was still insufficient, the Swiss National Science Foundation has commissioned a research project to obtain an up-to-date overview of the empirical knowledge in these fields. In-depth studies may be carried out on the basis of this overview.

²¹ Parliamentary postulate 19.3503.

Reply to the issue raised in paragraph 18 (b)

141. The Confederation subsidizes educational institutions and develops uniform minimum requirements for boarding schools and promotes planning at the national level. The quantitative and qualitative criteria for the awarding of operating grants are intended to counteract the differences resulting from the country's federal structure.

142. The conditions for recognition are based on the idea that the institutional educational setting has a positive influence on the development of the minors and young adults placed in care and increases the chances of achieving the intended goals, such as social reintegration or the avoidance of recidivism. These conditions relate to the structure of the institutions (the way they are organized, their opening times, the intensity of care, their staffing and staff qualifications, facility management and equipment) and their operation (how the educational mandate is interpreted and implemented). There is also an evaluation of their concrete means, processes and competences, both in everyday life and in key situations, and of their cooperation with actors providing assistance to young people.

143. While not all institutions receive federal subsidies, several cantons and the Conference of Cantonal Directors of Social Services have adopted the quality criteria and apply them to other facilities as well. The criteria are listed on the Casadata platform.

Reply to the issue raised in paragraph 18 (c)

144. The recommendations of the Conference of Cantonal Directors of Social Services and the Conference for Child and Adult Protection on out-of-home placements (published at the beginning of 2021) encourage the cantons to carefully support children, foster families and biological parents at every stage of the placement process (decision-making, placement, supervision and end of the placement).

145. Foster care is organized differently depending on the canton in question. In French-speaking Switzerland, the cantons have central administrations that recruit, train, ensure networking for and support foster families. In the German-speaking part of Switzerland, there are numerous private foster placement agencies offering services such as the establishment of contact with foster families, follow-up during the placement, recruitment, support and training of foster families and services for children in care. Such services are subject to mandatory registration and supervision by cantonal authorities.

146. According to the Ordinance on the Placement of Children in Foster Care, the cantons may take measures to provide foster parents with basic or further training and advice. The Conference of Cantonal Directors of Social Services and the Conference for Child and Adult Protection recommend that the cantons make it a condition for foster parents to receive basic training in order to obtain authorization to foster a child. The training should address the legal and administrative aspects of foster care, but also the relevant psychological and educational issues. It has been recommended that specific modules should be offered for the target groups (small children, adolescents and foster parents from the same family) and that foster parents should be offered both voluntary and compulsory training and further training courses throughout the placement period, with the costs borne by the cantons. It has also been emphasized that further training is crucial for good networking. The basic and further training must be provided by public bodies, a private foster placement agency or a specialized private organization.

147. The Conference of Cantonal Directors of Social Services and the Conference for Child and Adult Protection recommend that the cantons provide free and appropriate counselling for foster families, particularly to help them face unexpected or complex educational or emotional situations. Such counselling must be provided by a public agency, a private foster placement agency or a specialized private organization. A mandatory counselling interview and a separate monitoring interview must take place with the foster families at least once a year, and they must not be carried out by the same person. It is also recommended to hold on-site discussions several times a year with all the persons involved. The purpose of these discussions is to identify potential difficulties as early as possible, to ensure that the placement is as stable as can be and to obtain up-to-date information on the situation and to plan for the future. Particular attention is to be paid to ensuring that the child is content.

148. With regard to compensation for foster families, the recommendations of the Conference of Cantonal Directors of Social Services and the Conference for Child and Adult Protection point out that a transparent and appropriate compensation system is an essential condition for finding enough qualified foster families in the future. Therefore, the cantons should introduce guidelines for appropriate compensation for the services of foster parents – including close relatives – covering compensation for food, accommodation and supervision of the child. Standard contracts should be made available.

Reply to the issue raised in paragraph 18 (d)

149. For children under the age of 3, the recommendations of the Conference of Cantonal Directors of Social Services and the Conference for Child and Adult Protection take up the recommendation of the Committee on the Rights of the Child: the children should to the extent possible be placed in a family setting. However, experience has shown that the parents often prefer institutional placement because they thus have less fear of competition. Support for parents and foster parents is essential to counteracting this feeling of rivalry. It is essential to have good cooperation between the host family and the family of origin and to ensure appropriate support. Consideration should be given to whether a placement solution can be found within the extended family, as it may provide greater stability and better continuity for the child, although there are risks, such as the confusion of roles. The best interests of the child must be the determining factor in every placement decision, including in cases of placement in other countries.

150. In some cases, for example when relations with the family of origin are problematic, institutionalization of a child under the age of 3 may be justified, as institutions have more resources than a foster family to deal with parental violence or troublesome behaviour.

151. In order to ensure the best interests of the child, the authorities concerned must have a clear understanding of children's specific situations and needs, the aim being to ensure that they can develop in a safe environment, that their rights are respected and that their personal development is fostered.

Reply to the issue raised in paragraph 18 (e)

152. The recommendation of the Conference of Cantonal Directors of Social Services and the Conference for Child and Adult Protection explains that the end of a child's placement must be carefully planned and organized, with the involvement of all the persons concerned. It is essential to advise and support the family of origin in this process.

Adoption

153. The work of the working group led to the compilation of statistics on international adoption. Since 2006, these statistics have recorded the number of adopted foreign children born abroad whose adoptive parents are domiciled in Switzerland. By the end of 2020, the Federal Office of Justice will publish statistics on all children who arrived in Switzerland between 2008 and 2018 through international adoption, broken down by year, canton, country of origin and age.

Reply to the issue raised in paragraph 19 (a)

154. The Adoption Ordinance regulates placement procedures for the adoption of children from countries regardless of whether or not they are States parties to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. The cantonal migration offices and Swiss representations abroad receive specialized support when they check the files of children scheduled for adoption before their arrival in Switzerland. A residence permit may be granted to children who are placed for adoption if the conditions of the Civil Code for the reception of these children are met (Ordinance on Admission, Period of Stay and Employment, art. 33).

155. In order to ratify the Convention, Switzerland adapted its legislation to harmonize the procedures for international adoption and to align itself with the guarantees provided under

the Convention. The same authorities carry out social assessments and issue authorizations to prospective parents, applying uniform criteria. Following a proposal from the authorities of the country of origin, the competent Swiss authority issues the authorization to adopt the child only on the basis of a full file on the child, with the necessary statements of consent. It is only once such an authorization has been issued that the procedure in the country of origin can be finalized and the child can obtain a visa for Switzerland. The protection measures provided for upon the child's arrival in Switzerland are applicable to all adoptions, whether or not the country of origin is a party to the Convention.

Reply to the issue raised in paragraph 19 (b)

156. Full adoptions pronounced in accordance with the Convention are automatically recognized in Switzerland and do not require any prior placement of one year. In other cases, the minimum placement period is one year, applicable to both national and international adoption. When the adoption law was amended, the length of placement was not called into question. The existence of a probationary period is in accordance with the Convention. The period of one year takes into account the extensive effects and irrevocable nature of a full adoption. It makes it possible to determine whether the future parents are indeed capable of raising the child and whether the relationship between them is satisfactory. It is an important element in determining whether the adoption is in fact for the good of the child. During this period, the children have the same status as any child in foster care or under State guardianship.

157. Their migration status is regulated by article 48 of the Foreign Nationals Act, which guarantees them a residence permit and the extension of the permit. Children who are not subsequently adopted and who have lost their original nationality (which is rarely the case) can apply for simplified naturalization if they have lived in Switzerland for a total of five years (Federal Act on Swiss Citizenship, art. 23). These rules also apply to children born through surrogate motherhood in other countries.

Reply to the issue raised in paragraph 20 (a)

158. The cantons ensure that children with disabilities receive basic education adapted to their specific needs and encourage their integration into regular schools by means of appropriate forms of schooling insofar as this is possible and beneficial to the child (Disability Discrimination Act, art. 20). All cantons are obliged, in the framework of a regulated procedure, to determine which enhanced special education measures are required.

159. The Intercantonal Agreement on Special Needs Education provides for common quality standards, a common terminology and, in order to ensure equal treatment, a standardized assessment procedure for determining the individual needs of pupils with special needs.

160. In several cantons, the law stipulates that integrated schooling takes precedence over separate schooling.

161. Under certain conditions, minors with health problems can receive an assistance contribution from the invalidity insurance scheme, which allows parents to employ an assistant who provides everyday support for the parents and the child in order to promote the child's autonomy, self-determination and social and educational integration. The assessment of the assistance that was contributed between 2012 and 2019 (which includes a section on beneficiaries who were minors) examines the implementation and effects of this benefit. Minors may also receive a functional incapacity allowance to compensate for the additional expenses incurred due to their disability in various areas of life (for example, for meals, hygiene or mobility). For minors requiring intensive care, an intensive care supplement is given in addition to the functional incapacity allowance. The intensive care supplement and the functional incapacity allowance are disbursed to the persons responsible for the upbringing of the child with a disability. Up to the age of 20, people are entitled to medical measures for professional integration and for the management of congenital disorders. See question 26 (b) (invalidity insurance measures).

Reply to the issue raised in paragraph 20 (b)

162. There are mobile educational services for young children with disabilities in all cantons, and they are free of charge. These services assist with the inclusion of children in day-care centres and help with their transition to ordinary or specialized schools. Another example is the KITApplus project, which has been implemented in several communes and cantons. Young children with disabilities have access to speech and psychomotricity therapy, which continue during compulsory education. The intercantonal agreement on special education and the cantonal laws or concepts regulate special education measures for pupils with disabilities up to the age of 20.²² Two measures for inclusive vocational education are implemented jointly by the cantons and the Confederation: case management of vocational education, and measures to compensate for impairments.

Reply to the issue raised in paragraph 20 (c)

163. The “packing” method is no longer reimbursed by social insurance policies: packing is excluded from the services reimbursed by the compulsory health insurance and from the medical measures covered by the invalidity insurance.²³

164. Packing could meet the criteria to be qualified as coercion (Criminal Code, art. 181).

Reply to the issue raised in paragraph 20 (d)

165. The assistance contribution, the functional incapacity allowance and the intensive care supplement provided as part of the invalidity insurance scheme allow children with health problems to be cared for at home in an appropriate way and to avoid being placed in a children’s home or other institutional setting. There are special education measures in every canton. Five specialized centres offer intensive therapy for autism in early childhood.

166. See question 17 (family caregivers).

Health and health services**Reply to the issue raised in paragraph 21 (a)**

167. The compulsory health insurance scheme guarantees access to paediatric care for every child in Switzerland. The largest cantons have specialized children’s hospitals which children from other cantons can access through the compulsory health insurance scheme.

Reply to the issue raised in paragraph 21 (b)

168. Medical measures covered under the invalidity insurance scheme are fully reimbursed up to the child’s twentieth birthday. The other benefits are covered by the compulsory health insurance scheme; contributions for a child amount to 10 per cent of the costs, up to 350 francs a year.

Reply to the issue raised in paragraph 21 (c)

169. Together with the cantons, Health Promotion Switzerland promotes healthy eating and physical activity among children and adolescents.

170. Youth+Sports is the most important federal instrument for the promotion of sports. It aims to promote sports among young people between the ages of 5 and 20 so that they can experience them to the fullest and participate in the development of sports activities; it contributes to their development and personal fulfilment in the educational, social integration and health fields. Every year, approximately 600,000 young people participate in 80,000 courses or camps in over 70 disciplines. The Confederation invests 100 million francs per year in Youth+Sports, which it manages primarily with the cantons. At the communal level, this support is provided by managing, operating or subsidizing sports activities or events and

²² <https://integrationundschule.ch/fr/>.

²³ Paragraph 405.1 of the medical rehabilitation measures circular, issued by the invalidity insurance scheme.

by providing public spaces, recreation areas and infrastructure. Youth+Sports provides specific support for the participation of young people with a migrant background or with a disability in sports (through subsidies or support for instructors in managing diversity in participation).

171. The Confederation supports a programme of early intervention for families with overweight children (“A strong family”). It is aimed at training and networking specialists working with infants and at offering a care model involving numerous professionals for the families and children in question.

172. Several cantons offer weekly courses or camps for overweight children. These encourage physical activity, provide them with suitable sports and inform them about the importance of a balanced diet (the HipFit programme).

173. In food marketing, there are no regulations, and any measures are voluntary.

Breastfeeding

Reply to the issue raised in paragraph 22 (a)

174. The Swiss Nutrition Policy has issued recommendations for pregnancy and breastfeeding and for infants and young children. Awareness-raising among parents and carers is under way with the support and collaboration of health NGOs, the cantons and professionals.

175. Since breastfeeding has considerable benefits for dietary health, immune resistance and the mother-infant bond, all necessary measures must be taken to enable workers to breastfeed, even beyond maternity leave. They must be given the time off required for breastfeeding (Employment Act, art. 35 (a)), a suitable place to do so at the place of employment (Ordinance 3 to the Employment Act (Health Protection), art. 34) and remuneration for the time spent breastfeeding (Ordinance 1 to the Employment Act, art. 60).

Reply to the issue raised in paragraph 22 (b)

176. Breastfeeding Promotion Switzerland, an independent national centre of competence supported financially by the Swiss Confederation, serves as an information platform for parents and promotes the best possible legal and social conditions for breastfeeding.

177. With the Ordinance on Foodstuffs and Utility Articles, a restriction on the advertising of infant formula is now binding on manufacturers and on trade in such goods; the cantonal authorities are obliged to monitor compliance with the limitations.

Mental health

Reply to the issue raised in paragraph 23 (a)

178. In 2015, the Confederation, the cantons and Health Promotion Switzerland adopted a report entitled “Santé psychique en Suisse – Etat des lieux et champs d’action” (Mental health in Switzerland – State of play and fields of action), which put forward measures to improve the mental health of young people. In 2016, they adopted a report entitled “La prévention du suicide en Suisse. Contexte, mesures à prendre et plan d’action” (Suicide prevention in Switzerland. Context, measures to be taken and action plan), which called for measures to reduce suicide attempts and suicides, including among young people. In this context, the Confederation is improving scientific knowledge and basic data and improving networking among persons concerned by this question. The Federal Office of Public Health invests around 200,000 francs a year in this area. It is currently supporting the development of knowledge bases on psychiatric care for persons between adolescence and adulthood, suicide prevention when people leave clinics (including young people), suicide attempts in hospital emergency wards (including among young people), suicide attempts by LGBT adolescents and suicidal thoughts and attempted suicides in the population (including among young people).

179. The action plan referred to above includes 10 objectives: strengthening personal and social resources; providing information on and raising awareness of suicide; offering prompt and easily accessible assistance; identifying suicide risks in time and ensuring early intervention; effectively supporting persons at risk of suicide in their recovery; reducing instances of suicide by preventing access to lethal means; supporting relatives, friends and co-workers affected by suicide; promoting prevention through the use of the media, the Internet and digital communications; promoting monitoring and research; and disseminating good practices in Switzerland and in other countries.

180. The Federal Social Insurance Office contributes to the implementation of the action plan by strengthening the basic skills of children and young people through the Extracurricular Activities Act and by providing financial support to the Pro Juventute organization (in particular, through the 147 hotline) or the Ciao association for counselling young people in difficulty, or to the Stop Suicide association.

Reply to the issue raised in paragraph 23 (b)

181. The recommendations of the FOKUS study were implemented in the form of a teacher training course for schools of educational science in the German-speaking part of Switzerland; the course has now been integrated into the programme in four regions (Basel, Brugg, Lucerne and Zurich). The cantons of Basel Stadt, Basel Landschaft, Aargau, Lucerne, Solothurn and Zurich contribute to the financing of these courses. Other schools of education science in the German-speaking part of Switzerland did not wish to take up this course, as they already have adequate training in this area. It will have to be clarified with the schools of educational science concerned whether it would be useful to develop a training course for teachers in the French- and Italian-speaking parts of Switzerland.

Reply to the issue raised in paragraph 23 (c)

182. In an interdisciplinary research project, the Federal Office of Public Health commissioned documentation to raise awareness of mental health among primary care physicians (general practitioners and paediatricians). The documentation and specialized information help physicians to learn about, detect and diagnose mental illnesses.²⁴

Reply to the issue raised in paragraph 23 (d)

183. Persons up to the age of 20 are entitled, under the invalidity insurance scheme, to the medical measures (including psychiatric and psychological treatment for mental health disorders) required for their vocational rehabilitation or for the treatment of congenital disorders.

184. Each canton has a range of psychological and psychiatric outpatient services for children and young people. The services of very small rural cantons are associated with the larger ones. In general, the larger urban cantons offer inpatient therapy places for children and adolescents from other cantons that do not have such facilities, on the basis of intercantonal agreements.

185. According to a 2016 study commissioned by the Federal Office of Public Health, a clear shortfall in the provision of primary care psychiatric and psychotherapeutic services for children and adolescents is to be expected. The Office thus launched two projects: a study conducted as part of a programme promoting interprofessionalism analysed, in the school context, all psychiatric care pathways, from identification of early symptoms to the implementation of psychiatric or psychotherapeutic measures; the other project studied the provision of care at the transition between adolescent and adult psychiatry. The Office is considering other measures to address this shortfall. It is the responsibility of the cantons to ensure that the various services are available and that there are sufficient places for therapy.

186. Each canton has school psychology services whose aim is to maintain or restore the psychosocial health of the children and to support the school and parents in their educational mission. This work is carried out by specialist psychologists and the services are provided

²⁴ <https://www.zhaw.ch/fr/gesundheit/forschung/gesundheitswissenschaften/projekte/take-care/>.

free of charge. These services are brought together in the Swiss School Psychology – Swiss Intercantonal Conference of Heads of School Psychology association, whose aim is to promote exchanges of information and cooperation.

187. Other services offered in various cantons, which are generally easy to access, include family counselling offices, education and youth counselling, social and educational family counselling, social work at schools, victim support and child protection groups. Several cantons hold action days or programmes to promote the mental health of children and young people. Free 24-hour telephone and online counselling services are made available by the Pro Juventute hotline, on 147, and the “Main Tendue” hotline, on 143. Both receive financial support from the federal Government and the cantons.

Standard of living

Reply to the issue raised in paragraph 24

188. The national Programme against Poverty 2014–2018 was aimed at decision makers and actors engaged in preventing and fighting poverty. It produced scientific knowledge and practical tools mainly for the use of cantonal and communal actors. Aspects of poverty specific to asylum seekers and refugees were not part of the programme (as the limited time and resources available restricted the selection of priority topics). While the prevention of poverty among children with migrant backgrounds was not a specific theme, it was covered under the subject of equal educational opportunities from early childhood to adulthood, particularly in the context of innovative projects. It is now for the relevant bodies to implement the programme’s recommendations. The programme and its collaborative structures were a success, but challenges remain. The Confederation is continuing its commitment to poverty prevention through the National Platform against Poverty 2019–2024, which focuses on priority themes. In addition, regular monitoring of poverty will be established to allow better tracking of how poverty develops and the effects of the measures taken to prevent and combat it.

189. Children of recognized refugees receive the same social assistance as Swiss children. In principle, the same applies to foreign children residing in Switzerland in accordance with the Foreign Nationals Act. Asylum-seeking children are also entitled to social assistance, although federal legislation provides that such assistance must amount to less than that granted to residents of Switzerland (Asylum Act, art. 82 (3)). The provision of social assistance ensures that no children with migrant backgrounds are exposed to poverty.

Impact of climate change on the rights of the child

Reply to the issue raised in paragraph 25 (a)

190. The federal CO₂ Act sets the target of reducing greenhouse gas emissions by at least 20 per cent by 2020 in comparison with the 1990 level and includes the following measures:²⁵

- The CO₂ tax on fossil fuels, which is the main incentive, encourages frugal consumption and the increased use of energies with little or no CO₂ emissions.
- Emissions trading allows emissions to be reduced where the reduction is the least expensive. It is mainly used by companies and specialist businesses.
- For the building sector, which generates about a quarter of greenhouse gas emissions, cantonal standards and the federal and cantonal buildings programme are applicable.
- Since 2020, CO₂ emissions from new passenger cars have not been allowed to exceed 95g/km, and from other light vehicles, 147g/km.
- Fuel importers must offset their CO₂ emissions and comply with federal requirements.

²⁵ Overview of current state of climate policy in Switzerland.

- Action in the areas of communication and education strengthens the legal measures and supports steps taken voluntarily for climate protection.
- Through a technology fund, the Confederation promotes innovations that limit the production of greenhouse gases, reduce resource consumption and promote the use of renewable energy and energy efficiency.
- The Confederation can conclude agreements with some economic sectors.

Reply to the issue raised in paragraph 25 (b)

191. Human bioeffluents and radon are the most significant pollutants in indoor air in schools. Poorly ventilated classrooms with high concentrations of these pollutants are detrimental to the intellectual performance and well-being of pupils and to the health of allergy sufferers. An appropriate exchange of air is essential. In new buildings and when renovations are undertaken to increase energy efficiency, a practically airtight building envelope is required and the air exchange requirements of the building standards must be met. The Federal Office of Public Health has launched a communication campaign to support schools and building owners in their efforts to achieve adequate air exchange. The radiation protection legislation requires the systematic measurement of radon in schools and remedial measures if the reference value (300Bq/m³) is exceeded.

192. The environmental protection legislation sets out specific criteria for the protection of the population, taking into account effects on health and the environment. The establishment of air quality criteria must take into account the sensitivity of the most vulnerable people, especially children. The limit values of the air pollution control legislation generally correspond to the recommendations of the World Health Organization.

193. Epidemiological studies were carried out as early as 1990, with a cohort study of several thousand people and a specific study on children.²⁶ Further information on air pollution and its effects and a brochure can be found on the website of the Federal Office for the Environment. Real-time air quality information is available on television, online and through the airCheck and MeteoSwiss (health section) applications.

Reply to the issue raised in paragraph 25 (c)

194. Switzerland participates in the work of international financial bodies and is committed to consistent national and international policies on sustainable finance, including an in-depth dialogue with the industry. In March 2020, Switzerland joined the International Platform on Sustainable Finance.

195. In June 2020, the Government adopted a report and guidelines on sustainable development in the financial sector. The report examines 13 measures, some of which are also under discussion in the European Union, with a focus on environmental aspects, mainly relating to transparency, investment activities, initial and further training and risks. Further investigations will be carried out by the end of 2020.²⁷

196. In article 1 of the completely revised CO₂ Act (in principle, effective from 1 January 2022), the Parliament established the objective of making financial flows compatible with low-emission development. This objective will be achieved initially through measures adopted voluntarily by the financial sector. The climate impact of such measures will be assessed periodically.

197. In 2017, the Federal Office for the Environment and the State Secretariat for International Financial Matters launched a first pilot test of the climate compatibility of financial portfolios: all pension funds and insurance companies were able, free of charge, anonymously and on a voluntary basis, to receive an analysis of the compatibility of their equity and bond portfolios with a climate warming of less than 2°C. The Swiss Pension Fund Association and the Swiss Insurance Association supported these tests. In 2020, a second test

²⁶ Swiss Study Childhood Allergy and Respiratory Symptoms with Respect to Air Pollution and Climate, <https://medicalforum.ch/fr/article/doi/smf.2019.08346>.

²⁷ <https://www.sif.admin.ch/sif/fr/home/dokumentation/medienmitteilungen/medienmitteilungen.msg-id-79606.html>.

was made available to insurance companies, pension funds and, for the first time, asset managers and banks. It will be extended to Swiss global loan or real estate investment companies and will take into account qualitative aspects such as the commitments of investors in their dealings with companies. The tests will be coordinated at the international level under the PACTA (Paris Agreement Capital Transition Assessment) 2020 initiative.²⁸

Early care and education, and human rights education

Reply to the issue raised in paragraph 26 (a)

198. In response to parliamentary postulate 19.3417, the Government is developing a strategy to strengthen early childhood encouragement. In general, early childhood encouragement improves the chances of children – especially those from a disadvantaged socioeconomic background – when they start compulsory schooling. It strengthens their social integration and makes it possible to identify potential problems, especially in language acquisition, at an early stage. Numerous actions are already in place, specifically with funding from the cantons and the communes.

199. The Programme against Poverty 2014–2018 has provided a basis for the development of cantonal and communal strategies for early childhood encouragement in order to reduce disparities between cantons and communes and to facilitate the development of a comprehensive, coherent, easily accessible, high quality, affordable palette of early childhood education services implemented in collaboration with parents. The cantons and the communes have undertaken to implement the recommendations and use the instruments provided in a joint Confederation/cantons/communes declaration issued on 7 September 2018. In 2024, the results will be reviewed when the National Platform against Poverty 2019–2024 winds down.

200. See question 17 (subsidies to reduce costs to parents).

Reply to the issue raised in paragraph 26 (b)

201. Measures addressing such questions as case management, vocational training, mentoring and coaching are continuing to be implemented to achieve the joint goal of the Confederation, the cantons and labour organizations of ensuring that 95 per cent of young people obtain a secondary school diploma. There are specific measures for young people who receive social assistance, those with health problems and young migrants who have arrived in Switzerland at the end of their schooling (the Swiss Integration Agenda).

202. The Programme against Poverty provided a basis for developing support services for the transition from compulsory schooling to vocational training, with a view to ensuring continuity of educational opportunities. It supported field projects (support during schooling or the transition to training, measures for young people at risk), drew up recommendations (early detection of young people at risk from primary school onwards) and identified and disseminated good practices, in particular cantonal models based on the principle of “a study grant rather than social assistance” and the principle of long-term personalized monitoring of young people on social assistance. It thus gave priority to training (support for parents in disadvantaged socioeconomic situations to help their children choose a career). The programme’s implementation is the responsibility of the cantons (for example, Geneva has extended compulsory education to the age of 18). The National Platform against Poverty focuses on supporting young people and young adults in difficulty in the transition from school to training and the labour market.

203. Young people with health problems are entitled to vocational measures from the invalidity insurance scheme after they have completed their compulsory schooling, in particular vocational guidance and initial vocational training, for which the invalidity insurance covers the additional costs associated with the disability when they exceed 400 francs. The latest revision of the invalidity insurance scheme provides for closer cooperation

²⁸ <https://www.bafu.admin.ch/bafu/fr/home/themes/climat/info-specialistes/climat-et-marche-financier.html>.

between actors involved in the transition from compulsory schooling to vocational training and for the development of vocational integration measures to provide young people who have health problems with targeted support tailored to their needs when they enter working life.

Reply to the issue raised in paragraph 26 (c)

204. The curricula, Lehrplan 21 in German-speaking Switzerland, PER in French-speaking Switzerland and Piano di studio in Italian-speaking Switzerland, contain references to human rights and children's rights. While the Lehrplan 21 and the PER curricula explicitly mention these rights, the Piano di studio curriculum leaves more freedom to teachers, but such rights are included as a reference.

205. The framework curriculum for general education in initial vocational training and the curriculum for the vocational baccalaureate include the subject, "human rights". The framework curriculum for schools delivering baccalaureate diplomas does not explicitly mention these rights, but it does provide a link to this topic.

206. A foundation subsidized by the Confederation, éducation21, supports projects to raise awareness in schools of human and children's rights, including of issues related to racism.

Rest, leisure, recreation and cultural and artistic activities

Reply to the issue raised in paragraph 27

207. See question 21 (c) (Youth+Sports).

208. In 2014, young people aged 6 to 16 engaged in an average of 79.3 minutes a day of moderate to intense physical activity. The level of activity varies a great deal by age: 122 minutes a day for 6- and 7-year-olds, compared with 45.5 minutes a day for 14 to 16-year-olds. The recommendation of at least one hour of activity a day is followed by 54.7 per cent of girls and 75.1 per cent of boys. Mobility habits have changed little over the last 20 years. Children make more than half of their daily journeys on foot, compared with 10 per cent by bicycle. The vast majority go to primary school on foot or by bicycle. Adolescents make one third of their trips on foot and one fifth by bicycle. The proportion of cyclists in this group has fallen sharply since 1994 but increased slightly in 2015.

209. Health Promotion Switzerland, supported by the cantons and insurers, promotes the implementation of measures to encourage physical activity and a balanced diet among children and adolescents, as part of cantonal programmes. At present, 22 cantons are implementing such programmes. The measures, both structural and behavioural, include all the most important people who serve as reference persons for the children. Many projects involve migrant children or other vulnerable groups. Equal opportunity is an important principle of these programmes. The Federal Office of Sport, the Federal Office of Public Health, the Swiss Council for Accident Prevention and Health Promotion Switzerland are the bodies responsible for the Swiss Network for the Promotion of Health-Enhancing Physical Activity, a network of organizations, institutions and companies that promote health through physical activity and sports. Together with Health Promotion Switzerland, the Federal Office of Public Health supports the School Network²¹ Swiss Network of Health Promoting Schools, which brings together more than 1,900 schools and promotes conditions beneficial to health (including physical activity) in schools. The Federal Office of Public Health is working with other federal offices to promote cycling both in schools and in projects aimed at creating an environment conducive to physical activity for children and young people. There are other initiatives to promote physical activity, such as "Youp'là bouge", supported by the Federal Office of Sport and Health Promotion Switzerland.

210. In terms of cultural participation, the Youth and Music programme has enabled more than 41,000 young people between the ages of 6 and 20 to take part in music courses and camps led by specially trained instructors. In view of the success of the programme and its constant development, particular emphasis is placed on making its proposed activities accessible for children and young people from families in disadvantaged socioeconomic situations and/or those with special needs. Since 2019, the organizers of Youth and Music

camps and courses can grant a discount – part of which is covered by the Federal Office of Culture – on the participation costs of children and young people covered by the Culture Card issued by the Caritas charitable organization. Every year, the Federal Office of Culture finances national projects that promote access to cultural life for young people, such as youth theatre festivals, film projects for young people, musical instruction and music competitions for talented young people. Some projects specifically target young girls, young people from immigrant backgrounds or young people with disabilities. For example, the Federal Office of Culture financially supports the Lapurla private initiative, which aims to raise awareness among cultural institutions and early childhood services of the importance of creating spaces that encourage cultural participation by children up to the age of 4.

211. The Extracurricular Activities Act calls for non-discriminatory access to extracurricular activities. Projects and organizations carrying out activities for particularly vulnerable children have received financial support in recent years. These include, for example, the Just for Smiles foundation, the first network of activities for children and young people dedicated to addressing all types of disabilities, or the projects and workshops of the Swiss National Coalition Building Institute, aimed at raising awareness of the situation of stigmatized groups and combating prejudice against them.

212. As part of the Youth and Media programme, a brochure has been drawn up to develop media skills in children and young people.

213. Several Swiss communities have been awarded the Child Friendly Cities label by the United Nations Children's Fund (UNICEF).

Asylum-seeking, refugee and migrant children

Reply to the issue raised in paragraph 28 (a)

214. When establishing the facts, it is possible to determine whether the age indicated by asylum seekers corresponds to their actual age by means of scientific methods. If there is any doubt about the age claimed by an unaccompanied minor, the State Secretariat for Migration orders medical examinations to determine the person's age only as a last resort. The examinations are based on the method recommended by the Arbeitsgemeinschaft für Forensische Altersdiagnostik of the German Society of Legal Medicine. The examination includes odontological, radiological and physiognomic aspects to establish the dental and bone ages and to take into consideration the person's body composition. Asylum seekers claiming to be minors may refuse to undergo this assessment either in whole or in part. The data collected during the expert examinations are treated confidentially.

Reply to the issue raised in paragraph 28 (b)

215. When they apply for asylum, applicants are assigned to a federal centre, where a voluntary health check-up is carried out during the first week of their stay. Asylum-seeking children with signs of poor mental health are referred to specialist care if necessary, with all costs covered by the health insurance provided by the State Secretariat for Migration. Unaccompanied minors are cared for by qualified educators, who provide them with personalized support seven days a week.

Reply to the issue raised in paragraph 28 (c)

216. The recommendations issued by the Conference of Cantonal Directors of Social Services in 2016 help the cantons to manage situations involving unaccompanied minors. They deal with accommodation, care, legal representation, schooling, post-compulsory education and the transition to adulthood. The aim is to harmonize to some extent the cantonal regulations. However, the asylum situation is now not the same as it was when the recommendations were adopted. The sharp decline in the number of unaccompanied minors has forced some cantons, for financial reasons, to close centres for unaccompanied minors or to use them to house families who have applied for asylum. Regional concepts of care and accommodation are sometimes applied to ensure the economic viability of services and

compliance with the recommendations of the Conference of Cantonal Directors of Social Services.

217. The accommodation of unaccompanied minors is adapted to each case: they are accommodated in accordance with their age in separate centres or on separate floors within collective accommodation centres. Very young unaccompanied minors are placed in foster care. Some cantons offer the possibility of accommodation with relatives. In the accommodation for unaccompanied minors, the young people are supervised by specialized staff and are cared for in day centres.

218. Unaccompanied minors are assigned a legal representative in the form of a child welfare advocate, who accompanies them in their integration process.

219. Access to education is guaranteed and support is provided to find work through various measures in the different cantons (including from professional coaches, through transitional training or internships as part of the person's career choice, etc.). Several cantons, taking into account the skills of the children or young people and not exclusively their age, continue making their programmes and accommodation available even after the children have reached the age of majority.

220. In summary, the recommendations of the Conference of Cantonal Directors of Social Services play a central role and are implemented by the cantons.

221. The same applies to the evaluation of the pilot project for unaccompanied children. Its results are taken into account when the relevant guidelines are updated.

Reply to the issue raised in paragraph 28 (d)

222. When hiring professionals, the cantons attach particular importance to their qualifications. Employees of institutions for unaccompanied minors are generally trained in the social and educational fields. Legal representation (guardianship) assigned for unaccompanied minors and, depending on the canton, for undocumented migrants is provided by people with legal training or training in social work. Possible psychological problems are discussed with specialized services. The cantons also place a high value on specific further training courses.

223. In federal asylum centres, minors' legal representatives, who also act as persons of trust, must fulfil certain requirements (see question 12 (a), on asylum).

Reply to the issue raised in paragraph 28 (e)

224. The accelerated procedures in force since 2019 can lead to negative asylum decisions, but also to positive decisions, or temporary admissions. The asylum provisions call for priority to be given to the processing of applications from unaccompanied minors. They respect the best interests of the child. Unless investigative measures are necessary, such applications are processed under the accelerated procedure, which allows the status of these minors to be clarified quickly and, where they are allowed to continue their stay, to begin their integration.

Reply to the issue raised in paragraph 28 (f)

225. The cantons can order coercive measures (Foreign Nationals Act, art. 73 ff.) and are responsible for carrying out deportations. They order such measures against families and minors only in exceptional cases, and for the shortest possible duration. Coercive measures are used mainly for persons whose behaviour has already led to a failed return attempt and for persons who have committed offences. Minors under 15 years of age are excluded from administrative detention (Foreign Nationals Act, art. 80–80 (a)). In principle, the cantons do not order administrative detention for families and minors and removal is carried out from the accommodation centre of the persons in question. The relatively small number of cases confirms that detention is only ordered as a last resort for minors. The administrative detention of minors is a measure expressly provided for in the Return Directive of the European Union, which is binding on Switzerland. In the rare cases where the cantons opt for administrative detention, its form must take account of the needs of unaccompanied minors or families with children (Foreign Nationals Act, art. 81). In practice, families in

detention have separate accommodations guaranteeing adequate privacy. The cantons of Geneva and Neuchâtel expressly prohibit the administrative detention of minors.

Children without a regular residence status

Reply to the issue raised in paragraph 29

226. The Constitution guarantees the right to an adequate and free basic education. As compulsory education is a cantonal responsibility, schools must allow every child to complete compulsory education (up to a minimum age of 11 years), even if they do not have residence permits. According to the recommendations of the Swiss Conference of Cantonal Directors of Education, children must be included in courses regardless of their residence status. The cantons are well aware of this and some also make their schools aware of it. Thus, the schooling of undocumented children is common practice in most cantons, particularly in the urban centres of the cantons of Geneva, Zurich, Basel and Bern.

227. Access to post-compulsory education is not guaranteed. However, it is allowed in some cantons. Thus, upper secondary level and bridge-year courses are in principle accessible to undocumented persons. Since 2013, young undocumented residents who meet certain conditions can take a beginner's vocational training course (Ordinance on Admission, Period of Stay and Employment, art. 30 (a)). They must have attended compulsory schooling (which may include bridge-year courses) without interruption for at least five years in Switzerland and have submitted an application for a residence permit within the following 12 months. Most cantons allow undocumented persons to receive theoretical post-compulsory education (without engaging in gainful employment).

228. Persons domiciled in Switzerland are subject to compulsory health insurance regardless of their residence status. Health insurers are obliged to insure them. Since they share the residence of their fathers and mothers, children of undocumented persons are also insured in Switzerland. Reimbursement of health-care claims is guaranteed. In practice, many undocumented persons do not take out insurance, for fear of being discovered. According to the cantons, it is well known that undocumented children can have health insurance. In cantons with contact/consultation centres for undocumented persons, the latter are informed of this possibility, parents receive support and applications for reductions in insurance premiums are made through these centres. In some cantons, either the health insurance costs are covered, or the contact centres work with physicians' networks. Access to basic health care is guaranteed for pupils in all cantons through the school medical services.

229. Because of their status, undocumented persons and their children are not entitled to social assistance. It is therefore unlikely that they would apply for such services, for fear of being discovered. However, according to the Constitution, they are entitled to emergency aid when they are in need, which is provided in part by private aid organizations (such as Caritas or Swiss Church Aid) on an anonymous basis.

230. In response to parliamentary postulate 18.3381, the Government will submit a report at the end of 2020 on the problem of undocumented persons, with the aim of determining their entitlements to social benefits, access to schools and other public services, the exchange of data between the authorities, the criminal penalties to which undocumented persons are liable and the current regulations relating to hardship cases. The report must also set out possible solutions, particularly with regard to access to social insurance benefits and the consequences in the event that such rights are withdrawn.

Administration of juvenile justice

Reply to the issue raised in paragraph 30 (a)

231. No measures are envisaged, since juvenile criminal law, the primary aim of which is the protection and education of children and adolescents, focuses on the perpetrator, not on the act. It is applicable to anyone who commits a punishable act from the age of 10, but up to the age of 15 it provides only for protective measures or light penalties.

Reply to the issue raised in paragraph 30 (b)

232. There are no measures planned. The right to legal assistance is guaranteed, but it is not free of charge. The cost of the necessary or ex officio defence may be charged to the young persons or their parents if they are able to pay.

Reply to the issue raised in paragraph 30 (c)

233. The instrument provided for in measures 2 (b), 4 and 5 of the package will make it possible to raise awareness and train professionals working with children. There are also plans to conduct regional training.

Reply to the issue raised in paragraph 30 (d)

234. See questions 4 and 47 (a).

Optional Protocol on the sale of children, child prostitution and child pornography**Reply to the issue raised in paragraph 31 (a)**

235. The cantons have competence for prevention and for the protection, physical and psychological recovery and social reintegration of child victims. Nonetheless, the Federal Office of Police acts as a central authority in cases of child sexual abuse, if the case has an intercantonal or even international dimension, and also if it involves illegal pornography. The actual investigations are, however, carried out by the cantons. Cases are recorded in police databases and cantonal systems. The different cantons have various guidelines for the content of records and for how long they are kept. At the federal level, the Federal Office of Police registers these crimes or their perpetrators in the police's centralized computerized system for managing and indexing personal files (IPAS). In cases of child pornography, the perpetrators are registered in the Federal Criminal Police Information System (JANUS). Cases of child abuse are rarely dealt with by the Federal Office of Police.

236. There are counselling centres to assist victims in every canton, and they are also available to children and young people who are victims of physical or sexual violence or other types of offences. The canton of Zurich has a shelter exclusively for minors who are victims of violence. In Switzerland, several shelters and emergency accommodation centres also take in children and adolescents.²⁹

237. The new victim support information website, launched in 2019 by the Conference of Cantonal Directors of Social Services, aims to raise public awareness of victim support and provides a simple description of the benefits. At the same time, a campaign on social media has also been conducted. Specific information is available on this site for children and young people.

Reply to the issue raised in paragraph 31 (b)

238. With regard to the sexual exploitation of children on the Internet, the Federal Office of Police and the Federal Criminal Police respectively examine investigations and phenomena of cybercrime, including sexual offences, and handle international correspondence, forward requests and information between criminal prosecution authorities and partner authorities and process the national alert form.

239. The Federal Office of Police is the single point of contact for Switzerland for the International Child Sexual Exploitation database run by the International Criminal Police Organization (INTERPOL), which enables specialist agencies worldwide to quickly determine whether a victim has already been identified in a photograph or a video, whether it has already been distributed (for example on the Internet) and whether the perpetrator is already known. The Federal Office of Police regularly receives images from cantonal investigations in order to conduct such investigations. The definition, prohibition and

²⁹ <https://sodk.ch/fr/themes/aide-aux-victimes/refuges/>.

criminalization of trafficking in and exploitation of children are regulated by law (Criminal Code, arts. 116, 123 (2), 126, 136, 182 and 187).

240. The forms of crime in question fall under the jurisdiction of the cantons in terms of criminal law. The Federal Office of Police supports the cantons as a central office and coordinates cooperation between the cantons and with foreign countries by supporting investigations and preparing analyses.

Optional Protocol on the involvement of children in armed conflict

Reply to the issue raised in paragraph 32 (a)

241. During the hearing on the grounds for asylum, which is held a few weeks after the application is submitted, unaccompanied minors are interviewed about their personal histories and the reasons that prompted them to leave their countries of origin. At that stage, they can make a claim of possible forced recruitment. During the asylum procedure, unaccompanied minors are assisted by their legal representative, who can supplement their statements.

Reply to the issue raised in paragraph 32 (b)

242. The staff of the State Secretariat for Migration receive training in interviewing techniques to enable minors to express their reasons for leaving their countries.

243. Persons and authorities who are in regular contact with children are obliged to notify the child and adult protection authority if there are concrete indications that the physical, psychological or sexual integrity of the child is threatened and they cannot remedy the situation within the scope of their activity.
