



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 8, PARAGRAPH 1, OF THE OPTIONAL PROTOCOL
TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE
INVOLVEMENT OF CHILDREN IN ARMED CONFLICT**

Initial reports of States parties due in 2004*

SWITZERLAND**

[28 July 2004]

* The enclosures referred to in the report are available for consultation at the office of the High Commissioner for Human Rights.

** This report was not edited before translation.

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Introduction

1. On 25 May 2000, the United Nations General Assembly adopted the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict¹ (hereinafter the Protocol), which complements the Convention and aims at improving the protection afforded to children in armed conflicts. Switzerland signed the Protocol on 7 September 2000 during the Millennium Summit in New York and deposited its instrument of ratification on 26 June 2002. The Protocol entered into force for Switzerland on 26 July 2002.
2. The Swiss Government has the honour to submit to the Committee on the Rights of the Child (hereinafter the Committee) the report of Switzerland prepared pursuant to article 8, paragraph 1, of the Protocol. The report should be read together with the core document constituting the first part of the reports of Switzerland.² It covers legislation in force as of May 2004.
3. The present report describes the legislative, administrative, judicial and other measures applicable in Switzerland in respect of the rights guaranteed by the Protocol. In terms of content, form and presentation, the detailed account relating to the provisions of the Protocol follows the Committee's guidelines on the preparation of country reports to be submitted by States parties in accordance with the Protocol (CRC/OP/AC/1, dated 14 November 2001).
4. The recruitment of children has been generally prohibited in Switzerland since 1 May 2002.³ Upon ratification of the Protocol, Switzerland deposited an internationally binding declaration providing for a minimum age of 18 years for recruitment of volunteers.
5. This report was prepared in cooperation with the various federal departments of the Swiss Government and was also submitted to Child Rights Network Switzerland⁴ for consultation. It was approved by the Swiss Government on 30 June 2004.
6. This report will be published in French, German and Italian and will be made available on the web site of the Federal Department of Foreign Affairs.⁵

Part One: General information

1. Definition of the child in Swiss law

7. The definition of the child in Swiss law is identical to that in the Convention, since under Swiss family law every person is considered to be a child until the age of 18, when he or she attains majority (Swiss Civil Code,⁶ art. 14).

2. Applicability of the Protocol in Switzerland

8. Switzerland's commitment to the rights of the individual, democracy and the principles of the rule of law constitutes one of the five objectives of its foreign policy.⁷ For this reason, Switzerland does everything possible to ensure better protection in law and in practice for children, who are among the most vulnerable members of society.

9. As regards the Protocol's place in domestic law, since Switzerland is a State with a monistic tradition, every international treaty ratified by the Swiss Government, including the Protocol, is incorporated into the internal legal system as from the date of its entry into force for Switzerland; there is no need to bring a treaty into the legal system by enacting a specific law. The Protocol entered in force in Switzerland on 26 July 2002. Since Switzerland has entered no reservation, the rights protecting children under the Protocol are applicable without restriction.

10. The rights deriving from an international treaty may be asserted from the date of that treaty's entry into force for Switzerland, to the extent that the provisions invoked are directly applicable. Provisions are directly applicable if, viewed in their global context and in the light of both the subject and the purpose of the Protocol, they are unconditional and sufficiently precise to be applied unconditionally in a particular case and constitute the basis for a decision. The authorities responsible for its application are empowered to decide whether a particular provision of the Protocol may be invoked in any given case.

3. Implementation of the Protocol in accordance with the general principles of the Convention on the Rights of the Child

3.1 Non-discrimination (Convention, art. 2)

11. The principle of equality before the law and non-discrimination is an independent constitutional right protected by, *inter alia*, article 8 of the Federal Constitution.⁸ It requires that all individuals should be treated in accordance with the same legal rules in all legal situations and in daily life, and applies both to legislation and the application of the law.⁹

12. Since equality before the law is a universally applicable individual right, it may be invoked by anyone, whether a minor or of age, Swiss or foreign. Nevertheless, the fact that a person is not of Swiss nationality could constitute grounds for a difference in treatment if Swiss nationality is a key factor in a specific case; under article 121 of the Constitution, for example, the Confederation has the right to regulate the entry, departure, stay and residence of foreigners. The only new development in respect of the principle of equal treatment to have taken place since the preparation of Switzerland's initial report on the Convention on the Rights of the Child is the withdrawal of Switzerland's reservation to article 7, paragraph (b), of the Convention on the Elimination of All Forms of Discrimination against Women on 29 April 2004. This reservation was originally entered chiefly in order to prevent women from participating in combat operations by the Swiss armed forces and is now redundant since a major reform of the Swiss army, accepted by referendum on 18 May 2003, gave women unlimited access to combat functions.

3.2 Best interests of the child (Convention, art. 3)

13. The best interests of the child constitute a guiding principle of Swiss law. The Federal Constitution makes special mention of children and young people in its list of fundamental rights and social objectives. At the legislative level, too, various laws take account of the best interests of the child, including the Swiss Civil Code and Criminal Code.¹⁰

3.3 Right to life, survival and development (Convention, art. 6)

14. In Switzerland, the right to life - which is not confined to physical existence but also guarantees the entire range of physical and moral functions necessary to existence - is guaranteed by article 10 of the Federal Constitution as well as by regional and international instruments, including the Convention for the Protection of Human Rights and Fundamental Freedoms (art. 2). The right to survival is guaranteed by article 12 of the Federal Constitution and article 11 of the International Covenant on Economic, Social and Cultural Rights. The child's right to development is guaranteed both at the national level, by various provisions of the Federal Constitution, the Civil Code and the Criminal Code, and at the international level, notably by article 24 of the International Covenant on Civil and Political Rights.

3.4 Respect for the child's views (Convention, art. 12)

15. Freedom of opinion implies the right to express that opinion; it is enjoyed by all natural and legal persons, whether minors or of age, and guaranteed by article 16 of the Federal Constitution, inter alia. Respect for the child's views also implies the right to a hearing, a right guaranteed by articles 29 and 30 of the Federal Constitution, inter alia, and realized by the three federal laws on criminal procedure¹¹ and the 26 cantonal codes of criminal procedure. Provided they are capable of forming their own views, therefore, children may be parties to legal proceedings. The preparatory work on unification of civil and criminal procedure is now well under way, a constitutional basis having been established with the reform of the Federal Constitution of 12 March 2000.

16. Implementation of the Protocol in Switzerland follows the general principles of the Convention: to the extent that those principles are reflected in Swiss law as a whole and apply to all citizens, then they are applicable a fortiori to soldiers. A fuller discussion of these principles can be found in the Swiss Government's initial report on the implementation of the Convention on the Rights of the Child, dated 1 November 2000.¹²

Part Two: Articles of the protocol

Note

17. The references in Switzerland's report are to the numbering and headings used in the Committee's guidelines on country reports.

1. Article 1: Minimum age for direct participation in hostilities

18. Under article 1 of the Protocol, States parties are required to raise the minimum age for direct participation in hostilities from 15 to 18. In Switzerland, minors are protected by domestic law, which prohibits both compulsory and voluntary enlistment of children.

Measures taken, including those of a legislative, administrative or other nature, to ensure that members of the armed forces who have not attained the age of 18 do not take a direct part in hostilities (Guidelines, para. 5)

19. The measures taken by Switzerland to ensure that members of the armed forces who have not attained the age of 18 do not take a direct part in hostilities are contained in articles 8 and 11

of the Federal Act concerning the Army and Military Administration (LAAM)¹³ and article 8 of the Ordinance on the Recruitment of Conscripts (OREC).¹⁴ Under the LAAM, article 8, paragraph 2, the requirement to enlist takes effect at the beginning of the year in which a person subject to military service reaches the age of 19 and lapses at the end of the year in which he or she turns 25. Under the OREC, article 8, paragraph 1, only those conscripts who reach the age of 19 during any given year are called up to recruitment sessions. Under the LAAM, article 11, paragraph 1, municipalities of residence and of origin are required to transmit the names of the new conscripts to the cantonal military authorities.

(a) The meaning of “direct participation” in Swiss legislation and practice

20. This issue does not concern Switzerland, since the minimum age for both compulsory and voluntary enlistment is 18 and Switzerland carries out rigorous checks of conscripts’ ages.

(b) Measures taken to prevent a member of the armed forces who has not attained the age of 18 from being deployed or maintained in an area where hostilities are taking place

21. Switzerland is a country where (a) no hostilities are taking place on national territory and (b) compulsory and voluntary enlistment of minors in the armed forces is prohibited and rigorous checks are carried out on soldiers’ ages (see below, verification procedure, under article 2 (Guidelines, para. 6)).

2. Article 2: Minimum age for compulsory recruitment

Measures taken, including those of a legislative, administrative or other nature, to ensure that persons who have not attained the age of 18 are not compulsorily recruited into the armed forces (Guidelines, para. 6)

(a) The process of compulsory recruitment (i.e. from registration up to physical integration into the armed forces)

22. The concepts of “recruitment”, “recruit” and “compulsory recruitment” in Swiss law require definition. “Recruitment” means induction into an organized military structure such as the armed forces or armed units for active service. A recruit is anyone undergoing military training, but may also denote a child directly enlisted without having been recruited or previously trained. Moreover, a recruit does not necessarily take an active part in hostilities or bear arms. However, the information sessions, familiarization campaigns and short pre-military training courses do not count as recruitment provided the participants are not inducted into an organized military structure for active service. Lastly, recruitment is compulsory when it is required by law.

23. As mentioned above, Swiss law makes no provision for the compulsory recruitment of children. Switzerland has a militia army, which means every Swiss male is required to do military service (LAAM, art. 2), while every Swiss woman may volunteer for military service (LAAM, art. 3). Conscription places an obligation on those Swiss who are required to do military service to (a) submit their names for registration in the military service records (LAAM, art. 7), and (b) attend the recruitment sessions (LAAM, art. 8). However, these

obligations do not take effect until the beginning of the year in which the person subject to military service reaches the age of 19. Under article 13, paragraph 1, of the LAAM, the obligation to perform some portion of military service takes effect at the beginning of the year in which the conscript reaches the age of 20. Recruit training should normally begin at that time (LAAM, art. 49).

24. The recruitment procedure proper is set forth in articles 4, 5 and 8 of the Ordinance on the Recruitment of Conscripts (OREC). Under article 4 of the OREC, during the year they turn 16, all Swiss citizens resident in Switzerland, male and female, receive from their cantons preliminary information in writing concerning their obligation and the opportunities for service in the military, in civilian service, in civil protection or in the Red Cross Service. Under the OREC, article 8, all conscripts who will reach the age of 19 during a given year must be called up to the recruitment sessions; the same applies to younger conscripts who have turned 18 and wish to do their recruit training early.

(b) Documents considered reliable which are required to verify age prior to acceptance into compulsory military service

25. Acceptance for compulsory military service is based upon the individual's certificate of origin. The order (to conscripts) or invitation (to volunteers) to attend the Swiss Army pre-recruitment information day is issued by the district headquarters,¹⁵ which carries out age checks on the basis of the municipal register of residents.

(c) Any legal provision enabling the age of conscription to be lowered in exceptional circumstances (e.g. state of emergency)

26. The Government's former right to lower the age of conscription to 18 (LAAM, old art. 82) which meant that a conscript might be called up before his 18th birthday, depending on his date of birth - was abolished in 2000 to pave the way for ratification of International Labour Organization (ILO) Convention No. 182. There is now no provision in Swiss law authorizing a lowering of the age of conscription in exceptional circumstances.

3. Article 3: Minimum age for voluntary recruitment

Minimum age set for voluntary recruitment into the armed forces, in accordance with the declaration submitted upon ratification (Guidelines, para. 7 (a))

27. Under article 3 of the Protocol, States parties are required to raise the minimum age for voluntary recruitment into their national armed forces by at least one year from that set out in article 38, paragraph 3, of the Convention on the Rights of the Child. States parties to the Protocol are also invited to deposit a binding declaration that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces.

28. The Swiss Government has made the following declaration: "The Swiss Government declares, in accordance with article 3, paragraph 2, of the Optional Protocol, that the minimum age for the recruitment of volunteers into its national armed forces is 18 years. That age is specified by the Swiss legal system."

The debate which took place in the State party prior to the adoption of the binding declaration and the people involved in that debate (Guidelines, para. 8 (a))

29. In the spring of 2002, the Federal Council submitted to the Legal Affairs Commission of the Council of States a draft federal decree recommending ratification of the Protocol and the raising of the age at which soldiers may volunteer for the Swiss armed forces to 18. The Commission unanimously recommended that the Council of States should take up the draft and adopt the federal decree concerning the Protocol. The decision to take up the proposal was unopposed and the federal decree adopted unanimously by the Council of States.

30. The Legal Affairs Commission of the National Council, in its turn, considered the draft federal decree recommending ratification of the Protocol and adoption of the declaration, during the summer session 2002. The Commission unanimously endorsed the Federal Council's draft and recommended that the National Council should adopt the decree of the Federal Council. The decision to take up the proposal was unopposed and the federal decree was adopted unanimously by the National Council.

31. The following are some of the reasons why Switzerland raised the minimum age for voluntary recruitment to 18. Switzerland takes the view that, since the Convention on the Rights of the Child defines the child as anyone below the age of 18, all children must be protected, which means not enlisting children even if they volunteer. The raising of the recruitment age to 18 is thus in line with Switzerland's general policy on human rights and international humanitarian law. Moreover, by its declaration accepting a recruitment age of 18, Switzerland has made clear that it wishes to provide effective protection in practice to children in armed conflicts and thereby work for the prohibition of child recruitment everywhere in the world. Switzerland also believes it is in its own interest not to recruit young people who are still immature. Enlisting only persons who are of age means all are subject to criminal law and military criminal law.

Minimum age of entry into schools operated by or under the control of the armed forces (Guidelines, para. 10 (a))

32. Switzerland has no schools operated by or under the control of the armed forces within the meaning of article 3, paragraph 5, of the Protocol. The Swiss recruit training school does not pursue the full range of educational aims referred to and is therefore not covered by the exemption from the minimum age rule.

4. Article 4: Armed groups

Armed groups operating on/from the territory of the State party or with sanctuary on its territory (Guidelines, para. 11 (a))

33. There are no armed groups operating on Swiss territory and there is no child recruitment on Swiss territory.

Adoption of legal measures which aim at prohibiting and criminalizing the recruitment and use in hostilities of children under the age of 18 by armed groups, and the relevant judicial decisions (Guidelines, para. 11 (f))

34. Under article 4, paragraph 2, of the Protocol, States parties shall take all feasible measures to prevent the recruitment and use of persons by armed groups, including the adoption of legal measures necessary to prohibit and criminalize such practices. The relevant provisions within the Swiss criminal law system that may be applicable should such a situation arise in Switzerland are described below.

35. Armed groups engaging in recruitment in Switzerland within the meaning of the Protocol would be covered by article 271 of the Swiss Criminal Code, which states that any person engaging on Swiss territory, without authorization and on behalf of a foreign State, in acts that are the prerogative of the Government shall be liable to ordinary imprisonment or, in serious cases, rigorous imprisonment (para. 1). Similar acts carried out on behalf of a foreign political party or other foreign organization are also punishable (para. 2). A foreign organization within the meaning of this provision denotes, for example, a group of people pursuing a common political objective, such as a separatist or semi-State group fighting for power or independence. Article 129 of the Criminal Code, which makes it a criminal offence to put others at imminent risk of their lives, would cover cases of child soldiers participating directly in hostilities, but would not penalize mere recruitment, which does not in itself involve putting people at imminent risk of their lives. Articles 180 ff. of the Criminal Code, which cover crimes and offences against liberty of the person, would also cover cases of forced recruitment. In cases of abduction, *inter alia* (Criminal Code, art. 183), children would be protected by a special provision making the perpetrator liable to punishment even where the victim consented. Thus anyone recruiting children against their will and using them in an armed conflict would be guilty of a violation of articles 180 ff. of the Criminal Code. Articles 299 and 300 of the Code, on violation of foreign sovereign territory and acts of hostility against a foreign belligerent or troops, would also cover acts aimed at violent disruption of the political order of a foreign State from within Swiss territory. Consequently, they would also be applicable to groups recruiting children in Switzerland for armed conflict abroad.

36. Various provisions of the Military Criminal Code¹⁶ may also be applicable, in particular article 109, which establishes penalties for anyone violating international conventions on the conduct of warfare or the protection of persons and property, or who violates other recognized laws and practices of war. Article 109 also applies to civilians (Military Criminal Code, art. 2, para. 9), albeit only in time of war. The Military Criminal Code also contains provisions modelled on the provisions of the Criminal Code mentioned above, and which could thus be applied in certain cases to recruitment in Switzerland.¹⁷ Although the Military Criminal Code does not include any provision analogous to article 271 of the Criminal Code, nevertheless, under article 7 of the Military Criminal Code, anyone subject to military criminal law also remains subject to ordinary criminal law for offences not covered by the Military Criminal Code.

37. In cases where children are recruited and used in hostilities within Switzerland by Swiss armed groups, the second Additional Protocol to the Geneva Conventions would cover children up to 15 years of age. Such an act would also - regardless of the age of the enlisted person - be covered by the criminal provisions of titles 12 and 13 of the Criminal Code (crimes or offences against public order and crimes or offences against the State and national defence, respectively),

and in particular articles 260 (riot), 265 (high treason), 266 (offences against the independence of the Confederation), and 275 (offences against the Constitution); and also by the provisions of title 1 of the Criminal Code (crimes and offences against life or physical integrity). However, the criminal justice authorities have never encountered criminal recruitment or other such acts by armed groups, and Switzerland has no information or indication that armed groups or foreign States are recruiting children on Swiss territory in violation of article 271 of the Criminal Code.

5. Article 5: Application of Swiss law, international instruments and international humanitarian law

Provisions of Swiss legislation or of international instruments and international humanitarian law applicable in Switzerland which are more conducive to the realization of the rights of the child; and status of ratification by Switzerland of the main international instruments concerning children in armed conflict (Guidelines, para. 12)

38. At the national level, the Federal Constitution and numerous legislative texts guarantee children's rights in the various areas of life.

39. In the first place, the Federal Constitution contains a number of provisions specifically concerning children: the section on fundamental rights contains a special provision on the protection of children and young people (art. 11); article 41, in the section on social objectives, provides that the Confederation shall promote the training of young people and assist in their social, cultural and political integration; while under article 67, the Confederation and the cantons should, when fulfilling their tasks, take into account the special needs of children and young people for development and protection.

40. There are also numerous federal Acts which provide specific protection to children, including the following:

- The Swiss Civil Code of 10 December 1907: chiefly in the areas of divorce, marriage in general, permanent residence and filiation;
- The Swiss Criminal Code of 21 December 1937: specific provisions relating to children and adolescents. On 20 June 2003, Parliament adopted the Federal Act on the Criminal Status of Minors. Once this Act has entered into force - in principle in 2006 - juvenile criminal law will be the subject of special legislation, which should enable Switzerland to withdraw its reservations to articles 37, paragraph (c), and 40, paragraph 2 (b) (ii), of the Convention;
- The Federal Act on Work in Industry, Crafts and Commerce, of 13 March 1964,¹⁸ and its implementing ordinance No. 1,¹⁹ protect the health and safety of children and young workers (up to the age of 19 or, for apprentices, 20). Ordinance No. 5, devoted exclusively to such protection, is currently in preparation;
- The Federal Act on Assistance to Victims of Offences, of 4 October 1991,²⁰ the purpose of which is to provide effective support to victims of offences and which contains special provisions on the protection of children's personality in criminal proceedings (art. 10, paras. (a)-(d));

- The Federal Asylum Act of 26 June 1998 ²¹ - in particular articles 51, 63, 71 and 78 - and Asylum Ordinance No. 1 ²² - in particular articles 7 and 38 - include special provisions for minors and improvements to their situation within the asylum procedure in general.

41. Among the international human rights and humanitarian law instruments applicable in Switzerland which are more conducive to the realization of the rights of child than the provisions of the Protocol, the following may be mentioned:

- Convention on the Rights of the Child (20 November 1989), ratified 24 February 1997;
- Convention for the Protection of Human Rights and Fundamental Freedoms (4 November 1950), ratified 28 November 1974;
- International Covenant on Economic, Social and Cultural Rights (16 December 1966), ratified 18 June 1992;
- International Covenant on Civil and Political Rights (16 December 1966), ratified 18 June 1992;
- Convention on the Elimination of All Forms of Discrimination against Women (18 December 1979), ratified 23 March 1997;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (10 December 1984), ratified 2 December 1986;
- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (10 October 1980), ratified 20 August 1982;
- Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996 (Protocol II to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects), ratified 24 March 1998;
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (18 September 1997), ratified 24 March 1998;
- ILO Convention concerning Minimum Age for Admission to Employment (Convention No. 138) (26 June 1973), ratified 17 August 1999;
- ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention No. 182) (17 June 1999), ratified 28 June 2000;

- Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (29 May 1993), ratified 24 September 2002;
- Geneva Convention of 12 August 1949 relative to the Protection of Civilian Persons in Time of War, ratified 31 March 1950;
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), ratified 8 June 1977;
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), ratified 8 June 1977;
- Rome Statute of the International Criminal Court (17 July 1998), ratified 12 October 2001.

6. Article 6: Measures of implementation

Measures adopted by Switzerland to ensure the effective implementation and enforcement of the provisions of the Protocol (Guidelines, para. 13)

(a) Any review of domestic legislation and amendments introduced

42. All Swiss legislation now complies with the obligations contained in the Protocol. Shortly before Switzerland ratified the Protocol, the Swiss army was completely overhauled, in a project known as “Army XXI”. This reform included raising the minimum age for voluntary enlistment to 18, a provision that goes beyond the requirements of the Protocol.

(b) Legal status of the Protocol in national law and its applicability before domestic jurisdictions

43. Please see paragraph 9, above.

(c) Governmental departments or bodies responsible for the implementation of the Protocol and their coordination with regional and local authorities, as well as with civil society

44. The provisions of the Protocol address on the one hand the procedure for recruiting soldiers into the army and on the other international cooperation in the rehabilitation and social reintegration of persons who are victims of acts contrary to the Protocol. In Switzerland, responsibility for raising an army rests with the Confederation (Constitution, art. 58, para. 4), as does responsibility for foreign affairs (Constitution, art. 54, para. 1). The federal departments and offices responsible for implementation of the Protocol are as follows.

45. The Federal Department of Foreign Affairs, which deals with matters relating to children at the international level; and within that Department:

- The Directorate for International Public Law, which deals with legal aspects of the rights of the child; in particular, it is responsible for drafting the reports on the Convention on the Rights of the Child and its Optional Protocols;
- Political Division IV, which draws up foreign policy in the area of children's rights and promotes it in bilateral and multilateral forums;
- The Agency for Development and Cooperation is responsible for development cooperation and humanitarian assistance. The Agency provides strategic and financial support to several multilateral and non-governmental organizations that work in the area of development and protection of children and, with Agency support, participate in efforts to combat the recruitment of child soldiers in armed conflicts, either directly (programmes targeting child soldiers) or indirectly (prevention; well-being and development of the child).

46. The Federal Department of Home Affairs is responsible for coordinating the implementation of the Convention on the Rights of the Child within Switzerland. A post to deal with Convention-related issues was created in 1998: the incumbent's duties consist chiefly in publicizing the Convention and promoting its application at the national level. Information, awareness-raising and child rights training initiatives have been and continue to be taken. In addition, the Department has an annual budget of Sw F 175,000 for child-rights-related projects and initiatives and publishes a review entitled *Politique de l'enfant actu* jointly with the Pro Juventute trust; it also provides financial support to the *Bulletin suisse des droits de l'enfant*, published by the Swiss NGO Defence for Children International. In part, through its Coordinating Service on Family Issues, the Department also awards annual grants to organizations working in the areas of the family and child protection at the national level. The Service also performs various coordinating functions in the area of child protection. Among other things, it provides information on assistance and training opportunities, coordinates research and supports child abuse prevention projects. It is also responsible for scrutinizing draft legislation affecting children and coordinating the various services of the federal administration. Since 1996 the Service has had an annual budget (Sw F 340,000 in 2004) for the funding of child abuse prevention projects.

47. The Youth Service of the Federal Department of Home Affairs and the Federal Commission for Children and Youth are also active in the area of children's rights, and particularly youth involvement.

48. The Federal Department for Defence, Civil Protection and Sports is responsible for the implementation of the Protocol at the national level. Various bodies and authorities are involved in recruitment, and this ensures that international rules prohibiting the recruitment of minors are observed. The recruitment authorities, whose task is to ensure full compliance with the law in the recruitment procedure, operate under the Department's aegis, but are effectively decentralized. Within the Department, the service for international relations on defence (international law on armed conflicts) is responsible for training at the national level and legal

matters at the international level. Lastly, in the event of non-compliance with the provisions of the Military Criminal Code, military justice would be invoked, as an independent authority.

49. In November 2003, the leading child rights NGOs working in Switzerland set up Child Rights Network Switzerland, an initiative of UNICEF Switzerland, Pro Juventute, Pro Familia, Coordination suisse des droits de l'enfant and the Association suisse pour les droits de l'enfant. The aims of the network, which now embraces around 40 organizations, include encouraging the provision of information on, and implementation of, the Convention on the Rights of the Child, and promoting children's rights and policy on children at the national level.

(d) Mechanisms and means used for monitoring and periodically evaluating the implementation of the Optional Protocol

50. In Switzerland, violations of any international convention ratified by Switzerland may be challenged in the courts, as long as the provision in question is directly applicable. For the general legal framework within which human rights are protected and the remedies available to those claiming violations of their rights, please see core document HRI/CORE/1/Add.29/Rev.1, paragraphs 42 ff.

(e) Measures adopted to ensure the training of peacekeeping personnel on the rights of the child, including the provisions of the Optional Protocol

51. Every soldier acquires a basic grounding in international humanitarian law and children's rights during training provided at the various stages of Swiss military service (officer training, recruit training school, etc). The Swiss peacekeeping forces are given a special introduction to the relevant rights from the legal counsellor of Swisscoy.

52. In December 2000, the Federal Council instructed the Federal Department of Foreign Affairs to establish a Swiss pool of civilian peace specialists, a decision that reflects Switzerland's desire to speedily dispatch qualified civilian personnel on peace missions and to step up its participation in international peacebuilding missions. The Department of Foreign Affairs is responsible for recruiting and training civilian peace specialists; human rights and, in particular, the rights and special needs of children in armed conflicts are an integral part of the training programme. Swiss experts working for civilian peacebuilding are thus very familiar with the provisions of the Protocol.

(f) Dissemination in all relevant languages of the Optional Protocol to all children and adults, notably those responsible for military recruitment, and the training offered to all professional groups working with and for children

53. Those responsible for military recruitment are qualified in basic and further officer training in international humanitarian law and human rights.

54. The Confederation provides support, in the form of financial assistance, to children's NGOs which organize activities, meetings and events highlighting children's aspirations and rights. Such events are the ideal showcase for the principles and content of the Convention. A number of them - some financially supported by the Federal Department of Home Affairs - are organized to mark Children's Rights Day on 20 November each year.

55. The reviews and bulletins regularly issued by the various federal offices are also an effective means of publicizing the Convention, for they reach a very wide audience beyond federal government circles. Examples are *Questions familiales* (French and German), the information bulletin of the Coordinating Service on Family Issues and the review *Politique de l'enfance actu* (French and German) mentioned above.

56. The work of Swiss NGOs on raising awareness of children's rights - including, where necessary, the issue of child soldiers - and information provision in general have been coordinated since November 2003 by the Child Rights Network Switzerland (see above, paragraph 49). UNICEF Switzerland has published several documents in recent years: a leaflet entitled *Kinder im Krieg* (French/German, 2001); *Krieg und Krisen bedrohen Kinde - Die Stille nach dem Sturm*, issue No. 2/2000 of UNICEF Switzerland's magazine (German); and *Kinder beraubt um ihre Kindheit: Wenn Kinder als Soldaten missbraucht werden*, issue No. 1/2003 of UNICEF Switzerland's magazine (German). Another NGO, the International Federation Terre des Hommes, based in Geneva, has also been active on a number of fronts in this area. As a member of the Coalition to Stop the Use of Child Soldiers, it distributes press releases in French to the Swiss press in order to raise awareness of the issue of child soldiers abroad and draw attention to the suffering they endure. In February 2003, for example, it put out a communiqué to mark the first anniversary of the Protocol's entry into force. Terre des Hommes also participated in the whole process of drafting the Protocol at the United Nations.

57. One of the most effective media is the Internet, and most NGOs disseminate information on children's rights by this means, in addition to the specialist articles they publish in their periodicals. The web site of Menschenrechte Schweiz (MERS)²³ provides an overview of the various international and regional human rights instruments and information regarding their implementation in Switzerland and on Swiss human rights policy.

58. The International Institute for the Rights of the Child (IDE), in Sion, in cooperation with the University of Fribourg, organizes child rights awareness-raising courses and special training courses. It bases its work on the Convention on the Rights of the Child and the main international instruments relating to children's rights in the areas of criminal law (juvenile justice), civil law (intercountry adoption, Hague Convention), labour law (ILO Convention No. 182), sexual exploitation and children's participation in conflicts (Optional Protocols to the Convention on the Rights of the Child).

59. At the cantonal and communal levels, the youth commissions and "Youth parliaments" play a vital role. They constitute excellent channels for publicizing and implementing the rights of the child.

60. The text of the Protocol and the 5 September 2001 message from the Federal Council on the Protocol have been produced in three languages (French, German and Italian) and are available on the Confederation's web site.²⁴

61. This report will itself be published in French, German and Italian and will thus be available to a wide audience. All recent State human rights reports are in fact available on the official Internet site of the Directorate for International Public Law,²⁵ which allows the widest possible dissemination.

7. Article 7: International cooperation

Information on cooperation in the implementation of the Protocol, including through technical cooperation and financial assistance, and description of multilateral, bilateral or other programmes (Guidelines, para. 15)

62. Action by Switzerland to promote implementation of the Protocol takes place at several levels.

63. At the political level, Switzerland calls for ratification of the Protocol without reservations, both in bilateral encounters and in multilateral forums such as the United Nations General Assembly and Commission on Human Rights, and the Organization for Security and Cooperation in Europe (OSCE), and advocates an approach based on law. Switzerland has for several years made efforts to encourage OSCE to pay particular attention to the protection of children's rights, including in the context of armed conflicts, and has launched and participated in many initiatives and measures in that regard. As a member of the Human Security Network, Switzerland subscribes to the Support Strategy for Children Affected by Armed Conflict adopted in May 2003 by the member States.²⁶

64. Many of Switzerland's programmes aim to improve the living conditions and educational level of children and their social milieu, and consequently have an indirect bearing on specific aspects of the problem of child soldiers. Switzerland provides financial assistance to Swiss NGOs and NGOs operating in war zones and running programmes and projects for children.

65. In 2003, Switzerland contributed some Sw F 10.5 million to improving the living standards of children around the world, of which Sw F 9 million was donated to Swiss NGOs working with children's rights. Part of this contribution goes to a specially devised programme to help children involved in the conflicts in Burundi. Contributions are also made to local organizations, including in the humanitarian arena.

66. Switzerland makes every effort to integrate children's rights and the issue of child soldiers into its civilian peace promotion programmes. For example, it supports Radio Okapi in the Democratic Republic of the Congo, a joint project by the United Nations Mission in the Democratic Republic of the Congo (MONUC) and the Swiss Fondation Hironnelle, which has made a major contribution to informing and raising awareness of the issue of child soldiers among the Congolese population.

67. In the humanitarian field, Switzerland supports and works closely with several multilateral organizations directly or indirectly involved with the problem of child soldiers. UNICEF is particularly active in this area, and Switzerland's general contribution to that organization was Sw F 18 million in 2003. As a member of the Executive Board, Switzerland is also involved in devising UNICEF's overall strategies. In the area of multilateral humanitarian cooperation, Switzerland provides financial support to numerous international organizations and works closely with the International Committee of the Red Cross (ICRC) and the Office of the United Nations High Commissioner for Refugees (UNHCR), which are also working to address the problem of child soldiers.

68. Switzerland has entered into a dialogue with the office of the Special Representative of the Secretary-General for Children and Armed Conflict with a view to encouraging and supporting the Special Representative's work for child victims of conflicts. In 2002, Switzerland donated US\$ 150,000 to support the Special Representative's work.

69. Switzerland also backs the work of NGOs involved with child soldiers and children in armed conflicts (mobilizing public opinion, research, local and regional network-building and capacity-building). In 2003 it supported the Coalition to Stop the Use of Child Soldiers, the Watch List on Children and Armed Conflict and the Quakers, donating a total of Sw F 120,000.

Notes

¹ RS 0.107.1, http://www.admin.ch/ch/f/rs/c0_107_1.html. All references to this site are in the French-language version.

² HRI/CORE/1/Add.29/Rev.1.

³ Date of entry into force of the Ordinance on the Recruitment of Conscripts of 16 April 2002.

⁴ Network of around 40 Swiss child rights NGOs.

⁵ <http://www.dv.admin.ch>.

⁶ RS 210, <http://www.admin.ch/ch/f/rs/c210.html>.

⁷ See Federal Council report on foreign policy 2000, dated 15 November 2000, FF 2001 237, 243s., <http://www.admin.ch/ch/f/ff/2001/237.pdf> or <http://www.eda.admin.ch/eda/f/home/recent/rep/forpol.html>.

⁸ RS 101, <http://www.admin.ch/ch/f/rs/c101.html>.

⁹ ATF 121 II 198 E. 4a, p. 204.

¹⁰ RS 311.0, http://www.admin.ch/ch/f/rs/c311_0.html.

¹¹ Federal Act of 22 March 1974 on administrative criminal law (arts. 19-31), RS 313.0, http://www.admin.ch/ch/f/rs/313_0/index.html; Federal Act of 23 March 1979 on military criminal procedure, RS 322.1, http://www.admin.ch/ch/f/rs/c322_1.html; Federal Act of 15 June 1934 on criminal procedure, RS 312.0, http://www.admin.ch/ch/f/rs/c312_0.html.

¹² Paras. 60-132; http://www.dv.admin.ch/sub_dipl/f/home/arti/report/rapun/child.html.

¹³ RS 510.10, http://www.admin.ch/ch/f/rs/c510_10.html.

¹⁴ RS 511.11, http://www.admin.ch/ch/f/rs/c511_11.html.

¹⁵ OREC, art. 6.

¹⁶ RS 321.0, http://www.admin.ch/ch/f/rs/c321_0.html.

¹⁷ CPM, arts. 92, 149, 150 and 151 (a).

¹⁸ RS 822.11, http://www.admin.ch/ch/f/rs/c822_11.html.

¹⁹ RS 822.111, http://www.admin.ch/ch/f/rs/c822_111.html.

²⁰ RS 312.5, http://www.admin.ch/ch/f/rs/c312_5.html.

²¹ RS 142.31, http://www.admin.ch/ch/f/rs/c142_31.html.

²² RS 142.311, http://www.admin.ch/ch/f/rs/c142_311.html.

²³ <http://www.humanrights.ch>. This web site is mainly in German.

²⁴ For the message, see <http://www.admin.ch/ch/f/ff/2001/5977.pdf>; for the text of the Protocol, see <http://www.admin.ch/ch/f/ff/2001/6007.pdf>.

²⁵ www.eda.admin.ch/sub_dipl/f/home/arti/report.html, then click “Publications”, then “Reports”.

²⁶ <http://www.humansecuritynetwork.org/docs/9may2003-f.php>.

Annex

MAIN ABBREVIATIONS

ATF	Arrêt du Tribunal Fédéral (Decision of the Federal Court)
CPM	Military Criminal Code
IDE	International Institute for the Rights of the Child
ILO	International Labour Organization
LAAM	Federal Act concerning the Army and Military Administration (LAAM)
LAVI	Federal Act concerning Assistance to Victims of Offences of 4 October 1991
NGO	Non-governmental organization
OREC	Ordinance on the Recruitment of Conscripts
OSCE	Organization for Security and Cooperation in Europe
RS	Recueil systématique du droit fédéral (Systematic compendium of federal law)
