



Submission by Human Rights Watch to the Committee on the Rights of the Child on Switzerland

84th pre-sessional, 2019

This submission focuses on the protection of students, teachers, and schools during armed conflict and immigration detention of children.

Protection of Education During Armed Conflict (article 28)

The Safe Schools Declaration is an inter-governmental political commitment that provides countries the opportunity to express political support for the protection of students, teachers, and schools during times of armed conflict¹; the importance of the continuation of education during armed conflict; and the implementation of the *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict*.² Switzerland endorsed the declaration in May 2015.

The Swiss Armed Forces recently finalized an addition to their manual on the legal principles applicable in military operations (“Rechtliche Grundlagen für das Verhalten im Einsatz”), that incorporates new explicit protections for schools and universities from military use, reflecting their commitments upon endorsing the Safe Schools Declaration. The revision entered into force on May 1, 2019.

In the chapter on the law of armed conflict, the manual now states:

Particular caution is required regarding educational institutions. Their destruction can bring particularly serious disadvantages for a people and the future of a country. Schools are also home to many children who

¹ Safe Schools Declaration, May 28, 2015, https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/utvikling/safe_schools_declaration.pdf (accessed November 6, 2018).

² Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict, March 18, 2014, http://protectingeducation.org/sites/default/files/documents/guidelines_en.pdf (accessed November 6, 2018).

are to be protected because of their vulnerability, while universities and other higher education establishments regularly house or display significant cultural assets. Educational institutions must therefore be accorded special importance in the context of precautionary measures and proportionality. Their military use is to be avoided.

Human Rights Watch recommends that the Committee:

- Congratulate Switzerland on their recent addition to the Swiss Armed Forces manual recognizing the importance of protecting educational institutions during armed conflicts, including from their use for military purposes.
- Encourage Switzerland to share their good practices with other countries or any top humanitarian aid or development assistance recipients who have endorsed the declaration.

Immigration Detention of Children (article 37)

In Switzerland, youths between 15 and 18 years of age can be detained under the provisions of the law on foreign nationals as is specified in the Foreign Nationals Act.

Terre Des Hommes published a report in 2016 that found that while Swiss federal law forbids immigration detention of children under the age of 15, the detention of children between the ages of 15 to 18 years for migration-related reasons appears to be widespread across the Swiss Confederation, with 142 children of these ages reportedly detained in 2015.³ Further, according to a report from June 2018 by the National Council Control Committee (CC-N), even youths who are not yet 15 are detained for migration-related reasons in some cantons.⁴

Human Rights Watch recommends that the Committee:

- Call on the Swiss Confederation to amend the Foreign Nationals Act to provide that no children under the age of 18 are detained because of their migration status, in line with the guidance of this Committee and the Committee on Migrant Workers in their Joint General Comment No. 4/23.

³ "Illegal detention of migrant children in Switzerland: a status report," Terre De Hommes, June 2016, https://www.tdh.ch/sites/default/files/tdh_plaidoyer-ch_en_web_0.pdf

⁴ "Administrativhaft im Asylbereich Bericht der Geschäftsprüfungskommission des Nationalrates," 26. Juni 2018, <https://www.parlament.ch/centers/documents/de/bericht-gpk-n-admin-haft-asylbereich-2018-06-26-d.pdf>