**Recommendations by UN human rights mechanisms concerning the rights of persons with disabilities with respect to Switzerland**

**Main issues raised by TBs:**

* Pending ratification of the Optional Protocol to the CRPD
* Discrimination of persons with disabilities, including children with disabilities, in particular autistic children
* Prohibition of solitary confinement in high security facilities applied to persons with a psychosocial disability
* Need for comprehensive and disaggregated data collection, including on children with disabilities
* Institutionalisation of children
* Ill-treatment of children with disabilities, including through “packing”
* Inclusive education: insufficient implementation and resources allocated
* Early intervention and early developmental programs for children with disabilities

Concluding observations of the CEDAW Committee, 2016

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Concluding observations of the CAT Committee, [CAT/C/CHE/CO/7](http://daccess-ods.un.org/access.nsf/Get?Open&DS=CAT/C/CHE/CO/7&Lang=E), 2015

Prison conditions

19. The Committee is concerned about overcrowding at Champ-Dollon prison, which prompted the Federal Tribunal to confirm in 2014 that detention conditions in that prison could amount to degrading treatment. The Committee also notes with concern that ethnic tensions between prisoners in the prison led to three days of clashes in February 2014 that left 26 prisoners and 8 wardens injured. As to pretrial detention, the Committee notes the State party’s undertaking to apply a less restrictive prison regime to those awaiting trial. However, it remains concerned that strict separation between women and men is not yet guaranteed at Champ-Dollon, and that the same applies to the separation between minors and adults in most regional prisons, where children are not adequately catered for. As to prisoners’ access to health care, while the Committee takes note of the forthcoming Swiss Prison Health Board report, it urges the State party to resolve the issue of unequal access to health care in the different cantons, particularly in respect of persons with mental disorders. In this respect, the Committee agrees with the conclusions of the National Commission for the Prevention of Torture regarding solitary confinement for persons with mental **disabilities**, with no possibility of therapy, in high security facilities. Lastly, the Committee notes with concern that, according to an evaluation by the Federal Tribunal in July 2014, the physical conditions of police detention in the canton of Vaud amount to degrading treatment given the unreasonable length of detention (arts. 11 and 16).

The Committee recommends that the State party pursue its efforts to improve prison conditions as a matter of urgency, in accordance with the recommendations of the National Commission for the Prevention of Torture, and, in particular, that it:

(a) Be more persistent in its attempts to reduce prison overcrowding at Champ-Dollon, in particular by increasing the use of alternatives to custodial sentences, such as community service, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);

(b) Honour its commitment to modify the regime for pretrial detainees to reflect their status as unconvicted persons;

(c) Take the necessary steps to guarantee strict separation and appropriate treatment for adults and minors, and for men and women;

(d) Improve the physical conditions of detention in police stations in the canton of Vaud and ensure the strict application of the maximum duration of police custody;

(e) Make thorough and impartial inquiries into all acts of violence committed in prison facilities and continue its efforts at prevention of violence in Champ-Dollon;

(f) Ensure that solitary confinement in high security facilities is never applied to persons with a psychosocial **disability**;

(g) Ensure that therapeutic treatment in appropriate facilities is guaranteed in all cantons.

Other issues

23. The Committee invites the State party to consider expediting the process of ratifying the core United Nations human rights treaties to which it is not yet a party, namely the:

…

(f) Optional Protocol to the Convention on the Rights of **Persons with disabilities**.

Concluding observations of the CRC Committee, [CRC/C/CHE/CO/2-4](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fCHE%2fCO%2f2-4%20ADVANCE%20UNEDITED%20VERSION&Lang=en), 2015

3. The Committee notes with appreciation the ratification of or accession to, inter alia:

* The Convention on the Rights of **Persons with disabilities**, in April 2014;

4. The Committee welcomes the entry into force of the following legislative measures, inter alia:

* The Federal Act on the Elimination of Discrimination against People with **Disabilities**, as on 1 January 2004.

5. The Committee also welcomes the following institutional and policy measures, inter alia:

* The National Programme on HIV and Other Sexually Transmitted Infections (2011-2017);
* The Swiss Centre of Expertise in Human Rights, established in 2010;
* The Federal Bureau for the Equality of People with **Disabilities**, established in 2004.

Data collection

16. While noting the existence of various data collection systems, the Committee regrets that there is no comprehensive system for collecting data in the State party and that reliable, disaggregated data on important areas of the Convention, in particular concerning groups of children in vulnerable and marginalized situations, are not available.

17. In the light of its general comment No. 5 (2003) on general measures of implementation and in line with its previous recommendations (CRC/C/15/Add.182, para. 18), the Committee strongly recommends that the State party expeditiously improve its data collection system. The data should cover all areas of the Convention and should be disaggregated by, inter alia, age, sex, **disability**, geographic location, ethnic and national origin and socioeconomic background in order to facilitate analysis on the situation of all children, particularly those in situations of vulnerability. Furthermore, the Committee recommends that the data and indicators be used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention.

Non-discrimination

24. While welcoming the anti-discrimination measures adopted by the State party, particularly those aimed at promoting the integration of migrants, the Committee remains concerned that discrimination continues to be prevalent against children in marginalized and disadvantaged situations, including migrant, refugee and asylum-seeking children, **children with disabilities** and *sans papier* children. Moreover, the Committee is concerned about incidents of hate speech against LGBTI persons and the impact on children belonging to these groups, as well as that they do not enjoy the protection afforded by Article 261bis of the Criminal Code relating to racial discrimination.

25. The Committee recommends that the State party intensify its efforts to eliminate discrimination against children in marginalized and disadvantaged situations, in particular migrant, refugee and asylum-seeking children, **children with disabilities** and *sans papier* children. The Committee further recommends that the State party strengthen its efforts to foster a culture of tolerance and mutual respect and adopt comprehensive legislation against discrimination on the grounds of sexual orientation and gender identity and to include these grounds in Article 261bis of the Criminal Code.

Best interests of the child

27. In the light of its general comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee recommends that the State party ensure that this right is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings and decisions as well as in all policies, programmes and projects that are relevant to and have an impact on children. In this regard, the State party is encouraged to develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving it due weight as a primary consideration. Such procedures and criteria should be disseminated to courts of law, administrative authorities and legislative bodies, public and private social welfare institutions, as well as the public at large.

**Children with disabilities**

54. The Committee welcomes the entry into force of the Federal Act on the Elimination of Discrimination against **Persons with disabilities** and the adoption of the inter-cantonal agreement on cooperation in the area of specialized schooling. However, the Committee is concerned about:

(a) The lack of comprehensive data on **children with disabilities**, including children with autism spectrum disorders;

(b) Children are not adequately included in mainstream education in all cantons, and there are insufficient human and financial resources allocated to ensure the adequate functioning of the system of inclusive education in practice;

(c) The lack of sufficient early childhood education and care and inclusive vocational training opportunities for **children with disabilities**;

(d) Discrimination and segregation of children with autism spectrum disorders, especially in the canton of Geneva, in many aspects of their social life, including insufficient early childhood detection of autism spectrum, lack of intensive early developmental programmes, lack of access to mainstream education due notably to the absence of qualified professionals to provide specialised support to these children in mainstream schools, and insufficient training of professionals to deal with children with autism spectrum disorder;

(e) Reports that children with autism spectrum disorders, especially in the canton of Geneva, are subjected to inadequate treatments, such as the “packing” technique (wrapping the child in cold, wet sheets), which amount to ill-treatment; and

(f) Lack of information on measures taken to prevent the placement of **children with disabilities** in psychiatric units and ensure that these children are not arbitrarily deprived of their right to be visited by their parents.

55. In the light of its general comment No. 9 (2006) on the rights of **children with disabilities**, the Committee urges the State party to adopt a human rights-based approach to **disability** and specifically recommends that it:

(a) Collect and analyse data on the situation of all **children with disabilities**, disaggregated by, inter alia, age, sex, type of **disability**, ethnic and national origin, geographic location and socioeconomic background;

(b) Strengthen its efforts to ensure State-wide inclusive education without discrimination, including through allocation of necessary resources, adequate training of professionals and clear guidance being given to cantons that still apply a segregated approach;

(c) Promote inclusion rather than integration;

(d) Ensure that **children with disabilities** have access to early childhood education and care, early development programmes and inclusive vocational training opportunities in all cantons;

(e) Address the specific needs of children with autism spectrum disorders in all cantons, and in particular ensure that they are fully integrated into all areas of social life, including recreational and cultural activities, ensure inclusive education adapted to their needs is given priority over special schooling and day-care, set up mechanisms for early detection, provide adequate training of professionals and ensure that they effectively benefit from early development programmes which are based on scientific knowledge;

(f) Legally prohibit the practice of “packing” of children and take the necessary measures to ensure that children with autism spectrum disorders are treated with dignity and respect and benefit from effective protection;

(g) Take all necessary measures to prevent that **children with disabilities** are placed in psychiatric units and ensure that these children are not arbitrarily deprived of their right to be visited by their parents.

Mental health

60. The Committee is concerned about the excessive diagnoses of Attention Deficit Hyperactivity Disorder (ADHD) or Attention Deficit Disorder (ADD) and the ensuing increase in the prescription of psycho-stimulants to children, in particular methylphenidate, despite growing evidence of harmful effects of these drugs, and reports of children being threatened with expulsion from school if parents do not accept treatment with psycho-stimulant drugs.

61. The Committee recommends that the State party:

(a) Carry out research on non-drug approaches to the diagnosis and treatment of ADHD and ADD;

(b) Ensure that relevant health authorities determine the root causes of inattention in the classroom and improve the diagnosis of mental health problems among children;

(c) Strengthen the support to families, including access to psychological counselling and emotional support, and ensure that children, parents, teachers and other professionals working with and for children are provided with adequate information on ADHD and ADD; and

(d) Take the necessary measures to prevent any pressure on children and parents to accept treatment with psycho-stimulant drugs.

Concluding observations of the CESCR Committee, [E/C.12/CHE/CO/2-3](http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmlBEDzFEovLCuW%2bALqOml1btoJd4YxREVF2XSAk769%2fl3br4CyaryWlJVKsmkTQ1m4jqpUCb7SM0k6YULB5tdcAyEs7tPhi0uKj0pKQQvxVbPX%2fbBVVWtYx5n), 2010

7. The Committee is concerned that despite article 8 of the Constitution that prohibits discrimination, as well as the provisions against discrimination in the legislation of the State party, individuals and groups such as migrants, undocumented persons, and **persons with disabilities**, continue to suffer discrimination in the enjoyment of Covenant rights. The Committee notes that only some cantons have enacted anti-discrimination laws, and is concerned about the lack of a comprehensive anti-discrimination law to prevent and combat discrimination in all the prohibited grounds. (art. 2).

The Committee recommends that the State party enforce effectively its laws prohibiting discrimination. It also recommends that the State party consider adopting a comprehensive anti-discrimination law enforced uniformly throughout the Confederation. In this regard, the Committee draws the attention of the State party to its General Comment No. 20 (2008) on non-discrimination in economic, social and cultural rights.

Concluding observations of the CEDAW Committee, [CEDAW/C/CHE/CO/3](http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsoVqDbaslinb8oXgzpEhivigtPlTFYv3VbFE04zme%2fYZ2MwfF%2fNzINgDk9vOIbpeIk717dJmgzGQ37bpE5nRSNteTc8FQLxdFLQOSg32ODSb), 2009

Ratification of treaties

49. The Committee notes that adherence to the nine major international human rights instruments by States enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of Switzerland to ratify the treaties to which it is not yet a party, namely the Convention on the Rights of **Persons with disabilities** **and its Optional Protocol**, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.