

Written Statement

3 February 2021

For the Pre-Session Germany, 10 February 2021

Dear members of the Committee on the Rights of Child,

the balance 17 years after Germany's ratification of the Optional Protocol OPAC is disappointing, in view of the consequences for the children concerned one must even say catastrophic. The three central recommendations of the UN Committee on the Rights of the Child, which have been addressed to Germany in the Concluding Observations since the State Reporting Procedure 2008, are still not being implemented. The Children's Commission of the German Parliament has discussed and emphasized these recommendations of the UN Committee in 2016 and has directed even stronger and more demands to the German government, unanimously, with the votes of all members of the commission, including those of the government parties. But despite these strong statement of the parliamentary experts, despite continuous advocacy by civil society, also emphasizing the recommendations of the UN Committee – among others the German Coalition to Stop the Use of Child Soldiers (10 member organisations)¹, the Campaign "Never Under 18 – Stop the Recruitment of Minors for the Bundeswehr" (11 member organisations)², Child Soldiers International and the German Education And Science Union GEW – and sharp criticism by the opposition in the German Parliament, the German government, especially the responsible Defence Ministry and the Ministry for Family Affairs, are ignoring the concerns. The situation has even deteriorated further:

Instead of raising the recruitment age for soldiers to 18 years, as the Committee has been calling for since 2008, the number of under-age soldiers in the German army, the Bundeswehr, rose steadily until 2017, when it reached a peak of 2,128 under-age recruits (9% of all new recruits), and remained on a high level until 2019 (1,705 under-age recruits, 8,5%). In 2020, due to Corona, there was a strong overall decline of new recruits to the Bundeswehr, and therefore the number of underage recruits declined too, but still amounting to 1,148 (7%)³. This makes Germany one of few countries in the world whose armed forces still recruit under-age soldiers, while more than 150 countries comply with the so-called Straight 18 standard (no military recruitment under the age of 18). In the Bundeswehr, under-age soldiers are regularly affected by serious violations of children's rights, including scandals reported in the media like the Pfullendorf case involving sexual abuse and degrading initiation ceremonies.

Instead of stopping Bundeswehr advertising directed to minors, as the UN Committee has been calling for since 2008, new and more expensive advertising campaigns are constantly being launched, many of them in social media, including several You Tube-series⁴, or at trade fairs such as the computer games trade fair Gamescom and the youth trade fair YOU with a clearly under-age target group.

Instead of stopping arms exports at least to countries directly involved in serious human rights violations or armed conflicts, countries like Saudi Arabia, the United Arab Emirates, Egypt, Brazil, the Philippines or India continue to be among the largest recipients of German arms shipments (only due to the killing of the journalist Khashoggi German arms exports to Saudi-Arabia are largely suspended

¹ www.kindersoldaten.info

² www.unter18nie.de

³ <https://www.welt.de/politik/deutschland/article224477802/Bundeswehr-Zahl-der-neuen-Rekruten-stark-eingebrochen.html>

⁴ https://www.youtube.com/watch?v=Vo_1_pMR6hY

since 2018). Children in many countries have to fight with German weapons or fall victim to them. In general, the proportion of particularly problematic German arms deliveries to so-called “third countries” - neither NATO nor EU countries nor considered equivalent by the German government - has risen almost continuously in recent years, reaching a peak in 2017 with over 60% (worth 3.8 billion Euro) of all authorized arms exports, remaining on a high level with 44% (worth 3.5 billion Euro) in 2019 and rising again (in percentage) to more than 50% in 2020 (worth 2.9 billion Euro)⁵. Egypt, Qatar, Brazil and three other “third countries” are among the Top Ten receivers of German Arms in 2020.

The consequences for children are serious and well-known, for example:

Saudi-Arabia, the United Arab Emirates, Egypt and the other member states of the military coalition intervening in Yemen, are using German Rheinmetall-bombs and Tornado- and Eurofighter-planes to do unlawful bombings, often targeting hospitals, schools and other civilian targets⁶ – since 2015, at least 3,550 children were killed by this military coalition, as documented by the UN⁷. German war ships and patrol boats were used by the military coalition to do the unlawful sea blockade, leading to deadly food and medicament shortage in Yemen and the death of many children. And German guns like the Heckler & Koch G3 and G36 rifles are widely used on both sides of the conflict. As child soldiers are widely recruited on both sides, the potential consequences are obvious: they die by German guns or are forced to use them in battle. Since the early 2010s, the G36 assault rifle is even produced in Saudi-Arabia in large numbers in a production line licensed by the German government.

In Brazil, police and military are supplied with German weapons (pistols, guns, ammunition, helicopters,...), even though they are responsible for one of the highest rates of police violence in the world, killing more than 6300 people in 2019, including many children and youth⁸.

These facts are all known to the German government, discussed every year in parliament, by experts and civil society – but still not leading to new legislation or a shift in the arms export policy. The only positive change is the reduction of the officially registered licensed exports of small arms and light weapons (SALW) to “third countries” since 2018. But the government statistics are only covering a small part of the total SALW exports (between one fifth and one third) because they are using the narrow EU definition of SALW instead of the much broader UN definition that is obligatory to use following Arms Trade Treaty (ATT) Article 5(3). Germany is an ATT party and violating this obligation. Furthermore, the reduction of officially registered SALW exports is still not having a visible effect on the ground due to: 1. licensed German SALW production lines running in many countries – as the G36 rifle factory in Saudi Arabia, G3 rifle factories in at least 17 countries and many others 2. large exports of SALW from Germany to “third countries” in the years before 2018 and 3. large amounts of German SALW produced in branches of German arms industry around the world, mainly in the US, and exported to conflict and human rights violating countries from there.

Therefore, we would like to ask you, the members of the Committee on the Rights of the Child, to include more specific recommendations on arms exports in the Concluding Observations. This should include a stop by law of exports of arms, ammunition and related production facilities to

⁵ <https://www.bmwi.de/Redaktion/DE/Pressemitteilungen/2021/01/20210107-ruestungsexportpolitik-der-bundesregierung-im-jahr-2020-vorlaeufige-genehmigungszahlen.html>

⁶ <https://www.ecchr.eu/en/event/german-bombs-and-fighter-jets-for-the-war-in-yemen-whats-next-after-the-international-criminal-court-received-a-joint-communication/>

⁷ <https://www.securitycouncilreport.org/un-documents/document/s-2019-453-2.php>

⁸ <https://forumseguranca.org.br/anuario-brasileiro-seguranca-publica/>

conflict countries, to countries whose state organs are responsible for at least one of the six grave violations of children's rights in armed conflict and to countries with documented grave child rights violations by state organs (like police killings of children) – as also required by the EU Common Position on Arms Exports. Furthermore, there should be systematic control of the end use of exported German weapons and ammunition, fixed by law, as this is nearly never done at the moment (only 8 voluntary controls in recipient countries since 2015), leading to huge abuse and illegal re-exports. And, following the obligation of the ATT, the German government should use the UN definition of SALW, and should significantly improve transparency and information on arms exports in general. At the moment, even the related parliamentary bodies are only informed many months after the licensing decision has been taken and only very few and selected information is given.

In addition to the two recommendations of the Committee on the recruitment of minors to the Bundeswehr and Bundeswehr advertisement directed to minors, we would recommend to include three more recommendations on the issue: *First*, asking for the publication of data on soldiers that have entered the Bundeswehr as minors (like data on sexual abuse, accidents, mobbing, trauma and psychological problems, depression, suicide and suicide attempts, premature leave of the Bundeswehr). *Second*, asking for a set of protection measures for underage soldiers, like: accomodation separate from adults and separated by gender and other measures for protection from sexual abuse, exclusion from riskful and physically or psychologically highly challenging training like long marches or simulation of combat and child protection officers in each army unit with minors. *Third*, a set of measures to ensure that recruitment of minors is truly voluntary, like: the possibility to leave the military contract any time and with no negative consequences before the 18th birthday and the regular announcement and inclusion of this possibility in the contract, the formal signing of the military contract by the recruit after the 18th birthday (including the possibility not to sign) (their parents or legal guardian have previously signed on their behalf), the obligation to include information about the risks of being a soldier in advertisement material and counselling to avoid biased information, the obligation for the Bundeswehr to inform both parents and to invite them to counselling talks with minors and the obligatory signing of the military contract of minors by both parents.

In the last months, we have again received personal information of minor recruits and their parents, that further corroborate the picture of biased and manipulated counselling and recruitment of minors by the Bundeswehr, for example pressuring 16 year olds to sign long term military contracts immediately after the 17th birthday despite serious concerns of the parents, Bundeswehr counselling of minors without information or even against the will of parents and harsh punishments of minor recruits who fled from the army including weeks of detention in cells.

The Committee should emphasize, that the use of minors as soldiers or the danger of recruitment by state or non-state armed groups is a child-specific form of persecution as defined under Art. 1 (A) 2 and 1 (F) of the Geneva Convention relating to the Status of Refugees and therefore should lead to **protection and granted asylum** – independent of the type of armed group or if it is considered as terrorist organisation (as IS, Al-Shabab or the Taliban) or not.

In regard to **cases of detention of former child soldiers in Germany for alleged offenses as underage soldiers** belonging to so called terrorist groups, the Committee should make clear that former child soldiers should usually not be punished by law, following OPAC Article 6(3) and the Committee's General Comment No. 10 (2007), but instead should be assisted in dealing with their role as victim and perpetrator through therapy and transitional justice efforts.

By expanding the set of recommendations and making them more specific, the Committee would send a clear signal to the German government, that the ignoring of the previous Concluding Observations, the systematic violations of child rights and the deterioration of the situation is not acceptable and urgent government action is needed. We believe a strong signal from the UN is urgently needed for a shift in government thinking and activities.

Thank you for your important work and great commitment and your consideration of this information and the information included in the submitted studies “Shadow Report Child Soldiers” and “Small Arms in Small Hands – German Arms Exports Violating Children’s Rights”.

With best wishes, yours faithfully



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