

Ladies and Gentlemen,

I am pleased to have the opportunity to present to you the Periodic Report of the Federal Government of Germany with respect to the Optional Protocol on the Involvement of Children in Armed Conflict.

I would like to stress at the outset that, on the occasion of the presentation of the Report, the German Government has committed itself to broader publication and distribution of the Protocol. The Protocol had already been accessible to the public on the web site of the Foreign Office; however, it can now be more easily found on the web sites of the various Ministries concerned – as it should, it now figures more prominently on the web sites of both the Ministry of Justice and the Ministry for Family Affairs, Senior Citizens, Women and Youth. And it is published in German, of course! The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth is also preparing a new edition of the Federal Government's brochure on the Convention on the Rights of the Child, which has been designed especially for children and is provided to schools. This brochure will also deal with the Optional Protocol on the Involvement of Children in Armed Conflict. Furthermore, we have asked the German Institute for Human Rights, which is the independent national human rights institution in Germany, to focus on the Protocol in its programmes of human rights education.

I would like to comment on four topics today: Firstly, on the enlistment of minors into the German armed forces; secondly, on the German criminal provisions to combat compulsory recruitment; thirdly, on the preparation of German soldiers for the confrontation with child soldiers; and finally, on how we deal with former child soldiers who come to Germany as refugees.

So I will start with the issue of the enlistment of minors into the German armed forces.

As you will know, Germany has fixed the minimum age for voluntary enlistment in the armed forces at 17 years of age. The intention was to enable juveniles to join the *Bundeswehr* directly after leaving school if they wished, in order to avoid waiting periods during which the juveniles would be without a productive activity. On 14 January 2008, there were 472 soldiers aged 17 serving in the *Bundeswehr*, with 263 being temporary-career volunteers and 209 basic service conscripts.

On behalf of the German Government, the Federal Ministry of Defence has issued express instructions ensuring that soldiers under the age of 18 can under no circumstances be confronted with a situation in which they might use a weapon. They must not be deployed anywhere where there is a risk of armed conflict. Naturally, this also applies to deployment abroad. Furthermore, they are not used for guard duty (within Germany) either. Guard duty always involves carrying a weapon. Soldiers under the age of 18 only ever come in contact with weapons when they are under supervision, and that is exclusively during training sessions. Afterwards, they return the weapons. In the German armed forces, soldiers under the age of 18 serve exclusively for the purpose of training; armed deployment or any other deployment for the purpose of combat is clearly ruled out.

In this context, I would like to point out that the shadow report on our Periodic Report unfortunately depicts the legal situation of underage soldiers in a somewhat misleading manner that is not always quite accurate.

I can say in advance that we recently had a brief conversation with the NGOs and the author of the shadow report. During that conversation, the author of the shadow report assured me that he does not consider Germany to have violated its international obligations under Articles 1 and 2 of the Protocol.

Otherwise, there are only three more points that I would like to clarify.

Firstly, the minimum age of 17 is entrenched in the decree on military careers for all career categories. It is not based merely on the German Government's instructions annexed to the Report, as the shadow report assumes; rather, it is enshrined in a publicly accessible decree which has been published in the Federal Law Gazette.

Secondly: 17-year-old soldiers do have the opportunity to leave the service without giving any reasons. All temporary-career volunteers can make a so-called revocable declaration of enlistment when beginning their service. The effect of this is that they can withdraw at any time during the first six months of their service. Those completing their basic military service only serve for a total of nine months. Within two weeks after receiving their draft notice, they can withdraw without giving any reasons. If a soldier under the age of 18 develops fundamental doubts, he or she – like any other soldier – can decline to serve by attaining the status of a conscientious objector.

Thirdly, no-one under the age of 18 can join the *Bundeswehr* without their parents' approval. Minors can only take on such obligations with the approval of their legal representatives. This is one of the fundamental rules of German civil law. Therefore, a 17-year-old can under no circumstances enlist him- or herself either as a temporary career volunteer or as a basic service conscript without the approval of both parents (or the approval of another legal guardian).

[I can therefore assure the Committee that the applicable provisions on enlisting minors into the armed forces in Germany have all the safeguards needed to comply with the objectives of the Protocol.]

So much for the enlistment of minors into the German armed forces. I would like to move on to the criminal provisions called for by the Protocol.

Germany is committed to prosecuting and punishing the recruitment and deployment of child soldiers. We have submitted the relevant national criminal provisions to the Committee in our reply to the List of Issues. I would like to stress that, pursuant to the Code of Crimes against International Law and in accordance with the Statute of Rome, Germany also exerts extraterritorial jurisdiction over the war crime of recruiting children under the age of 15. This means that cases in which no German national is involved - neither as victim nor as perpetrator - are subject to prosecution as well.

My third topic is the preparation of the German armed forces for deployment abroad, during which they might be confronted with child soldiers.

The first and most important step in this context is the pre-deployment training of the soldiers in Germany. This training also addresses the legal bases and the problem of child soldiers in the respective region of deployment. I would like to present a worksheet to the Committee in order to show you what the education material is like. Unfortunately, it is only available in German. I hope that the Committee will get an impression of how important it is to the *Bundeswehr* to prepare the German soldiers for dealing with the issue in an appropriate manner. Furthermore, should the necessity arise, the soldiers also receive additional training while deployed abroad.

In pre-deployment training, soldiers also receive so-called pocket cards, which outline the fundamental principles of the deployment. The soldiers carry these pocket cards with them at

all times. If deployment to a region where child soldiers have to be expected is planned, the pocket card will also contain information on how to deal with child soldiers. [

Finally, I would like to say a few words about how we deal with former child soldiers who come to Germany as refugees.

We have tried to obtain current statistical data on those cases for our reply to the List of Issues. However, the reasons for fleeing a country are not recorded in statistics. Therefore, we are unfortunately unable to provide you with any figures. Research conducted by the Federal Office for Migration and Refugees, the central refugee authority, has found that asylum seekers rarely state in their interviews that they fled either being recruited as a child soldier or following such recruitment. . However, there are, of course, refugees who are former child soldiers. Ms. Saumweber-Meyer, a member of our delegation, has done research on a number of specific cases; she would be happy to provide details if you are interested.

In principle, unaccompanied refugees under 18 years of age are questioned by specially trained staff members who are aware of the situation in the relevant country of origin, including the problem of child soldiers. If they find that the refugees are victims of torture or otherwise traumatised, they receive additional specialised care. Staff that has been trained accordingly is available.

Since the effective date of the Immigration Act in early 2005, the chances of being recognised as a refugee in Germany have improved significantly for former child soldiers, as well as for children who have fled the danger of compulsory recruitment. This is due to the fact that persecution by non-government actors, such as rebel groups using child soldiers, is now considered to be a reason for granting refugee status. A ban on deportation can also be considered on the ground that a danger of compulsory recruitment exists.

Further, if former child soldiers enter Germany as unaccompanied minors, the youth welfare offices are obliged to take them into care. This includes providing medical and above all psychological treatment where it might be needed.

I would like to conclude by briefly explaining that Germany supports a large number of projects in the affected regions which deal with reintegration and rebuilding the social infrastructure. Some of these projects are especially targeted to former child soldiers, while

others pursue a more comprehensive approach which also benefits former child soldiers. We have provided the Committee with a list of the current projects.

Thank you very much for your attention. We are looking forward to your questions.