

# **NGO<sup>1</sup> Commentaries on the written reply of the Federal Government of Germany to the List of Issues of the combined third and fourth periodic report of Germany**

## **PART I**

### **Comment on the answer to question no. 1 (page 1)**

#### **National Action Plan**

In its written reply to the List of Issues question number 1, the State Party writes: "Current political initiatives introduced by the Federal Government are based on the NAP, including the development of a new Youth Policy, which began in 2011. It focuses on adolescents and young adults up until entry into working life and will develop a holistic approach to this phase of life."

In its written reply the State Party indicates only one political initiative introduced on the NAP which refers to adolescents and young adults. The State Party does not specify if there are other political initiatives introduced on the NAP and if there is established a comprehensive policy and strategy for the further implementation of the Convention.

### **Comment on the answer to question no. 2 (page 2)**

#### **Monitoring of the CRC**

The German Federal Government supports the monitoring of the CRC by continually and sustainably promoting civil society monitoring by the National Coalition since 1996. The Government has thereby especially supported the alternative reports to the UN Committee on the Rights of the Child, including the youth report compiled in connection with the third and fourth State report.

The Federal Government, however, did not comply with the Concluding Observations of the UN Committee, which called for "the establishment of an independent human rights institution at the federal level" in accordance with its Concluding Observations. While the German Institute for Human Rights has been mandated with the monitoring of the Convention on the Rights of Persons with Disabilities (CRPD) and equipped with adequate resources, the Federal Government (so far) rejects the establishment of an appropriate monitoring institution for the Children's Rights Convention, without explanation why a monitoring institution as created for the CRPD should not be established for the CRC. The recommendation already adopted by the Committee for the first national report, to create such a body to monitor the progress of implementation of the Convention at the national and local levels and to assess and equip the institution with sufficient human, technical and financial resources, remains unfulfilled.

The Federal Government's response is unsatisfactory, as it ignores the Committee's long-standing recommendation to provide the National Human Rights Institution with a monitoring mandate with regard to the implementation of children's rights in Germany. Inexplicably, the Government uses the recent ratification of the Optional Protocol introducing the communications procedure as an argument against establishing an independent monitoring mechanism. By doing that, the Government runs the risk of failing to comply with its international human rights obligations. Independent monitoring of the human rights situation at the domestic level and – through

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<sup>1</sup> The present comments were written by the NGO-representatives who took part in the pre-sessional meeting in June 2013 and summed up by the German Child Rights Coalition.

ratification of the OP – enabling rights holders to bring their individual case to an international body are two completely separate mechanisms contributing in their own specific way to the actual realization of children’s rights.

Even more so, the statement of the Federal Government that "other options for strengthening children's rights in Germany are being reviewed" requires additional information by the Federal Government to the UN Committee.

The National Coalition strongly recommends to provide the German Institute for Human Rights as an independent institution with a mandate and appropriate resources for the monitoring of the CRC, as this has been done for the monitoring of the CRPD. At the same time, establishing a coordinating body within the Federal Government that oversees the implementation of children’s rights in cross-cutting issues should be considered; model for this should be the office of the Federal Commissioner for the needs of persons with disabilities who has been appointed in relation to the CRPD.

Regarding a more detailed concept and realization of the monitoring, the National Coalition has presented an "entry-level-model " in 2006 and in 2012, in the publication " The Next Step", explained the conceptual orientation of monitoring in detail.

**Comment on the answer to question no. 3 (page 2)**  
**Respect for children’s rights by the business sector**

The response provided by the German Federal Government focuses only on children undergoing vocational training or doing an apprenticeship, i.e. children working in the formal economy in Germany. These children are protected by existing law.

In contrast to this, information is lacking concerning vulnerable groups of children that, for instance, may be forced to sell drugs or are more likely to become victims of child prostitution such as:

- Unaccompanied minor refugees
- Children of stateless or homeless people
- Children of convicted adults.

Moreover, the German Federal Government was called on to adopt an Action Plan for the implementation of the UN Guiding Principles on Business and Human Rights (A/HRC/17/31) until the end of 2012. So far, no Action Plan has been adopted or discussed to make sure that children’s rights are implemented along global value chains of German transnational corporations. Moreover, existing data verifies for example that arms exports are directed to conflict and crisis areas where child soldiers are found.

We call on the German government to provide detailed information on child labor in vulnerable groups as well as on the implementation of the UN Guiding Principles on Business and Human Rights.

**Comment on the answer to question no. 6 (page 7)**  
**“Baby boxes”**

The German Youth Institute conducted a research on baby boxes and anonymous births and published the results in 2012 (Coutinho/Krell, Anonyme Geburten und Babyklappen in Deutschland. Fallzahlen, Angebote Kontexte, [www.dji.de](http://www.dji.de)). In reaction the federal government initiated the legislative measures described in the State’s Party response. The measures on the one hand are reasonable and a step forward but on the other hand the former government ignored the alarming results of the study completely.

The measure neither addressed baby boxes or anonymous birth but only implemented an alternative procedure for births in confidence. The Act failed to address the problems of baby boxes and anonymous births which are broadly established on a partly very lucrative market in Germany:

- There still is no obligation of the providers of baby boxes to immediately notify to the child and youth welfare office when a child is placed in the baby box.
- No measures were taken to prevent the practice that the same NGO that provides baby boxes or services in relation to anonymous births also places the child in a self-chosen foster family.
- No measures were taken to prevent the practice that a person working in or with the NGO which provides baby boxes or services in relation to anonymous births is appointed as guardian for the child.
- Donations by adopting parents to the institutions and NGOs providing services in relation to anonymous births or baby boxes are not prohibited.
- There is no duty and not even an allowance for any administration or court to control, permit or prohibit the provision of baby boxes or anonymous births.

### **Comment on the answer to question no. 8 (page 8)**

#### **Corporal punishment**

In its written reply to the List of Issues question number 8, the State Party only refers to cases of corporal punishment coming to the attention of the family court.

In fact only a small part of the great number of corporal punishment is coming to the attention of the family court. The State Party does not indicate what further measures are taken – if any – to ensure that the prohibition of corporal punishment in all contexts (e.g. family, kindergartens, schools, institutions for the care of children) is effectively enforced and if there are any reporting and monitoring mechanisms.

### **Comment on the answer to question No. 9 (page 9)**

#### **Mobbing and cyber-bullying of children**

The Committee's question no. 9 addresses the issues

1. General information on measures taken by the State party to prevent bullying and mobbing of children.
2. General information on cyber-bullying.

The response explains that prevention is mainly under the responsibility of the 16 German Federal states. Also the government describes various projects to prevent bullying, mobbing and cyber-mobbing, some are under the responsibility of the government, and some are cooperation with the private sector or non-governmental organizations. The responses don't submit figures about the start or duration of the examples or what could be reached or what has been the impact of the measures. Some of the projects run meanwhile several years and there have been done some evaluation.

Suggestion:

The commission could ask what the impact of these projects is. How many children have been reached until now? What are the results of the evaluation of the projects?

### **Comment on the answer to question no. 10 (page 12)**

#### **Care for children under the age of three**

The legal entitlement to child care for children at the age of one to three years that came into force on 1 August 2013 changed society in West of Germany. It was laid down in the law in 2008 and first legislative steps were taken in 2005. By that time less than 3% of the children in the West and about 37% of the children in the East were provided with child care.

The measures to increase the numbers were effective. Several recent studies indicate that now there is a substantial need to increase the quality in child care, especially in the East of Germany (see [www.laendermonitor.de](http://www.laendermonitor.de)).

### **Comment on the answer to question no. 11 (page 13)**

#### **Children with disabilities**

The length of the answers given by the State Party can be considered as an indicator for the lack of a coordinated and coherent strategy.

Children are provided separated between two systems. Children without disabilities or with a mental impairment are dealt with under Book Eight of the Social Code (SGB VIII – child and youth welfare). Children with physical or intellectual impairment are dealt with under Book Twelve of the Social Code (SGB XII – social welfare). For example, service provisions vary depending on the result of an IQ test ends up above 70 (SGB VIII) or below 70 (SGB XII). This leads not only to uncounted numbers of conflicts over the administrative responsibility in the disadvantage of the not (sufficiently) served children but also hinders an integrated and holistic approach towards the child and his/her disabilities.

The extreme variation of the provision of services in the different regions in Germany has found no explanations yet. For example, the average expenses for services because of mental impairment vary from 4 Euro per child in Hamburg to 72 Euro per child in Hesse (more information see Arbeits- und Sozialministerkonferenz/Jugend- und Familienministerkonferenz, Zwischenbericht der Arbeitsgruppe “Inklusion von jungen Menschen mit Behinderung”, 2011).

The State Party has not taken any conceptual measures to clarify the situation. The segregation of children in two social welfare systems is criticized for long as the opposite of an approach that facilitates the child’s active participation in the community. Still the government has failed to overcome the intolerable situation.

The deficiencies in providing services to enable inclusive schooling were enormous. After the United Nations Convention on the Rights of Persons with Disabilities came into force in Germany in 2009 the Federal *Länder* started to permit children with disabilities the access to regular schools. The schools are not prepared though. The mentioned training program for teachers (Quality Campaign in Teacher Training) is in no way sufficient to fulfill the demand or better need for qualification. The service of “integration assistance” is the problematic attempt to compensate the inadequacy and shortcomings of the educational system and the schools when trying to integrate children with disabilities. The State Party claims “qualified caregivers”. This is not the case at all. Instead, neither a reliable concept exists for the qualification nor is the qualification in any way secured nor is the development even partly promising.

The service provisions for the transition from school to working life have their strengths when a sheltered workshop is the right employment for the young person. The path to the regular job market is still barred for young persons with disabilities. The system of special-needs schools that is still in place in almost all regions does not allow any transition from the disabled community into a regular apprenticeship or other form of after-school education.

## Comment on the answer to question no. 13 (page 18) ADHD/ADD

The Committee's question no. 13 addresses four issues.

1. How are children diagnosed?
2. Which measures are taken to address the root causes? The text includes hints at nutrition, life style and stress as possible causes.
3. Which medications are prescribed?
4. Are their safeguards or periodical reviews of diagnosis and medication?

1. The response describes that physicians and psychotherapists competently diagnose ADHD by competently applying the guidelines issued by their professional societies.

2. The response very generally admits that behavioural and environmental factors may influence the development of "common diseases such as mental health disorders" and points at support provided for clinical research projects. "Preventive effects of special food implementation" shall be investigated. Outcomes of such research are not mentioned, though. Root factors related to ADHD/ADD are not specified and it remains unclear, whether targeted research is conducted to explore such factors.

3. Medication used comprises methylphenidate and norepinephrine reuptake inhibitor atomoxetine. The response underlines that the treatment starts with counselling parents and other significant persons and psychotherapeutic and psychosocial intervention and such interventions may be integrated into pedagogical or psychosocial measures. Only when this is insufficient, medication is considered according to the response.

The response also emphasizes that, following "European risk assessment procedures", medical drugs can be prescribed only within a comprehensive treatment concept "including other therapeutic measures". They are a "subordinate" measure.

4. The response stresses that the use of medical products is continually monitored and that attempts are made to finish the medication.

Obviously there is no obligatory review procedure. It is up to the physician or psychotherapist to examine the original diagnosis and the prescribed medication.

The State Party's response does not address the serious concern of child-right organizations and professionals engaged for and with children about the tremendous increase reported on the prescription of medication (in particular methylphenidate). According to official statistics the increase of sold drugs multiplied from 1993 to 2012 54times (from 34 kilograms of marketed drugs in 1993 to 1839 kilograms in 2012; source: Bundesopiumstelle).

Barmer Ersatzkasse BEK, one of the biggest health insurances, reports an increase of 42 per cent for children diagnosed with ADHD/ADD from 2006 to 2011, three times more boys than girls, all together 621000 children in 2011; Arzneimittelreport 2013). Predominantly these drugs are prescribed for children at school age (peak at age 11, age of transition to secondary school). The insurance calls the increase "alarming".

[https://presse.barmer-gek.de/barmer/web/Portale/Presseportal/ ...](https://presse.barmer-gek.de/barmer/web/Portale/Presseportal/)

The BEK insurance states that many of the substances used in medications are not tested for their applicability for children and adolescents and that observations demonstrate that the consumption also of "second generation antipsychotics" are not free of metabolic and cardiological side-effects (Bachmann & Hoffmann 2013 in Barmer Ersatzkasse Arzneimittelreport 2013).

Furthermore the response of the State Party does not answer the request for an explanation of such a disturbing increase. The reply mentions that research is supported. But nothing is said about which hypotheses are investigated.

Food is mentioned as a factor without indicating what this term implies (low quality of nutrition, irregularity of mealtime, no breakfast, lopsidedness of nutrition). Also no explanations or specifications are given with regard to other factors under suspicion which affect many children's

well being according to surveys and which may have impact on the psychosocial condition of children (environment, stress in school, anxieties).

The presentation of the State Party does not at all reflect the ongoing debate in public media (newspapers, journals and TV reports), which entertain suspicion that children are exceedingly diagnosed as mentally disordered. It refers to guidelines without mentioning that the recent guidelines for diagnosing mental disorders were heavily criticised by professional institutions and experts (quotations of Allan Frances, a co-author of the DSM, in SPIEGEL ONLINE 20.4.2013 (<http://www.spiegel.de/gesundheit/psychologie/normal-von-allen-frances-beichte-eines-psiater-papstes-a-893739.html>)). Serious doubts about the reliability of diagnoses are expressed in Behles et al. (2013),: Bulletin zur Arzneimittelsicherheit, page 3-11 ([http://www.bfarm.de/DE/Arzneimittel/Pharmakovigilanz/Bulletin/Archiv/\\_node.html](http://www.bfarm.de/DE/Arzneimittel/Pharmakovigilanz/Bulletin/Archiv/_node.html))).

There are also doubts that medication is always accompanied by appropriate therapeutic treatment as required by European risk-assessment regulations. Data is missing.

It must be criticised that the response of the State Party presents no statistical information on incidence, prevalence and kind of treatment or on social background of children diagnosed with supposed mental irregularities, although a large amount of data is available, which heavily require attention and action of authorities.

#### **Comment on the answer to question No. 14 (page 19)**

#### **Education (follow-up: Special Rapporteur on the Right to Education)**

The reply is not problem oriented. It describes a number of measures without indicating to which concerns they react and without presenting an assessment of their effectiveness.

##### *Inclusive education*

The obligation to provide inclusive education for all children with disabilities in all schools of the educational system was accepted, but sufficient budget allocations to ensure adequate implementation of this goal are scarce. A special problem is the in-service training of teachers, who now have to assist children in need of special support in the inclusive classroom. Additional teaching staff is needed, which is well prepared for the challenges of inclusive education.

##### *Migrant children*

The disadvantage of migrant children growing up under economic hardship and in poor neighbourhoods is still considerable as shown in recent comparative school achievement studies. Command of the German language and early childhood education are keys for more educational equality. The federal states are on the way of expanding the facilities for early childhood education. However, a recent study of ECCE institutions shows that the quality of care and education on average is not on the quality level needed for better promotion of children's capacities.

Special assistance must be continued in school. Several projects supported by civil society and foundations demonstrate how to do it (example: "One square kilometre education"). But this and other models of best practice are not integrated into schools as a rule

Up to now the applied measures yield slow progress. The still unsatisfactory situation is not only the fault of schools and teachers, but also of the social and political context of migrants, as quite a number of them do not feel fully accepted in the majority society.

##### *School structure*

The structure of the three-track educational systems is still supported by a majority, which defends the traditional structure of the educational system. Yet this system is under stress and step-by-step changing. Insight has increased that the lower track of the system can no longer give educational incentives when it is regarded as a place of losers. Consequently, more low-track schools (Hauptschule) are combined with the second-track schools (Realschule). This trend is supported by

demographic development. In many regions there are not enough children to run a three-track educational system. The demographic developments are also pressing for the best possible qualification of all members of the young generation in order to maintain the socio-economic system on a high level of competence.

It has to be mentioned that the educational system is under the control of the federal states forming the federal republic. The governments of these states have decided to not cooperate in order to mutually respect their autonomy. This prohibition is heavily attacked as a bizarre decision in a Europe which is on the way to harmonize its educational systems and labour markets. It is an urgent request that this disastrous decision is immediately abolished because it is hindering joint constructive developments in the educational system.

#### **Comment on the answer to question No. 15 (page 24)**

##### **Adequate standard of living for children**

In its written reply to Issue number 15 the State Party Germany refers to a „strategy of combatting poverty among children and families“. It would be of interest to learn more about such a strategy, especially if it exists in written form, what it consists of, and which time-lines and responsibilities it entails. Furthermore, it would be of interest to know who is coordinating the implementation of the strategy.

It is noteworthy that the new coalition agreement of CDU, CSU and SPD that is supposed to guide the work of the new Government 2013-2017 does not refer to child poverty at all. There is no mentioning of a strategic approach to combat poverty and social exclusion of children, and no mentioning of the further development of measures such as “Kindergeld”, “Kinderzuschlag” or “Kindergrundsicherung”.

On page 23, Germany highlights that tax deductions for children have been increased to 7,008 euros. However, only families with middle and high income benefit from tax deductions. Families that depend on social cash transfer (Hartz IV) do not benefit at all. These families also do not benefit from the direct cash transfer (“Kindergeld”) that is paid for every child as it is fully deducted from the overall subsidy for the family (Hartz IV).

#### **Comment on the answer to question No. 16 (page 24)**

##### **Refugee children (above the age of 16)**

##### **On refugee children, please also see the Case Study at the end of this document (page 10)**

The response of the German Federal Government does not include any information on measures taken to ensure support for asylum seeking and refugee children who live together with their families. This lack of description mirrors the actual lack of support those 70’000 children experience. Although children arriving with their families might in general need less support than unaccompanied children, they should be taken into consideration as well. According to our knowledge, there is no strategy to proactively involve youth welfare services or to provide targeted information on their service. The families themselves only rarely approach such services due to lack of information or reluctance to ask a state agency for support. As a result, youth welfare services are rarely approached by asylum seeking families and children. However, if youth welfare services are contacted, - e.g. by social workers - they often support those families or children.

It is particularly striking that the Federal Government does not fully reply to the question on the list of issues by not specifically including details on children above the age of 16. Most children arriving in Germany fall into that age group. Although Section 42 of the Youth Welfare Act rules that all unaccompanied minors under the age of 18 entering Germany have to be taken in custody by the

youth services, there are still cases in the provinces of Brandenburg, Bavaria, Bremen and Schleswig-Holstein that accommodate children in regular reception facilities for adults.

In the Federal Government's response it is not clear whether the legal situation or existing practice is being described. This distinction, however, is crucial. For example, there are no legal provisions according to which the asylum procedure has to be conducted by specially trained commissioners so that in cases where this practice is not implemented no legal claim can ensure this right.

The Federal Government correctly describes the entitlement to counselling by a lawyer with expertise in this field. It omits that this counselling is by no means free of charge, and minors have to pay for these lawyers with their pocket money. Although unaccompanied minors above the age of 16 are allowed to approach a lawyer for asylum counselling, there is no legal provision which rules who finances the legal representation.

In its response to the Committee, the German government did not mention a judgment taken on 29 May 2013 by the German Federal Court (BGH) (decision XII ZB 530/11) on the appointment of a legal representative, which came to the conclusion that a guardian has no right to ask for support by a lawyer if he himself does not have enough legal expertise. The court explicitly mentioned that according to its view Art. 22 CRC does not justify the appointment of a lawyer in addition to the guardian for the asylum process. The appointment of a guardian already grants the "appropriate protection" as demanded by the CRC. The courts in the province of Hesse had developed this practice, which has now been denied by high court jurisdiction.

Regarding the appointment of a guardian, the response of the Federal Government describes the legal obligation to appoint a guardian within a few days after taking custody. Many young persons remain without guardian for several months because of age disputes or long administrative procedures.

In general, the response of the Federal Government illustrates the underlying issue: the German Federal Government's lack of detailed knowledge. The legal framework is the same for all provinces, but practice differs from province to province. No national mechanism monitors the equal implementation of the existing provisions.

### **Comment on the answer to question No. 17 (page 25)**

#### **Recruitment into the armed forces**

The number of minors recruited into the German Bundeswehr reached a peak in 2012, when 1216 17-year-old youth (men and women) were recruited<sup>2</sup>, nearly 50 percent more than in 2011. The Bundeswehr intends to further increase the recruitment of young people. The coalition agreement of CDU, CSU and SPD (dated 27 of November 2013)<sup>3</sup> states, "that the Bundeswehr needs access to as many schools and education institutions as possible to inform about the mandate of the Bundeswehr." In an interview in the national newspaper "Die Welt" (21.11.2013)<sup>4</sup>, Defence Minister Thomas de Maizière stressed this point and expressed the wish, that "our strong coalition partner, the SPD, will convince the colleagues in the "Länder" (Federal states) to further support and increase the visits of soldiers in schools."

The big advertisement campaign of the Bundeswehr, that was mentioned in the Shadow Report Child Soldiers 2013, based on several ten millions of Euros per year to address young people and make them join the army, is going on. Even the advertisements in the youth magazine "Bravo", read mainly by 10 to 16 year olds, that were strongly criticised by parents, youth, media, politicians and child

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<sup>2</sup> Document of the German Parliament: [http://www.bundeswehr-monitoring.de/fileadmin/user\\_upload/media/BT1714082.pdf](http://www.bundeswehr-monitoring.de/fileadmin/user_upload/media/BT1714082.pdf)

<sup>3</sup> [www.tagesschau.de/inland/koalitionsvertrag136.pdf](http://www.tagesschau.de/inland/koalitionsvertrag136.pdf)

<sup>4</sup> <http://www.welt.de/politik/deutschland/article122130487/De-Maiziere-ueber-Jugendoffiziere-an-Schulen.html>

rights organisations, was resumed in November 2013. The advertisements are trying to convince youth to participate in the so called “Bw-Adventure-Camps” by showing nice pictures and promising “Sport – show us your fitness”, Information, “Action – accept the challenge” and “Team – show us that you are a real team player”. However, the reality of war and of soldier’s duties is not mentioned or depicted in this or other Bundeswehr advertisements. As described in the Shadow Report Child Soldiers, youth is not informed truthfully but is instead attracted by describing soldier’s life as a big adventure, great team work, fun and sportive challenges. Many students and teachers characterise the “information activities” of the Bundeswehr at schools as “pure advertising events” (see for example the statement of a 15-year-old boy spending 40 minutes in a “Bundeswehr truck” placed in his schoolyard)<sup>5</sup>.

In 2012, youth officers held 3858 lectures (90 minutes) at schools reaching 103.049 students, which amount to ¾ of all youth officers activities at schools<sup>6</sup>. In this kind of events, a biased view is presented, often with no or little room for critical questions and different perspectives. In 2012, youth officers only participated in 73 panel discussions where different views are presented in controversial discussions, allowing students to build their own opinion. In addition to the youth officers, a high number of Bundeswehr career advisors are invited by the schools for lectures, career guidance and other activities, reaching even more students than the youth officers.

One consequence of the one-sided Bundeswehr advertisement and information activities aimed at children and youth is that a relatively high number of minors join the Bundeswehr with unrealistic expectations and ideas and are not adequately informed about the risks and dangers of military missions. This misinformation of young recruits is reflected by a high drop-out rate in the first six month of nearly 30%<sup>7</sup>. As nearly all young German soldiers are deployed for military missions abroad at some point of their military education, there is a high probability that some of them are wounded, traumatized or even killed. For this, balanced information including the risks and dangers of military deployment is absolutely essential to guarantee the basic rights of the young recruits. It is not acceptable that they are not informed adequately about the risks and therefore are not able to take a well-considered responsible decision and, in some cases, may lose their life or physical or psychological well-being as a consequence.

The German NGO delegation of child rights organisations and the German Institute for Human Rights therefore suggest that the Committee addresses the issue in the Concluding Observations, mentioning the concerns from a child rights perspective and calling for binding standards to ensure balanced information of children and youth. Especially when soldiers come to schools, clear obligatory standards should be defined to ensure that the information is not one-sided and that there is no manipulation of youths. In addition, to protect minors from being misinformed and influenced, Bundeswehr advertisements should not be directed specifically to children and youth, for example in youth magazines or school reports. Furthermore, peace education should be integrated in school curricula and teachers trainings and expanded systematically so that students learn how conflicts can be solved peacefully.

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<sup>5</sup> “Sport, Spaß (Fun), Afghanistan” in the newspaper taz, 26.10.2009, <http://www.taz.de/!42895/>

<sup>6</sup> Bundeswehr Youth Officers Report 2012, Mai 2013

<sup>7</sup> Document of the German Parliament: [http://www.bundeswehr-monitoring.de/fileadmin/user\\_upload/media/BT1714082.pdf](http://www.bundeswehr-monitoring.de/fileadmin/user_upload/media/BT1714082.pdf)

### **PART III**

4. Please provide, if available, statistical data on:

(c) The number of working children disaggregated by age, sex, geographic location and socio-economic background.

#### **Comment**

The statistical data on working children is missing in the replies of the government.

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### **Attachment**

#### **Case study on the treatment of child soldiers as refugees in Germany (2012)**

In his East-African home country torn up by civil war, a boy was forcefully recruited into military service at the age of 16 by followers of powerful, radical-Islamist militia. He was brought to a secluded outpost, where militia repeatedly abused him physically. During a public execution of deserters he was able to escape. Shortly afterwards he fled as an unaccompanied minor to Germany by taking the air-route to Berlin.

Despite being under age, he was accommodated in an initial reception center for adults after his asylum application. A guardian was formally nominated, yet regardless the repeatedly established claim for need of psycho-therapeutic assistance regarding assumed traumatization, she did not request relevant youth welfare services.

The youth was not accompanied by his guardian at his asylum interview. His application for refugee status was rejected by the Federal Office for Migration and Refugees (BAMF), solely subsidiary protection according to Art. 15 of the Qualification Directive was granted due to the civil war in the applicant's home country.

A credibility assessment of the presented case of forced military recruitment was not considered necessary by the BAMF, stating that such recruitments occur arbitrarily, i.e. all young adults in the country were equally in danger. The forced recruitment would therefore, according to the BAMF, not be considered as individual persecution relevant for refugee status acc. to the 1951 Convention. The lawyer who took over the case, appealed the decision at the Administrative Court. The application for legal aid was rejected by the Administrative Court based on 'lack of chances of success'. Before the court hearing, the now adult young men felt forced to withdraw the lawsuit against his initial wish, considering the increasing psychological and financial burden as well as the looming negative chances of success of the suit.

For more information on this case and the situation of refugee children, please contact:

Federal Association Unaccompanied Refugee Minors  
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