



German Coalition to Stop the Use of Child Soldiers

Shadow Report Child Soldiers 2013

Shadow report in the context of the States Report
Procedure on the Convention on the Rights of the Child
and the Optional Protocol on the Involvement of
Children in Armed Conflict

by Dr. Hendrik Cremer

On behalf of



This Report is dedicated to Barbara Dünneweller, former spokeswoman of the German Coalition to Stop the Use of Child Soldiers, who, for over 20 years has tirelessly campaigned for the implementation of children's rights.

Imprint

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Note

The 2007 Shadow Report Child Soldiers also contained statements on the following topics:

- Preventing and prosecuting the recruitment and deployment of persons under the age of 18 years in armed conflicts by armed groups (Article 4 of the Optional Protocol)
- International collaboration (Article 7)
- German soldiers on international missions (Article 7)

The 2007 Shadow Report »Child Soldiers« is available for download at:

www.kindersoldaten.info/lobbyarbeit.html

1. Preface

On 20 November 2012, the Convention on the Rights of the Child, adopted by the United Nations in 1989 - commonly referred to as the UN Child Rights Convention - turned 23. A real success story: It is the most widely ratified human rights treaty in history. 193 countries have pledged to implement it. In the meantime, the Convention has been complemented by three Optional Protocols. One of these refers to the involvement of children in armed conflict and aims to effectively enhance their protection. It came into force on 12 February 2002 and has since been ratified by 150 nations, including Germany.

Since 2002, some progress has been made on the child soldiers issue: For example, worldwide awareness of the fact that exploiting boys and girls as soldiers actually constitutes a criminal act has grown considerably. Governments and opposition groups who deploy children for military purposes are now being named and shamed all over the world - both in the media and in reports published by UN institutions, such as the UN Security Council and the UN Secretary-General. Significant progress has also been made with respect to prosecution: In 2012, the International Criminal Court in The Hague announced its first convictions for deploying child soldiers - with further proceedings pending.

However, despite these successes, rough estimates reveal that there are still around 250,000 child soldiers across the world. They are forced to fight in armed conflict, work as messengers and cooks or carry heavy loads - with many of them being sexually abused, tortured or murdered. Some governments try to hide how children are being abused by the state military. They have their armies recruit minors as spies without uniforms, or leave the recruiting to allied paramilitary groups - current practice, for example, in Columbia and the Philippines.

How can states be held accountable for their actions - and how can we ensure that they fulfill their commitments? Regular state reports, as per the UN Child Rights Convention (Article 44), set out to achieve just this. In December 2011, the UN General Assembly approved the third Optional Protocol to the Child Rights Convention which allows children to submit individual complaints regarding specific violations of their rights.

In their state reports, the member states are required to report to a special UN committee (treaty body) on the measures they have taken to implement the Convention in their respective countries. The UN Committee on the Rights of the Child in Geneva monitors the implementation of the Convention on the Rights of the Child and its Optional Protocols. This procedure also involves non-governmental organizations (NGOs). These have the opportunity to submit a Shadow Report or supplementary report to the UN Committee and to participate in a hearing of the 18-strong international expert panel. The procedure ends with the UN Committee drafting final recommendations (Concluding Observations) after its examination of the respective state report. In the following reporting cycle, the UN Committee expects the government to make a statement pertaining to and render account of the measures adopted to implement these recommendations.

The current Shadow Report refers to the Third and Fourth Report of the Federal Republic of Germany to the United Nations on the implementation of the UN Child Rights Convention and the respective Optional Protocols. This report was adopted by the Federal Cabinet mid-2010 and has been presented to the UN Committee for examination. As we are of the opinion that Germany has been - and still is - failing to satisfactorily meet its commitments with regard to child soldiers and the final recommendations of the UN Committee, several children's rights organizations decided to draw up this Shadow Report. This report was published in 2011. As the UN Committee will not be able to discuss the German reports until June of this year due to a very high workload, the Shadow Report Child Soldiers 2011 has now been completely revised. This current version of the Shadow Report Child Soldiers 2013 is published by Kindernothilfe, Plan, terre des hommes, UNICEF Germany and World Vision, as well as the German Coalition to Stop the Use of Child Soldiers, consisting of twelve NGOs. This Report follows on from the Shadow Report "Child Soldiers" 2007, issued during the last reporting cycle and jointly published by Kindernothilfe and terre des hommes.

We would like to take this opportunity of thanking our legal expert, Dr. Hendrik Cremer, who agreed to author this Report. We would also like to thank Robert Lindner from Oxfam (arms exports

contribution) as well as Niels Espenhorst from the Federal Association for Unaccompanied Minor Refugees (refugee children contribution). Furthermore, we would like to express our sincere gratitude to all the member organizations of the German Coalition to Stop the Use of Child Soldiers and all others who have given us their support.

Confirming the findings of the Shadow Report "Child Soldiers" 2007, this Shadow Report has also established that Germany is still lagging well behind when it comes to meeting its human rights commitments. The Report will be discussing the following topics in connection with the Articles in the Optional Protocol to the UN Child Rights Convention and the recommendations of the UN Committee made to Germany in the last reporting cycle:

- Recruitment of minors by the German armed forces
- Human rights and peace education in Germany
- Promotion of the deployment of the German armed forces abroad and of the German armed forces as a possible employer - in particular in German schools
- Arms exports
- How Germany is dealing with child soldier refugees.

Germany has been a pioneer and role model in preparing the Optional Protocol. One would expect this commitment to be reflected in the implementation and reporting process. Unfortunately, it has to be noted that little progress has actually been made since the last reporting cycle in 2008 with regard to Germany's previous deficits and the recommendations voiced by the UN Committee. This could be easily and quickly changed - all that is needed is sufficient political will.

It is vitally important for all those children and young people concerned that further progress is made on the topic of child soldiers - both at a national and international level. We sincerely hope that this Shadow Report and the recommendations contained herein can contribute to achieving this goal.

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2. Introduction

In the following report, the major source of reference is the Optional Protocol to the Convention on the Rights of the Child (UN Child Rights Convention) on the Involvement of Children in Armed Conflict, published in 2000.¹ Germany ratified the Protocol (hereinafter referred to as the »Optional Protocol«) on 13 December 2004. In as far as Germany has entered into commitments as a result of the Child Rights Convention which are of relevance to this Report, these will also be accordingly detailed in the following.

The Optional Protocol came into being as the result of a major loophole in the protection rights stated in the UN Child Rights Convention (CRC) of 1989. According to the CRC (Article 38), the State Parties are only required to ensure that minors who have not yet reached the age of 15 years shall not be recruited into the armed forces or take a direct part in hostilities. This ruling is not consistent with the protection the CRC is aiming to achieve, i.e. to particularly protect the human rights of minors under 18 years of age. This led to the drafting of the Optional Protocol.

The Optional Protocol is the result of an international campaign in the 1990s, in which the “Coalition to Stop the Use of Child Soldiers” played a major role.² Their central demand reads as follows: No one under the age of 18 is to be enlisted, compulsorily or voluntarily recruited or used in hostilities - whether by the regular national armed forces or by irregular, non-state armed groups (»straight 18« position).

This demand is based on an understanding of child protection, according to which minors are to be kept away from military structures, drills and deployments. This applies, in particular, to the handling of weapons.

¹ The Protocol came into force in February 2002.

² The “Coalition to Stop the Use of Child Soldiers” alliance was established in 1998 by a number of international NGOs. It continued to campaign against the abuse of children as soldiers until 2011. The alliance consisted of six member organizations: Amnesty International, Human Rights Watch, International Federation terre des hommes, International Save the Children Alliance, Jesuit Refugee Service and the Quaker United Nations Office. In 2011 the Coalition underwent structural change to become an independent human rights organization called Child Soldiers International www.child-soldiers.org

A further substantial argument for banning the recruitment of minors not only by non-state armed groups but also by the national armed forces is that non-state armed groups should not have the opportunity of being able to refer to the practice of the national armed forces in order to justify recruiting minors. In order to prevent these non-state armed groups from using this argument, a general ban on enlisting minors should apply to all armed forces and groups.

However, the Straight 18 position could not be pushed through during the negotiations on the Optional Protocol. The Optional Protocol forbids non-state armed groups from recruiting minors under the age of 18 for whatever purpose. National armed forces may not forcibly recruit minors under the age of 18, but recruiting volunteers over the age of 15 is still basically possible. It is up to the respective State Party to raise the age for voluntary recruitment into the national armed forces to 18 years.

Although it proved impossible to enforce the “straight 18” position, the Optional Protocol - together with the Child Rights Convention - commits those states which allow under-18s to be enlisted, to ensuring that their minors receive extensive protection. The Protocol includes, for example, a non-exhaustive catalog of safeguards in connection with the enlistment of volunteers which must be observed by the respective State Parties.³

On top of this, the Optional Protocol contains a multitude of government commitments to protect minors, including, for example, preventing and prosecuting the enlistment of child soldiers⁴ by

³ Art. 3 Para. 3 Optional Protocol (OP)

⁴ A legally binding definition of the term child soldier does not exist. The “Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict” on which this Shadow Report is based refers to children who have either already been enlisted by the armed forces or non-state armed groups or who these groups intend to enlist in the future. In more current documents, such as the Paris Principles from February 2007 www.unicef.org/emerg/files/ParisPrinciples310107English.pdf one speaks of “children associated with the armed forces or armed groups”. According to the generally accepted definition specified in these documents, a child soldier or child associated with an armed force or armed

armed groups.⁵ Government commitments specified in the Protocol not only apply nationally, but also at a cross-national and international level.⁶ These also include the commitment to take preventive steps to avert "all" possible breaches of the Protocol.⁷ The Optional Protocol is of major importance, in particular, to former child soldier refugees in Germany.⁸

In 2008, the UN Committee on the Rights of the Child discussed Germany's First Report on the Optional Protocol. In its final recommendations (Concluding Observations) of 1 February 2008,⁹ the Committee highlighted a considerable number of points which need to be improved in Germany - from both a factual and legal point of view. A number of these recommendations are addressed in this Report.

The topics commented on in the following have been accordingly prioritized. Where appropriate, reference is made to the comments contained in Germany's most recent State Report¹⁰. The process currently under way involves the extent to which the UN Child Rights Convention has already been implemented, as well as which measures have been taken with a view to implementing the Optional Protocol in Germany.

group is "any person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, messengers, spies or for sexual purposes. It does not only refer to a child who is taking or has taken a direct part in hostilities."

⁵ Art. 4 OP. See also the UN Committee on the Rights of the Child, Concluding Observations: Germany, of 1 February 2008, Figures 14 and 15, www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-OPAC-DEU-CO-1.pdf

⁶ Art. 7 OP.

⁷ Art. 7 OP.

⁸ Art. 6 Para. 3.

⁹ The recommendations are available at: www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-OPAC-DEU-CO-1.pdf

¹⁰ Third and Fourth State Report of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child, www.bmfsfj.de/BMFSFJ/Service/Publikationen/publikationsliste.did=151198.html

3. Individual topics

3.1. Recruitment of 17-year-olds into the German armed forces

In its Concluding Observations to Germany of February 2008, the UN Committee on the Rights of the Child pointed out that the vast majority of State Parties to the Optional Protocol prohibit the voluntary enlistment of minors. In the light of this, the Committee suggested that Germany likewise raise the minimum age limit for recruitment to the German armed forces to 18 years – representing a general improvement in the standard of legal protection granted to children.¹¹

However, persons under 18 years of age continue to be recruited in Germany. Volunteers who have reached a minimum age of 17 years are accepted into the armed forces as soldiers so that they can begin their military training.¹² This training also includes instruction in how to handle weapons.¹³

Until 2011, this was partly done within the scope of conscription. Conscription, however, was abandoned as per 1 July 2011 so minors are no longer enlisted on this basis.¹⁴ However, a newly created voluntary military service was then introduced, allowing under-aged 17-year-olds to join.¹⁵

¹¹ Figure 11 of the Concluding Observations, www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-OPAC-DEU-CO-1.pdf

¹² Third and Fourth State Report of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child, p. 82, Figure 262.

¹³ See the Federal Government's reply to Parliament of 27.06.2011, German parliamentary paper No. 17/6311, p. 5 ff., <http://dipbt.bundestag.de/dip21/btd/17/063/1706311.pdf>

¹⁴ According to § 5 Para. 2 Wehrpflichtgesetz (WpflG) [Conscription Act], an application for early recruitment to basic military service submitted by a minor can be accepted if he/she has reached the age of 17. According to § 2 WpflG § 5 WpflG only applies in cases of tension or national defense. A copy of the WpflG is available at: www.gesetze-im-internet.de/bundesrecht/wehrpflg/gesamt.pdf

¹⁵ The actual wording of the relevant legal provision does not specify an age limit; § 54 Para

During the past few years, several hundred minors have taken up military service with the German armed forces [the Bundeswehr] every year.¹⁶

According to information provided by the Federal Government in June 2011, official figures are only available as of 2009. According to these figures, 517 minors started their military service as regular soldiers, so called “soldiers with a limited service contract” [“Soldaten auf Zeit”] (for 2 till 20 years), in the year 2009, respectively 452 in 2010 and 336 in the first five months of 2011. In addition, 487 minors were conscripted in 2009 and 496 in 2010.¹⁷

It appears quite likely that the number of minors in the German armed forces will continue to increase. The German armed forces are currently carrying out extensive advertising campaigns - with an increasing focus on young people.¹⁸ On top of this, there is a general political trend towards reducing the compulsory school starting age from six to five and a half - something that was introduced in Berlin some time ago. Due to the mandatory reduction in the length of time spent at

1 WpflG reads: „Men and women who are of German nationality as defined in the constitution, may sign up for voluntary military service as set down in this section, in as far as they are deemed suitable. Military service as defined in Clause 1 consists of a six month voluntary military service trial period, followed by 17 months' additional voluntary military service.“

¹⁶ According to the Child Soldiers Global Report of 2008, a total of 906 male and female recruits under the age of 18 were serving in Germany's armed forces in 2006, Child Soldiers, Global Report 2008, Coalition to Stop the Use of Child Soldiers (Ed.), London 2008, p. 151. According to the „Spiegel“ magazine, Federal Government information revealed that 304 minors were employed in the German armed forces in 2007. www.spiegel.de/politik/deutschland/0,1518,521969,00.html According to information provided by the Federal Government, 590 conscripts who took up service in 2008 had not yet reached the age of 18. German parliamentary paper No. 16/12207 of 09.03.2009, p. 18.

¹⁷ Federal Government's reply to Parliament of 27.06.2011, German parliamentary paper No. 17/6311, p. 3 ff., <http://dipbt.bundestag.de/dip21/btd/17/063/1706311.pdf>

¹⁸ See 3.6. for more detailed information.

school in order to obtain university entrance qualifications,¹⁹ the number of minors now getting their university entrance qualifications before coming of age is on the up. We could possibly see the number of minors applying to the German armed forces increasing as a result.

Germany is quite right to criticize the deployment of child soldiers in Africa, Asia and Latin America. However, this protest would be all the more credible if current practice for recruiting people to the German armed forces drew a clear line between minors and those who have already reached the legal age.

A large number of other states have already gone ahead to set good examples. As a result, the Optional Protocol and the political debate it triggered within the respective State Parties has contributed to a reduction in the total number of states in which persons under 18 years of age can be enlisted to the national armed forces.²⁰ Meanwhile, 150 states have adopted the Optional Protocol.²¹ A clear majority of the states has announced that they will stop enlisting persons under the age of 18 in their national armed forces. This includes the following European countries: Spain, Portugal, Denmark, Finland, Sweden, Norway, Switzerland, Belgium, the Czech Republic, Romania, Slovakia, Slovenia, Latvia and Lithuania.²²

The stance that Germany is reliant on the minors deployed in the armed forces is not a convincing one. Germany would be well-advised to follow the example set by the other states and comply with the recommendation made by the UN Committee on the Rights of the Child to raise the minimum recruitment age for the armed forces to 18 years – a step towards generally improving the standard of legal protection offered to minors.

¹⁹ This refers to the shortening of the general period of time spent at school from thirteen to twelve years.

²⁰ See: Review of State Party reports to the Committee on the Rights of the Child on the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, November 2006, p. 3 ff.

²¹ <http://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-11-b.en.pdf> (retrieved on 11.01.2013)

²² <http://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-11-b.en.pdf>

3.2. Opportunity for minors to quit their active service with the armed forces of their own accord

The Optional Protocol only allows the recruitment of persons under 18 years of age to national armed forces when certain minimum safeguards are observed. These include the requirement that minors may only be recruited if the decision is made of their own free will. The wording of the Protocol in the German - non-binding - translation requires enlistment to the armed forces to be "tatsächlich freiwillig (actually voluntary)" (Article 3 Paragraph 3 a)). The English version, which in contrast to the German translation of the Optional Protocol is binding²³, states that the State Parties must guarantee that enlistment is "genuinely voluntary". The English wording with the term "genuinely" emphasizes more strongly than the German translation that voluntariness is truly guaranteed and ensured.²⁴

The requirement of a "genuinely voluntary recruitment" into the armed forces also implies that the decision upon which it is based remains voluntary. Minors must thus have the opportunity to end their service at any given time. In a literal reading of the wording of Article 3 Paragraph 3 a), the standard could also possibly be interpreted to mean that it exclusively refers to the act of the initial recruitment. Such a close interpretation of Article 3 Paragraph 3 a) would, however, result in minors possibly having to remain in the armed forces against their will - which would be contrary to the object and purpose of both the provision and the Optional Protocol which aim to strictly prevent the forced recruitment of minors.

Germany does not follow these safeguards sufficiently. Only those provisions set down in the Conscription Act (WPflG) which specifically refer to the aforementioned voluntary military service allow for a soldier to be discharged from his/her military service at any time during the first six months of service (trial period) and upon the submission of a respective written application.²⁵

²³ According to Article 13 Paragraph 1 of the Optional Protocol, the Protocol is equally authentic in Arabic, Chinese, English, French, Russian and Spanish - but not, therefore, in German. The German text merely represents a non-binding translation.

²⁴ The term „genuinely“ is used in English to mean “really“, “truly“, “authentically“ or “seriously“. The term "tatsächlich" used in the German translation is usually translated to “actually” in English.

²⁵ § 61 Paragraph 2 Clause 3 of the WPflG [Conscription Act] reads: "Upon submitting a

Both adults and 17-year-olds benefit from this legal provision. However, the Act does not include any provisions allowing a 17-year-old to end his/her military service in the German armed forces at any point in time up to his/her reaching the legal age. Neither does the Soldatengesetz (SG) [Soldiers Act] contain any provisions which allow a minor to leave the armed forces of his/her own free will. According to information provided by the Federal Government, there is a six month withdrawal clause which is also applicable to regular soldiers.²⁶

On the other hand, the present legal situation is such that those who are still under age when their trial period expires currently do not have the option of simply ending their military service.²⁷ The same applies to the recently introduced voluntary military service.²⁸

The current legal situation is highly controversial, as minors who simply leave the armed forces without respective authorization may find themselves liable to prosecution as a result of violating their military service commitment pursuant to the Wehrstrafgesetz (WStG) [Military Penal Code].²⁹ The WStG can be explicitly applied to under-aged soldiers.³⁰ Minors are thus exposed

respective written application, a soldier may be discharged at any time during the trial period." A copy of this Act is available at: www.gesetze-im-internet.de/bundesrecht/wehrpflg/gesamt.pdf

²⁶ Federal Government's reply to Parliament of 27.06.2011, German parliamentary paper 17/6311, p. 3; See also the following careers platform for soldiers with a limited service contract [Soldaten auf Zeit], www.dienstzeitende.de/bundeswehr-abc/v/

²⁷ Exactly how many under-aged soldiers apply to be discharged prematurely, the reasons behind these applications and how these applications are dealt with is not recorded by the German armed forces. At the moment, no data is available. See the Federal Government's reply to Parliament of 27.06.2011, German parliamentary paper 17/6311, p. 4, <http://dipbt.bundestag.de/dip21/btd/17/063/1706311.pdf>

²⁸ See the Federal Government's reply to Parliament of 27.06.2011, German parliamentary paper No. 17/6311, p. 4.

²⁹ Punishability is governed in § 15 of the Military Penal Code (unauthorized absence). A copy of the WStG is available at: www.gesetze-im-internet.de/wstrg/index.html

³⁰ § 1 Paragraph 1 WStG reads: "This law applies to criminal offences committed by soldiers of the German armed forces." The definition of a soldier for the purposes of this provision is set down in §

to Military Penal Code sanctions should they wish to terminate their service with the armed forces.

Present legislation should, therefore, be supplemented by regulations according to which it is possible for minors to terminate their service with the armed forces at any time by way of a unilateral declaration. Thus, it should be similarly ensured that minors should under no circumstances be made liable to prosecution as a result of violating their military service commitment pursuant to the Military Penal Code.

3.3. Increasing humans rights and peace education

The right to education is not only a matter of access (Art. 28 CRC) but also of content.³¹ A number of binding educational targets have been set down in Art. 29 of the Child Rights Convention. These are to be given due consideration by the State Parties in their efforts to implement the right to education (Art. 28 CRC). This states that the education of a child should be directed at developing the child's respect of human rights³² and to preparing the child for a responsible life in a free society, in the spirit of understanding, peace, tolerance and friendship among all peoples.³³ In 2008, the UN Committee on the Rights of the Child recommended that Germany further strengthen its efforts to provide human rights education and, in particular, peace education for all school children and train teachers accordingly.³⁴ Thus, the topics of human

1 Paragraph 1 of the Soldiers Act: "A soldier is anyone in military service or fulfills voluntary commitments in a military employment contract." In accordance with § 3 Paragraph 2 of the Military Penal Code, in the case of criminal offences committed by soldiers, who are juveniles or adolescents, the provisions of the Juvenile Court Act apply. This implies that the Military Penal Code can, in principle, also be applied to minors.

³¹ See also General Comment No. 1 of the UN Committee on the Rights of the Child of 17 April 2001, pertaining to Art. 29 Para. 1 CRC, CRC/GC/2001/1, Figure 3, www2.ohchr.org/english/bodies/crc/comments.htm

³² Art. 29 Para. 1 b) CRC.

³³ Art. 29 Para. 1 d) CRC.

³⁴ UN Committee on the Rights of the Child, Concluding Observations: Germany, of 1 February 2008, Figure 13 of the recommendations, www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-OPAC-DEU-CO-1.pdf

rights, peace and non-violent conflict resolution should form an integral part of the school curriculum.

Human rights education in Germany is granted a basic, abstract role in education policy. The education laws of some of the various German States promote "peace education" as a special topic on the educational agenda³⁵. But in practice, human rights and peace education is not a regular or permanent subject in the school curriculum. Peace education is not only important for children living in areas of conflict or distress, but also for those children living in areas of peace. The educational goals set down in Art. 29 CRC can be equally applied to all countries. Furthermore, the recommendations made by the UN Committee on the Rights of the Child in the year 2008 do not appear to have had any effect in Germany. Neither does the German State Report³⁶ provide any information in this respect. In the past, the insufficient implementation of human rights education in German schools has often been the subject of criticism by other international human rights bodies.³⁷

To meet the human rights requirements Germany is expected to fulfill, human rights and peace education should play an inherent role in the teacher training process; furthermore, the respective political bodies should ensure that these subjects are actually included in the curriculum.

³⁵ See Limpert, Martin "Schule und Bundeswehr" [Schools and the German armed forces], info letter of the Research and Documentation Services section of the German "Bundestag" [German parliament], of 28 September 2010, WD 3 - 3010 - 260/10, p. 6, www.bundestag.de/dokumente/analysen/2010/Schule_und_Bundeswehr.pdf

³⁶ Third and Fourth State Report of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child, p. 80 ff.

³⁷ See also the report compiled by the Council of Europe's Commissioner for Human Rights, Thomas Hammarberg, of 11 July 2007, on his visit to Germany in October 2006, CommDH (2007) 14, <https://wcd.coe.int/ViewDoc.jsp?id=1162763>, Figures 43–47 and recommendation No. 8; German Institute for Human Rights, press bulletin, 07.12.2012, "Menschenrechtsbildung stärker in Schule und Beruf verankern - Kinder und Jugendliche lernen zu wenig über ihre Rechte" [Human rights education should be more firmly anchored in schools and at the workplace - children and young adolescents do not learn enough about their rights].

3.4. How the German armed forces are promoting the deployment of the armed forces abroad (Afghanistan) in German schools

The educational aims set down in Art. 29 CRC are inextricably linked to other CRC provisions.³⁸ Among other criteria, respect for freedom of information and opinion³⁹ should not be ignored in an education system which sets out to comply with human rights requirements and fulfill the provisions of the CRC.⁴⁰ Teaching methods should strongly promote openness and transparency. This also means that controversial subjects being discussed in the scientific field or the political arena must also be treated in the same manner in the classroom. In an education system which is oriented to human rights principles, it is totally unacceptable to influence pupils in such a way as to mold their opinions in a specifically desired direction, thus preventing them from developing autonomous judgments. On the contrary, the focus should be on promoting the pupils' analytical skills and responsibility so they are capable of weighing up their own decisions. The children should be brought up to feel a sense of responsibility and be capable of critical thinking.⁴¹ In Germany, these principles should not only be applied from the human rights perspective. The so-called "consensus of Beutelsbach" of 1976 also recognizes these principles as providing an essential basis for political education as a whole.⁴²

³⁸ See also General Comment No. 1 of the UN Committee on the Rights of the Child, of 17 April 2001, pertaining to Art. 29 Para. 1 CRC, CRC/GC/2001/1, Figure 6.

³⁹ See Art. 12, 13, 14 and 17 CRC.

⁴⁰ See also General Comment No. 1 of the UN Committee on the Rights of the Child, of 17 April 2001, pertaining to Art. 29 Para. 1 CRC, CRC/GC/2001/1, Figure 6.

⁴¹ See also General Comment No. 1 of the UN Committee on the Rights of the Child, of 17 April 2001, pertaining to Art. 29 Para. 1 CRC, CRC/GC/2001/1, Figure 9.

⁴² In 1976, the "consensus of Beutelsbach" agreed on the underlying conditions for political education in German schools. Even today, the principles agreed on herein set the standards for political education in schools. It dates back to a controversy involving the political and didactic content of German school curriculums for political education. See the Consensus of Beutelsbach for more details, www.politische-bildung-bayern.net/content/view/106/44/

Allowing the national armed forces to promote their own overseas deployment policy during school lesson time is, therefore, rather inconsistent.⁴³ However, this is what is happening in Germany - and we will be demonstrating this in more detail in the following section.

In recent years, the German armed forces have increased their activities aimed at exerting more influence within the educational departments of the 16 Federal States - more specifically during actual lesson time. The German armed forces have even managed to close cooperation agreements with a number of Federal States.⁴⁴ The armed forces are able to assert their influence, in particular, through their so-called youth officers. The fact that these youth officers are going to schools to promote the deployment of the German armed forces in Afghanistan is confirmed in documents which are open to the public and were originally published by the Ministry of Defense and the German armed forces.⁴⁵

The most recent annual report of the youth officers of the German armed forces⁴⁶ explains that youth officers speaking on security policy contribute in a major way to the public relations work of the German armed forces - first and foremost in schools. This report literally starts off by stating: "Youth officers are important pillars in the public relations work of the German armed forces - first and foremost in schools. With the consent of the Federal State Ministries of Education and Cultural Affairs, these officers make a major contribution to general political

⁴³ With regard to the constitutional classification of this topic, pls. refer to Limpert, Martin, "Schule und Bundeswehr" [Schools and the German armed forces], info letter of the Research and Documentation Services section of the German "Bundestag" [German parliament], dated 28 September 2010, WD 3 - 3010 - 260/10, www.bundestag.de/dokumente/analysen/2010/Schule_und_Bundeswehr.pdf

⁴⁴ The first cooperation agreement was closed with the state of North Rhine-Westphalia in October 2008. Further cooperation agreements were later closed with the states of Baden-Württemberg, Rhineland-Palatinate, Bavaria, Mecklenburg-Western Pomerania, the Saarland, Saxony and Hesse.

⁴⁵ More information in the following.

⁴⁶ "Jahresbericht der Jugendoffiziere" [Annual Youth Officer Report], 2011 edition, Berlin, 23 May 2012, p. 1, www.bundeswehr-monitoring.de/fileadmin/user_upload/media/Jugendoffiziere-Bericht-2011.pdf

education." Nationwide there are currently 94 full-time youth officers.⁴⁷ These visit schools and go into classes when invited to do so. Although they offer a selection of different topics, they state themselves that their presentations are usually focused on the overseas deployment of the German armed forces in Afghanistan.⁴⁸

The main task of these youth officers is clearly described in a press bulletin issued by the Federal Ministry of Defense in 2008: In this bulletin, the former German Minister of Defense, Franz Josef Jung, pays tribute to the work and dedication of the youth officers in the public relations area in a ceremony held in November 2008 to celebrate "50 Jahre Jugendoffiziere" [Youth officers - 50th anniversary].⁴⁹ At the same time, he also describes the challenges facing those with the task of communicating the current defense and security policy as follows:

"The Minister of Defense views the key challenge as being the ability to repeatedly gain the trust of people when it comes to the necessity of our foreign missions, in particular our mission in Afghanistan. We must be able to win over the hearts and minds of the people not only in Afghanistan but also at home", stresses Dr. Jung, "as we are committed to protecting elementary German interests and act for our own protection! A peaceful and stable Afghanistan will prevent terrorism from emerging and being spread around the world."

More details on the role the youth officers of the German armed forces play can be found in the annual youth officer reports. These reports reveal that the German armed forces have been constantly increasing their influence on the education departments of the 16 Federal States since 2005. The 2009 annual report highlights this fact in a particularly vivid and comprehensible

⁴⁷ Federal Government's reply to Parliament of 27.06.2011, German parliamentary paper 17/6311, p. 13, <http://dipbt.bundestag.de/dip21/btd/17/063/1706311.pdf>

⁴⁸ See the "Jahresbericht der Jugendoffiziere" [Annual Youth Officer Report], 2011 edition, Berlin, 23 May 2012, p. 3, www.bundeswehr-monitoring.de/fileadmin/user_upload/media/Jugendoffiziere-Bericht-2011.pdf, as well as the Annual Youth Officer Report, 2009 edition, Berlin, 31 May 2010, p. 3, www.bundeswehr-monitoring.de/fileadmin/user_upload/media/Jugendoffiziere-Bericht-2009.pdf

⁴⁹ Press bulletin of the Federal Ministry of Defense, 11.11.2008, number 131/2008.

manner.⁵⁰ Therefore, please find below some [translated] excerpts from the actual wording which serve to illustrate this:

"The decision to introduce 16 regional youth officers, implemented in 2005, has paid off - and helped to bolster our specialized activities, in particular our collaboration with the teacher training seminars and intermediate school supervisory boards. The close dialog between our regional youth officers and our public relations staff officers in the military district commands and the Federal State school authorities has greatly intensified this cooperation. This has resulted in the closure of several cooperation agreements with the responsible ministries at Federal State level as well as joint student teacher training projects. In addition, the further training opportunities our youth officers have to offer are now being devoted more and more space on the Internet/Intranet platforms of the individual Federal State school authorities."⁵¹

Furthermore, the report includes the following statements [translated]:

"In the year of the report, our full-time youth officers held 7,245 events with 182,522 participants. Almost 160,000 of these participants belonged to the group aged 14 years and upwards.⁵² (...) As in previous years, the main topics were the foreign missions of the German armed forces and the dangers of international terrorism. In nearly all the presentations, the key topic was our ISAF mission (International Security Assistance Force) in Afghanistan.⁵³ (...) In the light of fundamental German security interests, people fail to see a connection between national defense

⁵⁰ "Jahresbericht der Jugendoffiziere" [Annual Youth Officer Report], 2009 edition, Berlin, 31 May 2010, www.bundeswehr-monitoring.de/fileadmin/user_upload/media/Jugendoffiziere-Bericht-2009.pdf

⁵¹ "Jahresbericht der Jugendoffiziere" [Annual Youth Officer Report], 2009 edition, Berlin, 31 May 2010, p. 3.

⁵² "Jahresbericht der Jugendoffiziere" [Annual Youth Officer Report], 2009 edition, Berlin, 31 May 2010, p. 4.

⁵³ "Jahresbericht der Jugendoffiziere" [Annual Youth Officer Report], 2009 edition, Berlin, 31 May 2010, p. 3; pls. also refer to the Annual Youth Officer Report, 2011 edition, Berlin, 23 May 2012, p. 3, www.bundeswehr-monitoring.de/fileadmin/user_upload/media/Jugendoffiziere-Bericht-2011.pdf

and the deployment of the German armed forces in Afghanistan - and this is something we need to explain."⁵⁴

With respect to the role the youth officers play in the classroom, the following comments are also made: "In many Federal States the number of hours per week reserved for the subject of politics/social studies has been cut back - in some cases to just one hour per week. This makes it all the more difficult for teachers to make their lessons attractive from a methodical-didactic viewpoint. The pupils and teachers are under great time pressure to get through the curriculum - and this is where our full-time youth officers can really support the work the teachers are doing - using their special teaching approach."⁵⁵

"The changeover to the new central school leaving certificate "Abitur" in a number of Federal States has led to an increased demand for our youth officers, especially for covering security policy examination topics in social studies classes. Our youth officers are now holding more and more lectures as part of the preparations for the school leaving examinations in the 12th grade.⁵⁶ (...) Security policy topics are only minimally represented in the textbooks printed by German textbook publishers, creating a void of specialized security policy knowledge which our youth officers have to some extent been able to fill during the period covered by this report."⁵⁷

To allow youth officers of the German armed forces to play such a role in school classes - letting them determine both the content and the concept - is something which simply does not harmonize with the aforementioned human rights provisions set down in the CRC.⁵⁸ Members of the national armed forces must not be allowed to unilaterally determine and provide political education in school lessons.

⁵⁴ "Jahresbericht der Jugendoffiziere" [Annual Youth Officer Report], 2009 edition, Berlin, 31 May 2010, p. 6.

⁵⁵ "Jahresbericht der Jugendoffiziere" [Annual Youth Officer Report], 2009 edition, Berlin, 31 May 2010, p. 6; pls. also refer to the Annual Youth Officer Report, 2011 edition, Berlin, 23 May 2012, p. 6.

⁵⁶ "Jahresbericht der Jugendoffiziere" [Annual Youth Officer Report], 2009 edition, Berlin, 31 May 2010, p. 7.

⁵⁷ "Jahresbericht der Jugendoffiziere" [Annual Youth Officer Report], 2009 edition, Berlin, 31 May 2010, p. 8.

⁵⁸ Neither is this compatible with the "consensus of Beutelsbach".

The fact that this is common practice, however, is not really the fault of the youth officers, but moreover attributable to their mandate and role as speakers on security policy in the public relations work of the German armed forces. Their role is to outwardly represent the interests of the German armed forces. The problem described above is also of a structural nature and is basically attributable to the fact that it is not the teachers who are fulfilling the educational mandate but members of the German armed forces.

There is no reason for not discussing the topic of "peace and the German armed forces" in a classroom environment. The standard peace and human rights educational goals set down in the CRC and other human rights treaties do not rule this out. What is required here, however, is that different peace concepts are presented and given equal weight.

Youth officers of the German armed forces should only be invited if the required political balance is kept. Basically, this will only be the case where critics of military action, such as representatives from peace organizations and peace initiatives, are present at the same time as the armed forces representatives and are granted the same opportunities to explain their concepts. If it is impossible to achieve such a balance of external speakers, the event should not be held – which would probably be the rule as peace organizations and initiatives lag way behind the German armed forces from a structural, financial and personnel point of view.

One reason why things have developed as they have during the past few years is possibly to be found in the fact that it is not obvious from the cooperation agreements between the Ministries of Education and the German armed forces that youth officers are actually promoting overseas military missions in schools. The object of these agreements is to provide political education aimed at promoting peacekeeping, conflict prevention and crisis management, accountability, education and a sense of responsibility amongst the pupils.⁵⁹

The fact that youth officers are actually promoting overseas military missions, in particular in Afghanistan, in schools, should be reason enough for the Ministries of Education to revoke the agreements. The cooperation agreements closed with the Federal State governments are, after all,

⁵⁹ See the cooperation agreements and the Federal Government's reply to Parliament of 27.06.2011, German parliamentary paper 17/6311, p.15, <http://dipbt.bundestag.de/dip21/btd/17/063/1706311.pdf>

currently supporting the offensive campaign of the German armed forces. In any case, politicians must ensure that the German armed forces are prevented from exerting their influence through youth officers performing in the classroom in the way described above.

3.5. Cooperation between the German armed forces and primary school pupils

Another example which clearly shows the extent to which the German armed forces are now integrated in German schools is a school project initiated in 2011 in the 1st grade at a primary school in North Rhine-Westphalia. In July 2012, the German armed forces promoted this project in one of its own public relations campaigns, calling it the "Angels for Afghanistan" project.⁶⁰ In the meantime, the project has been the subject of severe criticism both in the Bundestag [German parliament]⁶¹ and in the media.⁶²

The project originally came into being when a teacher heard a radio report about soldiers in Afghanistan and their absence from home over the Christmas period. The teacher addressed the topic in her classes, making guardian angels with her pupils which she then sent to Camp Marmal, Mazar-e Sharif in Afghanistan. The positive response received from the country of assignment, for example a letter from the Commanding Officer of the Regional Command North, German

⁶⁰ German armed forces news bulletin of 13.07.2012, www.luftwaffe.de/portal/a/luftwaffe. This news bulletin can be found in the "Archiv" [archive] section, under "Nachrichten Juli 2012" [News July 2012].

⁶¹ German parliamentary paper No. 17/10609, of 06.09.2012, <http://dip21.bundestag.de/dip21/btd/17/106/1710609.pdf>

⁶² Kramer, Bernd, "Schutzengel für die Front gebastelt. Erst bastelten die Grundschüler Engel für deutsche Soldaten, dann organisierte ihre Lehrerin eine Kooperation mit der Bundeswehr. Bildungsexperten sind entsetzt." [Making guardian angels for the front. First of all, the primary school children made angels for the German soldiers, then their teacher organized a cooperation with the German armed forces. Education experts are horrified], taz.de, 27.08.2012, www.taz.de/!100474/; Arnold, Andreas, "Schutzengel für Afghanistan" [Guardian angels for Afghanistan], Oberbergischer Anzeiger, 03.09.2012, <http://www.ksta.de/oberberg/schull-projekt-schutzengel-fuer-afghanistan-15189242,17059956.html>

Afghanistan Contingent, encouraged further activities at the school. At the start of the new school year, the teacher went on to integrate information on the deployment of German soldiers in Afghanistan into the daily school routine. Now, the current time and presiding weather conditions in the country of assignment are always announced at the start of each school day. On top of this, the children include soldiers currently in active service in their morning prayers.⁶³

The Federal Government expressly welcomed this project, stressing that it had been extremely well received by the soldiers.⁶⁴ This view of things, however, does not go far enough. It cannot be denied that this project was well received by soldiers involved in a dangerous mission in extremely difficult conditions. This school project, however, raises a number of fundamental questions: As of what age can military operations carried out by the German armed forces be considered a topic for classroom discussion - and what form should this take? The most important question here is whether it is possible to treat this topic in such a way so as not to violate the standard educational goals set down in Art. 29 CRC, whilst guaranteeing the openness and transparency required of school lessons.⁶⁵ The chairwoman of the "Gewerkschaft Erziehung und Wissenschaft (GEW)" [Union for Education and Science] in North Rhine-Westphalia has correctly pointed out that one may be able to discuss the conflict in Afghanistan in political science lessons at a secondary school - but not with six-year-old children, in particular, as arguments both for and against the mission need to be considered.⁶⁶ This is a dimension which primary school pupils are simply unable to grasp. She strongly suspects, therefore, that the "children are being influenced by a one-sided viewpoint".⁶⁷

⁶³ German armed forces news bulletin of 13.07.2012, www.luftwaffe.de/portal/a/luftwaffe. This news bulletin can be found in the "Archiv" [archive] section, under "Nachrichten Juli 2012" [News July 2012].

⁶⁴ See the Federal Government's reply to Parliament of 27.06.2011, German parliamentary paper 17/6311, p. 4, <http://dipbt.bundestag.de/dip21/btd/17/063/1706311.pdf>

⁶⁵ See 3. and 4. above.

⁶⁶ See also 4. above.

⁶⁷ Quoted in: Kramer, Bernd, "Schutzengel für die Front gebastelt. Erst bastelten die Grundschüler Engel für deutsche Soldaten, dann organisierte ihre Lehrerin eine Kooperation mit der

Apart from the topic itself and the material being used in the project, which is the responsibility of the Federal State of North Rhine-Westphalia and the responsible school authorities, the project gives cause for concern for a number of other reasons - in particular, the fact that the German armed forces have utilized this school project for their own public relations purposes. The German armed forces, for example, announced in a news bulletin⁶⁸ which appeared on their air force homepage in July 2012 that an air force unit currently located in Cologne would, in future, be "cooperating" with the 2nd grade class. The report went on to state that this unit would be "actively supporting" the project "until 2014" when the pupils left primary school "and" that "it is planned for the school children to visit events held by the German armed forces". Furthermore, the report contained information to the effect that "all further shipments of letters and parcels to Afghanistan sent by the class" would be coordinated by the air force. The news bulletin closes with a quote by one soldier who hopes "that this sets a precedent!"

Irrespective of what lies hidden behind the cooperation with the 2nd grade pupils and the active promotion of the project by the German armed forces, such a news bulletin influences the children in favor of the German armed forces, with the latter instrumentalizing the children for their own public relations purposes.⁶⁹ The German armed forces,

Bundeswehr. Bildungsexperten sind entsetzt." [Making guardian angels for the front. First of all, the primary school children made angels for the German soldiers, then their teacher organized a cooperation with the German armed forces. Education experts are horrified], taz.de, 27.08.2012, www.taz.de/!100474/

⁶⁸ German armed forces news bulletin of 13.07.2012, www.luftwaffe.de/portal/a/luftwaffe. This news bulletin can be found in the "Archiv" [archive] section, under "Nachrichten Juli 2012" [News July 2012].

⁶⁹ See also the statement made by the chairwoman of the Union for Education and Science (GEW) in North Rhine-Westphalia, quoted in: Kramer, Bernd, "Schutzengel für die Front gebastelt. Erst bastelten die Grundschüler Engel für deutsche Soldaten, dann organisierte ihre Lehrerin eine Kooperation mit der Bundeswehr. Bildungsexperten sind entsetzt." [Making guardian angels for the front. First of all, the primary school children made angels for the German soldiers, then their teacher organized a cooperation with the German armed forces. Education experts are horrified], taz.de, 27.08.2012, www.taz.de/!100474/, and in: Stache, Christian, "Schutzengel" für deutsche Einsatztruppe ["guardian" angels for the German task force], AG Friedensforschung [Workgroup for peace

therefore, have quite selfishly made a political issue out of the 2nd grade pupils, which will inevitably lead to their becoming the ball in the political game and debate concerning the deployment of the German armed forces in Afghanistan.⁷⁰

When taking Art. 3 Para. 1 CRC into account,⁷¹ such a news bulletin cannot be found to comply with the CRC. Furthermore, the close contact ("cooperation") between the primary school pupils and the national armed forces generated by both the teacher and the armed forces through a project planned to continue for several years,⁷² is inconsistent with the aforementioned basic

research], 20. August 2012, www.ag-friedensforschung.de/themen/Schule/schutzengel.html

⁷⁰ With regard to the debate this has triggered, pls. see, for example, Arnold, Andreas, "Schutzengel für Afghanistan" [guardian angels for Afghanistan], *Oberbergischer Anzeiger*, 03.09.2012, <http://www.ksta.de/oberberg/schull-projekt-schutzengel-fuer-afghanistan-15189242,17059956.html>; Kramer, Bernd, "Schutzengel für die Front gebastelt. Erst bastelten die Grundschüler Engel für deutsche Soldaten, dann organisierte ihre Lehrerin eine Kooperation mit der Bundeswehr. Bildungsexperten sind entsetzt." [Making guardian angels for the front. First of all, the primary school children made angels for the German soldiers, then their teacher organized a cooperation with the German armed forces. Education experts are horrified], *taz.de*, 27.08.2012, www.taz.de/!100474/

⁷¹ Art. 3 Para. 1 CRC reads: In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

⁷² See also the statement made by the chairwoman of the Union for Education and Science (GEW) in North Rhine-Westphalia, quoted in: Kramer, Bernd, "Schutzengel für die Front gebastelt. Erst bastelten die Grundschüler Engel für deutsche Soldaten, dann organisierte ihre Lehrerin eine Kooperation mit der Bundeswehr. Bildungsexperten sind entsetzt." [Making guardian angels for the front. First of all, the primary school children made angels for the German soldiers, then their teacher organized a cooperation with the German armed forces. Education experts are horrified], *taz.de*, 27.08.2012 and in: Stache, Christian, "Schutzengel" für deutsche Einsatztruppe ["guardian" angels for the German task force], AG Friedensforschung [Workgroup for peace research], 20. August 2012.

principles which apply to a human rights oriented education system.⁷³ It is imperative that the Federal Government works towards ensuring that the German armed forces refrain from instrumentalizing primary school pupils in such a fashion.

3.6. How the German armed forces are being promoted as a possible employer - both in and outside schools

The following section outlines how the human rights of minors are to be protected by the State Parties to the Optional Protocol and the Child Rights Convention in cases where the national armed forces are promoting themselves as a possible employer and where minors - as is the case in Germany - are being enlisted into the national armed forces. Furthermore, the following clearly demonstrates just how the legal framework within which the national armed forces are allowed to make attempts to recruit junior staff can also be restricted by the educational goals set down in Art. 29 CRC, assuming appropriate measures are taken in the schools. Finally, we will be taking a look at the advertising measures taken by the German armed forces both in and outside the classroom - with a view to content and current practice.

Legal framework: Protection of minors and educational goals

Although it proved impossible to enforce the "straight 18" position, the Optional Protocol - together with the Child Rights Convention - commits those states which allow under-18s to be enlisted, to ensuring that their minors enjoy extensive protection. The Protocol includes, for example, a catalog of safeguards in connection with the enlistment of volunteers which must be observed by the State Parties.⁷⁴ However, the protection guaranteed by the Child Rights Convention actually goes much further - the reason being that the list of safeguards contained in the Optional Protocol is explicitly described as being a non-exhaustive catalog.⁷⁵ Furthermore, the catalog itself explicitly points out that "persons under 18 are entitled to special protection" by the State Parties to

⁷³ See 4. above.

⁷⁴ Art. 3 Para. 3 OP.

⁷⁵ See Art. 3 Para. 3 OP: "State Parties that permit voluntary recruitment into their national armed forces under the age of 18 shall maintain safeguards to ensure, as a minimum, that..." (highlighted by the author).

the Child Rights Convention.⁷⁶ The Optional Protocol uses this statement to emphasize the special protection to be provided by the States in accordance with the Child Rights Convention when minors are enlisted into their armies.⁷⁷

The safeguards listed in the Optional Protocol not only include the provision that minors may only be enlisted on a voluntary basis.⁷⁸ Also to be considered is that fact that recruitment "is done with the informed consent" of the parents or legal guardians of those concerned.⁷⁹ Another commitment is to ensure that the minor is "fully informed" of the duties involved in such military service.⁸⁰ According to these provisions, both the parents of the respective child and the child him/herself must be fully informed of all the duties, tasks and consequences to be borne by the minor as a result of doing military service in the armed forces. So as to avoid any doubt, it should be mentioned at this point that providing the minor with full details as to his/her commitments must inevitably include the risks resulting from fulfilling his/her military service commitments. After all, meeting military service commitments, in particular, may put the person concerned at immediate risk.

Through the explicit inclusion of the safeguards, the Optional Protocol has made it clear that national armed forces are not like any other employer. Careers advice with a view to a career in the national armed forces must not, therefore, only be restricted to the promise of good training, an apparently secure and interesting workplace and information on salary prospects. This is based on the realization that minors are particularly liable to being easily influenced and are quite possibly not in a position to recognize the risks and full scope of their decision.

The German armed forces are also not like any other employer – especially now that the tasks and deployment areas within the German armed forces have changed so dramatically during the past few years. People signing up for voluntary military service, as regular soldiers (so called "soldiers

⁷⁶ Art. 3 Para. 1 OP.

⁷⁷ The CRC contains numerous commitments which a state is obliged to fulfill with regard to the protection of its minors. These may be of relevance in this connection.

⁷⁸ Art. 3 Para. 3 a) OP. See 2. above for more detailed information.

⁷⁹ Art. 3 Para. 3 b) OP.

⁸⁰ Art. 3 Para. 3 c) OP.

limited in time") or professional soldiers are committing themselves to military missions abroad – wherever their superiors send them - including Afghanistan. These are not predictable adventures, but missions which change people - even killing them.⁸¹ The State must guarantee that this level of transparency and openness is maintained when recruiting minors to enlist at the age of 17.

For State Parties, such as Germany, which allow minors into their armed forces, the human rights provisions of the Optional Protocol and the Child Rights Convention provide only limited scope for recruiting junior staff members. The emphasis should be on providing comprehensive information. One-sided - or even manipulative - advertising campaigns must be stopped - as must all rhetoric which glorifies or belittles violence.

The State must ensure that these human rights provisions are actually complied with. The state commitments apply to the Federal Government, the Ministry of Defense, the Ministries of Education, all the school authorities and the German armed forces themselves.

If the national armed forces advertise or provide careers advice in schools, the State, in particular, is called upon to ensure that these measures are only carried out in a manner which complies with the educational goals set down in Art. 29 CRC. Schools must also ensure that they comply with these measures in their own area of responsibility. Should they discover that the information supplied is insufficient - or learn of rhetoric which glorifies or belittles violence, they must intervene to protect the minors.

As long as the pupils are not being influenced by a one-sided viewpoint, the German armed forces are allowed to inform interested pupils about career opportunities in the armed forces - e.g. when a general school careers day is held. However, parents must be informed beforehand of any careers advice activities being held at a school as they have the primary responsibility for the upbringing and development of the child.⁸²

⁸¹ For more details on the risks and dangers of overseas missions, please look further down in this section (Extracurricular activities involving the German armed forces).

⁸² This commitment results from Art. 18 Para. 1, Clause 2 CRC which reads: "Parents, or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child."

Current practice in Germany

The German armed forces are currently implementing extensive advertising campaigns targeting young people in particular,⁸³ e.g. advertising using public stands in city centers, at exhibitions, in the Internet, on the radio, on TV, in newspapers, at sports events, in youth-oriented media as well as in school magazines. In addition, the German armed forces also provide careers advice in schools.

As a result of the discontinuation of conscription as per 1 July 2011, the German armed forces are now more dependent than ever on volunteers for military service in the armed forces. The German armed forces increased their efforts and expenditure for advertising for personnel as a result.⁸⁴

Furthermore, all minors aged 16 to 17 receive advertising material on opportunities for signing up with the armed forces based on the Conscription Act,⁸⁵ with the respective information being collected from the minors on an annual basis.⁸⁶ The

⁸³ An informative overview of the advertising measures adopted by the German armed forces is available in German parliamentary paper No. 17/4973, of 28.02.2011, <http://dipbt.bundestag.de/dip21/btd/17/049/1704973.pdf> and in German parliamentary paper No. 17/9501 of 27.04.2012 <http://dipbt.bundestag.de/dip21/btd/17/095/1709501.pdf>

⁸⁴ Frankfurter Allgemeine Zeitung, economics section, 16.10.2011, "Auf der Suche nach Freiwilligen" [Looking for volunteers]. [Translated:] Now that national service has come to an end, the German armed forces are currently fine-tuning how they are going about promoting new talent. A "marketing mix" is to solve the problem, <http://m.faz.net/aktuell/wirtschaft/bundeswehr-auf-der-suche-nach-freiwilligen-11495651.html>; "Bedingt einsatzbereit: Bundeswehr gehen die Soldaten aus" [Ready for action - most of the time: The German armed forces are running out of soldiers], in: Panorama [political TV program], broadcast by the ARD on 31.03.2011, 21:45 Hrs., <http://daserste.ndr.de/panorama/archiv/2011/bundeswehr229.html>

⁸⁵ § 58 Conscription Act (WPflG), www.gesetze-im-internet.de/wehrpflg/_58.html

⁸⁶ According to § 58 Para. 1 Conscription Act (WPflG), the registry offices send the last names, first names and current addresses of persons of German nationality who will turn 18 during the coming year to the Federal Armed Forces Administration Office on an annual basis and by 31 March of each respective year. With regard to the problems connected with data collection and

Federal Government is of the opinion that these measures are necessary because the capacity of the armed forces to regenerate itself with new personnel has gained in importance "due to greater competition from the business sector caused by recent demographic trends".⁸⁷ The advertising messages never contain any reference to the reality of being deployed in the German armed forces, i.e. the risks, deaths and injuries involved. The advertising messages generally put across are: Good training, good promotion prospects, comradeship and plenty of adventure.⁸⁸

Activities undertaken by the German armed forces in schools

When taking a look at the activities of the German armed forces in schools, one problem is that it is difficult to differentiate in the day-to-day school routine between their efforts to promote their deployment policy through their youth officers⁸⁹ and their efforts to promote themselves as a possible employer. The youth officers are actually not allowed to promote internal activities within the German armed forces - not even in those cases where, as was already mentioned above, a cooperation agreement exists with the respective Federal State government. Careers advice is strictly a matter for the so-called military service advisors [Wehrdienstberater].⁹⁰ However, the

the associated breaches of the personal rights of the minors concerned, see German parliamentary paper No. 17/5244, <http://dip21.bundestag.de/dip21/btd/17/052/1705244.pdf>

⁸⁷ German parliamentary paper No. 7/4821, of 21.02.2011, p. 16, <http://dip21.bundestag.de/dip21/btd/17/048/1704821.pdf>

⁸⁸ Frankfurter Allgemeine Zeitung, economics section, 16.10.2011, "Auf der Suche nach Freiwilligen" [Looking for volunteers]. [Translated:] Now that national service has come to an end, the German armed forces are currently fine-tuning how they are going about promoting new talent. A "marketing mix" is to solve the problem. <http://m.faz.net/aktuell/wirtschaft/bundeswehr-auf-der-suche-nach-freiwilligen-11495651.html>; "Bedingt einsatzbereit: Bundeswehr gehen die Soldaten aus" [Ready for action - most of the time: The German armed forces are running out of soldiers], in: Panorama [political TV program], broadcast by the ARD on 31.03.2011, 21:45 Hrs. <http://daserste.ndr.de/panorama/archiv/2011/bundeswehr229.html>

⁸⁹ See 4. above.

⁹⁰ In 2011, military service advisors [Wehrdienstberater] held 10,889 informative

youth officers rouse or promote the interest of minors aged 14 and upwards in the role of the German armed forces as an employer with their performance in the classroom.

The following comment is taken from the Annual Youth Officer Report already mentioned above [translated]: "For school leavers leaving secondary schools: "Hauptschule" [the lowest school level], "Realschule" [intermediate level school] and "Mittelschule" [similar to the Hauptschule and specific to certain German states], the German armed forces remain a particularly attractive employer. In these schools there is a lot of interest with regard to information on career opportunities in the armed forces. In this connection, our youth officers regularly explain the strict distinction between public relations work and junior staff recruitment, as stipulated by the German armed forces due to organizational reasons. In order to be able to enter the schools, this distinction must be strictly adhered to - and the youth officers are always careful to abide by this rule. In this context, the excellent cooperation and coordination between the youth officers and the military service advisors ensures that the legitimate need for information on the part of the pupils is adequately met. Any decisions with regard to invitations sent out to the military service advisors are always made by those teachers responsible for planning the classes."⁹¹

Additionally, the German armed forces also organize full day events for pupils – in particular the so-called "Schools Day". At these events no distinction is made between political education and careers advice. These events take place on German armed forces' premises. According to the latest Annual Youth Officer Report⁹² the troops were

lectures at grammar schools (2,246), "Realschulen" (2,984 = intermediate level schools), "Hauptschulen" (861 = lowest secondary school level) and vocational schools (4,798), reaching a total of 235,695 pupils. See the Federal Government's reply of 27.04.2012, German parliamentary paper No. 17/9501, page 5, <http://dipbt.bundestag.de/dip21/btd/17/095/1709501.pdf>

⁹¹ "Jahresbericht der Jugendoffiziere" [Annual Youth Officer Report], 2009 edition, Berlin, 31 May 2010, p. 4, www.bundeswehr-monitoring.de/fileadmin/user_upload/media/Jugendoffiziere-Bericht-2009.pdf; pls. also compare this with the „Jahresbericht der Jugendoffiziere“ [Annual Youth Officer Report], 2011 edition, Berlin, 23 May 2012, p. 4.

⁹² "Jahresbericht der Jugendoffiziere" [Annual Youth Officer Report], 2011 edition, Berlin, 23 May 2012, p. 5

visited a total of 317 times in 2011, reaching a total of 9,691 participants. The "Schools Day" concept is highlighted as being particularly "successful" as the youth officers are able to reach a large number of pupils "at each event - in close cooperation with the troops". The responsible youth officer invites all the schools in the local vicinity of the barracks to the Schools Day. According to the Annual Youth Officer Report, the Schools Day is "economically efficient for the troops and extremely effective from a public relations viewpoint. It is a method of showing young people from a whole region what everyday life in the troops is like - with the chance to talk to young soldiers."⁹³ At the same time, the Schools Day offers the opportunity for young people to find out all about a career in the German armed forces.⁹⁴

Apart from the fact that such visits to the barracks combine political education with careers advice, such whole-day events raise a general question as to which pedagogical standards are in place and which subjects are included on the agenda. The revelation that there appears to be a total lack of pedagogical standards and standards governing content is demonstrated by a case which provoked attention not only on a local level but also on a nationwide scale.⁹⁵ This case concerns a visit to a German armed forces' facility by 8th grade students in Schleswig-Holstein in October 2009. The pupils visited the VI reconnaissance battalion of the German armed forces, where they were shown the accommodation facilities, the vehicle fleet and a shooting simulator to the value of € 370,000. The

⁹³ Annual Youth Officer Report, 2009 edition, Berlin, 31 May 2010, p. 5; pls. also refer to the „Jahresbericht der Jugendoffiziere“ [Annual Youth Officer Report], 2011 edition, Berlin, 23 May 2012, p. 5.

⁹⁴ This information is available, for example, on the website of the German armed forces (www.bundeswehr.de/portal/a/bwde), where regular reports on the Schools Days are posted.

⁹⁵ Please refer here to Osel, Johann, sueddeutsche.de, 26.03.2010, "Bundeswehr an Schulen, Kameraden im Klassenzimmer" [German armed forces in schools, comrades in the classroom], www.sueddeutsche.de/politik/bundeswehr-an-schulen-kameraden-im-klassenzimmer-1.15788; Osel, Johann, sueddeutsche.de, 21.06.2010, "Bundeswehr wird in Schulen aktiv, Ballern im Schieß-Simulator" [The German armed forces now active in our schools, shooting in the shooting simulator], www.sueddeutsche.de/karriere/bundeswehr-draengt-in-schulen-alleinunterhalter-in-uniform-1.962614-3.

soldiers train for real-life military action in Afghanistan in a computer-animated cinema using electronic weapons. In the shooting simulator area, a sergeant major raved about the shooting simulator in front of the 13 to 15-year-olds, saying it was "a thousand times better" than "any game on your console at home".

Evidently, such excursions, where under-aged pupils visit German armed forces' facilities, do not comply with either the Optional Protocol or the Child Rights Convention. They clearly violate the standard educational goals set down in Art. 29 CRC.⁹⁶ Politicians must ensure that such excursions, where under-aged persons visit German armed forces' barracks, are banned from everyday school activities.

Shows where the national armed forces demonstrate their weapons, aimed at generating an enthusiasm for technology, a drive to play and a thirst for adventure amongst children and young adolescents - and, in particular, at getting minors interested in the national armed forces - should be banned from everyday school activities. According to the Union for Education and Science [Gewerkschaft Erziehung und Wissenschaft GEW], cases have also come to light in which weapons have even been demonstrated and information events held in school yards and gyms.⁹⁷

The German armed forces are now reaching out to minors in their role as a potential employer earlier than ever. For example, the German armed forces hold regular events, so-called "Girls' Days",⁹⁸ in an attempt to get schoolgirls interested in the armed forces as a possible future employer. These events serve to provide girls with an insight into the German armed forces, an area dominated by

⁹⁶ The Union of Education and Science (GEW) is also of the opinion that excursions to informative events held on the premises of the German armed forces do not represent a suitable method of conveying political knowledge, nor are they in compliance with the educational goals aimed at securing peace and freedom from violence, www.gew.de/Einfluss_der_Bundeswehr_an_Schulen_zurueckdraengen.html

⁹⁷ See www.gew.de/Einfluss_der_Bundeswehr_an_Schulen_zurueckdraengen.html

⁹⁸ The Girls' Day is held once a year and offers young girls the opportunity of getting an insight into occupations dominated by men, see www.girls-day.de for more information.

men.⁹⁹ Although the minimum age for being allowed to participate at one of these events is 14 - a voluntary commitment on the part of the German armed forces - in practice, this self-commitment is breached on a regular basis. In the past few years, minors under the age of 14, i.e. eleven, twelve and 13-year-olds, have been taking part at such events,¹⁰⁰ which has led to open criticism of how this is being handled by the German armed forces.

Extracurricular activities involving the German armed forces

One example of an advertising campaign carried out by the German armed forces which captured a lot of attention and criticism in the media came to light in the summer/autumn of 2012. This involved a large German teenage magazine, "Bravo", which started an online advertising campaign for the German armed forces' so-called "Adventure Camps". Young people aged 16 and upwards could apply to take part in one of these camps and win free entry. There were two "Adventure Camps" to choose from, one on a beach and the other up in the mountains. The criticism, voiced, for example, by child rights organizations, the Protestant church in Germany and some political instances, was justified in that it opposed the campaign on the grounds that the picture the German armed forces was presenting to young people was misleading. The way the German armed forces were portrayed in this campaign - as a place full of adventures - contrasts strongly with the reality of a military mission. In addition, the medium chosen by the German armed forces, namely a magazine which is read by minors as young as 10 years of age, was also the subject of criticism.¹⁰¹

⁹⁹ Federal Government's reply of 11.07.2012, German parliamentary paper No. 17/10287, p. 2, <http://dip21.bundestag.de/dip21/btd/17/102/1710287.pdf>.

¹⁰⁰ See the Federal Government's reply of 11.07.2012, German parliamentary paper No. 17/10287, p. 3, <http://dip21.bundestag.de/dip21/btd/17/102/1710287.pdf>; See also Schulze von Glaßer, Michael, "Mädels ans Maschinengewehr" [Girls to the machine guns], telepolis, 14.04.2011, for further examples of violations of the self-commitment made by the German armed forces, www.heise.de/tp/artikel/34/34498/1.html

¹⁰¹ Adventure Camps, the German armed forces defend their controversial "Bravo" campaign. The German armed forces have launched an advertising campaign with "Bravo", a teenager magazine. This has triggered harsh criticism.

The basic attitude with which the German armed forces approach their advertising campaigns was explained by a woman employed at an advertising agency contracted to run an advertising campaign for the German armed forces in a public television broadcast in March 2011. She stated that the German armed forces did not broach the issue of overseas military missions in their advertising just like advertising for chocolate does not mention the risk of getting fat.¹⁰²

Consequently, this puts the risk of getting fat from eating chocolate on the same par as the risks involved when the German armed forces are deployed overseas. Obviously, there are no plans for this advertising to include the health risks, although in other advertising areas, e.g. cigarettes or pharmaceutical products, this is not only common practice but actually required by law. The risks involved when the German armed forces are sent on an overseas mission, like the one in Afghanistan, include being killed, wounded, losing a limb and/or

However, the army is continuing to push the project. Die Welt-online, 21.09.12, www.welt.de/politik/deutschland/article109396169/Bundeswehr-verteidigt-umstrittene-Bravo-Kampagne.html#disqus_thread; Grimm, Rico/Strozyk, Jan Lukas, "Bundeswehr-Werbung für Jugendliche" [German armed forces' advertising for young people]. "Palmen, Party, Panzerfahren" [palm trees, parties, driving tanks], spiegelonline, 18.09.2012, www.spiegel.de/politik/deutschland/bundeswehr-wirbt-im-jugendmagazin-bravo-mit-abenteuercamps-a-855922.html; Galaktionow, Barbara, "Bundeswehr auf Jugendfang" [The German armed forces – fishing for young people], süddeutsche.de, 25.09.2012, www.sueddeutsche.de/politik/abenteuer-camps-und-schulbesuche-bundeswehr-auf-jugendfang-1.1472365.

¹⁰² "Bedingt einsatzbereit: Bundeswehr gehen die Soldaten aus" [Ready for action - most of the time: The German armed forces are running out of soldiers], in: Panorama [political TV program], broadcast by the ARD on 31.03.2011, 21:45 Hrs., <http://daserste.ndr.de/panorama/archiv/2011/bundeswehr229.html> with reference to the manuscript from the broadcast (<http://daserste.ndr.de/panorama/archiv/2011/bundeswehr235.pdf>); See also the Federal Government's reply to Parliament of 27.06.2011, German parliamentary paper No. 17/6311, p. 11: In a reply to an enquiry directed at the Federal Government the latter merely commented that it did not evaluate statements made by private individuals, <http://dipbt.bundestag.de/dip21/btd/17/063/1706311.pdf>

suffering from a serious mental disorder, in particular a post-traumatic stress disorder (PTSD).¹⁰³

Advertising campaigns, such as that used for the "Adventure Camps" project, violate the aforementioned commitment to protect the human rights of minors that the State Parties to the Optional Protocol and the Child Rights Convention are required to fulfill. The Federal Government should ensure that the German armed forces refrain from carrying out such advertising campaigns in future. Furthermore, it should take steps - possibly by introducing new legislation - to ensure that advertising for the German armed forces always includes the risks connected with overseas missions.

3.7. Arms exports

Government commitments specified in the Optional Protocol not only apply nationally, but also at a cross-national and international level.¹⁰⁴ This also includes the commitment to take preventive steps to avert all possible breaches of the Protocol.¹⁰⁵ In this connection, the UN Committee on the Rights of the Child recommended that Germany introduce a special ban on the sale of

¹⁰³ Post-traumatic stress disorders (PTSD) are commonly found amongst people who have served as soldiers in a war zone. The symptoms have often been diagnosed amongst those returning from Afghanistan. Returnees from Kosovo and Bosnia and Herzegovina often show these symptoms, too. See Smith, Pete, "Posttraumatische Belastungsstörungen passen nicht ins Bild vom harten Soldaten" [Post-traumatic stress disorders do not fit our image of hardened soldiers], Ärzte Zeitung.de, 01.04.2008, www.aerztezeitung.de/medizin/krankheiten/neuro-psychiatrische_krankheiten/?sid=489087; Friedrichs, Hauke, "Traumatisierte Soldaten, Alleingelassen mit dem Krieg" [Traumatized soldiers, left alone with the war], Zeit-online, 07.03.2011, www.zeit.de/politik/deutschland/2011-03/bundeswehr-soldaten-trauma-betreuung; Gruber, Christian, "Traumatisierte Bundeswehrosoldaten: Psychologen warnen vor hoher Dunkelziffer" [Traumatized soldiers from the German armed forces: Psychologists warn that there is a high number of unreported cases], spiegelonline, 25.09.2012, www.spiegel.de/gesundheit/psychologie/traumatisierte-bundeswehrosoldaten-psychologen-warnen-vor-dunkelziffer-a-856440.html

¹⁰⁴ Art. 7 OP.

¹⁰⁵ Art. 7 Para. 1, clause 1 OP.

arms when the final destination is a country where children are known to be – or may potentially be – recruited or used in hostilities.¹⁰⁶ Current arms control practice in Germany does not provide for such a special ban.¹⁰⁷

Putting the question as to whether weapons from Germany reach states where children are recruited or used in hostilities to one side, the general topic of German arms exports is important when considering state commitments pursuant to the CRC. The fundamental question here is what impact does the export of so-called small arms and light weapons, in particular, (often just referred to as small arms¹⁰⁸), such as machine guns and submachine guns and/or corresponding ammunition¹⁰⁹ have on the human rights situation of children in other states. Experience has shown that exporting and distributing small arms, in particular, can often have a destabilizing effect on the development of a whole country or region, which runs counter not only to the commitments contained in the Optional Protocol but also to those of the CRC. The State Parties to the CRC have accepted a basic commitment to also support and promote the realization of the economic,

¹⁰⁶ UN Committee on the Rights of the Child, Concluding Observations: Germany, dated 1 February 2008, Figure 23: “The Committee recommends that the State Party consider introducing a specific prohibition with respect to the sale of arms when the final destination is a country where children are known to be – or may potentially be – recruited or used in hostilities.” www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-OPAC-DEU-CO-1.pdf

¹⁰⁷ See the Third and Fourth State Report of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child, p. 24 ff.

¹⁰⁸ See the “Rüstungsinformationsbüro (RIB)” [Armaments Information Office], www.rib-ev.de/?page_id=197; and the “Rüstungsexportbericht der Bundesregierung 2011” [Armaments export report of the Federal Republic of Germany 2011], Berlin, 2012, p. 24 ff., this report is included in the Ministry’s publications section www.bmwi.de/DE/Mediathek/publikationen.html, click on the letter B in the search bar.

¹⁰⁹ In Germany small arms and light weapons are classified as type A0001 and type A0002 weapons. The respective ammunition is classified as type A0003. See the “Rüstungsexportbericht der Bundesregierung 2011” [Armaments export report of the Federal Republic of Germany 2011], p. 47 ff. (export list).

social and cultural rights codified in the CRC in other countries.¹¹⁰

German arms control policy is essentially governed by the “Political Principles of the Government of the Federal Republic of Germany for the Export of War Weapons and Other Military Equipment”, last amended on 19 January 2000.¹¹¹ These Principles and the common position of the European Union (EU) with respect to common rules governing the control of exports of military technology and equipment - which are an integral part of these political principles - of 8 December 2008¹¹² provide a guideline for approving arms export license applications.¹¹³ The Political Principles of the Government of the Federal Republic of Germany differentiate here between arms export to NATO countries, EU Member States and close NATO allies (Australia, New Zealand, Japan, Switzerland), which are not restricted, and exports to all other countries (so-called third countries).¹¹⁴ Once a year the Government publishes a report on the export of conventional armaments in the previous year (“Rüstungsexportbericht” [Armaments export report]). The most recent report – for the year 2011 - was published in November 2012.¹¹⁵ According to

¹¹⁰ See Art. 4 Clause 2, 2nd part of the Clause CRC. Particular emphasis is placed on these cross-national, respectively international commitments in view of the right to health (Art. 24 Para. 4 CRC) and the right to education (Art. 28 Para. 3 CRC).

¹¹¹ “Rüstungsexportbericht der Bundesregierung 2011” [Armaments export report of the Federal Republic of Germany 2011], p. 36 ff.

¹¹² “Rüstungsexportbericht der Bundesregierung 2011” [Armaments export report of the Federal Republic of Germany 2011], p. 40 ff., also included in the Official journal of the European Union No. L 335 of 13.12.2008, p. 99-103; <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008E0944:DE:HTML>

¹¹³ “Rüstungsexportbericht der Bundesregierung 2011” [Armaments export report of the Federal Republic of Germany 2011], p. 7 and p. 11; Third and Fourth State Report of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child, p. 24 ff.

¹¹⁴ Third and Fourth State Report of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child, p. 25; “Rüstungsexportbericht der Bundesregierung 2011” [Armaments export report of the Federal Republic of Germany 2011], p. 6.

¹¹⁵ “Rüstungsexportbericht der Bundesregierung 2011” [Armaments export report of the Federal

this report, decisions to approve applications for export licenses are only made after careful consideration of all foreign policy, security policy and human rights policy issues involved. According to this, conflict prevention and the observance of human rights in the destination country are important criteria in the decision-making process.¹¹⁶

Germany is one of the largest exporters of armaments worldwide.¹¹⁷ This also applies to the export of small arms (small arms and light weapons).¹¹⁸ In 2011, individual export licenses¹¹⁹ with a total value of approx. € 5.4 billion were granted. A 58% share of this volume went to EU and NATO countries and close NATO allies. The other 42% went to third countries.¹²⁰ The total volume of collective export licenses granted¹²¹ for

Republic of Germany 2011], this report is included in the Ministry's publications section www.bmwi.de/DE/Mediathek/publikationen.html, click on the letter B in the search bar.

¹¹⁶ "Rüstungsexportbericht der Bundesregierung 2011" [Armaments export report of the Federal Republic of Germany 2011], p. 6; Third and Fourth State Report of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child, p. 25.

¹¹⁷ See the "Rüstungsexportbericht der Bundesregierung 2011" [Armaments export report of the Federal Republic of Germany 2011], p. 34 ff., which contains results and evaluations describing how German arms exports compare on an international scale.

¹¹⁸ For more details, see the "Gemeinsame Konferenz Kirche und Entwicklung (GKKE), Rüstungsexportbericht 2012 der GKKE" [Joint Conference Church and Development, GKKE Arms Export Report 2012], p. 41 ff., www3.gkke.org/fileadmin/files/downloads-allgemein/REB-2012-BPK-Fassung.pdf; "Rüstungsexportbericht 2011 der GKKE" [GKKE Arms Export Report 2011], p. 39, www3.gkke.org/fileadmin/files/downloads-allgemein/GKKE_56_REB_2011.pdf

¹¹⁹ For more details, see the "Rüstungsexportbericht der Bundesregierung 2011" [Armaments export report of the Federal Republic of Germany 2011], p. 18 ff.

¹²⁰ "Rüstungsexportbericht der Bundesregierung 2011" [Armaments export report of the Federal Republic of Germany 2011], p. 6.

¹²¹ For more details, see the "Rüstungsexportbericht der Bundesregierung 2011" [Armaments export report of the Federal Republic of Germany 2011], p. 20.

exports in line with defense cooperation agreements between EU and NATO partners also amounted to approx. € 5.4 billion in the year on which the report is based.¹²²

The German arms control policy is marked by a lack of transparency with regard to how arms transfer deals are initiated, processed and financed. There are no parliamentary controls in place and the fight against corruption in the arms export industry leaves a lot to be desired.¹²³ Recently,¹²⁴ the arms policy of the German Federal Government has seen itself increasingly under attack as a result.¹²⁵ Criticism voiced in the Bundestag [German parliament]¹²⁶ and the media¹²⁷ is not only directed at the lack of

¹²² "Rüstungsexportbericht der Bundesregierung 2011" [Armaments export report of the Federal Republic of Germany 2011], p. 6.

¹²³ For more details, see the "Gemeinsame Konferenz Kirche und Entwicklung (GKKE), Rüstungsexportbericht 2010 der GKKE" [Joint Conference Church and Development, GKKE Arms Export Report 2010], p. 13 ff., www3.gkke.org/fileadmin/files/publikationen/2010/REB_2010_fuer_Presse.pdf

¹²⁴ For more details, see the "Gemeinsame Konferenz Kirche und Entwicklung (GKKE), Rüstungsexportbericht 2012 der GKKE, Aktuelle Debatten und Kontroversen der deutschen Rüstungsexportpolitik" [Joint Conference Church and Development, GKKE Arms Export Report 2012, Current debates and controversies concerning the German arms export policy], p. 50 ff., www3.gkke.org/fileadmin/files/downloads-allgemein/REB-2012-BPK-Fassung.pdf

¹²⁵ Recently, Norbert Röttgen, member of the Bundestag [German parliament] also strongly criticized the current arms policy - demanding more transparency in arms exports. He referred to current practice as being "totally abstruse". Süddeutsche Zeitung, 24./25./26.12.2012, p. 1 and p. 6, www.norbert-roettgen.de/presse/interviews/823-2013-01-03-10-18-19.html

¹²⁶ See German parliamentary paper No. 17/6931 of 07.09.2011, <http://dip21.bundestag.de/dip21/btd/17/069/1706931.pdf> German parliamentary paper No. 17/9412 of 25.04.2012, <http://dip21.bundestag.de/dip21/btd/17/094/1709412.pdf>

¹²⁷ See Hammerstein, Konstantin von/Neukirch, Ralf/Repinski, Gordon/Stark, Holger/Traufetter, Gerald/Wiegrefe, Klaus, "Die Merkel-Doktrin" [The Merkel Doctrine], in: Der Spiegel, 03.12.2012, "Deutsche Waffen für die Welt (Titel)"

information, transparency and parliamentary involvement in arms export policy. It is also directed at the lack of consideration given to the human rights situation in the destination countries and the extent to which German arms exports have grown.¹²⁸ The "Gemeinsame Konferenz Kirche und Entwicklung (GKKE)" [Joint Conference Church and Development] which provides an in-depth analysis and evaluation of the German arms exports policy in its annual arms exports reports, also voiced similar criticism on Human Rights Day 2012¹²⁹. When presenting its most recent report,¹³⁰ the organization criticized the fact that the number "of destination countries which are classified as very worrying with regard to the human rights situation"¹³¹ has meanwhile "climbed to 64". The latest armaments export report of the Federal Republic of Germany gives

[Title story: German weapons for the world], www.spiegel.de/spiegel/print/d-89932536.html

¹²⁸ See German parliamentary paper No. 17/9412 of 25.04.2012, <http://dip21.bundestag.de/dip21/btd/17/094/1709412.pdf> "Deutsches Institut für Menschenrechte" [German Institute for Human Rights], press bulletin of 06.12.2012, "Rüstungsexporte: Menschenrechte als Kriterium ernst nehmen und parlamentarische Befassung stärken" [Arms exports: Human rights criteria should be taken more seriously and parliament more deeply involved], www.institut-fuer-menschenrechte.de/de/presse/pressemitteilungen.html; Veit, Medick/Neukirch, Ralf, spiegelonline, 13.11.2012, "Kriegswaffenexportbericht 2011, Mehr Rüstungsgüter für arabische Länder" [Export of war weapons report 2011, more armaments for Arabian countries], www.spiegel.de/politik/deutschland/ruestungsexportbericht-2011-mehr-exportgenehmigungen-als-im-vorjahr-a-867036.html

¹²⁹ The "Gemeinsame Konferenz Kirche und Entwicklung (GKKE)" [Joint Conference Church and Development] is a joint Protestant-Catholic ecumenical work forum relating to development policy, www3.gkke.org

¹³⁰ "Rüstungsexportbericht 2012 der GKKE" [GKKE Arms Export Report 2012], www3.gkke.org/fileadmin/files/downloads-allgemein/REB-2012-BPK-Fassung.pdf

¹³¹ For more details, see the "Rüstungsexportbericht 2012 der GKKE" [GKKE armaments export report 2012], p. 32 ff., in particular, p. 44-49, which contains further references.

the impression that current approval practice "does not keep to its own restrictive standards and commonly ranks other interests higher than the upholding of human rights – contrary to statements made by the Federal Government."¹³²

Furthermore, a key problem that remains to be solved is how to monitor where small arms and their corresponding ammunition actually end up and how to ensure that these are implemented in compliance with international law.¹³³ Small arms distribution can have a major impact on the human rights situation - particularly that of the children – in numerous countries and regions all over the world. Small arms often obstruct economic and social development in the countries concerned – commonly leading to a violent escalation of local conflicts. Their usage is the cause of the vast majority of victims in internal and cross-border conflicts.¹³⁴ A large number of these victims are children. Furthermore, these weapons are the ones most commonly used by child soldiers as children can easily handle them.¹³⁵

Small arms can be used for decades and can be passed on relatively easily without being controlled. The "Gemeinsame Konferenz Kirche und Entwicklung (GKKE)" [Joint Conference Church and Development] reports, for example, that small arms are continually being passed on

¹³² "Gemeinsame Konferenz Kirche und Entwicklung, Pressemitteilung, GKKE veröffentlicht ihren Rüstungsexportbericht 2012, Waffen schaffen keine Stabilität" [Joint Conference Church and Development, press bulletin, GKKE publishes its arms exports report 2012, weapons do not create stability], 10.12.2012, www3.gkke.org/fileadmin/files/downloads-allgemein/PM-REB-2012.pdf

¹³³ The distribution and implementation of small arms in other states is not solely due to exports. It can also be the result of granting licenses for reproducing German small arms overseas or be attributable to the export of production facilities for manufacturing small arms. See German parliamentary paper No. 16/12951 of 08.05.2009, <http://dipbt.bundestag.de/dip21/btd/16/129/1612951.pdf>, and German parliamentary paper No. 17/9412 of 25.04.2012, p. 2 ff.

¹³⁴ Confirmed in the "Rüstungsexportbericht der Bundesregierung 2011" [Armaments export report of the Federal Republic of Germany], p. 14

¹³⁵ See also UNICEF, www.unicef.de/projekte/themen/kinderschuetzen/kindersoldaten

illegally in areas of conflict,¹³⁶ including weapons produced by German manufacturers.¹³⁷ The Federal Government of Germany, therefore, is unable to reliably confirm where small arms exported from Germany finally end up.¹³⁸ Even the Government's own most recent arms export report clearly confirms this when pointing out that destination countries often fail to adequately secure their state weapon and ammunition supplies. Experience has shown that illegal arms transfers are often the result of such shortcomings.¹³⁹ Although Germany principally only allows the export of arms to governmental end users and not to private ones,¹⁴⁰ small arms exported from Germany will still manage to find their way into conflict regions.

According to the latest government report, licenses have been granted to export small arms to states and regions where it is not even clear how these transfers can actually be carried out in accordance with the Political Principles of the Government of the Federal Republic of Germany. It is not at all clear from the report whether licenses issued for exporting arms to certain third countries can be justified in the light of criteria for preventing conflicts and the observance of human rights in the destination countries. According to the report, the following third countries are the recipients of small arms and/or ammunition : Egypt, Afghanistan, Argentina, Bahrain, Brazil, Brunei, Hong Kong, Greenland, India, Indonesia, Iraq,

¹³⁶ For more details, see Prelate Bernhard Felmberg, "Statement zum Rüstungsexportbericht 2010 der GKKE, Bundespressekonferenz" [Statement on the GKKE Arms Export Report 2010, Federal Press Conference], 13.12.2010, www3.gkke.org/fileadmin/files/publikationen/2010/REB_2010_Statement_Felmberg_BPK.pdf

¹³⁷ "Rüstungsexportbericht 2011 der GKKE" [GKKE Arms Export Report 2011], p. 39, http://www3.gkke.org/fileadmin/files/downloads-allgemein/REB_2011_fuer_Presse.pdf; See also the Federal Government's reply to Parliament of 29.11.2011, German parliamentary paper No. 17/7929, p. 6, <http://dipbt.bundestag.de/dip21/btd/17/079/1707929.pdf>

¹³⁸ See German parliamentary paper No. 16/12951 of 07.05.2009, <http://dipbt.bundestag.de/dip21/btd/16/129/1612951.pdf>

¹³⁹ "Rüstungsexportbericht der Bundesregierung 2011" [Armaments export report of the Federal Republic of Germany 2011], p. 14.

¹⁴⁰ "Rüstungsexportbericht der Bundesregierung 2011" [Armaments export report of the Federal Republic of Germany 2011], p. 15.

Kazakhstan, Korea (Republic of), Kosovo, Malaysia, Namibia, Oman, Peru, the Philippines, the Russian Federation, Zambia, Saudi Arabia, Serbia, Singapore, South Africa, Taiwan, the Ukraine and the United Arab Emirates.¹⁴¹

On top of this – and contrary to the recommendations made by the UN Committee on the Rights of the Child¹⁴² -, Germany has also approved the export of weapons to countries in which children have been recruited and used in hostilities.¹⁴³ The report provided by the UN Special Representative on "Children and Armed Conflict", dated 23 April 2011, incorporated in the annual report of the UN General Secretary, contains a list of over 50 armed groups or government troops which abuse children as soldiers.¹⁴⁴ According to this, child soldiers were

¹⁴¹ See the "Rüstungsexportbericht der Bundesregierung 2011" [Armaments export report of the Federal Republic of Germany 2011], p. 24 ff. and p. 94 ff. - which also provides information on the scope of the respective licenses. The above states are listed in Table F (p. 28 - small arms) and in Table H (p. 31 - ammunition). With respect to the export of small arms (small arms and light weapons), see also the "Gemeinsame Konferenz Kirche und Entwicklung (GKKE), Rüstungsexportbericht 2012 der GKKE" [Joint Conference Church and Development, GKKE Arms Export Report 2012], p. 41 ff., which also lists China (106 submachine guns)

¹⁴² UN Committee on the Rights of the Child, Concluding Observations: Germany, dated 1 February 2008, Figure 23, www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-OPAC-DEU-CO-1.pdf.

¹⁴³ See also the Federal Government's reply to Parliament of 29.11.2011, German parliamentary paper No. 17/7979, p. 2, containing statements made by the Federal Government of the Republic of Germany on the topic of the licensing process which include, in particular, the following statements: "If there is any indication that the small arms or light weapons due to be exported are to be used or handed over to child soldiers in violation of the UN Child Rights Convention or the Optional Protocol, the export license will be denied." <http://dipbt.bundestag.de/dip21/btd/17/079/1707929.pdf>

¹⁴⁴ UN Document A/65/820-S/2011/250 of 23 April 2011, www.unhcr.org/refworld/publisher/UNGA/COUNTRYREP/4dda382b2.0.html; See also the Federal Government's reply to Parliament of 29.11.2011, German parliamentary paper No. 17/7929, p. 3, wherein the Federal Government of the Republic of Germany points out that it has knowledge of

used in the following countries during the period covered by the report: Afghanistan, the Democratic Republic of the Congo, Iraq, Yemen, Columbia, Myanmar, Nepal, the Philippines, Somalia, Sri Lanka, Sudan/Southern Sudan, Chad, Uganda and the Central African Republic.

According to the latest arms export report for the year 2011, Germany approved the export of small arms and/or ammunition for small arms to a number of the countries named above, e.g. Iraq and the Philippines.¹⁴⁵ More licenses were also granted to export other types of weapons to Iraq.¹⁴⁶ In 2010, Germany also approved the export of small arms and ammunition to the countries of Iraq and the Philippines,¹⁴⁷ as well as the export of small arms, ammunition and other weapons to Columbia.¹⁴⁸

this list,

<http://dipbt.bundestag.de/dip21/btd/17/079/1707929.pdf>

¹⁴⁵ See the "Rüstungsexportbericht der Bundesregierung 2011" [Armaments export report of the Federal Republic of Germany 2011], p. 24 ff. and p. 94 ff. - which also provides information on the scope of the respective licenses. The above states are listed in Table F (p. 28 - small arms) and in Table H (p. 31 - ammunition).

¹⁴⁶ "Rüstungsexportbericht der Bundesregierung 2011" [Armaments export report of the Federal Republic of Germany 2011], p. 98; See also the "Gemeinsame Konferenz Kirche und Entwicklung (GKKE), Rüstungsexportbericht 2012 der GKKE" [Joint Conference Church and Development, GKKE Arms Export Report 2012], p. 45, www3.gkke.org/fileadmin/files/downloads-allgemein/REB-2012-BPK-Fassung.pdf, for information on licenses for exporting armaments to Iraq.

¹⁴⁷ "Rüstungsexportbericht der Bundesregierung 2010" [Armaments export report of the Federal Republic of Germany 2010], p. 33 ff. (Table B) and p. 36 (Table D), this report is included in the Ministry's publications section www.bmwi.de/DE/Mediathek/publikationen.html, click on the letter B in the search bar.

¹⁴⁸ "Rüstungsexportbericht der Bundesregierung 2010" [Armaments export report of the Federal Republic of Germany 2010], p. 101. See the "Rüstungsexportbericht der Bundesregierung 2010" [Armaments export report of the Federal Republic of Germany 2010], p. 53 ff., for information on the listed "AL-Positionen" ["Ausfuhrlisten-Positionen" = export list items] A0001, A0002, A0004, A0005, A0007, A0008, A0009, A00010, A00011, A00013, A00017 and A00022. Small arms are included in

Apart from that, it remains to be asked whether, and to what extent, we can be sure that small arms from NATO countries, the EU Member States and close NATO allies are not still being exported to countries which, from a human rights perspective, should not be receiving any exports because child soldiers are either being recruited in these countries or being used in hostilities.¹⁴⁹

*Germany should act on the UN Committee's recommendation to introduce a special ban on the sale of arms in cases where the final destination is a country where children are known to be – or may potentially be – recruited or used in hostilities. In addition, the Federal Government of the Republic of Germany should subject its arms export policy to an extensive review in order to avoid German involvement in the violation of human rights. This also includes ensuring that its arms export control policy is accordingly transparent. When reviewing current licensing practice, there is no evidence to show that the Political Principles of the Government of the Federal Republic of Germany are currently being adhered to, especially with regard to the question of small arms exports.*¹⁵⁰ A transparent

the "AL-Positionen" ["Ausfuhrlisten-Positionen" = export list items] A0001 and A0002; However, these are not listed on p. 33 (Table B).

¹⁴⁹ For example, it remains to be asked what efforts are being made to ensure that small arms currently being supplied to the USA by Germany are not being exported on to regions where child soldiers are being used. The following facts, in particular, justify this question: Germany is currently exporting a considerable volume of weapons to the USA. According to the most recent "Rüstungsexportbericht der Bundesregierung" [Armaments export report of the Federal Government of the Republic of Germany], (pages 76 and 93) export licenses amounted to a total of € 632 million in the year 2011. These licenses included licenses for small arms and respective ammunition (A0001, A0002, A0003). As is the case in Germany, there is also no ban on the sale of weapons in the USA, if the final destination is a country where children are known to be – or may potentially be – recruited or used in hostilities. The UN Committee has, therefore, also recommended that the USA, like Germany, introduce a respective ban. See CRC/C/OPAC/USA/CO/1, Figure 34, www2.ohchr.org/english/bodies/crc/docs/co/CRC.C.OPAC.USA.CO.1.pdf

¹⁵⁰ See also the "Gemeinsame Konferenz Kirche und Entwicklung (GKKE), Rüstungsexportbericht 2012 der GKKE [Joint Conference Church and Development, GKKE Arms Export Report 2012], p. 49.

arms control policy should create effective control mechanisms allowing parliamentarians and other civil society players to send off early warning signals to avoid the violation of human rights and the escalation of crisis situations, as provided for in the Political Principles. By fundamentally changing its arms control policy, Germany could reduce the risk of its involvement in the violation of the human rights of children.

3.8. Compliance with commitments pertaining to former child soldier refugees in Germany

The CRC and the Optional Protocol are of major importance to former child soldier refugees in Germany. The Optional Protocol establishes state commitments vis-à-vis children who have been enlisted and instrumentalized by non-state armed groups or state armies or forced to fight for such groups. The State Parties shall accord these minors all necessary and appropriate assistance for their physical and psychological recovery and their social reintegration (Article 6 Paragraph 3 of the Optional Protocol). The CRC contains several provisions of major importance for child refugees in Germany. The following provisions deserve mention in this respect: Art. 20 CRC, which guarantees special care and placement in the best interests of the child, and Art. 22 CRC, which is important for children seeking asylum and/or international protection. Unaccompanied minors account for a large share of the former child soldier refugees in Germany. In its recommendations of 2008, the UN Committee on the Rights of the Child identified considerable deficits with regard to how Germany is implementing the Protocol with respect to the treatment of child soldier refugees in Germany.¹⁵¹ The Committee also took advantage of this opportunity to draw attention once more to its General Comment on unaccompanied children.¹⁵² Clear deficits are still obvious in Germany's handling of such children.¹⁵³

¹⁵¹ Figure 16 ff. of the Concluding Observations: www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-OPAC-DEU-CO-1.pdf

¹⁵² General Comment No. 6 of the UN Committee on the Rights of the Child of 01.09.2005, CRC/GC/2005/6, www2.ohchr.org/english/bodies/crc/comments.htm

¹⁵³ See Cremer, Hendrik, Shadow Report "Child Soldiers", terre des hommes / Kindernothilfe (editors), 2007.

The Federal Government of the Republic of Germany withdrew its so-called "reservations regarding aliens" in July 2010 – reservations which it had expressed in connection with the provisions of the CRC and which it withdrew following extensive and continued criticism, including criticism by the UN Committee on the Rights of the Child. But the full recognition of the CRC at international level failed to be accompanied by appropriate changes in legislation.¹⁵⁴

The existing legal framework for these children and their real and particular psychosocial situation reveal a substantial need for Germany to take action. We will be addressing some points below. The general topic of unaccompanied children, including former child soldiers, was already dealt with in the Supplementary Report of the German National Coalition for Implementation of the UN Child Rights Convention (NC) on Germany's State Report.¹⁵⁵

A fundamental problem exists here in the fact that unaccompanied minors and former child soldiers are routinely pushed into burdensome and by no means child-friendly asylum procedures, independent of the chance of success. Furthermore, procedures for granting the right of asylum or connected with the Aufenthaltsgesetz [Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory Residence Act] – hereinafter to be referred to as the Residence Act] treat children like adults as soon as they have reached the age of 16.¹⁵⁶

¹⁵⁴ See Cremer, Hendrik, "Die UN-Kinderrechtskonvention. Geltung und Anwendbarkeit in Deutschland nach der Rücknahme der Vorhalte" [The UN Child Rights Convention. Validity and applicability in Germany following the withdrawal of the reservations], 2nd edition, "Deutsches Institut für Menschenrechte" [German Institute for Human Rights] (editor), Berlin 2012, p. 15, www.institut-fuer-menschenrechte.de/uploads/tx_commerce/die_un_kinderrechtskonvention_2_auflage.pdf

¹⁵⁵ Supplementary Report of the German National Coalition for Implementation of the UN Child Rights Convention (NC) on the Third and Fourth State Report of the Federal Republic of Germany to the United Nations according to Article 44 Para. 1 b) of the Convention on the Rights of the Child, p. 34 ff. www.national-coalition.de/pdf/26-01-2010/Ergaenzender_BerichtNC_final_eng.pdf

¹⁵⁶ See § 12 Asylverfahrensgesetz (AsylVfG) [Asylum Procedure Act] and § 80 Aufenthaltsgesetz (AufenthG) [Residence Act].

Apart from the fact that the German residence legislation does not actually include any provisions which specifically apply to minors with respect to the so-called clearing process,¹⁵⁷ significant deficits in the care and placement of these unaccompanied minors are also more than obvious. As soon as they have reached the age of 16, they are often excluded from the protection of the youth welfare services - at least in some Federal States - and are placed in accommodation designed to take up adult asylum seekers.¹⁵⁸ No attention is paid here as to what is in the best interests of the child. Furthermore, there is nothing to guarantee that former child soldiers receive the required psychological support. It is often difficult for them to receive an urgently required therapy.¹⁵⁹ Apart from this, former child soldiers are not exempt from being detained with a view to deportation. In Germany, unaccompanied minors may also be detained prior to deportation.¹⁶⁰

¹⁵⁷ Such proceedings allow the personal situation of each individual child and his/her family circumstances to be determined, including which steps are in the best interests of the child, e.g. a family reunion in a third country, a voluntary return or the submission of respective residency or asylum applications. See also the Supplementary Report of the German National Coalition for Implementation of the UN Child Rights Convention (NC) on the Third and Fourth State Report of the Federal Republic of Germany to the United Nations according to Article 44 Para. 1 b) of the Convention on the Rights of the Child, p. 34.

¹⁵⁸ See also the Third and Fourth State Report of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child, p. 86 ff.

¹⁵⁹ Zito, Dima, "Zwischen Angst und Hoffnung, Kindersoldaten als Flüchtlinge in Deutschland" [Between fear and hope, child soldier refugees in Germany], in: terre des hommes / Bundesfachverband Unbegleitete Minderjährige Flüchtlinge [Federal Association for Unaccompanied Minor Refugees] (editor), Osnabrück 2009, p. 14., www.tdh.de/fileadmin/user_upload/inhalte/10_Material/Diverses/studie_kindersoldaten.pdf, will be available in English in March 2013

¹⁶⁰ See § 62 Para. 1 "AufenthG" [Residence Act], www.gesetze-im-internet.de/aufenthg_2004/_62.html; See also Cremer, Hendrik, "Abschiebungshaft und Menschenrechte. Zur Dauer der Haft und zur Inhaftierung von unbegleiteten Minderjährigen in Deutschland" [Detention pending deportation and human rights. Study of the detention of

The German Residence Act should be modified to include provisions specific to minors so as to prevent these from being pushed into asylum procedures. These provisions should include a provision guaranteeing that unaccompanied minors be granted the right of residency for the duration of the so-called clearing procedure. In addition, in procedures to obtain asylum or other residence permits in accordance with the Residence Act, consideration should be given to their special situation and these procedures should become altogether more child-friendly. In accordance with the Convention on the Rights of the Child persons under 18 years of age should not be treated as adults in procedural matters.

It must also be ensured that unaccompanied minors and former child soldiers are accommodated in the context of the youth welfare services. The Federal Government of Germany needs to adopt clear legal regulations to stop the allocation of minors according to the Asylverfahrensgesetz (AsylVfG) [Asylum Procedure Act] or the Residence Act. Furthermore, "§ 6 SGB Abs. 2 Sozialgesetzbuch (SGB) VIII" [§ 6 SGB Para. 2 Social Code VIII]¹⁶¹, which restricts jurisdiction of the youth welfare services for foreign children, should be revoked by Federal legislature. Similarly, the responsible Federal State Ministries should issue respective directives at Federal State level according to which minors would be housed by the youth welfare services.

Furthermore, the legal prerequisites and real situation should be improved so as to allow former child soldiers to receive adequate, age-appropriate therapy. It should be further guaranteed that former child soldiers are not remanded into custody prior to deportation. Here a supplementary regulation in the Residence Act should be included, according to which the detention of minors prior to deportation is categorically forbidden.

unaccompanied minors in Germany and the detention duration"], "Deutsches Institut für Menschenrechte" [German Institute for Human Rights] (editor), Berlin 2011, www.institut-fuer-menschenrechte.de/uploads/tx_commerce/Policy_Paper_17_Abschiebungshaft_und_Menschenrechte_01.pdf

¹⁶¹ With regard to this provision, please refer to the Third and Fourth State Report of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child, p. 86, Figure 275.

4. Summary and recommendations

Recruitment of 17-year-olds into the German armed forces

It proved impossible to enforce the "straight 18" position at international level during the negotiations of the Optional Protocol on the Child Rights Convention. Nevertheless, the majority of the State Parties to the Optional Protocol – including numerous European countries have now put the "straight 18" position into practice. The stance that Germany is reliant on the minors deployed in the armed forces is not a convincing one. Germany would be well-advised to follow the example set by the other states and comply with the recommendation made by the UN Committee on the Rights of the Child to raise the minimum recruitment age for the armed forces to 18 years - a step towards generally improving the standard of legal protection offered to minors. The legislator should bring about changes to the current legal situation to raise the basic minimum age for joining the German armed forces to 18.

Opportunity for minors to quit their active service with the armed forces of their own accord

As long as minors are still serving in the German armed forces, the current legal situation needs to be revised to comply with the commitments set down in the Optional Protocol. Present legislation should, therefore, be supplemented by regulations according to which it is possible for minors to terminate their service with the armed forces at any given time by way of a unilateral declaration. This should similarly include an assurance that minors are under no circumstances liable to prosecution as a result of violating their military service commitment pursuant to the Military Penal Code.

Increasing human rights and peace education

In its Concluding Observations of 2008, the UN Committee on the Rights of the Child advised Germany to intensify its efforts to ensure that all school children receive human rights education - and, in particular, peace education. Human rights and peace education are listed in Art. 29 CRC as being legally-binding educational goals. Furthermore, the recommendations made by the UN Committee on the Rights of the Child do not appear to have had any effect in Germany. Human rights education is principally included

in the German education policy agenda. This is also true - at least in part - of the role "peace education" plays in Federal State school legislation. In practice, however, human rights and peace education are no regular or permanent subjects in the school curriculum. In the past, the insufficient implementation of human rights education in German schools has been the subject of criticism by other international human rights bodies. To meet the human rights requirements Germany is expected to fulfill, human rights and peace education should play an inherent role in the teacher training process. Furthermore, the respective political institutions should ensure that these subjects are actually included in the school curriculum.

How the German armed forces are promoting overseas deployment of the armed forces (Afghanistan) in German schools

Among other criteria, respect for freedom of information and opinion should not be ignored in an education system which sets out to comply with human rights requirements and fulfill the provisions of the CRC. Teaching methods should strongly promote openness and transparency. This also means that controversial subjects being discussed in the scientific field or the political arena must also be treated in the same manner in the classroom.

To allow youth officers of the German armed forces to play such a role in school classes – letting them determine both the content and the concept - is something which simply does not harmonize with the aforementioned human rights provisions set down in the CRC. Members of the national armed forces must not be allowed to unilaterally determine and provide political education in school lessons. The problem described above is also of a structural nature and is basically attributable to the fact that it is not the teachers who are fulfilling the educational mandate but members of the German armed forces. Politicians must ensure that the German armed forces are prevented from exerting their influence through the appearance of youth officers in the classroom, as already detailed in this Report.

Cooperation between the German armed forces and primary schools

Another example which clearly shows the extent to which the German armed forces are now integrated in German schools is a school project initiated in 2011 in the 1st grade at a primary school in North Rhine-Westphalia. The project originally came into being when a teacher started making guardian angels with her pupils which she then sent to Camp Marmal, Mazar-e Sharif in Afghanistan. In the following school year, the teacher went on to integrate information on the deployment of German soldiers in Afghanistan into the daily school routine. Now, the current time and presiding weather conditions in the country of assignment are announced at the start of each school day. On top of this, the children include soldiers currently in active service in their morning prayers.

The Federal Government expressly welcomed this project, stressing that it had been extremely well received by the soldiers. This view of things, however, does not go far enough. In point of fact, this school project raises a number of fundamental questions: As of what age could the military operations of the German armed forces be considered a topic for classroom discussion - and what form should this take? The most important question here is whether it is possible to treat this topic in such a way so as not to violate the standard education goals set down in Art. 29 CRC, whilst guaranteeing the openness and transparency required of school lessons. The Chairwoman of the Union for Education and Science (GEW) in North Rhine-Westphalia has correctly pointed out that one may be able to discuss the conflict in Afghanistan in political science lessons at a secondary school - but not with six-year-old children, in particular as the arguments both for and against the mission need to be considered. She strongly suspects, therefore, that the "children are being influenced by one-sided viewpoint".

The German armed forces promoted this school project in one of its own public relations campaigns, calling it the "Engel für Afghanistan" [Angels for Afghanistan] project. In a news bulletin which appeared on the air force homepage in July 2012, the German armed forces announced that an air force unit currently located in Cologne would, in future, be "cooperating" with the 2nd grade class and that they would be "actively supporting" the project "until 2014", when the pupils left primary school.

Such a news bulletin influences the children in favor of the German armed forces, with the latter instrumentalizing the children for their own public relations purposes. It is imperative that the Federal Government works towards ensuring that the German armed forces refrain from instrumentalizing primary school pupils in such a fashion.

How the German armed forces are being promoted as a possible employer – both in and outside schools

For states such as Germany, which enlist minors into their armed forces, the provisions pertaining to the human rights protection of minors set down in the Optional Protocol and the Child Rights Convention provide the armed forces only limited scope for promoting themselves in the role of employer. The emphasis should be on providing comprehensive information. One-sided - or even manipulative - advertising campaigns must be stopped - as must all rhetoric which glorifies or belittles violence. Furthermore, the legal framework within which the national armed forces are allowed to make attempts to recruit junior staff is also limited by the educational goals set down in Art. 29 CRC, assuming appropriate measures are taken in the schools. As long as the pupils are not being influenced by a one-sided viewpoint, the German armed forces are allowed to inform interested pupils about career opportunities in the armed forces - e.g. when a general school careers day is held. However, parents must be informed beforehand of any career advice activities being held at a school as they have the primary responsibility for the upbringing and development of their child.

The German armed forces are currently implementing extensive advertising campaigns targeting young people in particular, e.g. advertising at exhibitions, in the Internet, on the radio, on TV, in newspapers, at sports events, in youth-oriented media as well as in school magazines.

The advertising messages never contain any reference to the reality of being deployed in the German armed forces, i.e. the risks, deaths and injuries involved. The advertising messages generally put across are: Good training, good promotion prospects, comradeship and plenty of adventure.

When taking a look at the activities of the German armed forces in schools, one problem is that it is difficult to differentiate in the day-to-day school routine and the efforts to promote their

deployment policy through their youth officers and efforts to promote themselves as a possible employer. Careers advice is strictly a matter for the so-called military service advisors. However, the youth officers rouse or promote the interest of minors aged 14 and upwards in the German armed forces as a possible employer with their performance in the classroom.

Additionally, the German armed forces also organize full day events for pupils - in particular the so-called "Schools Day". These events take place on German armed forces' premises. The responsible youth officer invites all the schools in the local vicinity of the barracks to the "Schools Day". This provides the pupils with the opportunity of visiting the barracks, experiencing what everyday life in German armed forces is like and the chance to talk to the soldiers - and also provides them with information on taking up a career in the German armed forces.

Apart from the fact that such visits to the German armed forces allow the youth officers to combine their presentations with careers advice, these whole-day events appear to be completely lacking pedagogical standards and standards governing content. Politicians must, therefore, work towards ensuring that such excursions, where under-aged persons visit German armed forces' barracks, are banned from everyday school activities.

The German armed forces are now reaching out to minors in their role as a potential employer earlier than ever. For example, they hold regular events, such as "Girls' Days", in an attempt to get schoolgirls interested in the armed forces as a possible future employer. Although the minimum age for being allowed to participate at one of these events is 14 - a voluntary commitment on the part of the German armed forces - in the past few years minors under the age of 14, i.e. 11, 12 and 13-year-olds, have been repeatedly found to be taking part at such events.

One example of an advertising campaign carried out by the German armed forces which captured a lot of attention and criticism in the media came to light in the summer/autumn of 2012. This involved a large German teenage magazine ("Bravo") which started an online advertising campaign for the German armed forces' so-called "Adventure Camps". Young people aged 16 and upwards could apply to take part in one of these camps and win free entry. There were two "Adventure Camps" to choose from, one on a beach and the other up in the mountains. The criticism was justified in that it opposed the campaign on the grounds that the picture the

German armed forces was presenting to young people - i.e. a place full of adventures - contrasted strongly with the harsh reality of an armed forces' mission - and that the medium of communication chosen by the German armed forces was used by minors as young as 10 years of age.

Advertising campaigns such as that used for the "Adventure Camps" violate the commitment to protect the human rights of minors already described in this Report - a commitment that the State Parties to the Optional Protocol and the Child Rights Convention are required to fulfill. The Federal Government should ensure that the German armed forces refrain from carrying out such advertising campaigns in future. Furthermore, it should take steps to ensure that advertising for the German armed forces always includes the risks connected with overseas missions.

Arms exports

Germany should act on the UN Committee's recommendation to introduce a special ban on the sale of arms when the final destination is a country where children are known to be - or may potentially be - recruited or used in hostilities. In light of the fact that Germany is one of the largest exporters of arms - including small arms - the Federal Government of the Republic of Germany should subject its Arms Export Policy to an extensive review. The current licensing practice of arms exports, in particular the licensing of small arms exports, is not comprehensible. By fundamentally reviewing and changing its arms control policy, Germany could reduce the risk of its involvement in the violation of the human rights of children.

Compliance with commitments pertaining to former child soldier refugees in Germany

The CRC and the Optional Protocol are of major importance to former child soldier refugees who, in most cases, are actually unaccompanied minors. With respect to how these minors are treated, Germany clearly demonstrates that it is far from meeting its human rights commitments. The existing legal framework for these children and their real and particular psychosocial situation reveal a substantial need for Germany to take action. In order to ensure that minors are no longer pushed into asylum proceedings, the German Residence Act should include provisions guaranteeing that these minors be granted the right of residency for the duration of the so-called clearing procedure. In addition, procedures to obtain asylum or other residence

permits in accordance with the Residence Act should become altogether more child-friendly, with persons under 18 years of age not being treated as adults in procedural matters. It must also be ensured that unaccompanied minors and former child soldiers are accommodated in the context of the youth welfare services. The Federal Government of Germany needs to adopt specific legal regulations to stop the allocation of minors based on the provisions of the Asylum Procedure Act and the Residence Act. In addition, § 6 SGB Abs. 2 Sozialgesetzbuch VIII [§ 6 SGB Para. 2 Social Code VIII], which restricts the jurisdiction of the youth welfare services for foreign children, should be revoked. Similarly, the responsible Federal State Ministries should issue respective directives at Federal State level according to which minors are housed according to the stipulations of the youth welfare services. Furthermore, the number of suitable, age-appropriate therapy options for former child soldiers needs to be increased. In order to ensure that minors and former child soldiers are not remanded in custody pending deportation, a supplementary regulation in the Residence Act should be included, according to which the detention of minors prior to deportation is categorically forbidden.

Kindernothilfe – For the Rights of the Child

Kindernothilfe is one of the largest Christian organizations in Europe for children's aid. In just under 1,000 projects, the organization currently supports around 780,000 boys and girls in 30 countries across Asia, Africa, Latin America and Eastern Europe. The support provided by Kindernothilfe is aimed at giving children from the poorest sectors of the population a chance of leading a better life. Kindernothilfe orients its actions according to the UN Convention on the Rights of the Child. It strengthens young people in their rights, empowering them to be able to stand up for these rights. The organization also supports children suffering from the effects of war. In crisis situations, the organization provides emergency aid, including food and medical aid, therapeutic assistance for former child soldiers, support for war orphans and the reintegration of children in schools and vocational training measures. For example, Kindernothilfe is currently supporting children affected by the war in Burundi in the form of self-help groups.

On the political stage, Kindernothilfe campaigns for the implementation and strengthening of the rights of the child, calls for children to have their own individual complaints procedure and plays an active role in the German Coalition to Stop the Use of Child Soldiers. In Germany, Kindernothilfe's work is supported by over 100,000 people. The organization was awarded the seal of approval by the "Zentralinstitut für soziale Fragen" [German Central Institute for Social Affairs] (www.dzi.de) for using donor funds in a reliable and responsible manner. Kindernothilfe also received the PricewaterhouseCoopers Transparency Award in 2010 for its high quality reporting system.

Donations account: 45 45 40, KD-Bank eG Duisburg, Germany, bank sort code 350 601 90

terre des hommes - Help for children in distress

Our aim is a "terre des hommes", an "earth of humanity". We help children living on the streets, abandoned and working children, take care of victims of war and violence and see to the education of children. We support boys and girls whose families have died of AIDS, support the cause of maintaining biological and cultural diversity and of protecting the rights of discriminated population groups.

terre des hommes Germany was founded in 1967 by a group of dedicated people to help children who were badly injured in the Vietnam War. The organization is independent of state, church and political parties and supports children in need in around 450 projects in 35 countries.

terre des hommes does not send out aid workers and concentrates instead on supporting local initiatives. Our onsite project partners build schools and child protection centers to care for the children. The work carried out by terre des hommes is strictly geared to preserving and promoting the rights of the children. In Germany, volunteers in 146 cities are committed to the interests of children.

Donations account: 700 800 700, Volksbank Osnabrück eG, bank sort code 265 900 25

Plan International Deutschland e. V.

Plan is one of the oldest independent children's relief organizations in the world, working in 50 countries across Asia, Africa and Latin America. Plan is independent, with no religious, political or governmental affiliations. The organization's sustainable self-help projects are financed through sponsorships, individual donations, public funding and corporate partnerships. Plan Deutschland is responsible for over 300,000 of the organization's 1.5 million child sponsorships worldwide, reaching out to around three million people in the areas covered by its projects. Plan's programs are designed and realized in close cooperation with children, families and local communities with the aim of developing these local communities in the interests of the children. The main objective is to improve living conditions in the long term. Plan's "Because I am a Girl" campaign speaks out for girls' rights and led to 11 October being officially declared the International Day of the Girl Child by the UN. Plan Deutschland was awarded the DZI seal of approval by the "Deutsches Zentralinstitut für soziale Fragen" [German Central Institute for Social Affairs]. It has also received numerous other awards granted to charitable organizations for their transparency achievements. In 2012, this child relief organization received two first prizes for its transparency accomplishments: It was awarded the Transparency Prize by the audit firm PricewaterhouseCoopers and also came top in an analysis carried out by the "Capital" business magazine.

Donations account: 9444933, Bank für Sozialwirtschaft, bank sort code 25120510

UNICEF - unite for children

UNICEF's motto is "Unite for children", a motto which reflects the organization's commitment to realizing children's rights for each and every child all over the world. This child relief organization is currently engaged in over 150 countries. UNICEF ensures that one in two children worldwide are vaccinated, it builds wells and also provides school materials for millions of children. It also concentrates on protecting children from violence and abuse - particularly in areas of conflict and crisis situations. UNICEF is also politically involved, with the aim of sustainably improving the general well-being of children - including children in Germany. The United Nations Child Rights Convention is the foundation on which UNICEF bases its activities. In Germany, 8,000 dedicated volunteers help to reinforce UNICEF's efforts amongst the general population.

The "Deutsches Zentralinstitut für soziale Fragen (DZI)" [German Central Institute for Social Affairs], Berlin, has certified that the organization uses its funds in a reliable and trustworthy manner. In 2010, UNICEF Deutschland was awarded the PricewaterhouseCoopers Transparency Award for exemplary reporting practice.

Donations account: 300 000, Bank für Sozialwirtschaft, bank sort code 370 205 00

World Vision Deutschland e. V.

World Vision Deutschland e. V. is a Christian relief organization with a focus on sustainable development work, humanitarian aid and advocating development policy. In fiscal year 2011, 289 projects were carried out in a total of 51 countries. World Vision Deutschland is networked with other World Vision organizations in close to 100 countries. World Vision officially maintains working relations with the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF), also working closely with the United Nations High Commissioner for Refugees (UNHCR). World Vision Deutschland is a member of the following two coalitions: "Aktion Deutschland Hilft" [Germany's Relief Coalition] and "Gemeinsam für Afrika" [United for Africa].

Donations account: Evangelische Kreditgenossenschaft, Account No. 8800, bank sort code 520 604 10

Demands of the German Coalition to Stop the Use of Child Soldiers

1. "Straight 18": No child under the age of 18 may be deployed or trained for use in armies, armed groups or other military organizations - irrespective of for which function (including unarmed functions!) and irrespective of whether this is on a "voluntary" or non-voluntary basis. No person under the age of 18 may be recruited to an army or armed group, and no promotion for recruitment may be directed to minors. All children under the age of 18 must be released from military service or from serving in an armed group and should receive respective assistance upon their return to civilian life.

2. Punishment of the responsible parties: All persons, states and armed groups that recruit children must be publicly named and appropriately punished. These persons must be charged before the International Criminal Court or national courts. The respective states and armed groups must be publicly convicted (e.g. by the UN Security Council) and subjected to sanctions (economic consequences, travel bans, frozen accounts).

3. Care, protection and assistance for child soldier refugees: Former child soldiers need to be provided with medical and psychological assistance, protection from being re-recruited, school education and vocational training - especially when they are refugees in an industrialized country, such as Germany.

4. The granting of political asylum: Former child soldiers must be granted protection and political asylum in all countries to which they flee.

5. Ban on arms exports: It is no longer allowed to export weapons (especially small arms), weapon components and ammunition to crisis regions where child soldiers are being deployed. Illegal routes through which weapons reach crisis-hit countries must also be closed down: There must be a ban on the granting of arms production licenses as well as a ban on exporting weapons to third countries that proceed to pass these weapons on to other crisis regions.

6. More funds for child soldiers aid programs: State and international funding for prevention and child soldier reintegration programs must be considerably increased. In a lot of countries where child soldiers are deployed, there are no funds available for supporting such programs.