

Christopher Steinmetz (BITS)

**German Arms Exports
Violating Children's Rights**

Small Arms in Small Hands

Cooperation partner



Publisher



Brot
für die Welt



This study is dedicated to Otfried Nassauer (1956–2020), who passed away unexpectedly and much too early. Without him and his decade-spanning commitment to peace, disarmament and arms control this study would never have been written. As director of the Berlin Information-Center for Transatlantic Security (BITS), which he co-founded in 1991, and with his vast knowledge, his relentless research and questioning, his astute comments and advice he has laid the foundations for today's critical discussion on German arms export policy. We will miss him dearly.

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German Arms Exports Violating Children's Rights

Small Arms in Small Hands

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Preface

To which countries involved in armed conflict does Germany export arms – especially small arms – and what are the consequences of these exports for children and youth there? After the study “Small Arms in the Hands of Children – German Arms Exports and Child Soldiers” of 2017 this is only the second study dealing with these questions. The reason for this second study is the review of Germany’s implementation of the UN Convention on the Rights of the Child by the UN Committee on the Rights of the Child in 2021.

The results of the new study are alarming: Despite promises and mantra-like repetitions of the German government that the German arms export policy is restrictive, the current period under investigation (2014–2019) saw no decline in licensed German arms exports. To the contrary, in 2019, the German government approved more individual licenses for arms exports than ever, reaching a new record high of eight billion Euro. Especially concerning is the fact, that on average more than 50 % of these export licenses were issued to so-called Third Countries (neither member states of the EU or NATO nor considered as NATO-equivalent countries). Many of these recipients are involved in armed conflicts and the commitment of grave human rights violations. In 2019, the German government licensed arms exports worth € 3.5 billion to these Third Countries.

Germany exports small arms and ammunition into war zones

Germany has been one of the largest arms exporting nations for a long time – currently the fourth-largest – and continues to export huge amounts of small arms and ammunition to war zones. It is known that this type of weapons is responsible for a large share of the casualties among civilians, including many children.

This study proves that since 2014, Germany has exported these deadly arms to at least eight of the twenty countries with grave violations of children’s rights in armed conflicts documented by the UN Secretary-General, among which the recruitment of child soldiers, and also to nine countries of the war coalition led by Saudi Arabia and the United Arab Emirates that, according to the United Nations, is responsible for the killing and maiming of at least 3,550 children and a number of other grave violations of international law in Yemen.

Based on official numbers released by the government and UN-documents, the author identifies serious deficits in German arms export policy and their negative consequences. In order to correct these deficits a comprehensive legal reform and a new law for the control of arms exports are needed. While the Common Position of the EU and the Political Principles of the German government prohibit arms exports to countries involved in armed conflicts and grave human rights violations, Germany continues to export weapons to these destinations. So far it is not possible to sue against it, this means: no plaintiff, no judge.

The only positive development was the stark decline of exports of small arms and their ammunition to so-called Third Countries in the last two years. On the other hand, small arms exports to NATO and EU countries climbed dramatically to reach a new record high in 2019. From these countries, the deadly freight was already frequently re-routed into war zones – either legally or illegally. For instance, the German arms manufacturer Sig Sauer illegally shipped 40,000 pistols from Germany to Colombia via the USA some years ago. The containers with German pistols were simply relabeled in the USA and then send on their way to Colombia.

Missing sanctions and end-use controls

Such illegal arms transfers are facilitated because there are nearly no controls of the end-use of German arms. The German government trusts arms companies and buyers blindly even though violations and illegal practices are being revealed permanently. This study shows that countries like the USA, Saudi Arabia and Turkey have repeatedly violated German end-use obligations on a large scale without any sanctions and are still among the largest German arms recipients.

For children in conflict zones it doesn’t matter if German arms are shipped there directly, as in the case of Saudi Arabia, Iraq, India or Brazil, or if re-exports there via NATO countries like the USA and Turkey are licensed or tolerated by the German government. Regardless of their route of transportation, German weapons are used in armed conflicts and claim many victims.



Child soldier with German G3-rifle from Heckler & Koch

The six country cases covered in this study (Syria & Iraq, Yemen and the Saudi-led military coalition, India, the Philippines, Colombia and Brazil) make clear: In these countries, German arms are being used for brutal violence against children and youth and against civilians as a whole – bombs from Rheinmetall in Yemen, pistols made by Walther and hand grenades from Diehl in Iraq and Syria, Sig Sauer rifles and pistols in the Philippines, Brazil, Colombia and India, Airbus helicopters in Brazil or Heckler & Koch rifles in all of these countries.

Demands of the UN Committee on the Rights of the Child to Germany

The conclusion of the author Christopher Steinmetz from the Berlin Information Centre for Transatlantic Security (BITS), which we as publishing organizations

want to reinforce, is unambiguous: The misguided arms exports policy of the German government has to be stopped. It constantly violates the international obligations under the UN Convention on the Rights of the Child and other international treaties as well as legally binding EU guidelines and regulations, like the EU Common Position on arms exports. The UN Committee on the Rights of the Child, responsible for the review of the implementation of the Convention on the Rights of the Child, has repeatedly called on Germany since 2008 to “ensure the greatest transparency regarding the transfer of arms and explicitly prohibit in law the sale of arms when there is risk that the final destination is a country where children are, or potentially could be, recruited or used in hostilities” – to no avail until today.

Due to the disregard of this demand for 12 years and the results of this study, we as civil society organizations recommend to the UN Committee to formulate further concrete demands to Germany.

In addition to a legal ban on direct arms exports to conflict regions and countries with grave child rights violations, especially the re-exports of German arms from NATO and EU countries to conflict regions, should be prevented – for instance through mandatory end-use-controls and tough sanctions in case of violations. Furthermore, instruments for parliament and civil society to monitor and take legal action must be established.*

We have officially submitted the English version of this study to the current state reporting procedure on the German implementation of the UN Convention on the Rights of the Child and will present the results to the UN Committee on the Rights of the Child in Geneva next year. The national and international pressure on the German government must be increased significantly so that it finally stops its scandalous arms exports at the expense of children and the civilian population – please support us!

Bodo Schulze, Brot für die Welt
Ralf Willinger, terre des hommes

* Further recommendations at the end of the Executive Summary and on the back cover.

Executive Summary and Recommendations

More than 145 million children were directly affected by violent conflict in 2018. In 2019, the United Nations documented more than 10,000 children being killed or maimed in armed conflicts, and many more cases remain unregistered. Overall, the United Nations documented 24,000 grave violations of the rights of children (each of these cases affecting numerous children) in that year.¹

Arms are the primary fuel for this continuing violation of children's rights, whether exported legally or illegally or used by foreign powers in military interventions. Accordingly, the United Nations have reaffirmed the need for its member states to restrict the transfer of weapons and ammunition, especially small arms and light weapons, to areas of armed conflict on numerous occasions. The UN Committee on the Rights of the Child, monitoring the implementation of the Convention on the Rights of the Child and its Optional Protocols, has made respective recommendations to member states. The "Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups" of 2007, signed by 105 states, even contain an explicit state obligation to refrain from arms exports to these areas. Germany, as a signatory to the aforementioned international agreements, claims to be in full compliance with all obligations and even to prioritize the protection of children in armed conflicts. The findings presented in this study challenge this claim.

Ranking as one of the top five arms exporting nations worldwide for many decades, Germany has been and still is exporting vast amounts of arms and ammunition to well over 130 countries every year. The Stockholm International Peace Research Institute (SIPRI) ranks Germany at fourth place for 2019. In comparison to the previous five-year period (2010–2014) SIPRI identified a 17% increase in German arms sales between 2015 and 2019.² This is also supported by data made available by the German government: Since 2014, it has licensed arms exports worth more than €46 billion, with at least €20 billion

destined for so-called Third Countries.³ Despite the Federal Government's official commitment not to permit the export of arms to regions of conflict and to ensure that German arms exports do not undermine the protection of human rights, Germany continued to export weapons and ammunition to many parties of conflict between 2014–2019, e.g. to the Saudi-led military coalition in Yemen or Iraqi security forces.

Germany was repeatedly called upon by the UN Committee on the Rights of the Child to "explicitly prohibit in law the sale of arms when there is risk that the final destination is a country where children are, or potentially could be, recruited or used in hostilities".⁴ Nevertheless, the German government continued to license arms exports worth almost €3 billion to nine of the 20 countries mentioned as country situations in the UN Secretary-General Annual Reports on Children and Armed Conflict for grave violations of children's rights since 2014: Afghanistan, Colombia, India, Iraq, Israel, Nigeria, Pakistan, the Philippines, Thailand.⁵ In this context, it is cause for alarm that all of these countries except for Nigeria even received export licences for small arms and their ammunition in that time period – worth at least €150 million (see Info Box 1). The massive military aid for the Kurdish Regional Government in Iraq is the most drastic example of this shortcoming: More than 24,000 assault rifles and 24 million rounds of rifle ammunition have been delivered since 2014. But equally concerning is the fact that police and military forces in India, the Philippines, Colombia

¹ UN Secretary General (2020), p. 2.

² SIPRI (2020).

³ Third Countries (*Drittländer*) is the name used by the German government for all countries that are neither members of the NATO or EU nor classified as NATO-equivalent countries (Australia, Japan, New Zealand, Switzerland); See Info Box 8a, 8b, 8c for the annual values of arms export licences.

⁴ See UN Committee on the Rights of the Child (2014), p. 14.

⁵ The following countries mentioned in the annual UN reports have also received German arms export licences. But since these were mainly destined for UN- and EU-missions or German embassies, they were excluded here: Central African Republic, DR Congo, Ivory Coast, Lebanon, Libya, Mali, Somalia, South Sudan, Sudan, Syria, Yemen. Furthermore, Chad was mentioned in the UN report for the last time in 2014 and received no German arms in this year, therefore, Chad was not included in the above calculations. See also Info Box 9 in this study (p. 29).

Info Box 1: Countries Involved In Grave Child Rights Violations in Armed Conflicts & Receiving Small Arms from Germany

- Countries that received small arms / ammunition from Germany and were mentioned for grave child rights violations in the UN Secretary-General Annual Reports on Children and Armed Conflict 2014–2019 (see data in Info Box 9): **Afghanistan, Colombia, India, Iraq, Israel, Pakistan, the Philippines, Thailand.**
- Countries that received small arms / ammunition from Germany and are or were members of the Saudi-led military coalition intervening in Yemen since 2015 (see data in Info Box 12): **Bahrain, Egypt, Jordan, Kuwait, Morocco, Qatar, Saudi-Arabia, Senegal, United Arab Emirates.**

This military coalition was listed for grave child rights violations in the 'list of shame' in the annex of the UN Secretary-General Annual Reports on Children and Armed Conflict for the years 2016, 2017 and 2018. For 2015 it was first listed in the 'list of shame' and later removed from the list due to political pressure. For 2019 it was not listed despite being responsible for numerous grave child rights violations documented by the UN (see Info Box 3).

and Brazil continually received pistols, submachine guns, assault rifles and other firearms and ammunition even though its forces are involved in armed conflicts or internal violence and responsible for a large share of grave violations of children's rights and human rights, including extra-judicial killings and maiming of children.

Furthermore, Germany continued to license the export of vast amounts of arms to the member states of the Saudi-led military intervention in Yemen since 2015, which is responsible for a large share of the killing or maiming of children there. Bahrain, Egypt, Jordan, Kuwait, Morocco, Qatar, Senegal, Saudi Arabia and the United Arab Emirates received licenses worth €6.4 billion for a wide array of weapons, ranging from small arms and missiles to fighter aircraft (see Info Box 12).

The case studies in this report confirm the assessment that the German Federal Government did not take the recommendations made by the Committee on the Rights of the Child to heart. Instead Germany continued to pursue an arms export policy that puts national security and economic interests over its international obligations to protect children's rights in armed conflicts:

In **Syria** and **Iraq**, the UN has documented more than 9,500 grave violations of children's rights since 2014.⁶ Between 2014 and 2016, the German government poured more than 24,000 assault rifles and 24 million rounds of rifle ammunition, 20,000 hand grenades and hundreds of recoilless anti-tank weapons and anti-tank missile systems into the Syrian and Iraqi conflict region, equipping non-state armed actors known to recruit child soldiers and to cooperate with other armed actors also connected with grave violations of children's rights.⁷ Since 2016, Iraq has become a regular recipient of German military aid, being supplied with further military equipment for use in the armed conflict.

In **Yemen**, the UN has documented more than 4,000 grave violations of children's rights since 2014. At least 8,000 children were killed or maimed in the armed conflict. According to the data provided by the United Nations, the Saudi-led military coalition was responsible

6 See the country chapters for Iraq and Syria in UN Secretary-General (2015a), UN Secretary-General (2015b); UN Secretary-General (2016); UN Secretary-General (2017); UN Secretary-General (2018); UN Secretary-General (2019a); UN Secretary-General (2020).

7 See Info Box 11 in this study (p. 37).

for 3,550 child casualties in Yemen, almost all of them as a result of air strikes, and numerous other grave violations, including the denial of access to humanitarian aid and attacks on schools and hospitals.⁸ Contrary to the “Political Principles” (see Appendix 1) of the German Federal Government stating that weapons of war should not be exported to Third Countries involved in armed conflicts, Germany continued to grant arms export licenses worth more than €6.4 billion to the countries participating in the Saudi-led military intervention. The share of the two main drivers of the intervention, Saudi Arabia and United Arab Emirates, amounts to €2.2 billion.⁹ Furthermore, the decade-long close cooperation with Saudi-Arabia resulted in German Heckler & Koch G36 assault rifles, partially license-produced in Saudi Arabia, proliferating on the Yemen battlefields.

India has been included in the UN Annual Reports on Children and Armed Conflict as a further country of concern since 2009. At least three armed conflicts have been waged for decades at the eastern and western borders of the country.¹⁰ Grave violations of children’s rights are regularly reported by the UN.¹¹ According to Indian non-governmental organizations, security forces were responsible for the death of at least 144 children in the provinces of Jammu & Kashmir between 2003 and 2017. Armed Naxalite opposition groups are continuing to recruit children. Nevertheless, India continues to be the largest recipient of German arms in Asia. As a strategic partner and potentially lucrative market, the country can rely on German export approvals even if it is obvious that some of the weapons delivered are then used in its armed conflicts, contribute to human rights violations and the escalation of conflict with Pakistan. Since 2014, more than €600 million worth of licenses have been

issued, including licenses for assembly of MILAN anti-tank missile systems. India has received at least 3,800 submachine guns from Germany since 2015, with some distributed to police and paramilitary units deployed in those armed conflicts. In addition, small arms from German companies were also supplied via the USA. Most recently, in 2019–2020, the Indian government received 72,400 Sig Sauer SIG716 assault rifles from the company’s U.S.-subsidiary in New Hampshire.¹²

The **Philippines** saw an escalation of armed violence after President Duterte’s rise to power in 2016. The mix of so-called counter-terrorism operations and the “War on Drugs” led to a steady rise in civilian casualties, not least because Duterte openly advocates extra-legal killings. By 2019, the government acknowledged 6,600 killings by the police since 2016.¹³ The UN Human Rights Commissioner assumes the numbers to be as high as 27,000, with many children among them.¹⁴ Every year, the UN Secretary-General documents numerous grave violations of children’s rights in the Philippines. While Germany issued few direct export licenses for the Philippines in recent years, the Federal Government apparently tolerates the flow of German small arms via the USA to those Philippine security forces engaged in “counter-insurgency” and “counter-drug operations” and responsible for the maiming and killing of children or other human rights violations. In 2018, Sig Sauer won a contract for the delivery of 2,702 SIG M400 assault rifles to the armed forces, manufactured at its U.S. subsidiary. A further 829 Sig Sauer SIG716 G2 sniper rifles are also reported to have been purchased by the Philippine Armed Forces and delivered in 2019, again via the USA.¹⁵

In **Colombia**, Germany continued to support security forces despite the resurgence of armed conflict and continual recruitment of child soldiers. The UN documented the recruitment of 706 children by the various armed groups between 2016 and 2019 and verified the killing and maiming of 232 children by armed groups in that same period.¹⁶ While Germany issued export licences of €98 million, it seemed to have exercised

8 See the country chapters for Yemen in UN Secretary-General (2015a); UN Secretary-General (2015b); UN Secretary-General (2016); UN Secretary-General (2017); UN Secretary-General (2018); UN Secretary-General (2019a); UN Secretary-General (2020).

9 See Info Box 12 in this study (p. 39).

10 On the western borders the conflict in Jammu & Kashmir, on the eastern borders conflicts in the “Seven Sister States” (Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Tripura) and the Indian states of Andhra Pradesh, Bihar, Chattisgarh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Uttar Pradesh and West Bengal.

11 See the country chapters for India in UN Secretary-General (2015a); UN Secretary-General (2015b); UN Secretary-General (2016); UN Secretary-General (2017); UN Secretary-General (2018); UN Secretary-General (2019a).

12 Bedi (2019); Pandit (2020).

13 Gonzales (2019).

14 Taub (2016); Human Rights Watch (2019).

15 Philippine Defense Resource (2019); Maass (2016); Raymundo et al. (2016); Police Magazine (2011).

16 UN Secretary General (2019c), p. 5ff; UN Secretary-General (2020), p. 8f.

restraint in regard to small arms exports compared to previous decades. But this does not mean, that no German small arms enter Colombia. German companies, foremost Sig Sauer, exploit the special status of the United States as a close NATO ally and itself the largest arms producing and exporting nation worldwide. The Federal Government regularly turns a blind eye to the re-export of German small arms via the USA to Colombian state armed actors. The illegal shipment of at least 38,000 German-made Sig Sauer pistols to Colombia via the USA between 2009 and 2011 underscores the importance of introducing effective and comprehensive end-use controls for all recipients. In April 2019, three managers of Sig Sauer involved in this deal were served suspended sentences and fines by a German court. The company itself was also fined.¹⁷ Terre des hommes has documented several cases of human rights violations committed with these pistols. For example, they were used by Colombian soldiers to kill children or were handed out by paramilitaries to child soldiers in their ranks.¹⁸

While not on the agenda of the UN Security Council, the case of **Brazil** highlights an often ignored dimension of the consequence of arms exports for children's rights. Since 2014, Brazil has seen an escalation of armed violence due to an increasingly militarized state response to social unrest and staggering crime rates. More than 22,000 people have been killed as a consequence of state security operations, the cases almost doubling from 3,146 in 2014 to 6,220 in 2018. In the years 2017 and 2018 children accounted for 10% of the victims.¹⁹ The Brazilian Polícia Militar was responsible for the vast majority of the documented killings. The MP5 from Heckler & Koch has been the preferred submachine gun both of the army, navy and Polícia Militar. According to the public prosecutor's investigations, a MP5 submachine gun was used in the killing of Marielle Franco, a popular Rio city councillor who spoke up against police violence.²⁰ Despite these developments, Germany has continued to support the Brazilian security forces. Since 2014, arms export licenses worth more than €330 million have been issued by Germany,

including submachine guns, assault rifles, rifles, pistols, ammunition and Airbus H225 helicopters.²¹ There is evidence of an older Airbus helicopter being used in at least one security operation in Rio de Janeiro as a firing platform.²² Many military and police units participating in these domestic security operations are equipped with the whole spectrum of small arms offered by Heckler & Koch and Sig Sauer, from pistols and submachine guns to precision rifles and assault rifles. In 2018, Sig Sauer delivered at least 3,140 P320 to the police in the federal state of Ceará, despite their documented involvement in the unlawful killing of civilians.²³ Between 2015 and 2019²⁴ the police in Ceará killed 710 people. In one case documented by terre des hommes and the Instituto Sou de Paz, police officers murdered eleven people, seven of whom were children, in the state capital of Fortaleza in 2015. Sixteen officers have been indicted and will be tried in court.²⁵

Major Deficiencies of German Arms Export Controls

Covering the current national reporting cycle for compliance with the Convention on the Rights of the Child and its Optional Protocols (2014-2019), this report reveals numerous deficiencies in Germany arms export policy. The measures initiated by the German Federal Government to improve export controls have failed to address the underlying policy-based factors for the proliferation of German weapons worldwide and their contribution to the plight of children in regions of conflict. **While German laws and regulations appear to weave a tight net of controls, Germany's arms export control system contains many tolerated or even sanctioned loopholes. Economic and strategic security policy-based considerations are regularly given higher priority than the safety of children and the respect for human rights.**

17 Deutsche Welle (2019 a); Deutsche Welle (2020 b).

18 For more background on Sig Sauer in Colombia see terre des hommes (2019 b).

19 See the annual reports of the "Anuário Brasileiro Segurança Pública" published by the Forum Brasileiro de Segurança Pública 2014-2018.

20 terre des hommes and Instituto Sou da Paz (2020 a).

21 See Company Info Box 1 in this study (p. 47).

22 terre des hommes and Instituto Sou da Paz (2020 b).

23 The Firearmsblog (2018); Taurus (2018).

According to Lapper (2019), the police in Ceará ordered a total of 15,000 P320 pistols from Sig Sauer.

24 Fórum Brasileiro de Segurança Pública e Rede de Observatórios de Segurança.

25 terre des hommes and Instituto Sou da Paz (2020 c).

The following structural deficits remain uncorrected:

1. **The Federal Government still refuses to anchor the 2005 UN Working Definition of Small Arms and Light Weapons (SALW) in its national laws and regulations** even though it is also part of the Arms Trade Treaty (ATT) ratified by Germany in 2014. As a consequence, exports of many small arms, like pistols, hand grenades and various types of rifles, can go completely unchecked and end up in armed conflict contributing to grave violations against children.
2. **The Federal Government has refrained from taking any measures to improve the public accountability for its SALW export decisions since 2014. The annual national reports still don't include any information on SALW-related export licences for EU-, NATO- and NATO-equivalent countries. No information at all is provided for export licenses for light weapons, their components and ammunition.** So while the last three years officially saw a decline of German small arms exports (according to the EU definition) to Third Countries, it needs do be kept in mind that these figures actually only cover a small segment of all firearms transfers (see Info Box 8b).
3. **The Federal Government has eroded the War Weapons Control Act and other export control provisions to justify a special treatment of EU-, NATO- and NATO-equivalent countries in regard to arms exports.** This keeps the door wide open for future contributions of German arms to grave violations of children's rights:
 - a. **They are regularly exempt from restrictive export control measures despite the previously demonstrated use of German weapons by these countries,** e.g. France, the United Kingdom and the USA, in military interventions without explicit UN mandate (e.g. Operation Enduring Freedom 2001–2014, Iraq War 2003, Syria 2015) and clear evidence of contributing to grave violations of children's rights in these conflicts.
 - b. **The same holds true for a subsequent re-export from these countries into conflict zones where grave violations of children's rights are committed.** The cases of arms transfers via the USA show that re-exports of German arms and ammunition from these countries pose at least as great risks to children in armed conflicts as direct exports. German small arms manufacturers are using the USA to re-export their weapons to armed conflict where children's rights are violated, for example Colombia, India, the Philippines or Thailand.
4. **The so-called Political Principles of the Federal Government, which establish certain criteria to be applied to export licensing decisions and generally are supposed to prohibit arms exports at least to so-called Third Countries (see Glossary), are still not legally binding and often not followed by the government.**
 - a. Between 2014 and 2019, the government licensed arms exports worth more than €20 billion to Third Countries (see Info Box 8a). Many of these countries are involved in armed conflicts and human rights violations, like Colombia, India, Iraq, the Philippines, the United Arab Emirates.
 - b. So-called strategic partners, e.g. Brazil, India or Saudi Arabia, receive military technology, know-how and sometimes support in setting up production lines for weapons and ammunition, even though they are involved in military interventions, grave human and child rights violations or violent domestic struggle.
5. **The Federal Government has failed to implement an effective system of post-shipment controls to prevent the uncontrolled proliferation of German weapons and ammunition.** Between 2014 and 2019, only eight such controls were carried out and purely on a voluntary basis by the buying state.²⁶
6. **Even though the German Federal Government has publically acknowledged the inherent danger of licensing the production of weapons and ammunition abroad, it has not taken appropriate steps to ban such transfers.** By allowing Heckler & Koch to set up G36 production lines in Saudi Arabia in 2008 or permit the assembly of MILAN anti-tank missile systems in India, it is continuing to lay the foundation for the uncontrollable proliferation of German arms to areas of conflict in the future.

²⁶ Deutscher Bundestag (2018), p. 5; Bundesministerium für Wirtschaft und Energie (2020), p. 7.

Recommendations to the UN Committee on the Rights of the Child

It is the purview of the Committee on the Rights of the Child, as the legitimate international monitoring body for the implementation of the Convention on the Rights of the Child and its Protocols by the signatory states, to call upon the Federal Government of Germany to:

1. **Explicitly prohibit by law the sale of arms, arms components and technology when there is risk that the final destination is a country where children are, or potentially may be, recruited or used in armed conflicts, or other grave violations against children are committed, including the killing, maiming, sexual violence and abduction of children as well as attacks on schools and hospitals and denial of humanitarian access;**
2. **Fully implement the Arms Trade Treaty into national law and use the UN Working Definition on Small Arms and Light Weapons as the basis for the licensing process and subsequent reporting;**
3. **Improve the transparency on and accounting for arms exports, especially in regard to the export of pistols and “non-military” firearms presently not reported to the UN Register of Conventional Arms. Transparency is the precondition for any independent verification of governmental compliance claims with its international treaty obligations in regard to the protection of children and human rights;**
4. **Introduce a verifiable and inclusive system of mandatory post-shipment controls and end-use certification, applying also to any EU-, NATO- and NATO-equivalent country, in order to prevent the uncontrolled transfer of German arms inside any country and the further proliferation through re-export;**

5. **Comply with the “General comment No. 16 – On State Obligations Regarding the Impact of the business sector on Children’s Rights”²⁷ and introduce mechanisms to ensure that all arms companies in Germany introduce a policy commitment to protect children’s rights in their business operations and adequate due diligence processes to address negative impacts from their business conduct in Germany and abroad.**

Recommendations to the Federal Government of Germany

The Federal Government of Germany, in order to satisfy its international obligations in regard to the protection of children’s rights in armed conflicts, should take the following actions with all urgency:

1. **Ban by law any export of weapons, ammunition, arms components and technology to countries involved in armed conflicts and where grave human rights violations, especially of children’s rights, are committed, including the recruitment and use of children as soldiers, killing, maiming, sexual abuse and abduction of children as well as attacks on schools and hospitals and denial of humanitarian access.**
2. **Conduct a fundamental overhaul of German arms export laws based on the restrictive provisions of the War Weapons Control Act, including the following urgent measures:**
 - a. **Establish legal codification of the criteria for the denial of arms exports presently contained in the binding EU Common Position and non-binding Political Principles on the Export of War Weapons and other Military Equipment;**

²⁷ UN Committee on the Rights of the Child (2013).

- b. **Integrate the UN Working Definition of Small Arms and Light Weapons of 2005 into the German arms export legislation and international reporting requirements, thereby fulfilling the obligations of the Arms Trade Treaty and also improving transparency and accountability;**
 - c. **Terminate the special privileges and treatment of EU-, NATO- and NATO-equivalent states in regard to arms exports;**
 - d. **Stop licensing the transfer of know-how, technology and manufacturing equipment to set up and maintain production facilities for small arms, light weapons and ammunition abroad;**
 - e. **Establish mandatory post-shipment controls for all recipients of German arms and the possibility for class action lawsuits against arms exports (“Verbandsklage-recht”);**
 - f. **Strengthen transparency and accountability for government arms export licensing decisions and actual arms exports, e.g. by improving parliamentary access to information and monitoring as well as introducing an obligation for written justification by the government for all arms export licenses issued, especially in regard to Third Countries.**
3. **Ensure by law that all arms companies operating in Germany introduce a policy commitment to respect human rights, especially children’s rights, and to conduct a risk assessment and implement a due diligence process to address the impact of their business conduct on these rights – including processes to enable remediation of negative impacts from their business conduct in Germany and abroad.**

Recommendations to German Arms Companies

Independent of national laws and regulations, arms companies remain bound to respect and adhere to international humanitarian law. Therefore, and in line with the UN “Guiding Principles on Business and Human Rights” and the “Business and Children’s Rights Principles”, all German arms companies are called upon to implement the following measures:

1. **Incorporate in their statutes a policy commitment to meet their responsibility to respect human rights and children’s rights in particular;**
2. **Introduce a due diligence process in regard to human rights and children’s rights to identify, prevent and mitigate risks and to account for how they address the impact of their business conduct on these rights;**
3. **Establish procedures to enable the remediation of any adverse impacts on human rights and children’s rights they cause or to which they contribute, including their business operations abroad.**

A young girl in a striped hoodie is the central focus, with her right hand raised high in a 'Red Hand' gesture. To her left, another child's face is partially visible, also smiling. The background is blurred, showing other people and a crowd. A large red rectangle is overlaid on the right side of the image, containing the title 'Introduction'. A white vertical bar on the left contains the number '1'.

1

Introduction

India: Red Hand-protests against the use of children as soldiers, organized by Indian partners of terre des hommes

“ I tried to refuse but I couldn't. I just had to go with them [al-Shabab]. If you refuse, maybe sometimes they come and kill you or harm you, so I just went with them. One of my friends who was older than me, they came and started with him the same as they did to me and he refused, and they left him, but another day they found him on the street and shot him.”²⁸

Unknown 14-year-old boy from Kenya on recruitment attempts by the al-Shabab militias, 29.5.2011

Children don't start wars, but they pay the price for them. Being the weakest segment of the population, they are hit hardest by strife and violent conflict. They lose their lives, their family, their home. They are forced to endure hunger and torture. They are denied access to humanitarian aid and suffer most from attacks on schools and hospitals. Added to this plight are abductions and abuses of children by parties to the armed conflict, whether as human shields, as slaves, as soldiers, or through sexual exploitation.

Over the past three decades, the international community has undertaken many efforts to address this situation and strengthen children's rights in situations of armed conflict. In 2019, the Convention on the Rights of the Child, signed by 192 states and to date the human rights instrument with most signatories, celebrated its 30th anniversary. In addition, 170 states are party to the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC) of 2000 and the Principles and Guidelines on Children Associated with Armed Forces or Armed Groups of 2007 (short: "Paris Principles") have been signed by 105 states.

Nevertheless, reality stands in stark contrast to the children's rights enshrined in these international treaties. According to the Peace Research Institute Oslo (PRIO), in 2018 around 415 million children lived in conflict zones, 145 million of these in high-intensity conflict regions.²⁹ "Grave violations against children's rights in armed conflicts", defined by the UN as recruitment of children, kidnapping and abduction of children, killing and maiming of children, sexual violence against children, attacks on schools and hospitals, denial of access to humanitarian aid, occur all too frequently.³⁰

In 2019, the UN Secretary-General's Annual Report on Children and Armed Conflict documented well over 24,000 grave violations of children's rights committed in 19 countries. More than a third of these were committed by government and international actors.³¹

Child soldiers continue to be part of the tragic reality of contemporary armed conflicts worldwide. In 2019, the United Nations documented the recruitment of more than 7,700 children. All in all, the UN identified 64 armed groups, including eight state-associated actors, as recruiting children or being responsible for other grave violations of children's rights.³²

²⁸ Human Rights Watch (2012), p. 20.

²⁹ PRIO (2020), p. 1.

³⁰ See UN Security Council (1999), p. 1. See UN Security Council (2005) for the incorporation of the "grave violations" in the UN Monitoring and Reporting Mechanism (MRM).

³¹ UN Secretary-General (2020a), p. 2.

³² See UN Secretary General (2020), p. 34ff. Due to a lack of reliable information from the armed groups themselves, it is impossible to identify the exact number of child soldiers in their ranks.

However, it took eleven more years before it was incorporated in an international treaty. The “Paris Principles” of 2007 contain the following obligation:

“States (...) should seek to limit the supply of arms and other support to parties unlawfully recruiting or using children in armed conflict. Control of the availability of small arms and light weapons may be especially important in reducing children’s capacity to participate in armed conflict.”³⁵

Germany considers itself one of the frontrunners in the fight to protect children in conflict-torn regions. Presently, as a non-permanent member of the UN Security Council (2019–2020) and having a seat on the UN Security Council Working Group on Children and Armed Conflict, the German government declared the improvement of children’s rights as one of its priorities: “Now again a non-permanent member of the Security Council, Germany is committed to keeping the protection of children in armed conflict high on the international agenda and to driving forward on the issue.”³⁶ Germany wants to include – “where appropriate” – the violation of children’s rights in armed conflict as a criterion in the UN sanctions process and to explicitly include parties that conduct attacks on schools and hospitals on the “List of Shame”.³⁷

³⁵ Paris Principles (2007), p. 21.

³⁶ Auswärtiges Amt (2019a).

³⁷ Deutscher Bundestag (2019a), p. 3; see also Auswärtiges Amt (2019b).

Info Box 3

“List of Shame” & Annual Report on Children and Armed Conflict

Since the year 2000 and based on UN Security Council Resolution 1261 (1999), the Special Representative of the UN Secretary-General for Children and Armed Conflicts has been compiling an annual report about the situation of children in areas of conflict based on documented cases.³⁸ Since 2002, the annual reports have also included country-specific summaries and an appendix with a list of armed actors who have committed at least one of the six grave violations of children’s rights in armed conflicts. The unofficial reference term for this appendix is the “List of Shame”.

Both the annual report and the “List of Shame” have proven to be valuable instruments to name and shame armed actors violating children’s rights in armed conflict. But neither of them is complete or in itself consistent. In the end, political decisions and political pressure applied by UN member states influences the selection. For instance, in the main part every annual report mentions state armies or non-state armed groups from specific countries who commit grave violations of children’s rights in armed conflicts but does not include all of them in the “List of Shame” in the annex. In 2019, this was the case for armed actors from Afghanistan (including the International Forces in Afghanistan), DR Congo, India, Israel & Palestine, Lebanon, Libya, Pakistan and Somalia. Saudi Arabia and the other members of the Saudi-led military coalition intervening in Yemen were not included even though the annual report found that this coalition was responsible for the killing and maiming of at least 222 children in Yemen in 2019.³⁹

In addition, armed actors are sometimes even removed from the “List of Shame” despite their continuous violation of children’s rights, like the Afghan National Army in different years, or the Saudi-led military coalition in Yemen in 2015 and 2019. Furthermore, other armed conflicts with many documented grave child rights violations have never been included in the report, e.g. the armed conflict in the Ukraine.

³⁸ UN Secretary General (2020).

³⁹ <https://watchlist.org/publications/open-letter-to-the-secretary-general-on-the-2020-annual-report-on-children-and-armed-conflict/>; UN Secretary General (2020).

At the same time, the UN Committee on the Rights of the Child, the designated treaty body for monitoring the implementation of the Convention on the Rights of the Child and its Protocols, called upon Germany in 2008 and 2014 to correct its arms export policy in regard to countries where child soldiers are being used or other grave violations of children's rights are committed.

Germany was asked to: “Ensure the greatest transparency regarding the transfer of arms and explicitly prohibit in law the sale of arms when there is risk that the final destination is a country where children are, or potentially could be, recruited or used in hostilities.”⁴⁰

The German State Report for the reporting cycle 2014–2019, submitted April 2019, is currently under review by the UN Committee.⁴¹

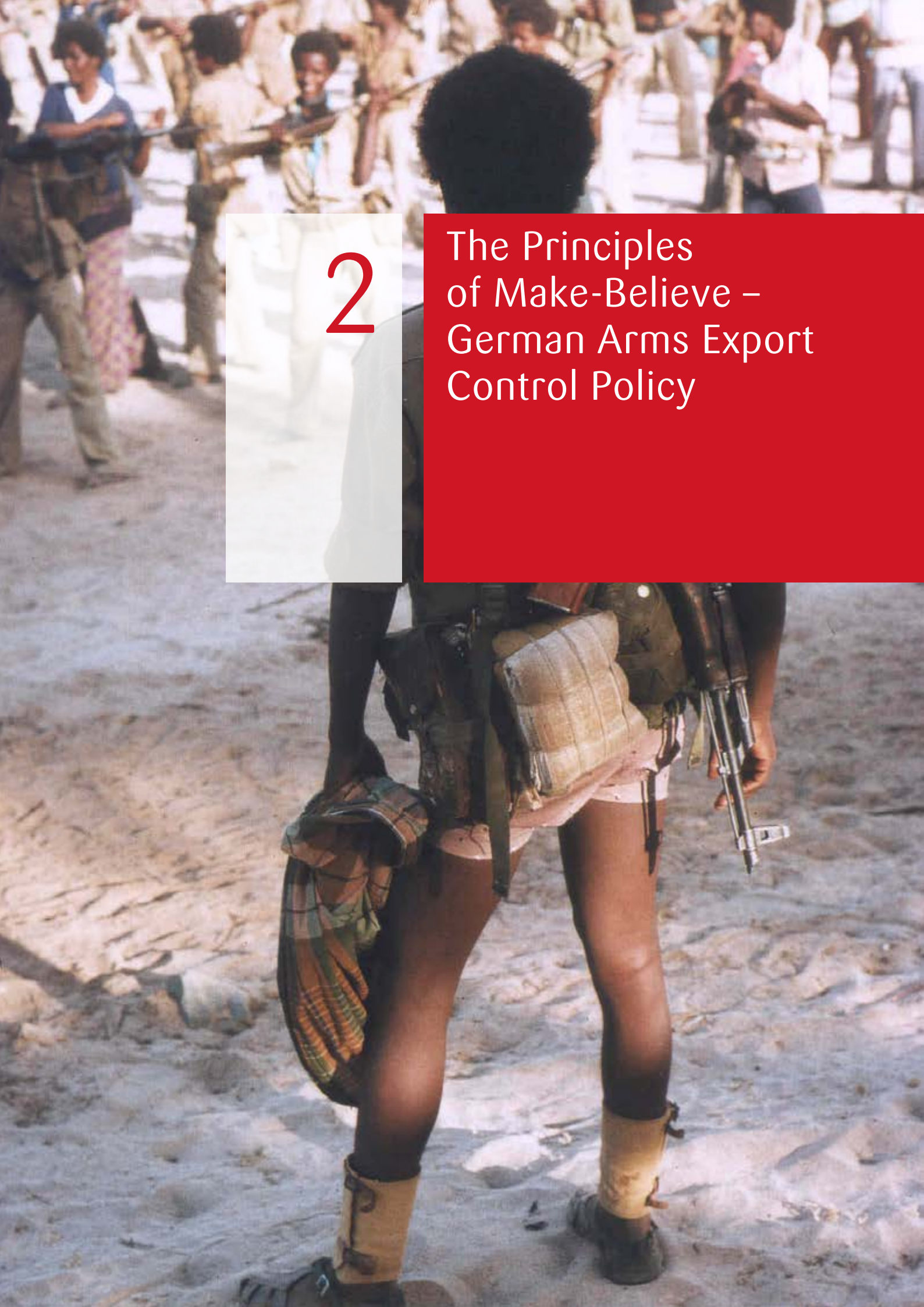
This study provides an assessment of the implementation of the arms export-related recommendations made by the UN Committee and Germany's general adherence to its international obligations in this regard.

It is a follow-up to the study “Small Arms in the Hands of Children – German Arms Exports and Child Soldiers” published in January 2017 and covers the years 2014–2019, matching Germany's reporting cycle to the UN-Committee. While special emphasis is given to small arms and light weapons, other arms exports are also included. This is in accord with the Paris Principles and the statements of the UN Committee on the Rights of the Child, that any arms export to a party of conflict is conducive to grave violations of children's rights.

The next section, Section 2, provides an overview of the legal framework of the German arms export policy, with a focus on small arms and light weapons (SALW). Section 3 analyzes the available figures on German arms exports for those countries included in the UN Annual Report on Children and Armed Conflict in connection with grave violations of children's rights. Section 4 presents a selection of country cases illustrating the broad spectrum of German arms exports and their impacts on conflicts. It covers two regions of conflicts currently causing great suffering among children, Syria-Iraq and Yemen. Furthermore, it outlines the contribution of German arms in countries with escalating internal armed struggles and increasingly blurring lines between armed military and police response affecting children (e.g. Brazil, Colombia, India and the Philippines). Section 5 concludes with an overview of structural deficits and dangers of German arms export policy that contribute to the proliferation of German arms into regions of conflict and into the hands of children.

⁴⁰ UN Committee on the Rights of the Child (2014), p. 14ff.

⁴¹ The review is expected to be concluded by 2021. Alongside the German national State Report, the “National Coalition Germany – Network for the Implementation of the UN Convention on the Rights of the Child” submitted an independent evaluation of Germany's policies on children's rights, see National Coalition (2019). Furthermore, a supplementary report provided by the German Coalition against Child Soldiers, Kindernothilfe, terre des hommes Germany and World Vision Germany offers an in-depth assessment of the shortcomings of the German implementation of OPAC, first and foremost the continuing recruitment of children by the German Armed Forces (*Bundeswehr*). Between 2014 and 2018 more than 109.000 children joined the German Armed Forces. See Michael Krennerich (2019).



2

The Principles of Make-Believe – German Arms Export Control Policy

“As my 10th birthday approached the devil came over my doorstep. I was abducted by the Lord’s Resistance Army and brought to one of their hide-outs in the Darfur region in today’s South Sudan. I was so very young and had to watch as they shot my father right before my eyes as he tried to help me. I had no choice. I had to take up arms and fight for my survival. The weapon, which I was handed from the rebels, was a German G3 assault rifle.”⁴²

Innocent Oponya, former child soldier from Uganda

Undeniably, the German government refined its stance on arms exports during the two terms of office of the CDU/CSU-SPD coalition (2013–2017 & 2017–2021). On paper, some deficiencies in regard to small arms were addressed: New “Principles of the Federal Government for the Issue of Licenses for the Export of Small and Light Weapons, Related Ammunition and Corresponding Manufacturing Equipment to Third Countries” (“Small Arms Principles”) and “Key Points for the Introduction of Post-Shipment Controls for German Arms Exports” (“Post-Shipment Controls”) were introduced in 2015. Four years later, both were then included by the German government in its revised version of the general “Political Principles on the Export of War Weapons and other Military Equipment” (“Political Principles”) of June 2019 (see Info Box 4 for the changes and improvements).

Any assessment of these measures needs to bear in mind that in practice they only serve as a guidance in the licensing process. They are not considered legally binding by the German government and therefore don’t need to be applied in practice. It remains impossible to judicially challenge arms export decisions based on the Political Principles.

They can easily be ignored by governments and companies without any legal risk. Furthermore, in Germany the legal term “in principle” (“*grundsätzlich*”) actually implies that exceptions to the rule are always possible.⁴³

⁴² terre des hommes (2019 a).

⁴³ For a commentary on the meaning of the term “in principle” in Germany’s arms export policy see Nassauer (2011).

Info Box 4

Changes to Small Arms Export Licensing since 2014⁴⁴

The “**Small Arms Principles**” (2015) broaden the German definition of small arms to include precision rifles, pump-action guns and semi-automatic weapons for military purposes. Principally, no export licenses for small arms were to be issued to private entities. No “Third Countries” (meaning states neither part of the EU or NATO or considered NATO-equivalent states) were to receive licenses for the export of small arms or ammunition-related components and technology, which then could be used to set up new production lines for ammunition or small arms. Any transfer of small arms and ammunition inside a recipient country or export to another country would require German consent.

“**Post-Shipment-Controls**” (2015) introduce measures for monitoring the end-use of small arms in Third Countries. As an exemption to every other official German document on arms exports, it also covers pistols. Until 2019 only eight such controls were carried out (i.e. Brazil, India, Indonesia, Jordan, Malaysia, South Korea, Trinidad & Tobago, United Arab Emirates).⁴⁵ So far, this mechanism is only applied on a voluntary basis, meaning with consent from the buying state.

In the revised “**Political Principles**” (2019) the preamble now explicitly mentions the overarching goal to reduce the risk of proliferation of small arms and light weapons. In principle, the export of small arms to non-NATO and non-EU states is to be ruled out. Both of the above-mentioned documents were incorporated in this new administrative guidance.

⁴⁴ These documents can be accessed at www.ruestungsexport-info.de/ruestung-recht/politische-grundsaeetze.html; for a short summary see Appendix 1.

⁴⁵ Deutscher Bundestag (2018), p. 5; Bundesministerium für Wirtschaft und Energie (2020), S.7.



Red Hand-protests against the use of children as soldiers with former child soldier Michael Davies in front of the German parliament in Berlin

While looking good on paper, these measures failed to substantively address the core factors for the world-wide proliferation of German small arms and other military goods. Two fundamental legal loopholes for arms exports can be identified in Germany, especially in regard to the control of small arms exports.

First, not all weapons and their components are subject to the same legal regulations. Only a limited number of arms and components listed on the “War Weapons List B” fall under the strict War Weapons Control Act and may only be exported under exceptional circumstances.⁴⁶ The vast majority of arms and components though is subject to the provisions of the Foreign Trade Act, which sees a denial of export licenses only as an exception.⁴⁷ **Pistols, revolvers and the majority of rifles are exclusively covered by the Foreign Trade Act and therefore only subject to scrutiny if they are declared for military use by the exporter.**⁴⁸

The second issue concerns the definition of small arms. **While Germany frequently refers to the UN**

“Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons” and the Arms Trade Treaty (ATT), which both consider all carried firearms and their components as small arms (see Appendix 2), the Federal Government employs the much narrower EU definition: Revolvers and pistols, with the exception of submachine guns, are excluded from the definition for small arms even though the government admitted that “in reality the differences in construction are almost non-existent” between civilian and military pistols.⁴⁹ Furthermore, aside from fully automatic rifles, only rifles that are either pump-action guns, precision rifles, or semi-automatic rifles designed specifically for military purposes, are considered “small arms”.

This artificial distinction blends out that many pistols and precision rifles are developed for the civilian (law enforcement) market and later procured by the military. **Furthermore, the speed of technological improvements render the distinction between military and civilian firearms along their technical properties (i.e. used ammunition, firepower, add-ons – silencer, targeting and night sights) obsolete.** Modern firearms are developed in a modular fashion and can be modified according to need. Present-day “civilian” add-ons, like sights, would have been classified as military-grade a decade ago. Today, any armed group equipped with modern “civilian” firearms is capable of engaging regular forces with military-grade firearms.

⁴⁶ See Appendix 2 for small arms and light weapons and their components covered by the “War Weapons List B”.

⁴⁷ See Appendix 1 for a summary of German legal regulations.

⁴⁸ In regard to the intra-EU trade of “non-military” firearms and subsequent re-export to Third Countries, the regulations are even less strict. According to Art. 10 para 2 of the EU Firearms Regulation of 2012, exports to EU states don’t require any export authorization. When exporting these weapons to non-EU states, a license is required, but the application of the criteria established by the EU Common Position is not mandatory.

⁴⁹ Deutscher Bundestag (2012b), p. 9.

Info Box 5

Main Deficits of the German Arms Exports Regulation

Legally non-binding “Political Principles”: They serve only as guidelines for the government. The application of the human rights standards and other criteria listed in these principles to export licensing decisions is not mandatory and not legally binding.

Privileged status for certain states: The “Political Principles” grant EU- and NATO member states as well as Australia, Japan, New Zealand, Switzerland (labeled as NATO-equivalent states) a privileged status as recipients of weapons and military technology. Contrary to the “War Weapons Control Act” any exports of weapons of war to these countries should only be denied in exceptional circumstances. Furthermore, the barrier for technology transfers and a subsequent re-export of items of the “War Weapons List B” from these countries is reduced.

Loopholes for re-export: Until 2017, the Foreign Trade and Payments Act (AWG) did permit the re-export of German arms components by EU- and NATO member states under specific circumstances without further notification and approval requirements. Components integrated into weapons systems could lose their status as an independent commodity and subsequently be freely exported by the integrating foreign company. The new Political Principles of 2019 then re-introduced a similar mechanism in section II.6.: “For German supplies of parts (spare parts or assemblies) constituting weapons of war or other military goods, regulations can be applicable that take into account the integration of the supplied parts into superordinate (weapon) systems, especially ‘de-minimis’ regulations.” This mechanism enhances the risk for future unchecked worldwide proliferation of German arms.

Lack of coherent regulation for small arms exports: Different licensing standards are applied to different types of small arms. Pistols, hunting rifles, sporting rifles (including many precision rifles) and even officially non-military semi-automatic weapons are generally exempt from stricter controls under the War Weapons Control Act.

Narrow definition of small arms: The Federal Government so far has not ensured the implementation of the UN-Working Definition of small arms and light weapons, as formulated in Art. 5 para 3 of the Arms Trade Treaty, into German law. Instead, it is still applying the much narrower EU definition, leaving out pistols or precision rifles.

On paper, a tight and multi-layered net of legal and political measures is in place for arms export controls, especially in regard to small arms. In reality though, it resembles swiss cheese offering government and companies many venues to ensure arms can be exported anywhere. In their current shape, the “Political Principles” undermine a coherent and restrictive arms export control system. They permit cherry-picking by the licensing authorities. It is true that the principles contain numerous references to the goal of ensuring that German arms will not be used to fuel armed conflict, internal repression and systematic violations of human rights, thereby including violations of the Convention on the Rights of the Child and the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC). However, they also permit the government to weigh these concerns against the security policy interests and economic industrial considerations, thereby sidelining the legal provisions in the War Weapons Control Act (§6) and Foreign Trade and Payments Act (§4).

All in all, the reforms since 2014 amount to little more than window dressing. The Federal Government continues to sidestep the fact that the EU Common Position “Defining Common Rules Governing Control of Exports of Military Technology and Equipment” of 2008 is legally binding and all its aspects need to be incorporated into German Law, thereby also making the licensing criteria legally binding for exports to any non-EU state.⁵⁰ It refuses to implement the UN working definition for small arms, even though this definition is also part of the ratified Arms Trade Treaty. Instead, only minor and piecemeal adjustments were made by yet another set of “Principles” for small arms exports. If there had

⁵⁰ The Federal Government has pursued this strategy for the past two decades. Instead of implementing the licensing criteria of the EU “Council Common Position 2008/944 defining common rules governing control of exports of military technology and equipment” of 2008 in the appropriate national laws, it chose to incorporate them in the non-binding “Political Principles”, arguing that EU Common Position concerning foreign and security policy only requires compliance and not legal implementation, see Deutscher Bundestag (2012a), p. 5. Additionally, the government extended the exemption of criteria application to non-EU member states of NATO, as well as some privileged associated countries like Switzerland, Australia, New Zealand and Japan. For an overview on the German legal view of Common Position see Deutscher Bundestag (2019b).

been a real desire to clamp down on the export of precision rifles, pump-action guns and semi-automatic weapons, these weapons would have been included in the “War Weapons List B” or a new list attached to the War Weapons Control Act, thereby ensuring that the strictest possible standards under German law would be applicable to all firearms.

The deficits outlined above call for a fundamental overhaul and standardization of the present multi-layered legal framework for arms export controls:

- ▶ **The export of all weapons, ammunition and their respective components needs to be subjugated to the same restrictive legal standards, regardless of their destination;**
- ▶ **The criteria of the EU Common Position need to be legally codified in German law;**
- ▶ **Effective instruments for end-use control need to be introduced and applied;**
- ▶ **Accountability of government arms export licensing decisions needs to be vastly improved, e.g. by improving transparency on actual arms exports, by mandatory government public justification for them and by introducing the possibility of class action lawsuits against these decisions.**

Info Box 6

Corporate Responsibility and Accountability

One dimension often ignored in the discussion on German arms export regulations is the direct responsibility of arms companies. German arms manufacturers hide behind government licensing decisions and believe to be absolved from any obligation to assess the impact of their activities on human rights and to provide remedy for negative impacts, if they occur. But a government license does not oblige companies to export arms. Likewise, government failure to enforce its laws or to implement its international human rights obligations does not diminish the companies’ responsibility to respect human rights.⁵¹

In recent years the United Nations released two documents which, while not legally binding per se, link state obligations to protect human rights to business compliance: The UN “Guiding Principles on Business and Human Rights”, endorsed by the Human Rights Council in 2011, require companies “to avoid causing or contributing to adverse human rights impacts through their own activities” and “to seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services”.⁵² The “Children’s Rights and Business Principles”, released by UNICEF, Save the Children and UN Global Compact in 2012, call on companies to “avoid causing or contributing to the infringement of children’s rights in the context of emergencies. Recognize the heightened human rights risk in the context of armed conflict and other emergencies, and undertake human rights due diligence accordingly.”⁵³

With specific reference to both of the above documents, the UN Committee on the Rights of the Child issued its “General Comment No. 16 – On State obligations regarding the impact of business on children’s rights” in 2013: “Therefore all businesses must meet their responsibilities regarding children’s rights and States must ensure they do so. In addition, business enterprises should not undermine the State’s ability to meet their obligations towards children under the Convention on the Rights of the Child and its protocols.”⁵⁴

⁵¹ According to the International Committee of the Red Cross a “business enterprise carrying out activities that are closely linked to an armed conflict must also respect applicable rules of international humanitarian law”. Furthermore: “Production and trade in weapons other than those explicitly prohibited might also give rise to legal liability where the trader knowingly supplies weapons to end-users who use them to violate international humanitarian law”, see International Committee of the Red Cross (2006), p. 14, 25.

⁵² UN Human Rights Office of the Commissioner (2011), p. 14f.

⁵³ UNICEF et al. (2012), p. 32.

⁵⁴ UN Committee on the Rights of the Child (2013), p. 4.

Corporate Responsibility and Accountability

The guide for the implementation of the General Comment No. 16, published by UNICEF and the International Commission of Jurists, states that in regard to children's rights companies operating in conflict zones "are particularly at risk of causing or contributing to significant negative impacts".⁵⁵ Governments are called upon to "take steps to make certain that businesses do not cause, enable, facilitate or exacerbate children's rights violations or abuses in situation of conflict".⁵⁶

So far the German Federal Government has not addressed this issue of corporate responsibility and accountability in the arms trade in any satisfying manner. This deficit urgently needs to be corrected.⁵⁷ Independent of governmental evaluations of arms exports, arms manufacturers should themselves be required to assess the risks of their products to infringe on human rights in general and on the rights of children in armed conflicts specifically and act accordingly. In regard to small arms this also needs to include so-called civilian firearms and components for small arms that are exported for assembly abroad and potentially re-exported to other countries. Furthermore, it needs to be ensured that businesses are not able to circumvent their responsibility by delegating assembly or transfer know-how to its subsidiaries or joint ventures all over the world.

In line with these recommendations and measures to comply with the obligations included in General Comment No. 16, Germany should require all German-based arms companies to

- ▶ **incorporate in their statutes a policy commitment to meet their responsibility to respect human rights and children's rights in particular;**
- ▶ **introduce a due diligence process in regard to human rights and children's rights to identify, prevent, mitigate and account for how they address the impact of their business conduct on these rights;**
- ▶ **establish procedures to enable the remediation of any adverse human rights and children's rights impacts they cause or to which they contribute, including their business operations abroad.**

⁵⁵ UNICEF et al.(2015), p. 16.

⁵⁶ UNICEF et al. (2015), p. 16.

⁵⁷ See for example the German NGO-Initiative "Lieferkettengesetz" (www.lieferkettengesetz.de).



3

Fueling Grave
Violations –
German Arms Exports
2014–2019

“The death toll from small arms dwarfs that of all other weapons systems—and in most years greatly exceeds the toll of the atomic bombs that devastated Hiroshima and Nagasaki. In terms of the carnage they cause, small arms, indeed, could well be described as ‘weapons of mass destruction’.”⁵⁸

UN Secretary-General Kofi Annan, 2000

The annual reports of the UN Secretary-General on children and armed conflicts have documented more than 20 country situations where more than 70 armed factions either recruited children as soldiers or committed other grave violations against the rights of children between 2014 and 2019. This section compares available statistical information on arms exports to these countries with Germany’s claim that it does abide by its international commitments in respect to the Convention on the Rights of the Child, OPAC, “Paris Principles” and Arms Trade Treaty as well as its national political and legal obligations. The Federal Government repeatedly affirmed that adequate legal provisions are in place for a restrictive licensing policy in regard to small arms and light weapons (SALW) and conflict regions where children’s rights are violated:

“If, during the evaluation of the human rights situation in the recipient country, concrete evidence emerges that the items destined for export will be used against children or given to child soldiers in violation of the Convention on the Rights of the Child or OPAC, the export license will be refused.”⁵⁹

When talking about arms exports from Germany, be it in general or in regard to small arms and light weapons, transparency is the core issue. Without it, nobody outside the arms companies and the government, not any UN committee or other institution, will be able to accurately evaluate and assess Germany’s compliance with its international obligations. **Germany has severe deficits in this regard (see Info Box 7). Therefore, these figures only offer an approximation of the reality of German arms exports and should be treated with caution and care.**

⁵⁸ Annan (2000), p. 39.

⁵⁹ Deutscher Bundestag (2019c), p. 53 (translation by the author).

Info Box 7

Lacking Transparency on Exports of Small Arms and Light Weapons

The information supplied by Germany in the “Annual National Reports on the Export of Conventional Weapons and other Military Items” (“Annual National Report”), the reporting to the UN Registry for Conventional Arms (UNROCA) and the data published by the German Federal Statistical Office (DESTATIS) (see Glossary) does not ensure sufficient transparency on arms exports:

1. Systematic information on actual German arms exports to specific countries is limited to UNROCA weapon categories – with the exception of pistols and other non-military firearms, on which Germany provides no information at all.⁶⁰ The German Annual National Report only publishes selected actual arms deliveries to specific countries and only provides aggregated information on actual arms exports limited to items from the “War Weapons List B”. It is neither possible to identify all recipients of German arms nor the weapons actually exported.
2. Information on specific export licenses issued is limited to military small arms and ammunition destined for Third Countries. For everything else, including light weapons, the Annual National Report only presents aggregated information on export licenses. This renders it impossible to identify specific weapons, their components and to quantify their share. Small arms and light weapons components, technology and know-how are distributed among 9 of the 22 positions of the “EU Military List”, which also cover other unrelated military goods. Written government answers to parliamentary inquiries have shown that more differentiated information could be made available if the government were willing.

⁶⁰ These exports are not negligible: According to UNROCA, other countries have reported the import of more than 150,000 pistols and 3,900 “other firearms” from Germany since 2006, see www.unroca.org.

3. The information on small arms listed in the Annual National Reports is limited to the narrow EU definition (see Appendix 2). Export licenses for pistols, precision rifles, hunting and sporting rifles, and “civilian” semi-automatic rifles are left out, as well as components for them.
4. The Annual National Report only provides export licensing information on small arms and ammunition for non-EU and non-NATO countries. This leaves out many of the main recipients of German small arms, like France, Great Britain and the USA, who incidentally are also involved in many military interventions.
5. The Annual National Report provides no separate information on the export licenses for light weapons, not even to Third Countries.
6. DESTATIS does not publish export data on military arms.⁶¹
7. Other important components and add-ons, like night sights or rifle scopes, can fall under the EU Dual-Use Regulation and are not reported at all. Furthermore, the EU Directive of 2009 on intra-community arms transfers reduced the overall licensing and reporting obligations for all weapon categories.⁶²

Nevertheless, available data leaves no doubt that Germany continues to be one of the largest arms-exporting nations of the world. The Stockholm International Peace Research Institute (SIPRI) currently ranks Germany at fourth place with a 17% increase in arms sales 2015–2019, in comparison to the previous five-year period (2010–2014).⁶³

Germany itself reported actual exports of items from the “War Weapons List B” worth €10.1 billion between 2014 and 2019 – mainly destined for Third Countries (€7.6 billion). Among the recipients were also Colombia and Iraq, two countries with state and non-state armed actors included in the UN “List of Shame” regularly. Additionally, nine of the ten member states of the Military Coalition intervening in Yemen that was also included in the UN “List of Shame” 2016–2018, continuously received German arms: Bahrain, Egypt, Jordan, Kuwait, Morocco, Qatar, Saudi Arabia, Senegal, United Arab Emirates (see Info Box 12). Germany also exported weapons of war to four other countries included in the UN Annual Report on Children and Armed Conflict (but not included in the “List of Shame” in the Annex due to inconsistencies in the listing process, see Info Box 3): India, Israel, Pakistan, Thailand.

The overall volume of issued arms export licenses was even higher between 2014 and 2019: more than 72,000 licenses worth over €46 billion.⁶⁴ **During this time, the licenses for German arms exports to countries which were mentioned in the UN Annual Reports on Children and Armed Conflict for grave child rights violations amounts to a staggering €3 billion.**⁶⁵

⁶³ SIPRI (2020).

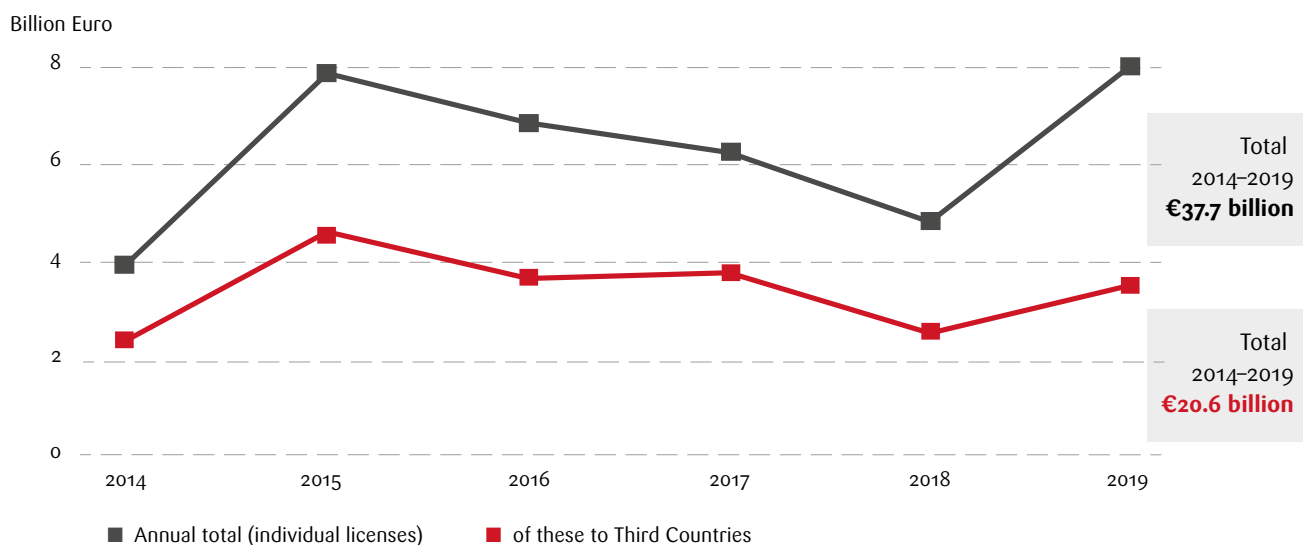
⁶⁴ This number includes €7 billion worth of global export licenses usually issued for larger multinational arms projects. All in all, the total value of arms exports can be expected to be much higher, not least because of the reduced licensing obligations for intra-community arms transfers.

⁶⁵ This figure does include licenses in connection with UN-missions. Since these primarily concern relatively low-cost small arms and ammunition, their total value makes up only a very minor share of the total volume. Furthermore, these figures do not include arms export licences to foreign powers participating in the armed conflicts identified by the UN Secretary-General (e.g. France, Great Britain, Russia, Saudi Arabia, Turkey, United Arab Emirates, USA) and potentially or verifiably responsible for committing grave violations of children’s rights.

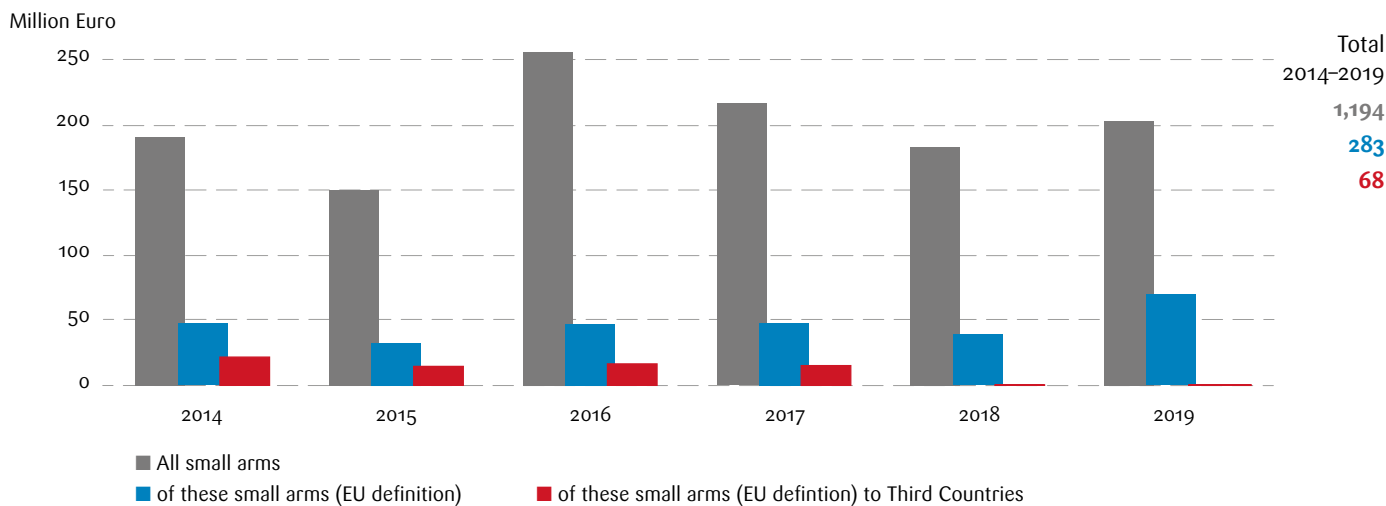
⁶¹ The sub-categories of DESTATIS Section 93 selected for the analysis are based on the systematics of the Small Arms Survey. The following categories will be included: 9302 (pistols & revolver), 930320 & 930330 (sporting & hunting rifles), 930510 (parts and accessories for pistols), 930520 (parts and accessories for rifles), 930621 und 930629 (ammunition for rifles and parts thereof), 93063010 (ammunition and parts for pistols & revolver”), 93063030 & 93063090 (other parts for ammunition).

⁶² See European Union (2009a).

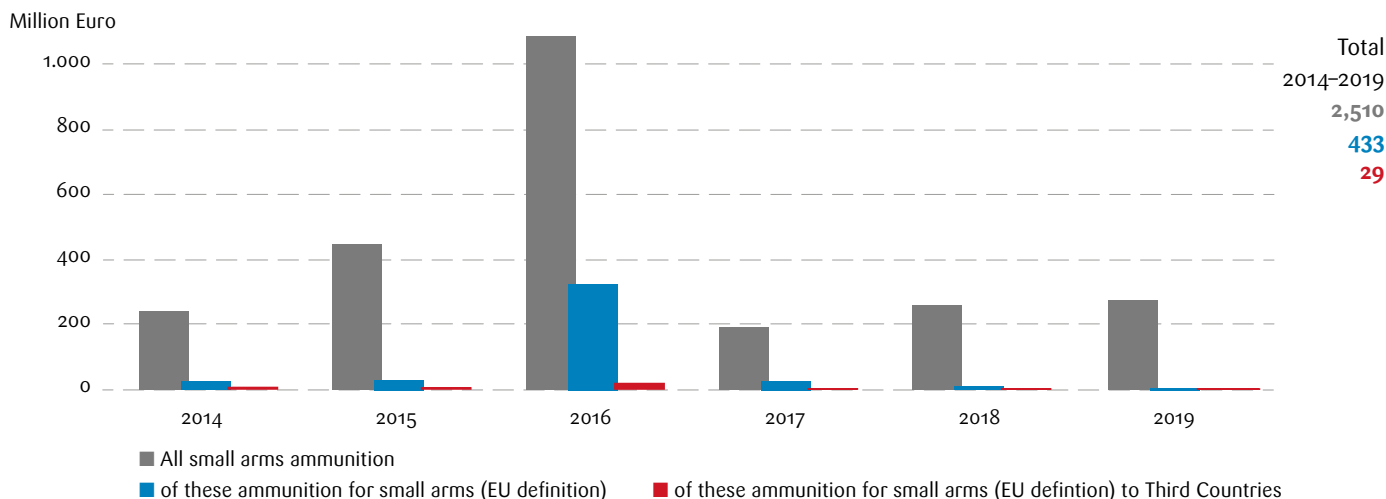
Info Box 8a: German Arms Exports: Individual Licenses 2014-2019



Info Box 8b: German Small Arms Exports: Individual Licenses 2014-2019



Info Box 8c: German Small Arms Ammunition Exports: Individual Licenses 2014-2019



Info Box 9: German Exports of Small Arms and Ammunition to Countries with UN-documented Grave Violations of Children’s Rights in Armed Conflict 2014-2019*

Country	Total Value Licensed Arms Exports (€M) 2014-2019	Value Small Arms Licences ML 1 (€M) 2014-2018**	Listed Small Arms 2014-2019	Value Small Arms Ammunition Export Licences ML 3 (€M) 2014-18**	Listed Small Arms Ammunition 2014-2019
Afghanistan	56.00	0.004	<1 ton parts for pistols <1 ton parts for rifles	0.06	30,000 KWL-rifle ammunition (UN) >1 ton rifle ammunition & parts >2 tons pistol ammunition & parts
Central African Republic	3.18	0.32	75 KWL-rifles (UN) & 20 parts 50 submachine guns (UN) & 12 parts <1 ton parts for pistols <1 ton parts for rifles	0.48	255,000 rifle ammunition (UN) 250,000 KWL-rifle ammunition (UN) >3 tons rifle ammunition & parts >7 tons pistol ammunition & parts
Colombia	98.64	0	<1 ton parts for pistols <1 ton parts for rifles	0	>16 tons rifle ammunition & parts
DR Congo	0.75	0	<1 ton parts for pistols	0.08	>1 ton rifle ammunition & parts >1 ton pistol ammunition & parts
India	600.35	12.54	158 KWL-rifles & 994 parts 3,800 submachine guns & 38,935 parts 13 machine gun parts 857 pistols & <1 ton parts 107 rifles & >1 ton parts	50.95	2,000 rifle ammunition 344 tons rifle ammunition & parts 9 tons pistol ammunition & parts
Iraq	187.59	20.98	24,105 KWL-rifles & 51 parts & 2 sets 10 submachine guns / according to UNROCA light machine guns 40 machine guns & 2 sets 25 KWL-rifles (embassy) 16,040 pistols 111 pistols	52.72	18.7 million KWL-rifle ammunition 9.1 million rifle ammunition 1.5 million SMG ammunition 2,000 rifle ammunition (UN) >1 ton rifle ammunition & parts 7 tons pistol ammunition & parts
Israel & Palestine	1,435.12	0.01	32,000 KWL-rifle parts 51 pistols & <1 ton parts <1 ton rifle parts	9.21	3 tons rifle ammunition & parts 2 tons pistol ammunition & parts

Info Box 9

Country	Total Value Licensed Arms Exports (€M) 2014-2019	Value Small Arms Licences ML 1 (€M) 2014-2018**	Listed Small Arms 2014-2019	Value Small Arms Ammunition Export Licences ML 3 (€M) 2014-18**	Listed Small Arms Ammunition 2014-2019
Lebanon	15.02	0.06	11 KWL-rifles (UN) & 127 parts 13 SMG & 66 parts / according to UNROCA 10 SMG (UN) and 15 other SMG	0.33	17,000 KWL rifle ammunition (UN) 118,000 KWL rifle ammunition (UN) 74,000 rifle ammunition (UN) 25,000 SMG ammunition 16 tons rifle ammunition & parts 7 tons pistol ammunition & parts
Libya	6.08	0.13	20 KWL-rifles (UN) 10 SMG (UN) & 351 parts	0.01	2 tons rifle ammunition & parts <1 ton pistol ammunition & parts
Mali	16.60	0.33	110 KWL-rifles (UN) & 340 parts 25 SMG (UN) & 135 parts 10 pistols & <1 ton parts <1 ton rifle parts	0.68	0.5 million KWL-rifle ammunition (UN) 0.23 million rifle ammunition (UN) 1 ton rifle ammunition & parts 3 tons pistol ammunition & parts
Myanmar	0	0		0	
Nigeria	18.98	0		0	
Pakistan	351.48	0.07	4 pistols <1 ton parts for rifles	5.52	<1 ton rifle ammunition & parts
Philippines	18.01	0.001	50 pistols	0	>1 ton rifle ammunition & parts
Somalia	9.93	0.001		0.14	140,000 rifle ammunition (UN)
South Sudan	5.79	0.001	5 KWL-rifle parts (UN) 5 SMG parts (UN)	0.27	0.3 million rifle ammunition (UN) 20,000 KWL rifle ammunition (UN)
Sudan	0.79	0	<1 ton parts for pistols <1 ton parts for rifles	0	1 ton pistol ammunition & parts
Syria	4.14	0		0	
Thailand	207.66	0.003	10 pistols & <1 ton parts 86 rifles & <1 ton parts	1.94	4 tons rifle ammunition & parts

Info Box 9

Country	Total Value Licensed Arms Exports (€M) 2014-2019	Value Small Arms Licences ML 1 (€M) 2014-2018**	Listed Small Arms 2014-2019	Value Small Arms Ammunition Export Licences ML 3 (€M) 2014-18**	Listed Small Arms Ammunition 2014-2019
Yemen	1.91	0.05	15 KWL-rifles (UN) & 3 parts / according to UNROCA 5 assault rifles 19 SMG & 4 parts (UN) / according to UNROCA 29 SMG	0	

KWL-rifle A rifle explicitly included in the “War Weapons List B” (Kriegswaffenliste), that is part of the German War Weapons Control Act (see Appendix 1)

ML1, ML3 Categories of the Common Military List of the European Union

Country Predominantly arms exports for UN-missions, EU-missions and embassies. Therefore, exports to this country were not included in the critical analysis of German arms exports in this study.

Sources:

- Annual National Report on Arms Exports by the German Government
- Annual National Report & UNROCA
- UNROCA (UN Register of Conventional Arms)
- DESTATIS (German Federal Statistical Office)

* All countries in this list are included in the Annual Reports of the UN Secretary General on Children and Armed Conflict for grave violations of children’s rights in armed conflicts (see Glossary). In 2014, Chad and Côte d’Ivoire were included in the UN annual reports for the last time. Chad received no German arms in this year and Côte d’Ivoire only received German arms for UN and EU embassies. Therefore both countries are not included in this Info Box.

** Information on EU Military List categories ML 1 and ML 3 is not included in the German national reports for 2019. It is only provided for the annual EU-Reports which will be published towards the 4th quarter of 2020.

€M Million €

The share of small arms and light weapons is more difficult to determine due to insufficient transparency and Germany’s narrow definition. Therefore, the numbers presented below represent only the bare minimum.

While the total value of all individual licenses for small arms exports according to the EU Military List category ML 1 (Ausfuhrliste Teil 1A Position A0001) add up to €1.2 billion since 2014, the German government only classifies export licenses worth €282 million as being small arms according to the EU definition. Still, the share of countries, where the UN registered grave violations against children’s rights amounts to more than €33 million.

These export decisions were accompanied by licenses for small arms ammunition exports according to the EU Military List category ML 3 (Ausfuhrliste Teil 1A Position A0003). **Again, of the total of €2.5 billion worth of ammunition exports only €433 million were considered by the government as falling under the narrow EU definition. Of these, licenses worth €122 million were destined for countries whose grave violations**

of children’s rights are documented in the UN Secretary-General Annual Reports on Children and Armed Conflict.

The stark decline of small arms licences issued to Third Countries since 2017 is a positive sign. But in light of the record level of overall German small arms export licenses issued worldwide in 2019, reaching a volume of almost €70 million, and the frequent practice of re-exports via EU- or NATO countries, this should not be overrated. Furthermore, despite insufficient information provided by the German government and continuing lack of transparency, there can be no doubt that the total volume of German arms export licenses, including small arms and light weapons, for the countries documented in the annual reports of the UN Secretary-General on Children and Armed Conflict between 2014 and 2019 remains substantial. Additionally, it should always be remembered that the monetary value is irrelevant with respect to its impact on children in armed conflicts. Comparatively cheap small arms often kill more people than one very expensive warship.

Info Box 10

German Security Cooperation & Violations of Children's Rights

Military Aid: The danger of contributing to the violation of children's rights in armed conflict is not limited to commercial arms exports. On a regular basis Germany has been providing countries with armed groups listed by the UN for grave violations, like Mali and Nigeria, with military hardware (i.e. trucks, helmets) since 2014 – mostly surplus goods from *Bundeswehr* stockpiles. Even though these military goods are mainly non-lethal, they improve the capacity of security forces to recruit child soldiers and/or commit other grave violations of the rights of children in armed conflict. Furthermore, substantial lethal arms deliveries were also made to the forces of the Kurdish Regional Government in Iraq at the same time (see Info Box 11).

Military and Police Training: Germany also has engaged in multinational training missions where German personnel are supporting armed forces despite UN reports of child soldiers being recruited by them (as in Somalia) or by associated armed groups (as in Afghanistan, until now).⁶⁶ In 2016 the German government launched another comprehensive program for security aid ("*Ertüchtigungsinitiative*"), which covers the whole spectrum of security training and transfer of security equipment, including lethal weapons and armored personnel carriers. So far, security forces from Iraq, Lebanon, Mali, Nigeria and Somalia have participated – despite the continued documentation by the UN of grave violations of children's rights in these countries.⁶⁷ Germany has allocated €490 million to these efforts so far.

Border Security: Overlapping in many aspects with the "*Ertüchtigungsinitiative*", Germany has funded various initiatives in the eastern Mediterranean, northern Africa and Sahel countries to improve state capacities for border control. Officially in order to prevent terrorist crossings, these measures also serve to block migration routes. Mali and Algeria have received training, military equipment and surveillance technology for border control. Niger was supplied with military trucks and other equipment to improve border control to Nigeria.⁶⁸ These measures increase the risk for children seeking safety from armed conflict to be targeted by border security forces.

⁶⁶ See Steinmetz (2017), Info Box 5 on p. 22.

⁶⁷ Bundeministerium der Verteidigung (2019); Deutscher Bundestag (2019e).

⁶⁸ Akkerman (2018), p. 68; Steinmetz (2019), p. 23f.

Photo:
South Sudan: Release of former child soldiers who will be reintegrated in communities and receive professional training



4

German Arms Impacting Children in Armed Conflicts and Internal Violence

“Fighting at the front line I have seen many different weapons. None of these weapons were produced locally, they all came from abroad. The German G3 was the second best rifle. You could kill a person 500m away. For children it was often sawed off so it wouldn't be too long for them.”⁶⁹

Michael Davies, former child soldier from Sierra Leone

Just looking at the last five years of Germany's arms exports, it is possible to identify numerous cases where these weapons contributed to the plight of child soldiers and children in armed conflicts. Almost all countries mentioned in the UN Annual Reports on Children in Armed Conflict have received German arms since 2014 (see Info Box 9).

The chapters 4.1 till 4.5 of this section concentrate on six of the countries mentioned in the recent UN Annual Report on Children and Armed Conflict and explore the role German arms exports play there.⁷⁰ In all of these cases the recruitment of children, either as fighters or for auxiliary services, and other grave violations of children's rights are a common occurrence. Small arms and light weapons (SALW) are the primary types of weapons employed there, and the development of the conflict and the violation of children's rights is directly linked to the availability of these weapons and their ammunition.

The cases include conflicts characterized by high-intensity warfare and massive foreign military interventions, like the conflict region Syria-Iraq and Yemen. They also cover three other armed conflicts of a protracted low-intensity nature: Colombia, India and the Philippines. In many instances, the respective governments downplay these armed conflicts as “internal unrest”, “terrorist activities” or “war on drugs”, suggesting they are temporary in nature and primarily regular law enforcement operations. Nevertheless, the same governments use military counter-insurgency strategies

⁶⁹ terre des hommes (2017).

⁷⁰ In order to maintain the focus on the connection between German arms exports and violations of children's rights, these overviews will not cover the evolution and changing lines of conflict or the motivation of the armed groups involved. For more background on Colombia, India, Iraq, the Philippines, Syria, Yemen see the corresponding sections in Steinmetz (2017).

and deploy their armed forces, militarized police units, state-associated paramilitary groups and local self-defense militias in these conflicts.

In addition, chapter 4.6 of this section covers the implications of German arms exports to Brazil in light of the escalation of armed confrontations between state security forces and drug trafficking organizations as well as the growing use of police and military force against the population. While such a militarized state response is not always classified as an armed conflict, it often includes grave human rights violations. In many instances, children and their surroundings become “legitimate” targets. Therefore, any arms export to these countries needs to be evaluated in regard to the provisions of the Convention on the Rights of the Child.

4.1. Syria & Iraq

In the context of the Arab Spring, a civil war erupted in Syria in 2011 and quickly escalated to become one of the bloodiest armed conflicts in the world. It also rekindled the war in Iraq. The Free Syrian Army, the Islamic Front, the Islamic State in Iraq and Syria and the various Kurdish forces (e.g. the Syrian Self-Defense Forces, the Turkish Partiya Karkerên Kurdistan/PKK and Iraqi Peshmerga), fight against the Syrian and/or Iraqi government and against each other. All parties to the conflict receive substantial military and financial aid from abroad – mainly from Iran, Qatar, Russia, Saudi Arabia, Turkey, the United Arab Emirates and the USA, but also from Germany. Accordingly, a flood of weapons has been pouring into Syria and neighboring Iraq. While the Islamic State has been on the defensive since 2015 and has lost most of its territories in Syria and Iraq, the fighting has intensified in other regions, especially at the Syrian-Turkish border.

In Syria, women and children are inordinately impacted as they are caught helplessly in the middle of the warring factions. Cities are held hostages, their inhabitants targeted by airstrikes performed not only by the Syrian Air Force, but also from NATO states (France, Great Britain, USA) and Russia. In 2019, the UN Office for the Coordination of Humanitarian Affairs counted more than six million internally displaced people in Syria. Eleven million people are in need of humanitarian

assistance, half of them children.⁷¹ All warring internal armed factions in the Syrian conflict (see above) have been listed by the UN for grave violations of children's rights, many of them recruiting children.⁷² Since 2014 the UN has documented the killing and maiming of more than 8,000 children in Syria. In numerous instances the UN Secretary-General attributed these casualties in his annual reports to air strikes conducted by foreign powers without naming them. Primarily France, Russia, Turkey, the United Kingdom and the United States have been carrying out airstrikes over Syria.

A similar picture emerges in Iraq. Since 2014 the UN has documented more than 3,900 child casualties. Almost all armed groups have been recruiting and using children, foremost the Islamic State and various Sunni and Shia militias. But also some of the Peshmerga units and militias affiliated to the Kurdish Regional Government in northern Iraq as well as paramilitary units of the Iraqi government, primarily the Popular Mobilization Forces, keep recruiting and training children for military tasks.⁷³

Direct German arms exports to Syria remain the exception until today. The Syrian Armed Forces rely on Russia for supplies, while the two main armed opposition groups, the Free Syrian Army and the Islamic Front, were mainly equipped with weapons from Saudi Arabia, United Arab Emirates, Qatar, Turkey and the USA.⁷⁴ The weapons identified to be of German origin had been, for the most part, delivered in the 1970s and 1980s (e.g.

the MILAN anti-tank missile systems). These older German weapons were either looted from army stockpiles after 2011 or entered Syria via Iraq and serve as telling examples of the long-term implications of SALW transfers to presently "safe destinations".⁷⁵

In Iraq a different picture emerges. Direct and indirect deliveries of German SALW spiked up after the military intervention by the US-led coalition in 2003. Initially, they were primarily destined for the UN Assistance Mission to Iraq, but later were also provided to the Iraqi security forces directly. Striking examples include large quantities of German pistols delivered to Iraq from Germany, Poland and, more frequently, via the USA: At least 19,000 German-developed pistols of various manufacturers were delivered to Iraqi security forces between 2003 and 2006 alongside at least 518 MP5 sub-machine guns from Heckler & Koch.⁷⁶ Subsequently, with whole Iraqi units abandoning their bases or even deserting to the Islamic State of Iraq from 2006 onwards, many of these small arms ended up in the hands of the Islamic State. With the expansion of the Islamic State into Syria after 2011, regional proliferation gained speed, and the German arms began to end up not only with the Islamic State, but also as loot in the hands of the Free Syrian Army and Kurdish Self-Defense Forces of Syria.⁷⁷

As the conflicts in Syria and northern Iraq escalated drastically in 2014, the German government even began to officially and pro-actively equip a non-NATO and non-state actor in an ongoing conflict: the security forces of the Kurdish Regional Government in Iraq, primarily Peshmerga units.

⁷¹ See UNICEF (2019).

⁷² For more information on Syria and Iraq see the specific entries in the Annual Reports on Children in Armed Conflict of the UN Secretary-General (2015a); UN Secretary-General (2015b); UN Secretary-General (2016); UN Secretary-General (2017); UN Secretary-General (2018); UN Secretary-General (2019a).

⁷³ For further information on recruitment by the Iraqi Popular Mobilization Forces see Associated Press (2015); Roggio et al. (2016) and Atallah (2019). For more information on child recruitment by the Kurdish Regional Government security forces see U.S. State Department (2018); Human Rights Watch (2016); Coursen-Neff (2016). As of early 2018, multiple sources reported that the Turkish PKK and Syrian Self-Defense Forces continued to recruit and use children in northern Iraq. As reported by an international NGO in late 2016, the PKK and Sinjar Resistance Units—a Yezidi armed militia group—forcibly recruited and used Kurdish and Yezidi boys and girls, some as young as 12 years old, in combat and support roles in northern Iraq.

⁷⁴ For the countries of origin and the trade routes see Marzouk et al. (2016); Wezeman (2013), p. 269ff.

⁷⁵ amnesty international (2015); Steinmetz (2017), p. 44. Large numbers of MILAN anti-tank missile systems were delivered to Iraq and Syria by the German-French company Euromissile in the 1980s. These weapons are now in stock not only at the Syrian Army, but also with the Islamic State and the Free Syrian Army.

⁷⁶ In 2004/2005 more than 10,000 "civilian" pistols were shipped directly from Germany. Between 3,000-6,000 Walther P99 pistols were produced under license by the Polish company Radom as FB P99 and delivered to Iraqi security forces. Via the United States at least 1,100 Walther P99 pistols and 5,000 P2022 pistols from Sig Sauer have been handed over to the Iraqi police since 2004, see Steinmetz (2017), p. 45.

⁷⁷ Heckler & Koch G36 assault rifles are reported to be fielded by ISIL, though it remains unclear whether they were manufactured in Germany or Saudi Arabia. Some armed groups also gained possession of older German DM41 hand grenades, see Steinmetz (2017), p. 44.



Iraq: Refugee children and former child soldiers in the Debaga refugee camp

Despite arms embargos in place, the Kurdish Regional Government received four separate massive deliveries of military equipment between 2014 and 2016. These included more than 24,000 assault rifles with more than 20 million rounds of ammunition and well over 500 light weapons.

This decision was made despite the close relationship between the Kurdish Regional Government forces and the Kurdish Self-Defense Forces of Syria in Syria and the knowledge that the Kurdish Self-Defense Forces of Syria did recruit and use child soldiers. Additionally, the German government kept the declaration of end-use to a minimum: The Regional Government of Iraqi-Kurdistan only had to give an assurance that these weapons would be exclusively used by the Kurdish Regional Government forces against the Islamic State.⁷⁸ The potential implications of the military cooperation between the Kurdish Regional Government and the Kurdish Syrian Self-Protection Forces, which lasted until 2017, and thereby the substantial risk for the spread of these small arms and light weapons were ignored.

After 2016, German military aid for the Kurdish Regional Government and the Iraqi central government continued within the framework of the “Ertüchtigungsinitiative”, including spare parts

⁷⁸ Deutscher Bundestag (2016), p. 34f.

for small arms and armored vehicles. According to a report by the German Federal Government in 2018, Germany provided military goods worth €41 million in 2016 to 2017.⁷⁹

At the time of delivery, the Peshmerga were obviously a party to the conflicts being fought in Syria and Iraq and, by any standard applied, a non-state actor. Therefore, this arms deal violated core criteria of the Political Principles: Weapons were exported to a non-state actor in an embargoed country. Furthermore, Germany’s “Political Principles on the Export of War Weapons and other Military Equipment” explicitly states: “No licences will be granted for the export of war weapons and other military equipment related to war weapons to countries involved in armed conflict or where armed conflict is imminent.”⁸⁰

This military aid package by the Federal Government has prepared the ground for the stockpiling and subsequent use of German weapons in the region for decades to come.⁸¹ They contribute to the long-term destabilization of this region of conflict and increase the risk of more child soldiers being recruited by the Syrian and Iraqi armed factions and then supplied with these small arms. There is no doubt that children are recruited in Syria and Iraq, primarily by non-state actors but also to a certain extent by government forces in both countries. **This constitutes a clear breach of the Convention on the Rights of the Child and its Optional Protocol OPAC. Therefore, any arms exports to these countries stand in direct contradiction to the human rights provisions of the Political Principles and the international agreements signed by Germany to protect children’s rights in armed conflicts.**

⁷⁹ Deutscher Bundestag (2019 f); BICC (2019); Deutscher Bundestag (2019 h), p. 16.

⁸⁰ See Political Principles of 2002, Section III, No. 5, applicable at that time. The new Political Principles, issued in 2019, list this criterion in Section III, No. 7.

⁸¹ If one calls into mind that World War II Mauser K98 carbines are still used in Syria and Iraq, not much imagination is needed to predict a long career for the recently delivered German assault rifles, pistols, anti-tank missiles and RPGs on the battlefields of the Middle East.

Info Box 11: German Exports of Small and Light Arms and Ammunition to for the Kurdish Regional Government in Iraq 2014–2016 ⁸²

Volume	Weapon	Volume	Ammunition
8,040	Walther P1 pistols (Carl-Walther GmbH)	1,130,000	Ammunition for pistols
12,080	G3 assault rifles (Heckler & Koch GmbH)	12,400,000	Ammunition for assault rifles (partially also for MG3 using same ammunition)
12,080	G36 assault rifles (Heckler & Koch GmbH)	14,000,000	Ammunition for G36 assault rifles
50	MG3 machine guns (Rheinmetall Defence)	1,500,000	Ammunition for machine guns
62	MILAN anti-tank missile system (Euromissile / MBDA)	1,200	Missiles for MILAN
400	Panzerfaust 3 (Dynamit Nobel GmbH)	4,900	Ammunition for Panzerfaust 3
		800	Training ammunition
43	Panzerfaust 84mm (Saab Dynamics)	1,060	Ammunition for Panzerfaust 84mm
20,000	Hand grenades DM51 (Diehl Defence GmbH)		

⁸² Bundesministerium der Verteidigung (2014); Bundesministerium der Verteidigung (2015); Wiegold (2015).

There remains uncertainty about the total volume of SALW handed over to the Kurdish forces in Iraq.

While government reports to parliament mention only 8,040 pistols Germany did report 16,040 pistols to UNROCA.

4.2. Yemen and the Saudi-led Military Intervention

“ We went because we were told we would be working in a kitchen and making 3,000 Saudi riyals (\$800) ... so we believed them and got on the bus.”⁸³

Ahmed, a Yemeni boy recruited by Saudis for the Yemeni Armed Forces

Armed power struggles between different tribes, increasing terrorist activity of Al Qaida and the escalation of religious violence between Sunnis and Shias has shaped the last 30 years in Yemen. The seizure of power by the Shia al-Houthi militias in 2015, after more than ten years of civil war, set the stage for the next escalation and internationalization of this armed conflict primarily fought along the north-south divide, especially when Saudi Arabia stepped up its military support for the toppled former government. For the fight against the Houthi, Saudi Arabia mobilized a broad military alliance (“Coalition to Support Legitimacy in Yemen”), including many members of the Gulf Cooperation Council (Jordan, Qatar and the United Arab Emirates)

and four African states (Egypt, Morocco, Senegal and Sudan). Some NATO countries, foremost the USA, but also Great Britain and France, supported the Saudi-led intervention not only with logistics but also conducted air strikes, organized the naval blockade and deployed special forces for ground operations in Yemen.⁸⁴

By 2010, child soldiers were a common occurrence on all sides of the conflict. This did not change after the Saudi-led military coalition began to launch its attacks in April 2015. Since then, Yemen has experienced a proliferation of violence and flagrant violations of human rights by most parties to the conflict, including grave violations, like denial of access to humanitarian aid, bombing of schools and hospitals, kidnapping and torture.

Between 2013 and 2019, the UN verified more than 13,000 grave violations against children, with more than 3,600 documented cases of recruitment of children by armed groups.⁸⁵ While child soldiers are primarily recruited by the Yemeni conflict parties

⁸⁴ For British involvement see Middle East Monitor (2019a); for French involvement see Middle East Monitor (2018); for information on U.S. covert operations see information collected by the Bureau of Investigative Journalism (www.thebureauinvestigates.com).

⁸⁵ UN Secretary-General (2019b), p. 5.; UN Secretary-General (2020), p. 25f.

⁸³ Al-Jazeera (2019).

(Houthi, pro-government forces, Al Qaida and southern secessionist militias), there are reports of child soldiers also being part of the Sudanese troops fighting for the Saudi-led military coalition.⁸⁶ Furthermore, other reports indicate that this coalition is financing and organizing the direct recruitment of Yemeni youths to then receive military training in Saudi Arabia or fulfill auxiliary tasks for the military.⁸⁷

As concerning as the ongoing recruitment is the rise in the number of children being maimed or killed – more than 8,000 documented cases since 2014. According to the data provided by the United Nations, the Saudi-led military “Coalition to Support Legitimacy in Yemen” was responsible for 3,550 child casualties, almost all of them a result of air strikes.⁸⁸ In addition, the coalition committed other grave violations, including attacks on schools and hospitals and denied access to humanitarian aid.

Due to pressure exerted by Saudi Arabia and other partners, the Saudi-led military coalition was removed from the “List of Shame” in the annual report for 2015. But the subsequent reports from 2016 to 2018 included them as parties to the conflict responsible for grave violations of children’s rights (see Info Box 3).⁸⁹

Therefore, when assessing the role of German arms exports in the Yemen conflict, it is insufficient to look only at the previous and present arms export by Germany to the Yemeni authorities. Instead, the scope needs to be broadened to include other international actors, first and foremost Saudi Arabia and the United

Arab Emirates. Both countries have been the main drivers of military intervention in Yemen. They have received a wide array of German arms and military technology over the past decades, ranging from SALW, ammunition, artillery to warships and fighter aircraft.

These exports even included licenses and manufacturing equipment for setting up production facilities for arms and ammunition. Though the Federal Government has indirectly admitted that previous production licenses for Heckler & Koch G3 assault rifles to Iran and Pakistan have had very negative consequences, Saudi Arabia received a new production license for the follow-up assault rifle G36 in 2008, justified by the Federal Government, as so often, with “foreign and security policy considerations”.⁹⁰ By 2014 more than 20,501 sets for the assembly of Heckler & Koch G36 were delivered, as well as 1.2 million parts for these rifles, worth more than €27 million. According to information provided by the Federal Government, export licenses for 46,300 Heckler & Koch G36 assault rifles had been granted up to 2015. Even more concerning: According to the Federal Government, there is no ceiling set for Heckler & Koch G36 production in Saudi Arabia.⁹¹ Given these amounts of deadly small arms and an independent production line set up in Saudi Arabia it is only a question of time until additional German small arms end up in the hands of other regional armed actors.

Prior to 2015 the proliferation of German small arms and light weapons in Yemen was primarily a consequence of a steady trickle-down effect. Over decades, the Armed Forces of Yemen have acquired various (German) weapon systems either through direct military aid or by smuggling. Since 2010, the armed opposition has continually seized army stockpiles and added these to their arsenal. After conquering the capital in 2013, the Houthi forces then gained access to most of the remaining military equipment. This changed with the Saudi-led military intervention and the wider dispersal of Saudi arms to anti-Houthi forces after 2015. Many of the weapons of the anti-Houthi forces are reported to be either of German origin or produced under license in Saudi Arabia, like the Heckler & Koch G3 assault rifle and Heckler & Koch MP5 submachine gun. In 2015 the Saudi Air Force, for instance, supplied anti-Houthi tribal

86 In exchange for military aid Sudan send a Rapid Support Force (RSF) of initially 6,000 troops to fight alongside the coalition. Until 2018 this number supposedly increased to 14,000, but is now reported to be declining. The Rapid Support Forces soldiers were primarily recruited from the paramilitary groups fighting in Darfur, which have a poor human rights track record. For further information see New York Times (2018); Al-Jazeera (2019). For background information on Rapid Support Forces see Small Arms Survey (2017).

87 Al-Jazeera (2019).

88 UN Secretary General (2019b), p. 7; UN Secretary-General (2020), p. 25f.

89 In 2018, the Committee on the Rights of the Child “urged Saudi Arabia, inter alia, to prioritize the protection of children in all military operations in Yemen, to take concrete and firm precautionary measures and to ensure observance of the core humanitarian law principles (...)”, see UN Special Representative (2018), p. 15.

90 Deutscher Bundestag (2011), p. 8.

91 Deutscher Bundestag (2015 a), p. 1f.; Deutscher Bundestag (2011), pp. 5, 8; Deutscher Bundestag (2014), p. 2ff; Deutscher Bundestag (2015 b), p. 16.

Info Box 12: German Exports of Small Arms and Ammunition to the Saudi-led Military Coalition in Yemen 2014–2019*

Country	Total Value Licensed Arms Exports (€M) 2014–2019	Value Small Arms Licences ML 1 (€M) 2014–2018**	Listed Small Arms and Light Weapons 2014–2019	Value Small Arms Ammunition Export Licences ML 3 (€M) 2014–18**	Listed Small Arms Ammunition 2014–2019
Bahrain	29.7	0.05	27 pistols 3 rifles & <1 ton parts	0.02	<1 ton rifle ammunition & parts <1 ton pistol ammunition & parts
Egypt	1,965.6	0	8 pistols 2 rifles & <1 ton parts 22 parts for KWL-rifles	0	<1 ton rifle ammunition & parts
Jordan	88.58	2.96	1,572 KWL-rifles & 3,156 parts 67 submachine guns & 52 parts 55 machine guns & 41 parts 518 pistols & <1 ton parts 35 rifles & <1 ton parts 985 recoilless rifles	1.78	3 tons rifle ammunition 2 tons pistol ammunition 1 ton other ammunition
Kuwait	296.76	0.90	1 hand grenade launcher 208 pistols & <1 ton parts 634 rifles & <1 ton parts	1.96	1.25 million rifle ammunition & 600,000 parts 21.6 tons rifle ammunition 105.1 tons pistol ammunition 84 tons other ammunition
Morocco	95.84	0.12	89 rifles	7.45	0.2 ton rifle ammunition & parts 0.2 ton other ammunition
Qatar	2,064.11	8.4	517 parts for KWL-rifles 100 parts for submachine guns 196 machine guns & 392 parts 24 pistols & <1 ton parts 20 rifles & 2 tons parts 53 portable anti-tank rocket systems	157.91	7 tons rifle ammunition & parts 1 ton pistol ammunition & parts 0.8 ton other ammunition
Saudi Arabia	1,680.42	1.34	130,000 parts for KWL-rifles 100 pistols & <1 ton parts 16 rifles & <1 ton parts <1 ton parts for rifles	55.49	3,000 KWL-rifle ammunition 497 tons rifle ammunition
Senegal	0.34	0.03	519 pistols & <1 ton parts 15 rifles	0	

Info Box 12

Country	Total Value Licensed Arms Exports (€M) 2014-2019	Value Small Arms Licences ML 1 (€M) 2014-2018**	Listed Small Arms and Light Weapons 2014-2019	Value Small Arms Ammunition Export Licences ML 3 (€M) 2014-18**	Listed Small Arms Ammunition 2014-2019
Sudan	0.79	0	<1 ton parts for pistols <1 ton parts for rifles	0	1 ton pistol ammunition & parts
United Arab Emirates	913.97	12.87	137 KWL-rifles & 2,007 parts / UNROCA reports 137 assault rifles 589 submachine-guns & 3,776 parts / UNROCA reports 3,589 722 pistols & <1 ton parts 2,070 rifles & 1 ton parts 757 parts for machine guns	33.08	29,900 KWL-rifle ammunition & 1.6 million parts 660,000 rifle ammunition 141,300 SMG ammunition & 5,000 parts 46 tons rifle ammunition & parts 58 tons pistol ammunition & parts 42 tons other ammunition

Between 2015-2019 Germany issued arms export licenses worth €6.4 billion to the members of the Saudi-led military coalition.

KWL-rifle A rifle explicitly included in the “War Weapons List B” (Kriegswaffenliste), that is part of the German War Weapons Control Act (see Appendix 1)

ML1, ML3 Categories of the Common Military List of the European Union

Country Predominantly arms exports for UN-missions, EU-missions and embassies. Therefore, exports to this country were not included in the critical analysis of German arms exports in this study.

Sources:

- Annual National Report on Arms Exports by the German Government
- Annual National Report & UNROCA
- UNROCA (UN Register of Conventional Arms)
- DESTATIS (German Federal Statistical Office)

* Since 2015, every Annual Report of the UN Secretary General on Children and Armed Conflict reports a huge amount of grave child rights violations committed by the Saudi-led Military Coalition intervening in Yemen. In 2017, 2018 and 2019, this Coalition was listed in the “List of Shame” in the Annex of the Annual Reports (see Info Box 3 and Glossary).

** Information on EU Military List Categories ML 1 and ML 3 is not included in the German national reports for 2019. It is only provided for the annual EU-Reports which will be published towards the 4th quarter of 2020.

€M Million €

militias with G3 assault rifles in large quantities via air-drops.⁹² In the same year first evidence was collected that Heckler & Koch G36 assault rifles were also being

wielded by Houthis.⁹³ In 2018 visual proof was obtained that Heckler & Koch G36 were in the arsenal of the Al-Qaida militias in Yemen, alongside older G3 assault rifles, Heckler & Koch MG4 light machine guns and MG3 heavy machine guns from Rheinmetall.⁹⁴

⁹² As early as the 1960s Saudi Arabia received a license for the production of G3 assault rifles. In the 1980s it received a license for production of MP5 submachine guns. For the air-drop of G3 assault rifles see Spiegel Online (2015).

⁹³ Smallwood (2015).

⁹⁴ Deutsche Welle (2018).

Despite the escalation of the conflict in Yemen, Germany's supply to the countries of the "Coalition to Support Legitimacy" did not stop with the launch of the military intervention in 2015. Contrary to the "Political Principles" stating that weapons of war should not be exported to Third Countries involved in armed violence, Germany continued to grant arms export licenses worth more than €6.4 billion to the countries of the Saudi-led military coalition.⁹⁵

The two main military actors in the intervention, Saudi Arabia and the United Arab Emirates, received export licences worth €2.2 billion between 2015 and 2019, including components for more than 70 Typhoon combat aircraft used in air strikes alongside the older German-British-Italian manufactured Tornado aircraft. Furthermore, the export licenses covered engines and other components for warships (Bayunah, FOPV-850, Ghannata), some of which participated in the naval blockade and shelling of the coast, as well as warheads for the anti-aircraft Mistral missiles and air-ground missiles Brimstone via France and Great Britain. **From its plant in Italy, Rheinmetall Defence supplied Saudi Arabia and the United Arab Emirates with more than 1,000 bombs used in airstrikes over Yemen.⁹⁶ In December 2019, five NGOs filed a criminal complaint at the International Criminal Court and submitted extensive documentation of human rights violations and war crimes committed by the Saudi-led coalition with arms and ammunition provided by German and other European arms companies.⁹⁷**

In regard to small arms and light weapons (SALW) though, the share of export licenses to most of the countries participating in the Saudi-led intervention has been declining somewhat in comparison since 2015.

Only few deliveries to Saudi Arabia can be identified between 2015 and 2019, including a shipment of 75,000 parts for assault rifles and 497 tons of "non-military" rifle ammunition and parts thereof. On the other hand, Germany continued to license larger quantities of SALW-related items to the United Arab Emirates, foremost 3,565 submachine guns and 107 assault rifles as well as military-grade ammunition, including 29,900 rounds of ammunition for assault rifles, 9.5 million parts of unspecified rifle ammunition as well as 667,400 rounds of ammunition for other rifles and 63,000 rounds of ammunition for sub-machine guns (see Info Box 12).

Three factors can explain this development. First, due to the previous German support for Saudi endeavors to set up modern production facilities for some SALW types and the appropriate ammunition, Saudi capacities to prepare and conduct military interventions independently of German supplies improved. A second factor was the agreement reached by the new German government coalition in their treaty of March 2018 to not supply arms to the warring factions in Yemen.⁹⁸ While it did not terminate weapon deliveries to Saudi Arabia and the United Arab Emirates, it limited the quantity of exportable military goods. Finally, after the murder of Jamal Khashoggi in the Saudi embassy in Turkey in October 2018, the German government imposed a temporary total arms embargo against Saudi Arabia, which has been extended to the end of 2020.⁹⁹

At first glance, it seems that Germany has corrected its previous stance in regard to the Yemen conflict and Saudi Arabia's involvement and executes an arms export policy more in line with the international agreements and human rights norms. However, the sanctions were not put in place because of Saudi Arabia's involvement in the Yemen conflict or the human rights violations committed there, but hinge on the murder of Khashoggi. For this reason, all other members of the "Coalition to Support Legitimacy in Yemen", especially the United Arab Emirates, are still entitled to receive German arms.

⁹⁵ See Info Box 12. Since Qatar withdrew in 2017, the arms export values for 2018-2019 were not included in this calculation.

⁹⁶ For overviews over German arms and components supplied to Saudi Arabia and the United Arab Emirates and their impact on the Yemen war see BICC (2019b); Armstradewatch (2018); SIPRI (2018). RWM Italia has been delivering the Mk 82 and MK 83 bombs at least since 2013. Furthermore, components for these bombs were supplied to a manufacturing plant in Abu Dhabi, see Nassauer (2016). In August 2019 the Italian parliament revoked the export licences for the Rheinmetall bombs, see Bayerischer Rundfunk (2019).

⁹⁷ For more information on the case see <https://www.ecchr.eu/en/case/made-in-europe-bombed-in-yemen/>

⁹⁸ Koalitionsvertrag CDU, CSU und SPD (2018) p. 149.

⁹⁹ Deutsche Welle (2020a).

4.3. India

For data on German arms exports to India, see Info Box 9

“Children were trained in the use of firearms according to their height and build: If a boy is tall, he will be given six rounds for rifles generally used by the police and if he is short, he will be given smaller arms.”¹⁰⁰

Thimbu Oraon began fighting for maoist groups at the age of 15.

The most best-known armed conflict in India is being fought in the northwestern provinces of Jammu and Kashmir, bordering Pakistan. Predominantly Muslim armed groups, with bases in Pakistan, have been fighting for decades for secession from India. The conflict escalated in 2019 with air strikes conducted by both sides and India revoking the autonomy of the Kashmir region in August 2019. According to the UN, there are numerous reports of children being recruited by these groups on both sides of the border.¹⁰¹

Furthermore, the Indian army and special police forces have regularly targeted civilians in their attempt to pacify the region. The NGO Jammu & Kashmir Coalition of Civil Society reports more than 4,500 casualties during the last 15 years, 318 of them children. Indian security forces are claimed to be responsible for the killing of at least 144 children.¹⁰²

At the same time, two other very different low-intensity conflicts have been waged in India for many decades. In the northeastern “Seven Sister States” (Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland) various armed opposition groups are fighting the central government. In the central and eastern Indian states of Andhra Pradesh, Bihar, Chattisgarh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Uttar Pradesh and West Bengal on the border to Bangladesh around 40 Naxalite groups are fighting for autonomy.¹⁰³ As in Jammu and Kashmir, the Indian government has not only deployed its armed forces to quell the resistance, but also various regional special police units and

paramilitary forces, including the Assam Rifles.¹⁰⁴ In both cases, irregular local defense forces were set up by the government in the contested regions, supplied with weapons by the government.¹⁰⁵

All sides conduct irregular warfare and violate human rights. In the central and eastern Indian states, various Naxalite groups and local defense forces are the main perpetrators with regard to child recruitment, but there have also been reports of Special Police Officers and the paramilitary Assam Rifles recruiting children as service personnel.¹⁰⁶ The total number of child soldiers and other grave violations committed in these conflicts remains uncertain. While recent UN reports only mention the on-going recruitment of child soldiers without specific figures, other human rights organizations like the ACHR estimated the number of child soldiers to be around 500 in Jammu and Kashmir, and above 2,500 in the east and northeast in 2014.¹⁰⁷

Germany considers India as one of the important strategic partners of its foreign and security policy in Asia. This is reflected by its arms export licensing decisions. **India is by far the largest recipient of German arms in Asia. Between 2014-2019, arms worth more than €600 million were licensed for India, covering the whole spectrum from warships, helicopters, down to small arms, ammunition and licenses for the final assembly of the MILAN anti-tank tank weapon system.** As a strategic partner and potentially lucrative market, India can rely on regular German export approvals, even if it is obvious from the outset that some of the weapons delivered are then used in internal armed conflicts and contribute to human rights violations or to the escalation of the conflict with Pakistan.¹⁰⁸

¹⁰⁰ Child Soldiers International (2016), p. 22.

¹⁰¹ See UN Secretary-General (2019a); Shah (2019).

¹⁰² Jammu Kashmir Coalition of Civil Society (2018), p. 9.

¹⁰³ For an overview on these conflicts see Sahni (2002); Asian Centre for Human Rights (2013); Bedi (2002).

¹⁰⁴ Currently, there are 35 Paramilitary-Police Units active in India. Of these PPU, 28 were established after 2001, see ICCT (2019).

¹⁰⁵ Steinmetz (2017), p. 51.

¹⁰⁶ Steinmetz (2017), p. 50.

¹⁰⁷ Asian Centre for Human Rights (2013), pp. 2, 8; Narzary (2014), pp. 20, 22.

¹⁰⁸ Not to forget: While the “Political Principles” give special weight to the commitment of Third Countries to international agreements on disarmament, there is no indication that India’s refusal to sign the Non-Proliferation Treaty on nuclear weapons or dismantle its nuclear arsenal has had any effects on the licensing process. The same holds true for its refusal to sign the ATT.

In the abovementioned internal armed conflicts, the Indian government relies increasingly on various paramilitary groups and special police units. Over the last 20 years, the number of these heavily armed units has steadily increased. The NGO Small Arms Survey estimates around 1.6 million armed paramilitaries in India.¹⁰⁹ In recent years the Indian government has begun to restructure and modernize various police forces and paramilitary units to be able to operate alongside the army or independently against the armed opposition groups.

A core element of this is the modernization of the small arms arsenal. Many German companies have profited from this in the last ten years. In 2011 the Indian Ministry of Home Affairs signed a contract with Heckler & Koch for the acquisition of 12,000 MP5 submachine guns and 675 Sig Sauer SG550 series rifles. While mainly destined for the National Security Guard, other paramilitary forces like the Central Reserve Police Force were also supposed to receive the submachine guns.¹¹⁰ Between 2015 and 2017 India received a further 3,800 submachine guns.¹¹¹

As in other cases, small arms from German companies were also supplied via other countries, primarily the USA. In 2019 the Indian government ordered 72,400 SIG716 assault rifles from its US subsidiary in New Hampshire and is now making plans for purchasing a second lot of 72,000 assault rifles.¹¹²

4.4. Philippines

For data on German arms exports to the Philippines, see Info Box 9

Since the end of the 1960s, numerous violent conflicts have been smoldering in the Philippines, causing more than 100,000 casualties. Armed non-state actors, like the Moro Islamic Liberation Front, the Maoist New People's Army and the Islamist Abu Sayyaf Group, fight against the Philippine Armed Forces, the Philippine National Police as well as various state-associated militias – the Civilian Armed Forces Geographical Units, so-called Police Auxilliary Units and Civilian



Philippines: Girl child soldier from the Moro Islamic Liberation Front in 2002

Volunteer Organizations.¹¹³ Contrary to their original design as purely local defense forces, both militias are being employed by the command of the Philippine Armed Forces in forward operations against insurgents and have seen a steady rise in numbers.¹¹⁴

The Philippine government signed the Convention on the Rights of the Child in 1990 and implemented it with a number of decrees and acts. Over the years, opposition groups entered into negotiations with the UN to address the issue of child soldiers. In 2009, the Moro Islamic Liberation Front agreed to a UN action plan and committed itself to stopping the recruitment of children and was formally removed from the “List of Shame” in 2017.¹¹⁵ Nevertheless, children are reportedly still being used by armed opposition groups, foremost the Abu Sayyaf Group and New People's Army. Since 2014, the UN has

¹⁰⁹ Small Arms Survey (2018), p. 7.

¹¹⁰ Defence ProAc (2017).

¹¹¹ Indian Armed Violence Assessment (2014), p. 3.

¹¹² Bedi (2019); Pandit (2020).

¹¹³ For an overview on the armed groups see Buchanan (2011), pp. 14-22; Rodriguez (2010), p. 185. The Civilian Armed Forces Geographical Units (CAFGU) are under the command of the Philippine Armed Forces, the Civilian Volunteer Organizations under the command of the Police.

¹¹⁴ Buchanan (2011); Child Soldiers International (2012), p. 30; Human Rights Watch (2015). Between 2015 and 2019 the numbers of the CAFGU increased from 53,000 to 69,000, see Mendez (2019).

¹¹⁵ UN Secretary-General (2008), p. 5. In 2008 the UN estimated the share of child soldiers to be 10%–30% of the approximately 11,000 Moro Islamic Liberation Front fighters.

received reports about the recruitment of at least 82 children, mainly by the aforementioned groups.¹¹⁶

After President Duterte's rise to power in 2016, the Philippines saw an escalation of internal armed conflicts, putting the peace negotiations with the Moro Islamic Liberation Front on hold. The "War on Drugs", launched by Duterte in 2016 and also targeting the regions of conflict, as well as the declaration of martial law in Mindanao, where the Moro Islamic Liberation Front were fighting for autonomy, contributed to the escalation. Subsequently, powers and jurisdiction of the security forces were broadened, and new armaments programs for police and armed forces were initiated, including acquisitions of small arms and light weapons. In 2019 though, the Philippine government signed a peace agreement with the Moro Islamic Liberation Front, agreeing to establish the Bangsamoro Autonomous Region in Muslim Mindanao. At the same time, Duterte decided to step up his confrontational course against the New People's Army, declaring the political arm of the New People's Army, the Communist Party of the Philippines, a terrorist organization in 2019.

The mix of counter-terrorism operations and the "War on Drugs" led to a steady rise in civilian casualties, not least because Duterte openly advocated "extra-legal killings". By 2019, the government acknowledged 6,600 killings by the police since 2016.¹¹⁷ The UN Human Rights Commissioner assumes the numbers to be as high as 27,000, with many children among them.¹¹⁸ In Mindanao, pro-government paramilitary groups have attacked schools, with the support of the armed forces, according to reports by Human Rights Watch.¹¹⁹ The line between law enforcement and military is becoming increasingly blurred as army, police and militias join forces for military operations. In many cases the militias of Civilian Armed Forces Geographical Units and Civilian Volunteer Organisations even conduct operations against Moro Islamic Liberation Front, New People's Army or Abu Sayyaf Group on their own.

116 See the respective chapters on the Philippines in UN Secretary-General (2015a); UN Secretary-General (2015b); UN Secretary-General (2016); UN Secretary-General (2017); UN Secretary-General (2018); UN Secretary-General (2019a); UN Secretary-General (2020).

117 Gonzales (2019).

118 Taub (2016); Human Rights Watch (2019).

119 Human Rights Watch (2015).

Any German arms exports to the Philippines, especially of small arms and light weapons, contradicts the criteria listed in the Political Principles which call for respect for and compliance with human rights, international law and the overarching principle of not exporting weapons where internal armed conflicts are waged. For decades, German arms have been playing their part in this multi-faceted armed conflict: Heckler & Koch G3 assault rifles, its submachine guns, and even the modern G36 assault rifles have ended up in the hands of the parties to the conflict.¹²⁰ HK416 assault rifles were bought by the Light Reaction Regiment of the Philippine Armed Forces and are used in their "counter-terrorism operations".¹²¹

According to the German government, it corrected its arms export policy towards the Philippines. Since 2015 no weapons of war have been exported and licenses for small arms exports have not been issued since 2012.¹²² Publically available statistics support this. **According to the Annual National Reports, military goods worth €18 million were licensed between 2014 and 2019, but no small arms or their ammunition. DESTATIS lists 14 pistols and one ton of rifle parts for that time period.**

Nevertheless, German small arms manufacturers are still conducting business with the Philippine government. **In 2018, Sig Sauer won a contract for the delivery of 2,702 SIG M400 assault rifles to the armed forces, manufactured at its U.S. subsidiary. A further 829 Sig Sauer SIG716 G2 sniper rifles are also reported to have been purchased by the Philippine Armed Forces and delivered in 2019, again via the USA.¹²³**

120 Deckert (2008a); Deutscher Bundestag (2015b), p. 16. The majority of the few German small arms and light weapons in the Philippines are of dubious origin. It remains unclear whether the license for G3 assault rifles from the 70s was used. Nevertheless, G3 assault rifles are being fielded by the Philippine National Army. Its successor model, the G36 assault rifle, was also purchased – albeit so far only in smaller quantities (377 rifles). Opposition groups and paramilitaries have also acquired German arms like the MP5, MP7 and UMP40 submachine guns from Heckler & Koch, mainly through smuggling. In the 1980s and 1990s, Moro Islamic Liberation Front and Abu Sayyaf received German weapons from Libya.

121 Data shows that 805 HK416 assault rifles were purchased between 2006 and 2012. For their deployment see Murphy (2017).

122 Deutscher Bundestag (2019g), p. 10.

123 Philippine Defense Resource (2019); Maass (2016); Raymundo et al. (2016); Police Magazine (2011).

The close cooperation between the various government-sponsored armed groups makes it impossible to verify the end-use of the weapons. Furthermore, the conflict constellation offers a high probability that sooner or later these small arms will end up in the hands of the armed groups using child soldiers, either by being directly handed to the militias, being captured, or acquired through illegal arms deals.

4.5. Colombia

For data on German arms exports to Colombia, see Info Box 9

Colombia looks back on many decades of civil war and grave violations of children's rights by all the armed groups involved. Child soldiers were a common sight in the Colombian armed conflict. The three guerilla groups Fuerzas Armadas Revolucionarias de Colombia (FARC), the Ejército de Liberación Nacional (ELN) and the Ejército Popular de Liberación (EPL) as well as paramilitary groups, like the Autodefensas Unidas de Colombia (AUC), who were often allied with the army, all recruited children. An evaluation of the annual UN reports on children and armed conflicts as well as reports by Colombian NGOs permits the conclusion that about 25% of the guerilla groups Fuerzas Armadas Revolucionarias de Colombia and Ejército de Liberación Nacional were under-age, including a considerable percentage being under the age of 15, and their share in armed units reaching upwards to 40%. For the paramilitary Autodefensas Unidas de Colombia the figures were a little under 40%.¹²⁴ Even now, four years after the peace agreement with the FARC-guerilla in November 2016, children's rights continue to be violated.

While FARC officially demobilized its forces and released its child soldiers, the ELN, EPL, dissident FARC factions and various paramilitary and criminal groups, now referred to as *bandas criminales* (BACRIM), such as the Autodefensas Gaitanistas de Colombia, continue to use children for their purposes. **The UN documented the recruitment of 706 children by the various armed groups between 2016 and 2019 and, in one case, the Colombian Army also employed a child as an informant. In that same review period the UN verified the killing and maiming of 232 children.**¹²⁵



Colombia: "No to terrorism, yes to the happiness of all children in the world" – Red Hand Campaign organized by Colombian partners of terre des hommes in Popayan

Despite the continuation of armed conflict in Colombia and continual recruitment of child soldiers, Germany has continued to license arms exports to Colombia worth around €98 million since 2014. In regard to small arms though, Germany seems to exercise restraint in comparison to the previous decades when German companies like Fritz Werner and Heckler & Koch provided the Colombian industry with licences and equipment for the production of assault rifles and ammunition.¹²⁶ **Since 2007, no export licenses for small arms or their ammunition (according to the EU-definition) have been issued, although DESTATIS has listed exports of around 16 tons of rifle ammunition and less than one ton of parts for pistols and rifles each since 2014.**

But this does not mean that no German small arms enter Colombia. **German small arms manufacturers exploit the special status of the United States as an important NATO ally and the largest arms producing and exporting nation worldwide as an intermediary for their business (see also Section 6.2).** The most active company in this regard is SigSauer GmbH, re-exporting their pistols and rifles to Colombia via the USA.

¹²⁴ Natalia Springer (2012), pp. 27, 30; Fagan et al. (2016); Worldbank (2008), p. 33.

¹²⁵ UN Secretary General (2019 c), p. 5ff; UN Secretary-General (2020), p. 8f.

¹²⁶ For more information on the arms cooperation with Colombia see Steinmetz (2017), p. 39ff.

Company Info Box 1

Sig Sauer Pistols in Colombia

In 2006, Sig Sauer Inc. won a contract for the production of more than 65,000 pistols and 500 SSG3000 sniper rifles worth more than \$26.8 million. In the two following years, pistols worth \$6.4 million were delivered. The U.S. government reported in October 2008 that Colombian “Jungla” companies, which conduct operations against the guerilla Fuerzas Armadas Revolucionarias de Colombia and the organized drug trade received 300 Sig Sauer pistols and 800 magazines via the USA.¹²⁷

In 2009, the USA made arrangements for an even larger procurement of Sig Sauer pistols, not only for its armed forces but also for foreign military sales to other armed forces. The contract for more than 300,000 Sig Sauer pistols (models SP2022, P226 and P228) had a reported value of \$306–350 million. While it remains unclear how many pistols were actually procured, at least two deliveries to Colombia were arranged in 2009, totaling 103,000 pistols and valued at \$46 million.¹²⁸

For this deal, the U.S. subsidiary of Sig Sauer imported pistols and parts from its German headquarters, claiming that the USA were the final destination. **As details of this deal became public, three managers of Sig Sauer were served suspended sentences and a fine in April 2019 for the illegal transfer of at least 38,000 pistols manufactured in Germany via the United States to Colombia between 2009 and 2011. The company itself was fined the estimated value of the deal, €11.1 million.**¹²⁹

Terre des hommes has documented several cases of human rights violations committed with these pistols. They were used, for example, by Colombian soldiers to kill children or were handed out by paramilitaries to child soldiers in their ranks.¹³⁰ Currently, the company is under new investigations since there are strong indications that Sig Sauer continued to illegally ship pistols to Colombia and this time also to Nicaragua and Mexico even after the verdict of 2019.¹³¹

127 Grässlin et al. (2015), p. 57–59; Kabisch et al. (2014); U.S. Department of Defense (2009); U.S. embassy in Colombia (2008).

128 Defense Industry Daily (2009); Sig Sauer Inc. (2009); U.S. Department of Defense (2010).

129 Deutsche Welle (2019 a); Deutsche Welle (2020 b).

130 For more background on Sig Sauer in Colombia see terre des hommes (2019 b).

131 Süddeutsche Zeitung (2020).

4.6. Brazil

There are indications that the developments in Brazil should warrant similar scrutiny as the cases above. Since 2014, armed violence has been increasing in the country. According to the UN Office on Drugs and Crime, Brazil has one of the highest death rates due to violence in the world, with an average of around 60,000 homicides annually between 2014 and 2018. In 2017, 16% of the victims were children.¹³² This rise in violent deaths coincides with a massive shift in the law enforcement strategy, begun under former President Lula da Silva (2003–2010) who established new legal provisions for the deployment of the armed forces alongside the police.¹³³ Since 2006, more than 30,000 regular units of the Brazilian Armed Forces are reported to have been deployed for “Guaranteeing Law and Order” operations in large cities like Rio de Janeiro, assuming the role of a kind of “para-police”.¹³⁴ According to Secretary of Defense Jungmann, the internal deployment of the armed forces was modeled after the Brazilian military participation in the UN Mission in Haiti MINUSTAH (2004–17).¹³⁵ In parallel, the equipment of regular police forces was upgraded in recent years to match their militarized tasks. Joint police-military deployment coincides with a continued rise of people killed by security forces.

Between 2014 and 2018 more than 22,000 people died as a consequence of state security operations, the cases almost doubling from 3,146 in 2014 to 6,220 in 2018. Between 2017 and 2018 children accounted for 10.3% of the victims in state security operations. According to the information provided by the Forum Brasileiro de Segurança Pública, the Brazilian Polícia Militar was responsible for the

132 Numbers provided in 2018 according to IPEA and Fórum Brasileiro de Segurança Pública, see Harig (2019a), p. 1f.; UNICEF (2017).

133 See Samset (2014).

134 Harig (2019a), p. 3. According to Art. 3 “State governors can request ‘Guaranteeing Law and Order’ (GLO) operations by the military when they declare their police forces ‘unavailable, non-existent, or insufficient’.” In two operations, the military occupied the favela neighborhoods of Alemão and Penha (Operação Arcanjo, November 2010 – July 2012) and Complexo da Maré (Operação São Francisco, April 2014 – June 2015). According to Garcia (2019) there were 114 GLO operations between 1999–2019.

135 Harig (2019a), p. 3f; Samset (2014).

Info Box 13: German Arms Exports to Brazil 2014–2019

	million €	Reported Small Arms and Light Weapons & Ammunition (UNROCA & DESTATIS)
Total Arms Export Licenses	330.96	
of these EU Military List 1*	2.41	679 assault rifles & 1,946 parts 705 submachine guns & 1,545 parts 1,880 pistols & 1 ton of parts 179 rifles
of these EU Military List 3*	1.17	10,000 assault rifle ammunition & 20,000 parts 25,000 parts for machine gun ammunition 6 tons rifle ammunition & parts 1 ton pistol ammunition & parts

* No data available for 2019, total of the years 2014–2018

vast majority of documented killings.¹³⁶ In February 2018, former President Temer launched another military offensive in Rio de Janeiro, granting the Brazilian Armed Forces a wide range of powers and appointing an army general to temporarily “exercise operational control over all state organs related to public safety”.¹³⁷ Under current President Bolsonaro, who took office in January 2019, this militarization has continued. In November 2019, he introduced a bill aimed to protect soldiers and police officers who kill while on “Guaranteeing Law and Order” missions from criminal prosecution.¹³⁸ **In Rio de Janeiro, one of the focal points of militarized crime fighting, the overall number of homicides continued to decline in the first half of 2019, but at the same time the killings committed by police officers continued to rise to 30% of all homicides.**¹³⁹

For decades Germany has had strong defense ties with Brazil. For example the naval yard Howaldtwerke Deutsche Werft (now ThyssenKrupp Marine Systems) supplied submarines in the 1990s, Krauss-Maffei Wegmann supplied Leopard 1A5 tanks in the 2000s, and Airbus set up a subsidiary for building helicopters (Heli-bras), which also sells to the security forces. At least in one case, Airbus helicopters have been used by the

Policia Militar in security operations not only for surveillance but also to fire on alleged suspects.¹⁴⁰

Many of military and police units are equipped with the whole spectrum of small arms offered by Heckler & Koch and Sig Sauer, from pistols and submachine guns to precision rifles and assault rifles. Since the 2000s, at least 640 G36 assault rifles from H&K have been supplied to the federal police, Heckler & Koch UMP submachine guns were bought by special forces, like the 1. Batalhão de Forças Especiais.¹⁴¹

Sig Sauer already sold its P226 pistols, Sig Sauer 3000 sniper rifles and SG551 carbines to the armed forces. The federal police bought SIG550 assault rifles, the police of the federal state of Pernambuco chose the P320 and SIG516/716 carbines as their standard arms.¹⁴²

Some of the German small arms also end up in the hands of criminal groups or are used for politically motivated crimes, like in the recent killing of Marielle Franco, a member of the City Council of Rio de Janeiro and opponent to police violence, in 2018. According to the public prosecutor, a Heckler & Koch MP5 submachine gun was used in her assassination.¹⁴³

Ten years ago, both sides also intensified the cooperation in the ammunition segment for small arms. One of the largest ammunition manufacturers for small arms,

¹³⁶ See the annual reports of the “Anuário Brasileiro Segurança Pública” published by the Forum Brasileiro de Segurança Pública 2014–2018.

¹³⁷ Gurmendi (2018). Since 2014 the government has initiated 26 “Guaranteeing Law and Order” missions.

¹³⁸ Garcia (2019b).

¹³⁹ Deutsche Welle (2019b).

¹⁴⁰ terre des hommes and Instituto Sou da Paz (2020 b).

¹⁴¹ Deutscher Bundestag (2015b), p. 15; Small Arms Defense Journal (2017).

¹⁴² Bonillo (2020).

¹⁴³ terre des hommes and Instituto Sou da Paz (2020 a).



Brazil: “Stop violence and killing of youth in the suburbs” – protests against police violence in Salvador de Bahia

Companhia Brasileira de Cartuchos, bought the German ammunition manufacturer Metallwerke Eisenhütte Nassau in 2010, which primarily supplies military and police forces around the world. This created new possibilities for the transfer of ammunition know-how and technology to Brazil.¹⁴⁴

Since 2014, the German government has licensed arms exports to Brazil worth €330 million. Some of these are suitable for armed forces and police in “law enforcement” missions, such as the 50 Airbus H225M helicopters ordered in 2008 and now being delivered.

¹⁴⁴ see also Section 5.3; Another ammunition producer, the state-owned company RUAG, with its German subsidiary RUAG Ammotec, was granted a license from the Brazilian military to set up an ammunition plant in 2017. This deal didn't come through because of protests of Swiss civil society and concerns by the Swiss Federal Council. In 2018 it reneged the deal. But after the decision to split RUAG up in 2020 and privatize most of the ammunition business, there is the possibility to reactivate the license and produce small caliber ammunition without Swiss or German government scrutiny. See *Neue Züricher Zeitung* (2018).

Brazilian security forces have received 705 submachine guns and 679 assault rifles along with spare parts and a limited amount of ammunition. Furthermore, Germany exported 1,880 pistols and another 179 rifles along with six tons of rifle ammunition and one ton of pistol ammunition.

Via its U.S. subsidiary, the German small arms manufacturer Sig Sauer is also trying to profit from the arming of the Brazilian law enforcement agencies. **In 2017, the company sold more than 21,000 pistols in Brazil, most likely imported from the United States. In the northeastern federal state of Ceará, the police received their first shipment of 3,140 Sig Sauer P320 pistols again via the USA, despite their documented involvement in the unlawful killings of civilians.**¹⁴⁵

According to a study of terre des hommes and Instituto Sou da Paz, the police of Ceará is responsible for a massacre in the state capital Fortaleza in November 2015, when they murdered eleven people, seven of whom children without any criminal record. Dozens of police officers were involved, 16 of them have been indicted and will be tried in court.¹⁴⁶ This is not an isolated case. Between 2015 and 2019 the police of Ceará killed 710 people.¹⁴⁷

Sig Sauer also announced in 2018 that it was contemplating to set up a manufacturing site in Brazil. At the same time, Sig Sauer is already marketing its pistol version for the civilian market on its website www.sigdobrasil.com.br. In January 2020, a delegation of Sig Sauer met with MP Eduardo Bolsonaro, son of President Jair Bolsonaro, to discuss these plans. Five months later it is being reported that Sig Sauer is in negotiation with the state-owned small arms manufacturer Indústria de Material Bélico do Brasil (Imbel) to set up a joint venture to market the pistol P320 to the military and police in Brazil.¹⁴⁸

¹⁴⁵ The Firearmsblog (2018); Taurus (2018). According to Lapper (2019) the police in Ceará ordered a total of 15,000 P320 pistols from Sig Sauer.

¹⁴⁶ terre des hommes and Instituto Sou da Paz (2020 c)

¹⁴⁷ Fórum Brasileiro de Segurança Pública e Rede de Observatórios de Segurança.

¹⁴⁸ Gabino (2020); Moss (2020).



5

Unchecked Proliferation
of German Small Arms
and Ammunition –
Three Areas of Concern

“The G3 is a very popular weapon. You can bury it, hit it, shake it – and it still functions. The people prefer German arms since these are better and stronger. They have more power. They destroy more.”¹⁴⁹

Ishmael Beah, former child soldier from Sierra Leone

The above cases underscore three facts:

- ▶ First, despite official declarations by Germany, weapons manufactured at least in part by German arms companies are still finding their way into regions of conflict where they are used for grave violations of children’s rights and can end up in the hands of child soldiers.
- ▶ Second, many of the arms exports mentioned above were conducted with the approval of the Federal Government at some point in time.
- ▶ Third, the German system of arms export controls, especially in regard to small arms, features loopholes benefitting the proliferation of arms.

This section covers these loopholes contributing to this proliferation in countries where child soldiers are used and where other grave violations of children’s rights are committed in armed conflicts, focusing on small arms and ammunitions.

5.1. Licensed Production – Outsourcing Responsibility

The German government has prepared the ground for the availability of these weapons for many decades to come by issuing licenses for the transfer of know-how and technology or even the complete establishment of arms production abroad. In most instances the government didn’t ask for production quotas (e.g. the 2008 production license for G36 assault rifles in Saudi Arabia), and refrained from any efforts to monitor the end-use. This lack of control was partially intentional

Company Info Box 2

Fritz Werner Industrie-Ausrüstungen GmbH

While not the only German company specialized in the construction of arms and ammunition production facilities, it has certainly been the most active. Owned by the German government from the 1960s to the 1980s, the company won numerous contracts to set up arms manufacturing plants in Colombia, Iran, Myanmar, Nigeria, Pakistan, Sudan or Turkey. After its privatization, the company spent most of its time being part of Ferrostaal AG (itself from 2004–2012 part of MAN and since then owned by MPC Industries GmbH), from 2014–2017 in a joint ownership with Rheinmetall Defence. In 2018 it was bought by the Belgian ammunition manufacturer New Lachaussée S.A. In the past 15 years the company exported manufacturing equipment for ammunition to Egypt, India and Turkey. Saudi Arabia received various equipment for submachine guns and rifle production as well as various types of ammunition, including ammunition for machine guns and cannons.¹⁵⁰

and ultimately tolerated since it was beneficial for the German arms manufacturers. They secured additional contracts for the continuous supply of spare parts and components to the licensee for the duration of the production line abroad. Frequently, these production licenses were also coupled with construction contracts for German companies to set up these production facilities (see Company Info Box 2). The German government used these production licenses as a foreign policy instrument to cement bilateral relations with its “strategic partners”. Most significantly, issuing these kinds of licenses enabled the Federal Government to shed its responsibility for what might be done with these weapons in the future.

¹⁴⁹ At a meeting with representatives of the Deutsches Bündnis Kindersoldaten 2012 in Berlin.

¹⁵⁰ Deutscher Bundestag (2015c).

The most prominent examples for the devastating results of this policy on licensed production are the G3 assault rifle, developed by Heckler & Koch and Rheinmetall, and MP5 submachine gun from Heckler & Koch in the 1960s and 1970s (see Company Info Box 3). At least twelve countries received production licenses for the G3 assault rifle and re-exported them to other countries, e.g. Iran and Saudi Arabia supplying armed groups in Sudan and Yemen, and Pakistan doing likewise in the Philippines.¹⁵¹

Another recent case underlining the long-term danger is the export of older 10,700 G3 assault rifles, originally license-produced by the Turkish arms company MKEK since 1967, from Turkey to Kenya in 2016, as reported by the UN Register of Conventional Arms (UNROCA). Kenya itself is currently involved in the armed conflict in Somalia. Kenya has been repeatedly mentioned in the annual reports of the UN Secretary-General in the last five years for their involvement in the killing and maiming of children there.

The liberal German licensing policy laid the foundation for the widespread use of the G3 on battlefields even today, as demonstrated in Yemen (see Chapter 4.2). The G3 assault rifle became synonymous for the evil of small arms, together with the Russian AK47 Kalashnikov and U.S. M16 assault rifles.

The MP5 submachine gun experienced a similar proliferation from the 1970s onward. At least eight countries received production licenses, among them the Pakistan, Saudi Arabia, Turkey and the United Kingdom.

Info Box 14

Turkish exports of license-produced MP5 submachine guns 2016–2019

In Turkey, the arms conglomerate MKEK is still manufacturing and exporting MP5-variants. Ukraine, caught in an armed conflict with pro-Russian militias, received 460 MP5 and 400 so-called “civilian versions” of the MP5, “semi-automatic only” MKE-T94 in 2017. Ukraine received another unspecified 2,165 submachine guns from Turkey in 2019, most likely also MP5-variants. MKEK also cooperates with Zenith Firearms in the USA, which imports and then sells MP5 variants as Z-5, Z-5R and Z-5K to the military and civilian markets. In 2017 and 2018, the USA imported 3,072 semi-automatic MP5s from MKEK as the model “Z-5R Sportive”.¹⁵²

According to annual Turkish reports to the UN Register of Conventional Arms, at least 3,562 MP5 submachine variants (MP5A3, MP5A5, MP5K, MP5MTSA3) were exported by Turkey to eight countries between 2016-2019.¹⁵³

Among the recipients were countries with an EU arms embargo in place (Belarus), countries involved in armed conflicts (Ukraine) and countries with reported violations of children’s rights in armed conflicts¹⁵⁴ like DR Congo and Thailand. Even though the German Federal Government publicly stated in 1992 that the Turkish production license for the MP5 submachine guns only permits MKEK to produce these weapons for domestic use – and has not rescinded that statement – the German government has not taken any action to prevent these MP5 exports by Turkey.¹⁵⁵

¹⁵¹ For an overview and some examples see Steinmetz (2017), p. 57f.

¹⁵² See country report of Turkey to UNROCA at www.unroca.org. The “civilian” version Z-5R was listed in the category “Other Small Arms”. Occasionally the Z-5R machine guns are also labeled simply as “pistols” with the comment, that a stock can be added later.

¹⁵³ Turkey did not provide the UN with reports for the years 2014 and 2015. Between 2016-2019 further 5,172 unspecified submachine guns were exported from Turkey and it is highly probable that these were also MP5-variants.

¹⁵⁴ UN Secretary-General 2016, 2017, 2018, 2019a, 2020

¹⁵⁵ Deutscher Bundestag (1992), p. 4.; Deutscher Bundestag (1995), p. 18f.



Former child soldier Innocent Oponya from Uganda protests in front of the German parliament in Berlin. At the age of ten, he was forced to fight with a German G3-rifle from Heckler & Koch

Company Info Box 3

Heckler & Koch and Rheinmetall Production Licenses

G3 assault rifle: *Brazil* (1976), Colombia, France (1970), Greece (1977), Iran (1967), Malaysia, Mexico (1979), Myanmar (1969), Norway (1967), Pakistan (1963), *Philippines*, Portugal (1961), Saudi Arabia (1969), Sweden (1964), Turkey (1967)

HK33 assault rifle: *Brazil, Canada, France, Greece, Malaysia, Thailand* (1971), Turkey (1998), United Kingdom (before 1975)

G36 assault rifle: Saudi Arabia (2008), Spain (1998)

MP5 submachine gun: Colombia, Greece, Mexico (1979), Pakistan (1983), *Portugal*, Saudi Arabia (1985), Turkey (1983), United Kingdom (1972)

(in italics = unclear if license was issued or issued license actually used) ¹⁵⁶

¹⁵⁶ For the sources see Steinmetz (2017), Footnote No. 152, p. 58.

Since 2001 the Federal Government claims to have changed its stance on licensed production. In principle, the export of technology and the granting of licenses in order to establish new arms production lines abroad have been denied.¹⁵⁷ This was reaffirmed by the “Small Arms Principles” of 2015 and incorporated into the new “Political Principles” of 2019. At the same time, the German government maintains that the export of technology and production equipment for small arms and ammunitions is permissible, if certain key components of the produced weapons, those requiring an export license, are not produced on site and require import from Germany. This model supposedly ensures Germany’s indirect control of the factory output.¹⁵⁸

Saudi Arabia became the first beneficiary of this exception to the rule. In 2008, Saudi Military Industries Corporation received an open-ceiling production license for Heckler & Koch’s G36 assault rifle, without regard for its location right in the midst of the Middle East crisis region. Both Heckler & Koch and Fritz Werner received additional contracts to supply technical know-how and engineers.¹⁵⁹ Twelve years later, the first Saudi-made G36 assault rifles have showed up among the opposition groups in Yemen.¹⁶⁰

¹⁵⁷ Deutscher Bundestag (2011), p. 6.

¹⁵⁸ Deutscher Bundestag (2011), p. 2.

¹⁵⁹ Deutscher Bundestag (2015 c).

¹⁶⁰ Before Saudi Arabia only the Spanish company Santa Barbara Sistemas (SBS) had received a production license for 300,000 G36 assault rifles at the end of the 1990s. After being bought by General Dynamics, production of the assault rifles for the Spanish Army began in 2002. In the end around 75,000 assault rifles were produced for the Spanish Armed Forces. In 2008, Spanish-made G36’s showed up in the hands of Georgian soldiers in the Kosovo and in the armed conflict in South Ossetia without any German re-export license, see Deckert (2008b). Also, the G36 ammunition, produced under license by SBS, has shown up abroad. According to the NGO Small Arms Survey SBS-manufactured G36 ammunition from 2002 was found in Libya in 2013, see Jenzen-Jones (2013), p. 15. In 2019 the ammunitions division was bought by the Slovakian company MSM, see MSM Group (2019).

Info Box 15

Transfer of Know-How

Another danger for proliferation not adequately addressed by present arms export controls is the transfer of know-how, which then is used to develop and set up new production lines abroad. What makes the monitoring of know-how transfer difficult is that it includes intangible goods. One recent example was the case of the **Mexican FX-05 Xiuhcoatl** assault rifle. There are strong indicators that **Heckler & Koch** construction plans were used for the production of this assault rifle.¹⁶¹ Another example is the success story of the small arms company **Caracal**, since 2019 part of the state-owned defense conglomerate EDGE of the United Arab Emirates. In 2003 the company hired an Austrian engineer, who had previously been responsible for pistol and gun designs for **Sig Sauer GmbH** and **Glock GmbH** and holds numerous patents, to develop the **Caracal F 9mm pistol** for the international market. It was developed in Europe, with final tests conducted in Germany. As preparation for the launch of the pistol in the market, Caracal bought the German company **Merkel Jagd- und Sportwaffen GmbH** in 2007 to produce the barrels for the Caracal F to then have them shipped to the company headquarters in the Emirates for final assembly. Caracal F has quickly secured a large market share and has been procured by a number of armed forces and police in Arab countries, like Bahrain, Jordan and, of course, the United Arab Emirates. In 2008 the Algerian **Khenchela Company of Mechanical Constructions** received a production license.¹⁶²

The same engineer, having previously also worked with **Heckler & Koch** on the **HK416-series** of assault rifles and the **Sig Sauer SIG516-series**, was also responsible for the development of the **Caracal CAR 816 carbine**, which was launched in 2015 and won an order in 2018 for 84,000 rifles to the Indian Army.¹⁶³

The longevity of weapons, especially of small arms and light weapons, is underscored on every present-day battlefield. Frequently, weapons can even be dated back to the Second World War. Granting production licenses and permitting the export of know-how (see Info Box 15) and manufacturing technology for these arms is equal to building a structural foundation for the future uncontrollable proliferation of German weapons around the world as well as their eventual use to commit grave violations against children.

The German government needs to categorically deny any requests for licensed production and transfer of relevant know-how and technology.

5.2. Uncontrolled Re-Export

The re-export of German weapons to Third Countries constitutes a problem in itself, even if it closely connected to the issue of licensed production or final assembly abroad. **If addressed at all, the issue of re-exports is predominantly discussed under the label “illegal arms transfers”. This obscures the fact that many re-exports of German weapons are in line with current export control regulations and bilateral agreements in place.**

For decades, Germany has licensed the export of small arms and light weapons (SALW) or components for assembly abroad with either no or minimal end-use controls. With respect to non-NATO countries short-term foreign and security policy considerations were given more weight than any assessment of the long-term negative impact of such deals like Iran and Pakistan in the 1970s and 1980s, or Saudi Arabia and the United Arab Emirates in recent years. These four countries were deemed “safe destinations” but later proved to be less than reliable. **The case studies in Section 4 demonstrate that re-exports of German arms pose at least as great a risk to children in armed conflicts and human rights as direct arms exports.**

¹⁶¹ For more information see Steinmetz (2017), p. 61

¹⁶² Tendras (2013); Recoil (2016); EPICOS (2018).

¹⁶³ Small Arms Solutions (2018); Israelifirepower (2019).



Child Soldier with German G3-rifle from Heckler & Koch

Germany formally addressed these risks by putting minimal requirements and criteria in place for so-called Third Countries like Saudi Arabia or the United Arab Emirates, which have to be met before arms transfers can be licensed. However, even these minimal requirements are almost completely absent for arms exports to EU-, NATO- and NATO-equivalent countries (i.e. nations that enjoy a privileged position). Although the War Weapons Control Act does not differentiate between buyers, the Political Principles permit the administration to grant waivers for these countries, regardless of their involvement in wars of aggression, military interventions without UN mandate, or the risk of German arms being re-exported to Third Countries. While the EU “Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment” only exempts EU member states from the need to apply the criteria for arms export licensing (see Appendix 1 under “Political Principles”), Germany extends this to the non-EU member states of NATO, as well as some privileged associated countries like Switzerland, Australia, New Zealand and Japan. **In this fashion the German government has eroded the War Weapons Control Act and other export control provisions to justify a special treatment of this group of countries.**

These countries are basically exempt from controls and only have to provide minimal guarantees in regard to re-export. The underlying assumption is that whatever these countries do will be for the benefit of German security and defense cooperation. Children’s rights and other human rights norms or international laws are treated as subordinate factors.

In the past, this approach has resulted in the world-wide proliferation of the **French-German MILAN anti-tank missile system**, including to conflicts in Iraq or Syria. The German company TDW, now part of MBDA Deutschland GmbH, delivered the warheads for the missiles to the French company, which then exported the system in accordance with the more lenient French export regulations. India even received a license for the assembly of various MILAN-versions via this route through France, with TDW delivering about 7,000 warheads for integration by Bharat Dynamics Ltd. In 2019, MBDA signed another agreement for the local assembly of ASRAAM air-to-air missiles with India, again with warheads supplied by TDW.¹⁶⁴ Similar cases can be listed for **defense cooperation with the United Kingdom**, from G3 assault rifles and MP5 submachine guns early on to the production of the Eurofighter combat aircraft for Saudi Arabia, now used in the war in Yemen, and the TDW warheads supplied for the Brimstone air-to-ground-missile used in the war in Syria.

USA – Inofficial German Arms Trading Post No. 1

The greatest challenge regarding the proliferation of small arms by NATO allies, however, is posed by the USA. The United States is by far the largest buyer of German military goods. The annual value of granted export licenses to the U.S. ranges between €400 and €900 million. **Between 2014 and 2019 these licenses totaled €3.5 billion, with small arms and ammunition making up a large share of that value** (see Info Box 16). In contrast, the figures reported to UNROCA only list the export of 449 submachine guns, 14,424 assault rifles, 12,271 hand-held grenade launchers and 10 recoilless rifles during that time period. According to DESTATIS, Germany has additionally delivered around 1.5 million pistols and 123,000 rifles, more than 570 tons of parts for firearms and more than 1,000 tons of ammunition since 2014.

¹⁶⁴ Saxena (2013).

Info Box 16: German Arms Exports to the USA 2014-2019

	million €	Reported Small Arms and Light Weapons and Ammunition (UNROCA & DESTATIS)
Total Arms Export Licenses	3,522.9	
of these EU Military List ML 1*	662.3	14,424 assault rifles 449 submachine guns 1.5 million pistols & 231 tons of parts 123,433 rifles & 334 tons of parts
of these EU Military List ML 3*	860.3	646 tons of rifle ammunition & parts 476 tons of pistol ammunition & parts 3,978 tons of other ammunition & parts
known export of light weapons	n.a.	12,271 hand-held grenade launchers 10 recoilless rifles

* No data available for 2019, total of the years 2014-2018

During this time period, the U.S. Armed Forces issued a number of Small Arms and Light Weapons (SALW) contracts to German companies:

- ▶ In April 2018, the U.S. Marine Corps confirmed the order for up to 15,000 M27 Individual Automatic Rifle from Heckler & Koch. The M27 is a variant of the HK416.
- ▶ Heckler & Koch is also supplying the U.S. Marine Corps with the M38 sniper rifle, another variant of the HK416. According to the company, the contract covers the production of 3,643 sniper rifles for the U.S. Armed Forces.¹⁶⁵
- ▶ Since 2014, Heckler & Koch has received more than 11,000 orders for M320 and M320A1 grenade launchers for the U.S. Army and U.S. Marine Corps.
- ▶ In January 2017, Sig Sauer’s 9mm P320 pistol won the contract for the production of the new standard sidearm for the U.S. Army. It is expected that up to 224,000 pistols will be manufactured by 2027.

It remains unclear if and how these contracts are being documented by the available arms export registries. To complicate matters, Heckler & Koch and Sig Sauer GmbH, as well as other German SALW manufacturers like Carl Walther GmbH or Krauss-Maffei Wegmann GmbH, have set up production sites in the USA for the final assembly and sometimes complete manufacturing of these weapons (see Info Box 16). Due to its gigantic defense budget of more than \$500 billion and a large domestic civilian small arms market, the U.S. is a gold mine for German companies. Semi-automatic rifles and even semi-automatic sub-machine guns (sold as pistol-caliber carbines) are legal and popular.

Kristen Rand of the Violence Policy Center:

“The fact is that anyone can build their own army with guns you can buy retail in the United States.”¹⁶⁶

¹⁶⁵ Bruce (2012), p. 50ff; Heckler & Koch (2016).

¹⁶⁶ Quote from testimony of Abramson (2019).

Company Info Box 4

German Small Arms Manufacturers in the USA (2014-2018)¹⁶⁷

Four German small arms manufacturers have established subsidiaries in the USA or formed joint ventures there:

- **Sig Sauer GmbH (L&O Holding GmbH)** produces a wide spectrum of firearms at its subsidiary Sig Sauer Inc. (in Exeter and Newington, New Hampshire) including pistols, shotguns, and fully automatic rifles. Between 2014-2018 the company cemented its place as one of the largest small arms manufacturers in the U.S with more than 2.6 million pistols and 240,000 rifles officially produced in the U.S.
- **The U.S. subsidiary Heckler & Koch Defense** manufactures products developed specifically for the U.S. market in Columbus, Ohio and Newington, New Hampshire, like the HK45 pistol, but also versions of German weapons. In addition, it is responsible for the assembly of weapon parts imported from the company's headquarters in Germany. Between 2014-2018 Heckler & Koch produced around 17,800 pistols and 5,900 rifles in the U.S.
- The **Carl Walther GmbH**, as part of the PW Group, cooperated with the U.S. company Smith & Wesson until 2012. Carl Walther supplied the frame and mechanics of its pistols, while Smith & Wesson manufactured the barrels and did the final assembly. This production-sharing agreement seems to have extended to the P99, P22 and PK380 pistols. After the termination of this cooperation, Carl Walther set up Walther Arms Inc., based in Fort Smith, Arkansas, to continue production in the U.S.¹⁶⁸ Between 2014-2018 Walther Arms manufactured 45,500 pistols and 4,200 other firearms in the U.S.
- **Krauss-Maffei Wegmann GmbH** produces grenade launchers through its subsidiary Wegmann USA Inc in Lynchburg, Virginia. Interestingly, of the 1,986 grenade launchers assembled in the U.S. between 2014 and 2018 around 40% (800) were exported again.

While the U.S. export regulations are considered strict, especially concerning the re-export of weapon systems which include U.S. components, these rules are applied more leniently if the exports are destined for allied countries, especially in connection with joint military interventions or counter-insurgency efforts. Since 2010, both former President Obama and current President Trump have executed their right to issue waivers on the Child Soldier Prevention Act of 2008 every year in order to allow arms exports to countries listed by the UN for violations against children's rights, like Afghanistan, Democratic Republic of Congo, Iraq, Somalia or Yemen.¹⁶⁹ Furthermore, President Trump wants to continue the liberalization of the arms trade begun under Obama and move larger portions of the licensing authority from the State Department to the Department of Commerce, reducing the scrutiny especially for small arms exports.¹⁷⁰

The U.S. remain by far the largest exporter of military goods, including small arms (as per the UN definition). **According to the U.S. government, the commercial offers for the export of firearms in 2018 alone amounted to \$759 million, with Saudi Arabia and the Philippines being its two largest customers.**¹⁷¹ The Department of Justice reported the export of more than 350,000 pistols and revolvers, 165,000 rifles, and shotguns in that year. German small arms companies are striving to capture a share of this market through their U.S. subsidiaries. Sig Sauer seems to have profited the most from this approach. **Between 2014-2018 Sig Sauer exported more than 480,000 pistols and 17,628 rifles from the USA to other countries. In 2018, SigSauer accounted for 40% of all pistol exports from the USA.**¹⁷²

¹⁶⁷ All production numbers were taken from the Annual Firearms Manufacturing and Export Reports published by the Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives: <https://www.atf.gov/resource-center/data-statistics>.

¹⁶⁸ Walther Arms Inc. (2012).

¹⁶⁹ Brett (2019): The White House recently announced the US was granting full or partial waivers to the Child Soldiers Prevention Act (CSPA) to Afghanistan, Democratic Republic of Congo (DRC), Iraq, Mali, Somalia, South Sudan and Yemen, seven of the 11 nations identified in the State Department's 2019 Trafficking In Persons Report (TIP) as being eligible for sanction under the law. Only Myanmar, Iran, Sudan and Syria remain.

¹⁷⁰ Abramson (2019).

¹⁷¹ Hartung et al. (2019).

¹⁷² For Sig Sauer see Lindsay-Poland (2019). See annual reports for 2014-2018 of the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives.

German small arms manufacturers have used the U.S. market as a base to export their weapons into regions of conflict with knowledge by the U.S. authorities (see Section 4.5). Recently, Sig Sauer secured a deal for 72,400 assault rifles to be shipped to India from the USA. In 2017, Sig Sauer began with the delivery of 150,000 SP320 pistols to the police in southern Thailand, which is also involved in the fight against insurgents.¹⁷³ In a similar controversial deal in 2015, the U.S. government authorized Sig Sauer Inc. to provide the Mexican military, as well as federal and state police, with pistols and rifles worth around \$226 million by 2024. Between 2015 and 2017, Sig Sauer delivered 3,179 assault rifles, 696 machine guns and 8,361 pistols to Mexico.¹⁷⁴ The Mexican agency responsible for these purchases, SEDENA, distributed most of the arms to the state agencies, including to police units in federal states with extensive charges of collusion with organized crime. Even more worrisome, at least 1,792 pistols were also sold to private security companies and private individuals.¹⁷⁵

For years now, the uncontrolled re-export has been posing the largest risk for the proliferation of German arms. Presently, the numerous cases of German small arms transfers via the USA are the most striking example of this shortcoming.

It underscores the deficits of the current German arms export control legislation, which caters to the security policy interests of the Federal Government and ignores the fact that so-called allied nations don't hesitate to use German made arms to pursue their foreign policy goals.

¹⁷³ See Der Farang (2019). According to Der Farang one pistol costs €644. The total value would then be €96.6 million. According to Bookman (2019): US Census Bureau shows that in 2018 \$83 million worth of firearms were shipped from New Hampshire with \$40 M to Thailand and \$7 M worth to United Arab Emirates.

¹⁷⁴ War Resisters International (2019). In response to Parliamentary Inquiries on German licences for re-exports of German arms, the Federal Government did not list any cases of re-export licence from the U.S. to Mexico between 2013-2018. Therefore, it can be concluded, that neither Sig Sauer nor the U.S. government applied for such a license. See Deutscher Bundestag (2017), p. 9 & Annex 7 and Deutscher Bundestag (2018), p. 28.

¹⁷⁵ American Friends Service Committee (2017).

The German government needs to address the two underlying issues for this lack of control:

- ▶ **In line with the current German arms export laws, the privileged treatment of EU-, NATO- and NATO-equivalent countries by the Political Principles has to be terminated. The criteria of the Political Principles should be applied to arms export licensing decisions to all countries.**
- ▶ **All recipients, including the above-mentioned country groups, of German arms and components need to be subjugated to effective and extensive German controls of the end-use of the exported arms.**

5.3. Ammunition Exports – Feeding the Guns

The catastrophic implications of the small arms trade on armed conflicts cannot be considered separately from ammunition. While ammunition is not explicitly mentioned in the international documents pertaining to child soldiers and small arms, it must be included. Without ammunition these weapons cannot be used in any meaningful way. The reliable supply of adequate ammunition is one of the decisive factors in the decision-making process on which small arms and light weapons (SALW) and other weapon systems to procure. Not without reason were production licenses for firearms often coupled with agreements on production facilities for ammunition in the past. Until now neither the export of production facilities and technology nor the direct sale of ammunition have received their due attention. In 2007, the European Union observed correctly:

“Arms have often been disassociated from their ammunition. In particular with regard to small arms and light weapons, a number of important agreements have been adopted in recent years, while the issue of their ammunition has often been neglected.”¹⁷⁶

Tracking ammunition is more difficult than tracking the sometimes decade-long and world-spanning journey of weapons that require it. The ammunition business is even more secretive than the arms industry as such.

¹⁷⁶ European Union (2007), p. 2.

Info Box 17

Distinction between Military and Civilian Ammunition

Two aspects are regularly overlooked in regard to military usability of ammunition: While civilian ammunition might have less reliability it still works with military-style small arms and as more “civilian-designed” weapons enter army stocks, the appropriate “civilian” ammunition is also procured by the security forces and should fall under the same licensing criteria. A further example for the arbitrariness: Between 2014-2016 Germany provided the Kurdish Regional Government in Iraq with 24,000 assault rifles listed on the “War Weapons List B”. In that same delivery, Germany also shipped almost a million rifle rounds of rifle ammunition officially not designated for rifles on the “War Weapons List B”. A similar case occurred in regard to assault rifle and apparently “civilian” ammunition deliveries for the UN-Mission in Lebanon 2014-2017.

Few statistics are available, and the line between military-grade ammunition and “civilian” ammunition is very difficult to draw (see Info Box 17).

Nevertheless, German companies are among the largest exporters of ammunition. One older assessment from 2011 estimated the global market share of German ammunition companies to be around 7% for medium and large caliber ammunition and 10% for small calibers.¹⁷⁷ The Annual National Report on Arms Exports of the German government lists export licenses worth more than €2.5 billion for small caliber ammunition between 2014 and 2019. However, according to the Federal Government employing the narrow EU-definition, the share of militarily used small caliber ammunition exports only amounted to about 17% (€433 million).¹⁷⁸

While exporting large quantities of ammunition, only a handful of manufacturing companies in Germany produce ammunition on a larger scale. **Rheinmetall Defence, Diehl Defence GmbH** and **MBDA Deutschland GmbH** produce medium and large caliber ammunition, hand-grenades and warheads for light weapons and missiles.

¹⁷⁷ Corney et al. (2013), p. 22f.

¹⁷⁸ The DESTATIS numbers, which primarily (but not exclusively) cover the export of “civilian” firearms, ammunition and parts thereof, point to a much larger share: Between 2014-2019 ammunition and parts thereof worth €860 million were exported.

Company Info Box 5

Rheinmetall Defence

Rheinmetall Defence is one of the global players for medium and large caliber ammunition. In order to diversify its portfolio and be less dependent on German export licenses, the company has acquired numerous companies in Austria, Italy and Switzerland. In Italy, the company manufactures the bombs which Saudi Arabia and the United Arab Emirates are dropping over Yemen (see Section 4.2).¹⁷⁹ Joint ventures were established in South Africa (Rheinmetall Denel Munitions / RDM), the USA (DMI and RDZM), and one subsidiary set up in the USA (American Rheinmetall Munitions). With PT Pindad of Indonesia, Rheinmetall agreed in 2014 to jointly produce 30mm to 105mm ammunition. As part of this strategy, Rheinmetall explicitly strives for an increase in exports, as the acquisition of the majority stakes in Denel Munitions in South Africa, now Rheinmetall Denel Munition (RDM), shows: In 2014, more than 90% of the South African production was sold to other countries.¹⁸⁰ RDM chairman Norbert Schulze stated that it is difficult to receive export licenses from Germany and that the South African National Conventional Arms Control Committee is much more supportive of its arms companies. Furthermore, according to Schulze: “One of the venues to open new markets for us, is to provide ammunition and production capacities.”¹⁸¹ Between 2008-2012 RDM supported the construction of an ammunition plant in the United Arab Emirates for 40mm grenades, 76/62mm ammunition for naval guns, mortar and artillery ammunition, as well as bombs of the Mk80-series. This Burkan Munitions Systems plant opened in 2010. A similar project of the Saudi Military Industries Corporation, designed to produce around 600 mortar grenades (60mm to 80mm) per shift, was supported in 2011.¹⁸²

¹⁷⁹ Nassauer (2018), p. 36f.

¹⁸⁰ Alessi (2014); Helfrich (2004); Buthelezi (2013).

¹⁸¹ Martin (2014); Nassauer (2018), p. 42.

¹⁸² Nassauer (2016), p. 16; Nkala (2016).

Company Info Box 6

Metallwerke Eisenhütte Nassau GmbH

MEN is currently owned by the Brazilian arms conglomerate Companhia Brasileira de Cartuchos through its subsidiary CBC Global Ammunition and marketing its ammunition as “MEN defencetec”. The Brazilian company is considered to be one of the largest ammunition manufacturers in the world and pursues a strict export-oriented growth-strategy. This in turn poses the risk that now, after the takeover, relevant technologies and know-how are transferred to the company headquarters in São Paulo and then used to establish new export-oriented production lines for German-type ammunition. In 2009, in preparation of the takeover, at least one such license for know-how transfer was granted to CBC.¹⁸³ So if at some point in the future ammunition exports from Germany are not permitted, São Paulo could step in. According to ten-year-old figures, MEN has been producing 160 million rounds of ammunition per year. The customers are mainly military and law enforcement agencies. In 2018, almost 40% of its sales were made through export.¹⁸⁴

Especially Rheinmetall Defence is increasingly seeking to relocate parts of its ammunition manufacturing to other countries and thereby avoiding the German licensing obligations (see Company Info Box 5). MBDA Deutschland GmbH profits from being part of the transnational MBDA International S.A., jointly owned by Airbus, BAE Systems and Leonardo. The traces of German missile components (warheads, propellants, fuzes) and know-how get lost quickly in the corporate structure with assembly lines in six countries. The military and civilian market for small arms ammunition is primarily covered by **Metallwerke Eisenhütte Nassau (MEN)** (see Company Info Box 6) and **RUAG Ammotec** (see Company Info Box 7). For both companies, the sales outside of Germany make up a large share of the total volume: In 2018 MEN reported a share of 40% and RUAG Ammotec of almost 50%.

¹⁸³ Schrep (2010).

¹⁸⁴ Nassauer (2018), p. 27f.

Company Info Box 7

RUAG Ammotec GmbH

According to the company information published, at least 25% of the revenues in 2018 were from military and law enforcement agencies.¹⁸⁵ Until January 2020, it was officially a subsidiary of the state-owned RUAG Swiss and in charge of all ammunition factories. Now it is being transformed into an independent holding company “RUAG International”, with plans to offer publically tradeable shares.¹⁸⁶ This will have serious implications for parliamentary oversight and further reduce the possibilities to hold the Swiss government accountable for licensing exports of small arms caliber ammunition or handgrenades.¹⁸⁷

RUAG Ammotec has two main pillars: The ammunition plant in Thun in Switzerland and the production sites which were acquired with the purchase and subsequent integration of Dynamit Nobel AG in 2002 in Germany. Since then, RUAG Ammotec has also acquired or set up production sites in Austria, Sweden, Hungary and the USA.¹⁸⁸ RUAG Ammotec is only one of five companies in the world that have a license for the production of 4.6x30mm ammunition for the Heckler & Koch submachine gun MP7. In 2014, 80,000 rounds were exported to the United Arab Emirates. Saudi Arabia has also repeatedly received ammunition for machine guns, pistols and submachine guns from RUAG Ammotec during the last 12 years, e.g. 790,000 rounds of ammunition designated for submachine guns in 2012 alone.¹⁸⁹

¹⁸⁵ RUAG Ammotec GmbH (2020).

¹⁸⁶ RUAG (2019).

¹⁸⁷ Die Wochenzeitung (2019).

¹⁸⁸ Neue Züricher Zeitung (2018). In 2017 the Brazilian subsidiary Ruag Indústria e Comércio de Munições Ltd was issued a license from the Brazilian Military Commission for Nationalization for setting up an ammunition plant. In 2018 the Swiss Federal Council, as the then owner of RUAG, forced the board of directors to renege the license.

¹⁸⁹ See Deutscher Bundestag (2015c).

Despite the obvious fact that the availability of ammunition is an essential prerequisite for the use of small arms, the German government has continued to license ammunition exports to countries, where the UN have documented grave violations of children's rights, since 2014 (see Info Box 9). The most prominent case being the more than 24 million rounds of military rifle ammunition for the security forces of the Kurdish Regional Government in Iraq. During the same time India also received 344 tons of rifle ammunition and parts thereof according to DESTATIS. **The two main protagonists of the foreign military intervention in Yemen, Saudi Arabia and the United Arab Emirates, were also supplied with 497 tons and 46 tons of rifle ammunition respectively.**¹⁹⁰

The German government continues to treat ammunition exports in a negligent fashion, similar to its handling of the export of small arms and light weapons. Therefore, all points of critique mentioned in previous sections apply to ammunition exports as well:

- ▶ **Transparency needs to be improved by including ammunition for light weapons in the annual reporting and listing the recipients and value of all SALW-ammunition exports;**
- ▶ **No export licences for SALW-ammunition should be granted to destinations of armed conflict and systematic human (and children's) rights violations or any foreign party to these conflicts, including NATO- and EU member states;**
- ▶ **No export licences for SALW-ammunition should be granted to countries – including NATO- and EU countries – that re-export the ammunition to regions with armed conflict and systematic human (and children's) rights violations;**
- ▶ **Furthermore, a legal ban for issuing production licenses abroad needs to be installed, including any support for the maintenance of ammunition production facilities.**

¹⁹⁰ The basis for these figures are the values listed by DESTATIS in the Commodity List for 939621 and 930629 (rifle ammunition and parts), which according to the NGO Small Arms Survey also covers ammunition usable by military and police forces. The weight of small arms ammunition usually varies between 3-8 grams. Taking an average of 6 grams a ton of rifle ammunition can equal around 130,000 rounds.



Appendix

Appendix 1

Summary of German Laws and Regulations Covering Arms Exports

War Weapons Control Act (Kriegswaffenkontrollgesetz / KrWaffKontrG)

The War Weapons Control Act is the law implementing Article 26 of the German Basic Law.¹⁹¹ It is designed to restrict exports of items on the “War Weapons List B”.

- ▶ According to §6 Art. 2, para 1 War Weapons Control Act, a license is to be denied, “if there is a reason to assume that its granting would militate against the interest of the Federal Republic of Germany in maintaining good relations with other countries”.
- ▶ According to §6 Art. 3, para 1 und 2 War Weapons Control Act, a license is to be denied, “if there is a danger of the war weapons being used for an act detrimental to peace, especially for a war of aggression” and “if there is a reason to assume that the granting of a license would violate the international obligations of the Federal Republic of Germany or endanger their fulfillment”.

The following SALW goods are covered by the “War Weapons List B”: Light weapons (portable anti-tank and air-defense weapons), mortars (including barrels and locks), grenade weapons (rifles, pistols, machine guns), hand grenades, as well as machine guns, submachine guns, automatic rifles and semi-automatic rifles constructed for military purposes, including their barrels and locks. Not covered by this list are all other semi-automatic sporting and hunting rifles, sniper rifles, pistols and the corresponding ammunition, as well as most components for handguns – with the exception of the aforementioned barrels and locks.

Foreign Trade and Payments Act (Außenwirtschaftsgesetz / AWG)

The primary goal of the Foreign Trade Act is the promotion of free commerce. If a license application is denied by the government, the company can file a complaint against the decision, with the burden of proof shifting to the government for the reasons of denial. The Foreign Trade Act supplement “*Ausfuhrliste Teil 1 A*” (Military List / ML) covers all conventional military items for which a license might be required. The Military List largely corresponds to the EU Military List and is presently divided into 22 categories. The categories ML1 and ML3 cover small arms and their ammunition. Light weapons and their ammunition are included in the categories ML2 and ML4 (together with artillery/naval guns, missiles and bombs). Other essential components for light weapons might also be found in other categories of the Military List.

The denial criteria for arms exports stipulated in Art. 4 are almost identical to the criteria formulated in §6 War Weapons Control Act with two further supplements regarding commitments resulting from bilateral agreements and resolutions of the UN and EU. But contrary to the War Weapons Control Act, licenses for arms exports are supposed to be denied only as an exception.

According to §4 AWG arms exports should only be denied in the following instances: If this served essential German security interests, to prevent a disturbance of the peaceful coexistence of nations, to prevent a substantial disturbance of foreign relations, to implement decisions of the EU Council or UN Resolutions or implement obligations of member states and international agreements approved by German legislative bodies.

¹⁹¹ Art. 26 GG: “(1) Acts tending to and undertaken with intent to disturb the peaceful relations between nations, especially to prepare for a war of aggression, shall be unconstitutional. They shall be made a criminal offence; (2) Weapons designed for warfare may be manufactured, transported or marketed only with the permission of the Federal Government. Details shall be regulated by a federal law.”

German Weapons Act and EU Firearms Regulation

(Waffengesetz / WaffG & EU Feuerwaffenverordnung)

The Germans “Weapons Act” and the EU Firearms Regulation of 2012 regulate the export of all “civilian” small arms which are not specifically constructed for military purposes and not covered by the War Weapons Control Act.¹⁹² The regulation determines that all firearms, which are not weapons of war, can be exported inside the EU without any license. The permission of the importing country suffices. If the final destination of the weapon is outside the EU, an appropriate export license of the then exporting EU member state is required. For firearm exports to non-EU member state the licensing criteria of the 2008 Common Position of the European Union are not mandatory. Art. 10 para 2 of the EU Firearms Regulation only states that “Member States shall take into account (...) where appropriate: (...) (b) considerations of national foreign and security policy, including those covered by Common Position 2008/944/CFSP”.

¹⁹² The complete title of the EU Firearms Regulation reads “EU-Regulation No. 258/2012 of 14. March 2012 implementing Article 10 of the United Nations’ Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organized Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition”. In Appendix 1 of the EU-Firearms Regulation and Appendix 1, Section 3 of §1 para. 4 WaffG lists the categories for firearms.

Political Principles on the Export of War Weapons and other Military Equipment

(Politische Grundsätze für den Export von Kriegswaffen und sonstigen Rüstungsgütern)

Introduced for the first time in 1971, the Political Principles were modified three times, in 1982, 2002 and 2019. The “General Principles” of the Political Principles emphasize the role of human rights in export licensing decisions. Principally, no license should be granted if there are reasonable grounds to suspect that these military goods will be used for internal repression or other systematic human rights violations. Additionally, a number of other criteria, first listed in the EU Code of Conduct on Arms Exports of 1998 and subsequently adapted by the **EU Council “Common Position 2008/944 defining common rules governing control of exports of military technology and equipment”**, have been incorporated. These should also be evaluated, although they primarily apply only to arms exports to Third Countries, leaving out EU-, NATO- or NATO-equivalent countries (Australia, Japan, New Zealand, Switzerland). These criteria are:

- ▶ The export of weapons of war is only to be approved as an exception if special foreign policy or security policy interests call for this;
- ▶ The export of weapons of war and other military equipment will not be approved for countries, which are involved in internal or external conflicts or where an outbreak or escalation of the situation through these arms can be expected;
- ▶ Export decisions shall include an assessment if the sustainable development of the country is burdened by excessive arms expenditures;
- ▶ The behavior of the recipient country in regard to the support and promotion of terrorism, the compliance with obligations of international law and the assumption of obligations in the area of arms control should be taken into account;
- ▶ Arms exports should not lead to the build-up of additional, export-oriented capacities in Germany;
- ▶ The end-use of German military goods needs to be definitely determined. This provision is applicable to all countries. But in regard to EU and NATO countries, it is generally assumed that their export regulations are equally as restrictive, as the German regulations.

Appendix 2

International Definitions of Small Arms and Light Weapons

United Nations

With the adoption of the “International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (A/60/88)” by the UN General Assembly in 2005 the UN agreed on an international accepted working definition which also applies to the 2001 Programme of Action on small arms:

“Article 4: For the purposes of this instrument, “small arms and light weapons” will mean any man-portable lethal weapon that expels or launches, is designed to expel or launch, or may be readily converted to expel or launch a shot, bullet or projectile by the action of an explosive, excluding antique small arms and light weapons or their replicas. Antique small arms and light weapons and their replicas will be defined in accordance with domestic law. In no case will antique small arms and light weapons include those manufactured after 1899:

(a) “Small arms” are, broadly speaking, weapons designed for individual use. They include, inter alia, revolvers and self-loading pistols, rifles and carbines, submachine guns, assault rifles and light machine guns;

(b) “Light weapons” are, broadly speaking, weapons designed for use by two or three persons serving as a crew, although some may be carried and used by a single person. They include, inter alia, heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank missile and rocket systems, portable launchers of anti-aircraft missile systems, and mortars of a calibre of less than 100 millimetres.”

OSCE

On 24.11.2000 the member states of OSCE agreed in the “Document on Small Arms” (Small Arms Document) on the following definition:

“For the purposes of this document, small arms and light weapons are man-portable weapons made or modified to military specifications for use as lethal instruments of war. Small arms are broadly categorized as those weapons intended for use by individual members of armed or security forces. They include revolvers and self-loading pistols; rifles and carbines; submachine guns; assault rifles; and light machine guns.

Light weapons are broadly categorized as those weapons intended for use by several members of armed or security forces serving as a crew. They include heavy machine guns; hand-held under-barrel and mounted grenade launchers; portable anti-aircraft guns; portable anti-tank guns; recoilless rifles; portable launchers of anti-tank missile and rocket systems; portable launchers of anti-aircraft missile systems; and mortars of calibres less than 100 mm.”

European Union

In 2002, the European Union agreed with the “Council Joint Action on the European Union’s contribution to combating the destabilising accumulation and spread of small arms and light weapons and repealing Joint Action 1999/34/CFSP“ (2002/589/CFSP) on the following definition:

The Joint Action shall apply to the following categories of weapons, while not prejudging any future internationally agreed definition of small arms and light weapons. These categories may be subject to further clarification, and may be reviewed in the light of any such future internationally agreed definition.

- a) Small arms and accessories especially designed for military use:
 - ▶ machine-guns (including heavy machine-guns),
 - ▶ sub-machine guns, including machine pistols,
 - ▶ fully automatic rifles,
 - ▶ semi-automatic rifles, if developed and/or introduced as a model for an armed force,
 - ▶ moderators (silencers).
- b) Man or crew-portable light weapons:
 - ▶ cannon (including automatic cannon), howitzers and mortars of less than 100mm calibre,
 - ▶ grenade launchers,
 - ▶ anti-tank weapons, recoilless guns (shoulder-fired rockets),
 - ▶ anti-tank missiles and launchers,
 - ▶ anti-aircraft missiles/man-portable air defence systems (MANPADS).

Arms Trade Treaty

This international arms control treaty was adopted by the United Nations General Assembly and entered into force in 2014. It covers the complete range of conventional weapons and defines small arms and light weapons in Art. 5 para. 3 as following:

- 3. Each State Party is encouraged to apply the provisions of this Treaty to the broadest range of conventional arms. National definitions of any of the categories covered under Article 2 (1) (a)-(g) shall not cover less than the descriptions used in the United Nations Register of Conventional Arms at the time of entry into force of this Treaty. For the category covered under Article 2 (1) (h), national definitions shall not cover less than the descriptions used in relevant United Nations instruments at the time of entry into force of this Treaty.

Appendix 3

Selected German Manufacturers of Small Arms and Light Weapons and Ammunition

The following chart presents a selection of German companies which manufacture small arms, parts for them, ammunition or add-ons.

Company	Location	Parent Company
Carl-Walther GmbH	Ulm (Baden-Wuerttemberg)	PW Group (Germany)
Diehl Defence Holding GmbH	Überlingen (Baden-Wuerttemberg)	Diehl Verwaltungs-Stiftung (Germany)
Dynamit Nobel Defence GmbH	Würgendorf / Burbach (North Rhine-Westphalia)	Raffael Advanced Defence Systems Ltd. (Israel)
Fritz Werner Industrie-Ausrüstungen GmbH (Info Box 15)	Geisenheim (Hessia)	New Lachaussee SA (Belgium)
Heckler & Koch GmbH (Info Box 17)	Oberndorf (Baden-Wuerttemberg)	Heckler & Koch AG (Germany)
MBDA Deutschland GmbH	Schrobenhausen (Bavaria)	MBDA International SA
Merkel Jagd- & Sportwaffen GmbH	Suhl (Thuringia)	EDGE (United Arab Emirates)
Metallwerk Elisenhütte GmbH (Info Box 23)	Nassau (Rhineland-Palatinate)	Taurus Armas (Brazil)
Rheinmetall Waffe & Munition GmbH (Info Box 22)	Unterlüss (Lower Saxony)	Rheinmetall AG (Germany)
RUAG Ammotec GmbH (Info Box 24)	Fürth (Bavaria)	RUAG Defence (Switzerland)
SigSauer GmbH	Eckernförde (Schleswig-Holstein)	L&O Holding (Germany)

Sales 2018 (Comments)	Pistols		Rifles			Light Weapons	Ammunition		HG	Plants
	P	MP	SST	HAG	VAG		SM	LW		
€57.7 million 65% through sales of sports and defense weapons	x									
€464 million 100% defense						x		x		
€126.5 million 100% defense, 73 Mio. € exported to Third Countries						x		x		
€12.8 million										x
€220 million 100% defense	x	x	x	x	x	x	x	x		x
€321 million 100% defense						x		x		
€14.2 million	x		x	x						
€67 million							x			
1 billion €					x	x	x	x		
110 Mio. € €67.9 million for police and military							x	x		
530 Mio. € 90% through export	x	x	x	x	x	x				

HAG = semi-automatic rifles

HG = hand grenades

SM = ammunition & components for small arms

LW = ammunition & components for light weapons

MP = submachine guns

O = night sights, rifle scopes, laser range-finders

P = pistols

Plants = supply of production equipment

SST = sniper rifles / precision rifles

VAG = automatic rifles

Appendix 4

German Arms Export Licenses 2014-2019 (million Euro)

Licenses			2014	2015	2016	2017	2018	2019	Total
Total volume			6,506.00	12,819.00	6,907.00	6,567.00	4,839.00	8,522.00	46,160.00
Global licenses			2,545.00	4,960.00	59.00	325.00	15.00	508.00	8,412.00
Individual licenses			3,961.00	7,859.00	6,848.00	6,242.00	4,824.00	8,014.00	37,748.00
		of these to Third Countries	2,404.00	4,621.00	3,668.00	3,785.00	2,550.00	3,530.00	20,558.00
		of these to Third Countries in percent	60.7%	58.8%	53.6%	60.6%	52.9%	44.0%	54.5%
Individual licenses ML 1		all small arms	189.80	149.20	255.17	215.51	182.47	202.04	1,194.19
		of these small arms (EU definition)	47.43	32.43	46.89	47.82	38.91	69.49	282.97
		of these small arms (EU definition) to Third Countries	21.63	14.49	16.38	15.10	0.40	0.40	68.40
Individual licenses ML 3		all small arms ammunition	243.00	449.20	1,089.16	193.87	259.52	275.57	2,510.32
		of these ammunition for small arms (EU definition)	27.21	31.36	327.76	28.69	11.98	6.22	433.22
		of these ammunition for small arms (EU definition) to Third Countries	5.53	4.28	17.61	0.91	0.47	0.23	29.03

ML1, ML3 Categories of the Common Military List of the European Union

Source:

Annual National Reports on Arms Exports by the German Government (also see Glossary)

Glossary of Terms

Annual Report of the UN Secretary-General on Children and Armed Conflict & “List of Shame” (also see Info Box 3): Since 2000 and based on UN Security Council Resolution 1261 (1999) the Special Representative of the UN Secretary-General for Children and Armed Conflicts has been compiling an annual report about the situation of children in areas of conflict based on documented cases.¹⁹³ Since 2002 the annual reports have also included country specific summaries and an appendix with a list of armed actors who have committed at least one of the six grave violations of children’s rights in armed conflicts (see entry “Six Grave Violations” below). The unofficial reference term for this appendix is the “List of Shame”.

Both the annual report and the “List of Shame” have proven to be valuable instruments to name and shame armed actors violating children’s rights in armed conflict. But neither of them is complete or in itself consistent. In the end, political decisions and political pressure applied by UN member states influences the selection. For instance, every annual report mentions state armies or armed groups from specific countries in the main part but does not include them in the “List of Shame” in the annex. In 2019, this was the case in regard to armed actors from India, Israel & Palestine, Lebanon, Libya, Pakistan as well as the international forces in Afghanistan. Saudi Arabia and the other participants in the military intervention in Yemen were not included even though the annual report found that this coalition was responsible for the maiming and killing of at least 222 children in Yemen in 2019.¹⁹⁴

In addition, armed actors are sometimes even removed from the “List of Shame” despite their continuous violation of children’s rights, like the Afghan National Army or the Saudi-led military coalition in Yemen in 2016. Furthermore, other armed conflicts with many documented grave child rights violations have never been included in the report, e.g. the armed conflict in the Ukraine.

Annual National Report on Arms Exports by the German Government: Since 1999 Germany has been publishing an annual “Report of the Federal Government on Its Policy on Exports of Conventional Military Equipment”. These reports contain information on

the developments of international export controls for conventional arms from a German perspective. At the center of the report is a presentation of the licensed exports of weapons of war and other military goods according to the Munitions List. In addition some more specific statistical information is provided on licenses for and actual exports of weapons of war as well as export licenses (and meanwhile also actual exports of) for small arms and light weapons.

Armed actors / armed groups / armed parties to the conflict: These terms are used interchangeably for all groups in an internal or interstate conflict who possess at least a rudimentary form of organization and chain of command, who have weapons and use them in conflict or threaten to use them.

Child soldiers: A legally binding definition of the term “child soldiers” doesn’t exist. The “2. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict” of 2002 refers to all children under the age 18 who are or will be recruited by government forces or non-state armed actors. The Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups of February 2007 refer to children “associated with armed forces or an armed group”. According to this broadly accepted definition child soldiers are “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”. This definition has been accepted by the more than 100 signatory states of the Paris Principles, among them Germany. In this study the term “child soldiers” is used according to this definition.

Common Position Defining Common Rules Governing Control of Exports of Military Technology and Equipment: Adopted in 2008, this Common Position establishes legally binding provisions and criteria for the licensing of arms exports by the EU member states. It builds on the EU Code of Conduct for Arms Exports agreed upon by the EU in 1998 (see Appendix 1).

Convention on the Rights of the Child (CRC): This Convention was adopted by the UN in 1989 and entered into force in 1990. The CRC has been ratified by all countries with the exception of the USA, i.e. the treaty is applicable universally in 196 states (aside from USA).

¹⁹³ UN Secretary General (2020a).

¹⁹⁴ <https://watchlist.org/publications/open-letter-to-the-secretary-general-on-the-2020-annual-report-on-children-and-armed-conflict/>

Dual-use goods: All products and technologies which are developed for civilian purposes but potentially also have military applications. In Germany these goods are listed in *Ausfuhrliste Teil 1C of the AWG*. EU Regulation (EC) No. 428/2009 of the Council from 5.5.2009 introduced common licensing requirements and procedures for dual-use goods.

Federal Statistical Office (DESTATIS): This German agency collects and evaluates statistical information, including foreign trade, provided by the companies. In the commodity list “Section 93: Arms and Ammunition; parts thereof and accessories thereof” the Federal Statistical Office compiles statistical information on the export of small arms and ammunitions.

Foreign Trade and Payments Act (*Außenwirtschaftsgesetz*): This German law regulates the export of all military goods and components listed either in *Ausfuhrliste Teil 1A* (conventional military goods) or *Teil 1C* (dual-use goods) (see Appendix 1). This Military List largely corresponds to the EU Military List and is presently divided into 22 categories. The categories ML1 and ML3 cover small arms and their ammunition. Light weapons and their ammunition are included in the categories ML2 and ML4 (together with artillery / naval guns, missiles and bombs). Other essential components for light weapons might also be found in other categories of the Military List.

Licensed production / Production license: The permission by a German company to produce a product abroad which has been developed in Germany. Aside from issuing such a production license this usually also includes supplying know-how, machines and certain manufacturing parts.

Light weapons: This category of weapons includes heavy machine guns, grenade launchers, portable anti-aircraft and anti-tank guns, recoilless rifles, portable launchers of anti-tank and anti-aircraft missile systems and mortars of a caliber of less than 100 millimeters. These weapons can be carried by two people or a crew and can be transported by a small vehicle or by a mount (see Appendix 2).

List of Shame: See entry “Annual Report of the UN Secretary-General on Children and Armed Conflict” above and also see Info Box 3.

Military List: See under “Foreign Trade and Payment Act” in the Glossary and in Appendix 1.

NATO-equivalent countries: According to the Federal Government the following countries belong to this category: Australia, Japan, New Zealand, Switzerland.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC): This protocol was adopted in the year 2000 and entered into force on 12.2.2002. At the time of writing 170 of 197 countries are party to OPAC. OPAC establishes 18 as the minimum age for the use of children in armed conflicts.

Political Principles for the Export of War Weapons and Other Military Equipment of the German Government (Political Principles): These contain political guidelines for the decision-making process on license applications for arms exports for the involved government ministries. The first “Political Principles” were established in 1971. The current version was authorized in 2019 and also refers to the license criteria established by the EU Code of Conduct for Arms Exports of 1998. The Political Principles are politically binding, not legally (see Appendix 1).

“Six Grave Violations”: Based on UN Security Council Resolution 1539 (2004) the UN Security Council established with Resolution 1612 (2005) six categories of grave violations of children’s rights. Aside from the recruitment of children, these violations include abduction of children, killing and maiming of children, sexual violence against children and attacks on schools and hospitals as well as the denial of access to humanitarian help.

Small arms: A universal definition for small arms doesn’t exist (see Appendix 2). If not stated otherwise the study uses the term “small arms” in line with the UN working definition. Accordingly, all civilian firearms are also treated as small arms (with the exception of air-guns, alarm guns and captive-bolt humane killers).

Third Countries (“Drittländer”): All countries which are neither member states of the EU or NATO nor classified as NATO-equivalent countries (Australia, Japan, New Zealand, Switzerland). See Info Box 9 for the annual values of arms export licenses.

UN Committee on the Rights of the Child: This Committee belongs to the ten treaty bodies of the United Nations tasked with monitoring international human rights treaties and reporting on the progress made. This committee receives regular reports by signatory states

of the Convention on the Rights of the Child and provides recommendations for the improvement of national policies in regard to the Convention and optional protocols (see entry “Convention on the Rights of the Child” [CRC] above).

UN Register of Conventional Arms (UNROCA): This Register is a UN body. It was established by Resolution 46/36L in 1991. The purpose of UNROCA is the documentation of the worldwide trade with conventional weapon systems based on the annual reports provided by the member states. In 2006, UNROCA began to include documentation also on the trade of small arms and light weapons.

War Weapons Control Act (*Kriegswaffenkontrollgesetz*): This German law regulates the export of all military goods listed by War Weapons List Part B. It mainly covers complete weapon systems (e.g. tanks, fighter aircraft) but also includes a number of military small arms (like assault rifles and machine guns), as well as connected key components (see Appendix 1).

Colombia: Children coming from war zones harvest homegrown vegetables at Benposta-project



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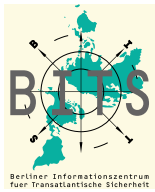
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BITS is an independent research and information center focusing on security policy and questions of arms control. It provides information and analysis on these issues to media, other non-governmental organizations, politicians and general public. Established in 1991 as a registered non-profit association by peace researchers from both Western and former Eastern Germany the center is financed entirely by private donations and project funds. Important issues of our work include e.g. the arms trade, current questions of German foreign and security policy, nuclear weapons, non-proliferation, arms control, as well as recent developments related to the Bundeswehr, NATO and other important actors in the realm of international security. Our experts also participate in political adult education.

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Demands of Brot für die Welt & terre des hommes

- 1. Stop exports of small arms and light weapons** (according to the UN definition) **and their ammunition.**
- 2. Stop arms exports to warring countries and to countries involved in armed conflicts or grave human and child rights violations.**
- 3. In particular, stop all arms exports to countries with grave violations of child rights in armed conflicts** (according to the UN definition):
 - recruitment or use of children as soldiers
 - killing and maiming of children
 - abduction of children
 - sexual violence against children
 - attacks on schools and hospitals
 - denial of access to humanitarian aid
- 4. Legal anchoring of the UN definition of small arms and light weapons (2005) in German law,** so that in future pistols, hand grenades, all types of rifles, etc. are also covered. This is obligatory under the International Arms Trade Treaty.
- 5. No licenses for the production and assembly of German weapons and ammunition abroad.**
- 6. Mandatory end-use controls** of exported arms and ammunition and severe penalties for violations.
- 7. No preferential treatment of NATO and EU member states** to prevent the re-export of German weapons via such countries to conflict regions.
- 8. No taxpayers' money for arms exports:** No safeguarding of arms deals through governmental export credits and guarantees (like "Hermes-guarantees").
- 9. Substantially improved transparency and accountability:** Every arms export license has to be published and justified by the government.
- 10. Right to legal action for victims and organizations of civil society** (class-action suits).
- 11. Fundamental legal reform & effective Arms Export Control Law** to anchor the above-mentioned demands in law.
- 12. Legal anchoring of due diligence measures** for arms companies in regard to human rights.