

UPR submission

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terre des hommes Germany e.V. (tdh) is a child rights organization, founded in Germany in 1967, currently supporting around 350 projects for children, youth and communities in more than 40 countries worldwide. tdh is committed to stop violence against children, to protect them from slavery, exploitation, abuse and neglect, to ensure that children can grow up in a healthy and sustainable environment and to promote a culture of peace and non-violence. tdh is independent of governments, business, religious communities and political parties. In Germany, more than 1,600 volunteers in around 80 locations are working together with tdh for children in need. tdh is member of the Terre des Hommes International Federation.

The following submission focuses on Germany's obligations related to children in armed conflicts and the Child Rights Convention's Optional Protocol on the involvement of children in armed conflict (OPAC). References to recommendations from the 3rd cycle (A/HRC/39/9/Add.1) are added in brackets.

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Underage soldiers in the German Armed Forces

(see 3rd cycle recommendations 155.203, 205, 206)

1. The 18-year-standard for the minimum age of recruitment of soldiers (“Straight 18”) is respected by over 150 countries worldwide, including 23 NATO and 21 EU countries.ⁱ Germany is one of the few countries in the world that still recruits minors as soldiers - despite repeated requests by the UN Committee on the Rights of the Childⁱⁱ and the Children's Commission of the German Parliamentⁱⁱⁱ to raise the recruitment age to 18. From 2011 till 2022, the German Armed Forces (“Bundeswehr”) have recruited over 17,000 17-year-old boys and girls as soldiers, in 2022 there were 1,773 recruited (an increase of 43% over the previous year). They receive the same military training with weapons as adult soldiers and are also accommodated together with them. The legal protection of minors and the Youth Employment Protection Act are not respected.^{iv}
2. Due to this practice, underage soldiers (who are children by the definition of the UN-CRC) in the German Armed Forces are subjected to serious violations of children's rights (sexual violence, degrading treatment, physical and psychological damage (accidents, depression, mental disorders, suicides)) and high dropout rates^v. In recent years, several cases of serious injuries and one death among young recruits happened during Bundeswehr marches due to supervisor misconduct and excessive military drill.^{vii}
3. Parents or legal guardians often sign long-term soldier contracts (sometimes more than 10 years) for underage soldiers, which, in contrast to civilian contracts, cannot be terminated after the probationary period. Harsh punishments happen, including detention for weeks in arrest cells, if minor soldiers try to get out of these contracts and don't show up for work.^{viii}
4. In 5 of the 17 cases of sexual violence against underage soldiers in the years 2018-2020 reported by the Defense Ministry^{ix}, superiors are suspected of the crime, which points to abuse of power and a systemic problem putting young recruits in high risk of being abused within the military structures.
5. The overall number of criminal sexual assaults recorded by the Armed Forces quadrupled from 2015 (86) to 2022 (357)^x - how many minors were affected is not published, but the share is probably high due to their high vulnerability.
6. Despite promises, the Ministry of Defense has not published data about the situation of underage soldiers and violations of their rights in the Armed Forces – with the exception of an answer to the question of a parliamentarian.^{xi}
7. Instead of stopping Bundeswehr advertising directed to minors, as the UN-CRC has been calling for since 2008, new and more expensive Bundeswehr advertising campaigns are constantly being launched, many of them in social media, including several You Tube-series, or at trade fairs such as the computer games trade fair “Gamescom” and the youth trade fair “YOU” with a clearly under-age target group. In addition, several hundred so called “Youth officers” or military “Career Advisors” visit schools and teacher trainings, reaching hundreds of thousands of children and thousands of teachers every year. In Bundeswehr advertisements and at school visits of soldiers, risks of being a soldier such as trauma, injury and death are virtually not mentioned, instead the focus is on positive aspects such as teamwork, adventure, good pay and career opportunities.^{xii}

8. The situation of underage soldiers and the severe violations of child rights in the German Armed Forces are deeply worrying. By recruiting minors as soldiers, Germany is exposing them to high risks and is weakening child protection, the international Straight-18-standard and the efforts of the United Nations, civil society, several states and (also German) diplomats to end worldwide the recruitment of underage soldiers and their abuse as child soldiers.
9. **In support of the demands of the UN Child Rights Committee to Germany (2022)^{xiii}, tdh urges the German government**
 - a. **to lift the minimum recruitment age for soldiers in the German Armed Forces (Bundeswehr) to 18 years;**
 - b. **to prohibit all forms of military advertising and marketing targeted at children, in particular at schools;**
 - c. **to promptly investigate any reports of sexual abuse, sexual harassment and other forms of violence against children in the Armed Forces, and to ensure that perpetrators are prosecuted and sanctioned;**
 - d. **and to publish data on the situation of underage soldiers in the Bundeswehr at least annually, including on how they are affected by sexual violence and other forms of violence, physical and psychological damage (accidents, depression, mental disorders, suicides)) and on dropout rates.**

German arms exports and human rights

(see 3rd cycle recommendations 155.14-16)

10. In the last five years, the German government has regularly approved big amounts of arms exports to countries involved in armed conflicts and in grave human rights violations like the six grave child rights violations in armed conflict^{xiv}, including killing and maiming and recruitment of children as soldiers - for example, to Egypt, Saudi-Arabia, United Arab Emirates, India, Pakistan, Indonesia, Thailand, Colombia and Turkey.^{xv xvi}. Additionally, several countries with internal armed conflicts where police or military unlawfully kill many civilians, especially children and young people, often in the context of a so called “war on drugs”, have received German arms – for example Brazil, Philippines and Mexico.
11. These German arms exports contradict both the German government's Political Guidelines on Arms Exports and the legally binding EU's Common Position on Arms Exports – as also stated by the European Parliament in February 2021.^{xvii} Ignoring the appeal of the European Parliament and the EU regulations, in 2021, according to the annual government report on arms exports^{xviii}, the German government approved a huge amount of arms exports to Egypt, United Arab Emirates and other countries being member of the military coalition involved in the war in Yemen - alone to Egypt worth 4.3 billion Euros. In 2022, the German government again has approved huge amounts of arms exports to members of this military coalition, including Saudi-Arabia, United Arab Emirates and Egypt, including parts and ammunition for planes that are used for unlawful bombings of civilians.^{xix}
12. **Saudi-Arabia, the United Arab Emirates, Egypt and the other member states of the military coalition intervening in Yemen**, since 2015 are using German-made Rheinmetall-bombs and Tornado- and Eurofighter-planes to do unlawful bombings, targeting hospitals, schools and other civilian targets^{xx}, killing thousands of children^{xxi} - the International Criminal Court in Den Haag is investigating the case. German war ships and patrol boats were used by the military coalition to do an unlawful sea blockade, leading to deadly food and medicament

shortage in Yemen and the death of many civilians, mostly women and children. German guns like the Heckler & Koch G3 and G36 rifles are widely used on both sides of the Yemen conflict.^{xxii} Child soldiers are widely recruited on both sides, they also die by German guns or are forced to use them in battle.

13. In **Brazil**, police and military are equipped with many German weapons, even though they are responsible for one of the highest rates of police violence in the world. Most of the victims are young men and boys from poor neighbourhoods. Since 2014, German arms exports to Brazil worth around €600 million have been approved, only in 2021 worth €143 million. These included submachine guns, assault rifles, rifles, pistols, small arms ammunition and Airbus helicopters. In the same period, around 40,000 people, including many children and youth, have been killed by police and military forces in state "security operations", where these arms are used, in 2021 these were 6,100 people^{xxiii}. Especially the military police ("polícia militar") and some special units are responsible for many brutal massacres, like in the suburbs Jacarezinho (2021) and Vila Cruzeiro (2022) in Rio de Janeiro. There is nearly complete impunity of responsible police officers.^{xxiv}
14. In 2021, 64% of German arms exports^{xxv} worth 6 billion euros (new high), went to so-called "third countries" (neither EU, NATO nor NATO-equivalent), where in many cases there were massive human rights violations and war. As in previous years, Egypt, Brazil and other "third countries" were among the Top Ten receivers of German Arms in 2021. In 2022, the arms exports to third countries have dropped to an amount of 3.2 billion Euros, but still being 39% of the total amount of arms exports.^{xxvi xxvii} The consequences for civilians including many women, youth and children are serious (as indicated in paragraph 12. and 13).
15. **A new arms export control law ("Rüstungsexportkontrollgesetz") is currently being drafted. tdh urges the German government**
 - a. **to include a right to sue for associations ("Verbandsklagerecht") in the law – as already in place in several European countries and essential for effective control of arms exports and compliance with national and European laws.**
 - b. **to legally ban the export of arms, ammunition and related production facilities to countries involved in armed conflicts or serious human rights violations, including countries whose state organs are responsible for at least one of the six grave child rights violations in armed conflict^{xxviii} or other grave child rights violations, like police killings of children and youth.**
 - c. **to fix regular controls of the end use of exported German weapons and ammunition in the law^{xxix}**
 - d. **to use the UN definition of Small Arms and Light Weapons, following the obligation of the ATT (article 5.3) ^{xxx}**
 - e. **to significantly improve transparency and information on arms exports, including publishing written justifications on licensing decisions.**

Protection and asylum for children fleeing from recruitment as soldiers

(see 3rd cycle recommendations 155.239, 253)

16. tdh reminds the government, that the **use of minors as soldiers or the danger of recruitment** by state or non-state armed groups is a child-specific form of persecution as

defined under Art. 1 (A) 2 and 1 (F) of the Geneva Convention relating to the Status of Refugees and therefore **should lead to protection and granted asylum** – independent of the type of armed group or if it is considered as terrorist organisation or not.^{xxx}

17. **In regard to some recent cases of legal prosecution and detention of former child soldiers in Germany for alleged offenses as underage soldiers** belonging to so called terrorist groups, tdh emphasizes, that former child soldiers should usually not be punished by law, following OPAC Article 6(3) and the Child Rights Committee’s General Comment No. 10 (2007), but instead should be assisted in dealing with their role as victim and possibly perpetrator through therapy and transitional justice efforts.^{xxxii}

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ⁱ Study “Why 18 matters – a rights-based analysis of child recruitment”, Child Soldiers International, 2018, https://www.tdh.de/fileadmin/user_upload/inhalte/04_Was_wir_tun/Themen/Weitere_Themen/Kindersoldaten/Why18Matters_full_report_FINAL.pdf

ⁱⁱ Concluding Observations by the UN Committee on the Rights of the Child to Germany, 2022, 2014 and 2008

ⁱⁱⁱ “Youth and Military”, statement of the Children’s Commission of the German Parliament, 2016, Kommissionsdrucksache 18/16, https://www.bundestag.de/resource/blob/482006/b8fa4487dcd13f0730e96386957ddcff/stellungnahme_militaer_und_jugend_in_deutschland-data.pdf

^{iv} Study “[Shadow Report Child Soldiers](#)” (Annex#1), authored by human rights expert Prof. Dr. Michael Krennerich, published by terre des hommes Germany, Kindernothilfe, World Vision Germany & German Coalition to Stop the Use of Child Soldiers, October 2020; submitted to the UN Child Rights Committee within the State Reporting Procedure on Germany’s UN CRC implementation, https://www.tdh.de/fileadmin/user_upload/inhalte/04_Was_wir_tun/Themen/Weitere_Themen/Kindersoldaten/Shadow_Report_Child_Soldiers_2020_Germany_terre_des_hommes_Kindernothilfe_World_Vision_FINAL.pdf

^v Ministry of Defense, answer to the question of Parliamentarian Frank Heinrich, 2021, Doc. Nr. 1980034-V267; https://unter18nie.de/wordpress/wp-content/uploads/2021/09/Antw_Verteidigungsmin_zu_SexGewalt_Suizide_Abbrecher_PsychProbleme_ua_bei_minderjaehrigen_BWSoldat.pdf

^{vi} Annual Reports of the Bundestag’s Military Commissioner; media reports

^{vii} Annual Reports of the Bundestag’s Military Commissioner; media reports

^{viii} See Chapter 4, Shadow Report Child Soldiers (Annex#1), available at: see endnote iv

^{ix} Ministry of Defense, answer to the question of Parliamentarian Frank Heinrich, 2021, Doc. Nr. 1980034-V267, see endnote v

^x Annual Reports of the Bundestag’s Military Commissioner

^{xi} See endnote v

^{xii} See Chapter 6 & 7, Shadow Report Child Soldiers (Annex#1), available at: see endnote iv

^{xiii} Concluding Observations by the UN Committee on the Rights of the Child to Germany, 2022, UN-Document [CRC/C/DEU/CO/5-6](https://www.unhcr.org/refugees/crc/c/deu/co/5-6)

^{xiv} Defined by UN-Security Council resolution 1261

^{xv} Detailed information in Chapter 10 in the “Shadow Report Child Soldiers 2020” (Annex#1) (available at: see endnote iv) and in the study “[Small Arms in Small Hands – German Arms Exports Violating Children’s Rights](#)” (Annex#2), issued by terre des hommes Germany & Bread for the World, October 2020. Both reports were submitted to the UN Child Rights Committee within the State Reporting Procedure on Germany’s UN CRC implementation. The reports are available in English and German at <https://www.tdh.de/was-wir-tun/arbeitsfelder/kinder-im-krieg/materialien-links-adressen/>

^{xvi} The recruitment of children as soldiers is documented for more than 20 countries, for example in the UN-Secretary General’s Annual Reports on Children and Armed Conflict; see also Chapter 1.1 in the study “Small arms in small hands - German arms exports violating children’s rights” (Annex#2), available at: see endnote xv

^{xvii} The European Parliament stressed in its resolution of 11 February 2021 on the humanitarian and political situation in Yemen, that “EU-based arms exporters that fuel the conflict in Yemen are non-compliant with several criteria of the legally binding Council Common Position 2008/944/CFSP on arms exports” and called for an “EU-wide ban on the export, sale, update and maintenance of any form of security equipment to members of the military coalition, including Saudi Arabia and the United Arab Emirates.” https://www.europarl.europa.eu/doceo/document/TA-9-2021-0053_DE.html

^{xviii} See annual government report on arms exports (Rüstungsexportbericht) in 2021: https://www.bmwk.de/Redaktion/DE/Publikationen/Aussenwirtschaft/ruestungsexportbericht-2021.pdf?__blob=publicationFile&v=6

^{xix} See government press release on arms exports in 2022: <https://www.bmwk.de/Redaktion/DE/Pressemitteilungen/2023/01/20230104-ruestungsexportpolitik-der-bundesregierung-im-jahr-2022-partnerlaender-und-ukraine-sind-schwerpunkt-deutscher-ruestungsexporte-in-2021.html>

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

^{xxi} From 2015 till 2018, at least 3,550 children were killed by this military coalition, as documented by the UN <https://www.securitycouncilreport.org/un-documents/document/s-2019-453-2.php>

^{xxii} Since the early 2010s, the G36 assault rifle is also produced in Saudi-Arabia in large numbers in a production line licensed by the German government.

^{xxiii} <https://forumseguranca.org.br/anuario-brasileiro-seguranca-publica/>

^{xxiv} Study „[Less guns, more youth: armed violence, police violence and the arms trade in Brazil](#)” (Annex#3), published by terre des hommes Germany & terre des hommes Switzerland & Instituto Sou da Paz, 2021. Available (English, Portuguese, German) at www.tdh.de/policeviolence

^{xxv} Single licenses (“Einzelgenehmigungen“)

^{xxvi} Single licenses (“Einzelgenehmigungen“)

^{xxvii} See government press release on arms exports in 2022, see endnote xix

^{xxviii} See also recommendation 45f in the recent Concluding Observations of the UN Committee on the Rights of the Child to Germany, CRC/C/DEU/CO/5-6, September 2022

^{xxix} Until now, such controls are rarely done, there have been only 8 voluntary controls in recipient countries since 2015. This leads to abuse and illegal re-exports to conflict regions - for example from Germany via the USA to Colombia, see Chapter “SIG Sauer Pistols in Colombia”, page 46, in study “Small arms in small hands – German arms exports violating children’s rights” (Annex#2), available at: see endnote xv

^{xxx} See under “Major Deficiencies of German Arms Export Controls”, Executive Summary, page 11, and in Chapter 2, page 21, in study “Small arms in small hands – German arms exports violating children’s rights” (Annex#2), available at: see endnote xv

^{xxxi} see Chapter 9.2 Shadow Report Child Soldiers (Annex#1), available at: see endnote iv

^{xxxii} see Chapter 9.3 Shadow Report Child Soldiers (Annex#1), available at: see endnote iv