

## Speech at Geneva, 27 October 2014

Teddy, Hans, ladies and gentlemen, I am delighted to have the chance to speak before you today during this first panel discussion at what is now the sixth ICOAF conference.

It has been a great pleasure to see how this event has grown organically year after year, and it is gratifying that 40 delegations have found their way to Geneva this week. When people in Germany ask me what the ICOAF is like, I often answer jokingly that it is the World Cup of armed forces' ombuds-institutions. If it carries on getting bigger, I may have to change my joke to reflect this and start calling it the General Assembly of ombuds-institutions.

I was very happy when I learned of the topic chosen for this panel discussion: the 'use of social media by and within the armed forces'. It gives me an opportunity to throw some light on how both German service personnel and the Bundeswehr itself are engaging with the social media, an issue that is occupying my office's attention more and more.

Yet the situations and questions we find ourselves facing are so complex that I cannot hope to touch on all the relevant aspects to which we are being forced to respond in my remarks today.

The citizen in uniform is the ideal that inspires the Bundeswehr's attitude to leadership and civic education, and therefore the key element in its efforts to equip service personnel with a proper understanding of their role. It is part of this understanding that, as citizens, servicemen and servicewomen are fundamentally allowed to inform themselves from all freely accessible sources, and also possess a very far-reaching right to freedom of opinion, which only comes up against constraints where military duties are breached and the uninterrupted conduct of routine operations can no longer be guaranteed. In consequence, the use of social media by service personnel is, first and foremost, a manifestation of a normality that is expressly desired. Nonetheless, it cannot be denied there is a degree of uncertainty among users, and particularly among officers, about how activities in the social media should be treated.

I commented on this topic for the first time in the Annual Report on my work in 2013, which included a separate section about the handling of social media. Nevertheless, cases linked with social networks had already been having an impact during the preceding years.

In my most recent Annual Report, I highlighted the fact that the Internet has evolved into a global forum for communication over

the last few years, in particular thanks to the creation of social networks. However, the dissemination of information and opinions via such networks also throws up numerous questions about possible infringements of the law. These questions are also of concern to service personnel.

The private publication of information about operational matters in the Bundeswehr by service personnel without previously obtaining official clearance may constitute a disciplinary offence or even a criminal act. Furthermore, when using social media, servicemen and women must always remember that, even if protected by the anonymity these services permit, they should communicate respectfully and responsibly with other people on the Internet. At the same time, no third parties inside or outside the armed forces should be insulted, disparaged, abused, threatened or harassed by the images, photographs, texts and comments that are posted or anything else that happens online.

Social networks do not exist in a legal vacuum.

Over the last two years, increasing numbers of incidents have been identified in which service personnel were evidently of the opinion that the social media could be used thoughtlessly and without the least consideration for others.

Let me give a few examples that will illustrate the problems we are encountering:

One serviceman wrote to the Parliamentary Commissioner for the Armed Forces because a photograph of him could be viewed on the Facebook page of the ISAF protection force's Regional Command North despite the fact that he had not given permission for its publication.

Another petitioner complained that comrades and superiors had written defamatory comments about him in a blog set up on Facebook.

Another serviceman was photographed without his consent. The photograph was disseminated in a racist context within a WhatsApp group.

It has become apparent from the cases we have been scrutinising that there is a great deal of confusion about the kinds of behaviour that are appropriate for service personnel on the Internet, and how they can stay within the law online. The spectrum of misconduct that has been observed extends from disciplinary offences to criminal acts, from attempts to sell items of equipment supplied for operational purposes on Facebook to the exchange of

image files with content hostile to Germany's constitutional order within a WhatsApp user group.

The use of social networks on the Internet, both by servicemen and women, and by the Bundeswehr itself, takes place against the background of complex, sometimes conflicting, interests and legal principles.

Servicemen and women's personal rights, copyright and data protection, the Bundeswehr's interest in effective press and public relations work, as well as up-to-date recruitment methods, military security, the protection of classified material, and criminal and disciplinary law are just a few of the factors that have to be taken into account and reconciled when we are thinking about the use of these social networks.

In 2012, the Bundeswehr issued its Social Media Guidelines, which give recommendations on the approach to be taken by staff of the Federal Ministry of Defence and members of Germany's armed forces. The Guidelines include some things that perhaps should not need to be said. As an aid to navigating the perils of the Internet, they are intended to give service personnel and Federal Defence Ministry employees the confidence to deal with these issues, as well as drawing their attention to the legal obligations they have with regard to official secrecy.

The steps recommended include keeping professional and private activities apart online, showing a commitment to personal responsibility, complying with the requirements of transparency and honesty, abiding by the law, and maintaining respect for others, high standards and self-control.

In addition to this, all service personnel are informed and advised about these matters as part of a briefing on military security issues given by security officers during their basic training. These briefings are supposed to be repeated each year, and before personnel go on assignments and operations in other countries. However, the specific dangers involved in using social media are just one among the many individual topics that are dealt with on these occasions.

It is my conviction that, in view of the increasing practical significance and complexity of these issues, the concise, abstract style of the Social Media Guidelines does not do enough to give everyone they are aimed at the confidence to tackle problems of this kind. The Guidelines should definitely be revised and drafted in a more engaging manner.

In addition to this, I feel improved training is necessary at all levels. Especially when it comes to the handling of the social

media, there is a huge gulf between a young serviceman or woman's ability to judge what is appropriate and that of their commanding officer, who will be several years older, let alone the high-ranking official responsible for these matters within the Ministry. Given the far greater experience 'digital natives', as they are called, can draw on compared to their superiors, the potential for conflicts is preprogrammed here if we do not put in place a clear framework for action, provide good training and adopt a tactful approach.

Material:

I would like to briefly sketch out some intriguing strands of this issue we find ourselves looking at over and over again:

In blogs written by service personnel under the protection of anonymity, we sometimes read pieces that evidently disclose official secrets. We sometimes follow up such information in circumstances where it is highly relevant to our work and ask the Federal Ministry of Defence to comment on it, even though the Ministry launches an investigation into the suspected disclosure of official secrets by the author in question. There are tensions here that can hardly be resolved.

Another problem is the use of helmet cameras during combat operations or the embedding of combat camera teams in operational units. This should open up opportunities to document and evaluate operations, as well as informing the public about what life is really like for German service personnel on the ground with videos on a Bundeswehr YouTube channel. At the same time, however, these recordings can potentially be misused. Some German service personnel in Afghanistan started wearing helmet cameras, which they bought themselves, in 2010. The SD memory cards on which they sent home their recordings, something that was probably illegal, often did not arrive or were so badly damaged as to be unusable. I took note of the explanations of how this damage had occurred given by the Federal Ministry of Defence and documented them in my Annual Report. However, the idea that a German post office sorting machine suddenly developed a technical fault and started mangling mail that came from just one, very small deployment area during a particular period while processing many thousands of other items undamaged left a rather bitter taste in the mouth.

Now and then, we have come across unit commanders who seem to believe social media such as Facebook or WhatsApp are suitable for use as command tools during operations. This is unprofessional because it breaches security standards, and leads to private and official activities getting mixed up together.