



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

**Replies from the Government of GERMANY* ** to the conclusions and
recommendations of the Committee against Torture (CAT/C/CR/32/7)**

[25 September 2007]

* Also see documents CAT/C/CR/32/7/RESP/1 and follow-letter of 30 October 2006 available on the website

** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services

Supplementary response of the Federal Republic of Germany to the letter by the Rapporteur for Follow-up on Conclusions and Recommendations of the Committee against Torture with regard to Germany dated 30 October 2006

1. By letter dated 30 October 2006, the Rapporteur for follow-up on Conclusions and Recommendations of the Committee against Torture requested supplementary information with regard to the implementation of the recommendations in Chapter D para. 5 letters a and f of the UN Committee against Torture with regard to the 3rd state party report dated 11 June 2004 (CAT/C/CR/32) Concluding Observations/Comments). The Federal Government of Germany submits the following with regard thereto:

Question regarding the implementation of the recommendation in Chapter D, para. 5, letter a.

The Committee would appreciate receiving more information about the reasons for some cases not reaching trial; the status of the cases not yet completed; and for those where convictions were obtained, data on the length of the investigation and trial proceeding and the percentage of case with fines versus imprisonment.

2. With regard to the total of 92 cases of mistreatment compiled by non-governmental organisations (amnesty international: Back in the spotlight – Allegations of police-ill-treatment and excessive use of force in Germany”, January 2004 and Aktion Courage: “Police attacks on foreigners in Germany 2000-2003”) for the periods of 1998-2003, respectively, the status is as follows:

3. Ten cases could not be identified by the law enforcement authorities due to lack of specific information about the incidents in the reports by the non-governmental organisations. It is thus not ascertainable whether these cases resulted in criminal-law convictions of the responsible officials.

4. The remaining cases have been all the subject of prosecutorial (preliminary) investigations, which – with the exception of one case, where no final and binding decision has yet been issued – have meanwhile been concluded. The details are as follows:

5. In 13 cases, no official investigation proceeding was initiated because there was no concrete initial suspicion that a criminal offence subject to prosecution had been committed.

Question regarding the implementation of the recommendation in Chapter D, para. 5, letter b

The Committee requests further information as to the date of completion of this new police crimes statistical system.

6. The redesigned police criminal statistics (PKS) have so far not been introduced at federal level. The required comprehensive changes, the necessary concertation process between the federal Lander and the tight budget situation have delayed the implementation of the new PKS. It is now planned to introduce it in two steps. This is the reason why the deadline mentioned in the Federal Government’s reply of 4 August 2005 could not be met.

7. The new criminal police statistics concept provides that the federal Lander transmit individual data sets (instead of the existing practice of making available aggregate tables for the Lander) to the Federal Office of Criminal Police (BKA) which will allow to evaluate and present the data stock in additional and differentiated ways. However, the type of data to be collected for this purpose will not be substantially altered. The Standing Conference of Interior Ministers has decided that the change should be affected by 1 January 2009.

8. The comprehensive supplementary catalogues, such as specific statistics on “infliction of bodily harm during performance of official duty at police premises” will be included in the new criminal police statistics in a second phase which has not yet been scheduled.

Question regarding the implementation of the recommendation in Chapter D, para. 5, letter e

The Committee would appreciate receiving additional data on the total number of cases of both EU and non-EU extradition cases handled by Germany since 11 September 2001, broken down by county and the outcomes of such cases [...] Please send us information on the exception [where diplomatic assurance was required] and also please clarify how this response comports with your information in paragraph (16(a) that “several hundred extradition cases in regard to non-EU states... are handled each year...” and 80-90 extraditions were approved. Finally, please provide information about measures of subsequent monitoring in cases of extradition or removal where diplomatic assurance or guarantees have been utilized.

9. It must be noted that German law differentiates between Abschiebung (deportation) and Auslieferung (extradition). The Federal Ministry of Justice is dealing with cases of extradition whereas the Federal Ministry of Interior is dealing with cases of deportation.

10. As far as extradition cases are concerned, statistical data regarding the number and nature of diplomatic assurances or guarantees received are not available.

11. The decision to request diplomatic assurances depends on an evaluation of the individual case, taking into account the situation in the country concerned, the individual risk of the person concerned and the nature of the crime.

12. Subsequent monitoring of diplomatic assurances and guarantees is carried out by the German diplomatic representations. Germany takes care to make sure that it remains possible to contact the person concerned and to visit him or her at the place of detention if necessary. Difficulties in that regard can usually be solved with bilateral talks.

13. In the framework of the extradition procedure and the simultaneous deportation procedure against a Turkish national who had become known as “caliph of cologne” and who had been sentenced as by a German court for public incitement to commit criminal offences, Germany obtained numerous assurances and explanations via diplomatic channels (e.g. the assurance that the person concerned would be directly presented to a court if he were to be extradited or deported; the assurance that he would be interviewed by the competent court only) in order to vitiate the argument brought forward in the extradition and deportation procedures, i.e. that the individual concerned would be exposed to inhumane treatment in case of deportation or extradition.

14. In the deportation procedure, these efforts were successful: deportation was enforced and ever since no reproaches for inhumane treatment have been raised. A lawsuit to have it established by declaratory judgement that there were obstacles preventing deportation to the country concerned (Turkey) proved to be unsuccessful.

Question regarding the implementation of the recommendation in Chapter D, para. 5, letter f.

As for paragraph 5(f), the Committee would appreciate receiving clarification as to any data on allegations of mistreatment, or means of federal oversight of the Hessian private security company. Please provide information on the kind of training provided security companies on issues arising under the Convention.

15. The private security company commissioned by the Land of Hesse, whose staff are employed to secure certain detention facilities at the Frankfurt/Main airport, are not subject to the oversight of federal authorities, but rather that of the competent Land authorities, which pays very close attention to how their tasks are fulfilled.

16. No allegations of mistreatment against employees of the private security services utilised at Frankfurt/Main airport have become known, wither at the Public Prosecutor General's Office at the Frankfurt/Main Higher Regional Court, nor at the Hesse Social Ministry, the authority responsible for detention pending deportation.

17. There is no advance training for the employees of the private security services which is specifically directed toward the substance of the Convention against Torture. However, the following is pointed out with regard to the qualifications and level of training of the staff:

- All employees of the commissioned private security services have been working at that location for quite some time; their work is well-coordinated and they have been sensitised to their tasks. They have taken part in numerous intra-company advanced training measures, which have dealt with areas such as conflict management, fire prevention, first aid, etc. Furthermore, in July 2007 the detention facility itself carried out an in-house event on the topic of "Intercultural Competence" for Land employees working as caregivers, social workers and administrative personnel along with security staff, whereby the following substantive content was taught:
 - a) Intercultural openness and competence as a basic qualification in an immigration society;
 - b) Immigration history and policies
 - c) Intercultural communication
 - d) Everyday religiosity among immigrant families
 - e) Conflict management in everyday working life
 - f) Role reflection