



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

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English only

Committee against Torture

**Information received from Germany on follow-up to the
concluding observations on its sixth periodic report***

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* The present document is being issued without formal editing.



I. Introduction

1. The Federal Government hereby submits its comments, as requested in paragraph 59, regarding three specific concluding observations (paragraphs 14, 31d and 55c) on the sixth periodic report of Germany (CAT/C/DEU/6) adopted by the Committee against Torture at its meeting of 14 May 2019.

II. Comments regarding paragraphs 14, 31 (d) and 55 (c) of the concluding observations (CAT/C/DEU/CO/6)

Paragraph 14 of the concluding observations

2. The National Agency was established on the basis of an administrative agreement between the Federation and the Länder, as its tasks cover both the national and regional levels. Since 2015, the funding of the National Agency has consisted of € 180,000 from the budget of the BMJV (national office) and € 360,000 from the budgets of Germany's Länder. This amount was specified in the administrative agreement regulating the cooperation between the national office and the Joint Commission of the Länder. Accordingly, any change of said amount would require an amendment of the administrative agreement. In order to take into account a calculation performed by the National Agency, the Conference of Justice Ministers of the Länder decided in November 2019 to increase funding for the National Agency by a total of € 100,000 per year as of 2020.

3. For many years, the National Agency and the Centre for Criminology both had maintained their offices, leased at very favourable terms, in a building in Wiesbaden. After the landlady died in July of 2014, the building was sold and new spaces needed to be found. It was possible to find a permanent and sustainable solution for both agencies in Wiesbaden by moving them into a building owned by the Land of Hesse, which required some refurbishment. The Land of Hesse assumed the entire costs of the necessary conversion work. The National Agency is scheduled to move into the new office spaces on 15 October 2020.

4. Moreover, the BMJV has reliably seen to the translation into English of each periodic report since the first such report was published; this has significantly reduced the strain on the staff and budget of the National Agency.

5. We wish to note the following. As early as at their fall conference on 9 November 2017, the Ministers of Justice of the Länder decided to give non-governmental organisations the opportunity to propose candidates to the Conference of Justice Ministers of the Länder for any open positions in the Joint Commission of the Länder.

6. Upon the mandate of two members of the Joint Commission of the Länder ending at the close of 2018, two new members were appointed by the Conference of Justice Ministers of the Länder (retired senior public prosecutor Petra Bertelsmeier and the retired chief executive government officer (*Leitender Regierungsdirektor*) Dr. Werner Päckert). This appointment marked the first instance in which civil society stakeholders were involved.

7. Regrettably, the long-standing head of the National Agency, retired *Leitender Regierungsdirektor* Klaus Lange-Lehngut, died unexpectedly in 2019. He had been awarded the Cross of Merit (*Verdienstkreuz am Bande*) of the Order of Merit of the Federal Republic of Germany in 2016 for his dedication and commitment in establishing the National Agency.

8. Currently, the management of the National Agency is under the sole responsibility of its deputy head. In the run-up to appointing a successor to Klaus Lange-Lehngut, the German Institute for Human Rights (*Deutsches Institut für Menschenrechte – DIMR*) as well as several other civil society organisations (Forum Menschenrechte (forum for German human rights organisations), European Center for Constitutional and Human Rights, Amnesty International, Human Rights Watch) were consulted. The process of filling the vacancy has not yet been concluded.

Paragraph 31 (d) of the concluding observations

9. It is important to highlight that the accommodation and care available to asylum-seekers in AnKER centres (arrival, decision and return facilities) is not any different from that provided in non-AnKER centres. Persons accommodated in AnKER centres are free to leave and return to the facility without restrictions. Attorneys retained by asylum-seekers as well as staffers of non-governmental organisations can meet with asylum-seekers in AnKER centres once they have registered with the facility's management upon entering. In light of the health protection measures implemented as a consequence of the SARS-Covid-2 pandemic, some exceptions do apply. All AnKER centres have put in place security concepts to prevent violence. In the event of cases becoming known that may be liable to prosecution under criminal law, they are transferred to the law enforcement agencies for investigation and, if necessary, further action so as to allow the corresponding sanctions to be imposed as required.

10. Any allegations of ill-treatment are investigated in accordance with the "principle of legality" (principle of mandatory prosecution). Where such allegations have proved to be well founded, criminal proceedings were initiated against the parties responsible. In one particular case concerning events that unfolded at a refugee centre in Burbach in 2014, public prosecutors brought charges against 38 persons before the Siegen Regional Court. By the beginning of June 2020, eleven persons had been convicted, including the head of the centre, who was employed by a private organisation. Several trials are still pending.

11. According to Section 9 of the German Asylum Act (*Asylgesetz*), any asylum-seeker may contact the United Nations High Commissioner for Refugees (UNHCR) at any time. The UNHCR in turn may have access to all asylum-seekers, including those held in detention and in airport transit zones. The Federal Office for Migration and Refugees (BAMF) has concluded a framework cooperation agreement with the UNHCR that addresses asylum procedures in particular. In keeping with its mandate, the UNHCR lends support to the BAMF and provides independent advice on all aspects of international protection, placing a particular focus on the efficiency, quality, and fairness of the procedure.

12. As stipulated by German law and in keeping with Germany's international obligations, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the UN Subcommittee for the Prevention of Torture (SPT) as well as the National Preventive Mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) have access to all facilities in which asylum seekers or migrants are deprived of their liberty.

Paragraph 55 (c) of the concluding observations

13. The Federal Office for Migration and Refugees (BAMF) deploys specially-commissioned case-officers for particularly vulnerable groups of individuals, including victims of torture. These case officers receive special training and are particularly aware of the special needs, concerns, and hardships of vulnerable persons. The Istanbul Protocol forms part of their training curriculum and also is a component of the general training provided to all decision-making officers. The BAMF has developed a concept for identifying particularly vulnerable persons, including victims of torture.

14. The Länder provide physical and mental healthcare as needed and are also responsible for providing accommodation and care.