

## GERMANY

### Follow-up - State Reporting

#### i) Action by Treaty Bodies

CAT, A/60/44 (2005)

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#### CHAPTER IV. FOLLOW-UP ON RECOMMENDATIONS AND OBSERVATIONS ON STATES PARTIES REPORTS

115. At its thirtieth session, in May 2003, the Committee began a routine practice of identifying, at the end of each set of concluding observations, a limited number of recommendations that are of a serious nature and warrant a request for additional information following the dialogue with the State party concerning its periodic report. The Committee identifies conclusions and recommendations regarding the reports of States parties which are serious, can be accomplished in a one-year period, and are protective. The Committee has requested those States parties reviewed since the thirtieth session of the Committee to provide the information sought within one year.

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118. The Rapporteur has welcomed the follow-up information provided by six States parties as of 20 May 2005, when its thirty-fourth session concluded, indicating the commitment of the States parties to an ongoing process of dialogue and cooperation aimed at enhancing compliance with the requirements of the Convention. The documentation received will be given a document number and made public. The Rapporteur has assessed the responses received particularly as to whether all of the items designated by the Committee for follow-up (normally between three and five issues) have been addressed, whether the information provided is responsive, and whether further information is required.

119. With regard to the States parties that have not supplied the information requested, the Rapporteur will write to solicit the outstanding information. The chart below details, as of 20 May 2005, the conclusion of the Committee's thirty-fourth session, the status of follow-up replies to concluding observations since the practice was initiated. As of that date, the replies from seven States parties remained outstanding.

120. As the Committee's mechanism for monitoring follow-up to concluding observations was established in May 2003, this chart describes the results of this procedure from its initiation until the close of the thirty-fourth session in May 2005.

<u>State party</u>	<u>Date due</u>	<u>Date reply received</u>	<u>Further action taken/required</u>
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Germany	May 2005		State party requested an extension of the deadline to
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30 June 2005

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## CAT, A/61/44 (2006)

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### CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

38. In Chapter IV of its annual report for 2004-2005 (A/60/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2005. This chapter updates the Committee's experience to 19 May 2006, the end of its thirty-sixth session.

39. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2006 on the results of the procedure.

40. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment," as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

41. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. Such "follow-up" recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its "follow-up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' report under article 19.

42. Since the procedure was established at the thirtieth session in May 2003 through the end of the thirty-sixth session in May 2006, the Committee has reviewed 39 States for which it has identified follow-up recommendations. Of the 19 States parties that were due to have submitted their follow-up reports to the Committee by 1 May 2006, 12 had completed this requirement (Argentina, Azerbaijan, Czech Republic, Colombia, Germany, Greece, Latvia, Lithuania, Morocco, New Zealand, United Kingdom, and Yemen). As of May, seven States had failed to supply follow-up information that had fallen due (Bulgaria, Cambodia, Cameroon, Chile, Croatia, Moldova, Monaco), and each was sent a reminder of the items still outstanding and requesting them to submit information to the Committee.

43. With this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

44. The Rapporteur has expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all of the items designated by the Committee for follow-up (normally between three to six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Where further information is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she writes to solicit the outstanding information.

45. Each letter responds specifically and in detail to the information presented by the State party, which is given a formal United Nations document symbol number.

46. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues not addressed but which are deemed essential in the Committee's ongoing work in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

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48. The chart below details, as of 19 May 2006, the end of the Committee's thirty-sixth session, the state of the replies with respect to follow-up.

#### **A. Follow-up reply due before 1 May 2006**

State party	Date due	Date reply received	Document symbol number	Further action taken/required
...				
Germany	May 2005	4 August 2005	CAT/C/CR/32/7/RESP/1	
...				

## **CAT, A/62/44 (2007)**

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### **IV. FOLLOW UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS**

46. In Chapter IV of its annual report for 2005 2006 (A/61/44), the Committee described the framework that it had developed to provide for follow up subsequent to the adoption of the conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2006. This chapter updates the Committee's experience to 18 May 2007, the end of its thirty eighth session.

47. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2007 on the results of the procedure.

48. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

49. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. Such "follow up" recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its "follow up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

50. Since the procedure was established at the thirtieth session in May 2003, through the end of the thirty eighth session in May 2007 the Committee has reviewed 53 States for which it has identified follow up recommendations. Of the 39 States parties that were due to have submitted their follow up reports to the Committee by 18 May 2007, 25 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Germany, Greece, Latvia, Lithuania, Monaco, Morocco, New Zealand, Qatar, Sri Lanka, Switzerland, United Kingdom and Yemen). As of 18 May, 14 States had not yet supplied follow up information that had fallen due (Bulgaria, Bosnia and Herzegovina, Cambodia, Cameroon, Democratic Republic of the Congo, Georgia, Guatemala,

Republic of Korea, Moldova, Nepal, Peru, Togo, Uganda and United States of America). In March 2007, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow up information was due in November 2006, but had not yet been submitted, and who had not previously been sent a reminder.

51. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report (A/61/44). However, only 4 (Austria, Ecuador, Qatar and Sri Lanka) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. While comparatively few States had replied precisely on time, 19 of the 25 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

52. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

53. The Rapporteur has expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she writes to solicit the outstanding information.

54. At its thirty eighth session in May, the Committee decided to make public the Rapporteur's letters to the States parties. These would be assigned a United Nations document symbol number and placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies (these symbol numbers are under consideration) to the follow up and also place them on its website.

55. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill treatment.

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57. The chart below details, as of 18 May 2007, the end of the Committee's thirty eighth session, the state of the replies with respect to follow up.

**Follow up procedure to conclusions and recommendations from May 2003 to May 2007**

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**Thirty second session (May 2004)**

<b>State party</b>	<b>Information due in</b>	<b>Information received</b>	<b>Action taken</b>
...			
Germany	May 2005	4 August 2005 CAT/C/CR/32/7/RESP/1	Request for further clarification
...			

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#### **CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS**

46. In this chapter, the Committee updates its findings and activities that follow-up on the conclusions and recommendations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on Follow-Up to Country conclusions. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated to through May 2008, following the Committee's fortieth session.

47. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2008.

48. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2008 on the results of the procedure.

49. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

50. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

51. Since the procedure was established at the thirtieth session in May 2003, through the end of the fortieth session in May 2008, the Committee has reviewed 67 States for which it has identified follow-up recommendations. Of the 53 States parties that were due to have submitted

their follow-up reports to the Committee by 16 May 2008, 33 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Bosnia and Herzegovina, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Republic of Korea, Latvia, Lithuania, Monaco, Morocco, Nepal, New Zealand, Qatar, Russian Federation, Sri Lanka, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America and Yemen). As of 16 May, 20 States had not yet supplied follow-up information that had fallen due (Bulgaria, Burundi, Cambodia, Cameroon, Democratic Republic of the Congo, Denmark, Guyana, Italy, Japan, Luxembourg, Mexico, Moldova, the Netherlands, Peru, Poland, South Africa, Tajikistan, Togo, Uganda and Ukraine). In March 2008, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow-up information was due in November 2007, but had not yet been submitted, and who had not previously been sent a reminder.

52. The Rapporteur noted that 14 follow-up reports had fallen due since the previous annual report.<sup>3</sup> However, only 2 (Hungary and the Russian Federation) of these 14 States had submitted the follow-up information in a timely manner. Despite this, she expressed the view that the follow-up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow-up to the review of the periodic reports. While comparatively few States had replied precisely on time, 25 of the 33 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non-governmental organizations, many of whom had also encouraged States parties to submit follow-up information in a timely way.

53. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

54. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

55. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

56. Since the recommendations to each State party are crafted to reflect the specific situation

in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

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58. The chart below details, as of 16 May 2008, the end of the Committee's fortieth session, the state of the replies with respect to follow-up.

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3/ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 44 (A/62/44).*

**Follow-up procedure to conclusions and recommendations  
from May 2003 to May 2008**

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**Thirty-second session (May 2004)**

State party	Information due in	Information received	Action taken
...			
Germany	May 2005	4 August 2005 CAT/C/CR/32/7/RESP/1	Request for further clarification
...			

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**CAT, A/64/44 (2009)**

#### **IV. FOLLOW UP ON CONCLUDING OBSERVATIONS ON STATES PARTIES REPORTS**

53. In this chapter, the Committee updates its findings and activities that follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on follow-up to concluding observations. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated through 15 May 2009, following the Committee's forty-second session.

54. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2009.

55. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2009 on the results of the procedure.

56. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and ill-treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

57. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

58. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-second session in May 2009, the Committee has reviewed 81 States for which it has identified follow up recommendations. Of the 67 States parties that were due to have submitted their follow up reports to the Committee by 15 May 2009, 44 had completed this requirement. As of 15 May 2009, 23 States had not yet supplied follow up information that had fallen due. The

Rapporteur sends reminders requesting the outstanding information to each of the States whose follow up information was due, but had not yet been submitted, and who had not previously been sent a reminder. The status of the follow-up to concluding observations may be found in the web pages of the Committee (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

59. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report. However, only 4 (Algeria, Estonia, Portugal and Uzbekistan) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. One State party (Montenegro) had already submitted information which was due only in November 2009. While comparatively few States had replied precisely on time, 34 of the 44 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

60. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

61. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she requests the outstanding information.

62. At its thirty eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow up and also place them on its website (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

63. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill treatment.

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65. The chart below details, as of 15 May 2009, the end of the Committee's forty-second session, the state of the replies with respect to follow up.

### **Follow-up procedure to conclusions and recommendations from May 2003 to May 2009**

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#### **Thirty-second session (May 2004)**

<b>State party</b>	<b>Information due in</b>	<b>Information received</b>	<b>Action taken</b>
...			
Germany	May 2005	4 August 2005 CAT/C/CR/32/7/RESP/1	Request for further clarification
		27 September 2008 CAT/C/CR/32/7/RESP/2	Response under review
...			

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**Chapter IV. Follow-up to concluding observations on States parties' reports**

65. In this chapter, the Committee updates its findings and activities that constitute follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the procedure established on follow-up to concluding observations. The follow-up responses by States parties, and the activities of the Rapporteur for follow-up to concluding observations under article 19 of the Convention, including the Rapporteur's views on the results of this procedure, are presented below. This information is updated through 14 May 2010, the end of the Committee's forty-fourth session.

66. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. In that report and each year thereafter, the Committee has presented information on its experience in receiving information on follow-up measures taken by States parties since the initiation of the procedure in May 2003.

67. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. In November 2009 and May 2010, the Rapporteur presented a progress report to the Committee on the results of the procedure.

68. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific measures to prevent acts of torture and ill-treatment. Thereby, the Committee assists States parties in identifying effective legislative, judicial, administrative and other measures to bring their laws and practice into full compliance with the obligations set forth in the Convention.

69. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information within one year. Such follow-up recommendations are identified because they are serious, protective and are considered able to be accomplished within one year. The States parties are asked to provide information within one year on the measures taken to give effect to the follow-up recommendations. In the concluding observations on each State party report, the recommendations requiring follow-up within one year are specifically identified in a paragraph at the end of the concluding observations.

70. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-fourth session in May 2010, the Committee has reviewed 95 reports from States parties for which it has identified follow-up recommendations. It must be noted that periodic reports of Chile, Latvia, Lithuania and New Zealand have been examined twice by the Committee since the establishment of the follow-up procedure. Of the 81 States parties that were due to have submitted their follow-up reports to the Committee by 14 May 2010, 57 had completed this

requirement. As of 14 May 2010, 24 States had not yet supplied follow-up information that had fallen due: Republic of Moldova, Cambodia, Cameroon, Bulgaria, Uganda, Democratic Republic of the Congo, Peru, Togo, Burundi, South Africa, Tajikistan, Luxembourg, Benin, Costa Rica, Indonesia, Zambia, Lithuania (to the 2009 concluding observations), Chad, Chile, Honduras, Israel, New Zealand, Nicaragua and the Philippines.

71. The Rapporteur sends reminders requesting the outstanding information to each of the States for which follow-up information is due, but not yet submitted. The status of the follow-up to concluding observations may be found in the web pages of the Committee at each of the respective sessions. As of 2010, the Committee has established a separate web page for follow-up (<http://www2.ohchr.org/english/bodies/cat/follow-procedure.htm>).

72. Of the 24 States parties that did not submit any information under the follow-up procedure as of 14 May 2010, non-respondents came from all world regions. While about one-third had reported for the first time, two-thirds were reporting for a second, third or even fourth time.

73. The Rapporteur expresses appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

74. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties which are posted on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website.

75. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

76. Among the Rapporteur's activities in the past year, have been the following: attending the inter-committee meetings in Geneva where follow-up procedures were discussed with members from other treaty bodies, and it was decided to establish a working group on follow-up; addressing the Committee on the Elimination of Discrimination against Women at its August 2009 meeting in New York concerning aspects of the follow-up procedure; assessing responses

from States parties and preparing follow-up letters to countries as warranted and updating the information collected from the follow-up procedure.

77. Additionally, the Rapporteur initiated a study of the Committee's follow-up procedure, beginning with an examination of the number and nature of topics identified by the Committee in its requests to States parties for follow-up information. She reported to the Committee on some preliminary findings, in November 2009 and later in May 2010, and specifically presented charts showing that the number of topics designated for follow-up has substantially increased since the thirty-fifth session. Of the 87 countries examined as of the forty-third session (November 2009), one to three paragraphs were designated for follow-up for 14 States parties, four or five such topics were designated for 38 States parties, and six or more paragraphs were designated for 35 States parties. The Rapporteur drew this trend to the attention of the members of the Committee and it was agreed in May 2010 that, whenever possible, efforts would henceforth be made to limit the number of follow-up items to a maximum of five paragraphs.

78. The Rapporteur also found that certain topics were more commonly raised as a part of the follow up procedure than others. Specifically, for all State parties reviewed since the follow-up procedure began, the following topics were most frequently designated:

Ensure prompt, impartial and effective investigation(s)	76 per cent
Prosecute and sanction persons responsible for abuses	61 per cent
Guarantee legal safeguards	57 per cent
Enable right to complain and have cases examined	43 per cent
Conduct training, awareness-raising	43 per cent
Ensure interrogation techniques in line with the Convention	39 per cent
Provide redress and rehabilitation	38 per cent
End gender-based violence, ensure protection of women	34 per cent
Ensure monitoring of detention facilities/visit by independent body	32 per cent
Carry out data collection on torture and ill-treatment	30 per cent
Improve condition of detention, including overcrowding	28 per cent

79. In the correspondence with States parties, the Rapporteur has noted recurring concerns which are not fully addressed in the follow-up replies and her concerns (illustrative, not comprehensive) have been included in prior annual reports. To summarize them, she finds there is considerable value in having more precise information being provided, e.g. lists of prisoners, details on deaths in detention and forensic investigations.

80. As a result of numerous exchanges with States parties, the Rapporteur has observed that there is need for more vigorous fact-finding and monitoring in many States parties. In addition, there is often inadequate gathering and analysing of police and criminal justice statistics. When the Committee requests such information, States parties frequently do not provide it. The Rapporteur further considers that conducting prompt, thorough and impartial investigations into allegations of abuse is of great protective value. This is often best undertaken through unannounced inspections by independent bodies. The Committee has received documents, information and complaints about the absence of such monitoring bodies, the failure of such bodies to exercise independence in carrying out their work or to implement recommendations for

improvement.

81. The Rapporteur has also pointed to the importance of States parties providing clear-cut instructions on the absolute prohibition of torture as part of the training of law-enforcement and other relevant personnel. States parties need to provide information on the results of medical examinations and autopsies, and to document signs of torture, especially including sexual violence. States parties also need to instruct personnel on the need to secure and preserve evidence. The Rapporteur has found many lacunae in national statistics, including on penal and disciplinary action against law-enforcement personnel. Accurate record keeping, covering the registration of all procedural steps of detained persons, is essential and requires greater attention. All such measures contribute to safeguard the individual against torture or other forms of ill-treatment, as set forth in the Convention.

82. The chart below details, as of 14 May 2010, the end of the Committee's forty-fourth session, the replies with respect to follow-up. This chart also includes States parties' comments to concluding observations, if any.

#### **Follow-up procedure to concluding observations from May 2003 to May 2010**

...

#### **Thirty-second session (May 2004)**

<b>State party</b>	<b>Information due in</b>	<b>Information received</b>	<b>Action taken</b>
...			
Germany	May 2005	4 August 2005 CAT/C/CR/32/7/RESP/1	Request for further clarifications
		27 September 2008 CAT/C/CR/32/7/RESP/2	Information under review
...			

## **Follow-up - State Reporting**

### **ii) Action by State Party**

#### **CAT CAT/C/CR/32/7/RESP/1 (2005)**

#### Comments by the Government of Germany to the conclusions and recommendations of the Committee against Torture

[4 August 2005]

1. The Committee examined the third periodic report of the Federal Republic of Germany (CAT/C/9/Add.4) at its 600th and 603rd meetings (CAT/C/SR.600 and 603), which were held on 7 and 10 May 2004, and adopted its conclusions and recommendations (CAT/C/CR/32/7) on 11 June 2004. In paragraph 6 of the conclusions and recommendations the Committee requested that the Federal Republic of Germany to provide information in response to the recommendations in paragraph 5 (a), (b), (e), and (f) within one year. The Federal Republic of Germany herewith submits the following statement.

#### Preliminary remarks

2. The Committee's conclusions and recommendations were provided to the competent federal ministries and the federal Länder in both the original version and in German translation. They are available together with the third periodic report of the Federal Republic of Germany in German on the Internet site of the Federal Ministry of Justice ([www.bmj.bund.de](http://www.bmj.bund.de)).

3. The German Institute for Human Rights conducted a follow-up event to the Committee's conclusions and recommendations on 1 November 2004. In addition to representatives from the responsible federal ministries, employees of the German Government Representative for Migration, Refugees and Integration (Beauftragte der Bundesregierung für Migration, Flüchtlinge und Integration), the Office of the United Nations High Commissioner for Refugees (UNHCR), and non-governmental organizations such as Amnesty International, PRO ASYL and Action by Christians for the Abolition of Torture (ACAT) Germany also participated in these expert discussions.

4. The Committee's conclusions and recommendations concerning the third periodic report of the Federal Republic of Germany were addressed by the German Bundestag's Committee for Human Rights and Humanitarian Aid at its meeting on 10 November 2004 together with additional recommendations from United Nations committees.

#### Recommendation in section D paragraph 5 (a)

5. The Committee recommends that the Federal Republic of Germany

"(a) ... take all appropriate measures to ensure that criminal complaints lodged against its law enforcement authorities are resolved expeditiously, in order to resolve

such allegations promptly and avoid any possible inference of impunity, including in cases where counter-charges are alleged;"

6. In its responses to the Committee's questions regarding the third periodic report, the Federal Government has previously stated that the, at times, long duration of investigation and prosecution proceedings against public officials is not due to a fundamental structural defect regarding criminal prosecution in Germany, but rather, to the cumulation of problems specific to the individual cases.

7. Of the approximately 100 cases of ill-treatment that were compiled by NGOs (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 time periods 1998-2003 and 2000-2003 respectively, the first instance was concluded in 69 cases by May 2004. In 15 of these cases, there were criminal convictions with the imposition of fines or imprisonment as punishment.

8. However, the Federal Government does not ignore that, in addition to the many cases in which the activities of the law enforcement authorities cannot be criticized, investigation and criminal proceedings also exist that in part are concluded only after a significant amount of time, without the reason therefore being comprehensible based on the steps in the proceeding. Although in many cases difficulties regarding proof are also responsible for this, awareness of the problem by the criminal prosecution authorities and the courts must be increased in regard to the fact that the responsible authorities must be held accountable as quickly as possible for their actions concerning such crimes.

9. The responsible federal ministries and the federal Länder (which are responsible for the organization of the police, public prosecution offices, and the courts), therefore, were informed of the Committee's recommendation and required to work towards the criminal prosecution authorities proceeding resolutely when grounds for ill-treatment or attacks by civil servants become known.

10. In this respect, the Federal Government especially pointed out the following aspects:

(a) If these civil servants are brought before the court based upon their acts or omissions, the unequivocal message is sent that such behaviour is not tolerated. This message has a considerable deterrent effect and, in addition, the public is assured by it that no one is above the law, not even those who are responsible for upholding the law;

(b) Disciplinary offences by the affected civil servants should also be examined on a regular basis;

(c) The fight against cases of ill-treatment must begin within the affected departments. Positive measures are required for this through training and exemplary behaviour to promote a culture in which ill-treatment and attacks are not tolerated and are viewed as unacceptable;

(d) The courts, of course, are independent and, thus, within the framework of the

legally prescribed parameters can freely decide on a penalty in each specific case. However, even the most effective criminal law examination has limited usefulness if the punishment imposed is insufficient in regard to the ill-treatment upon which it is based. If ill-treatment is proven, a reasonable punishment must be imposed. Similarly, sanctions imposed after the establishment of a disciplinary offence should also be reasonable in regard to the seriousness of the case;

(e) Finally, the competent federal ministries and the federal Länder have also been notified of the 14th General Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) of 21 September 2004. In the chapter "Combating Impunity" the CPT likewise thoroughly addresses the problems raised by the Committee in this recommendation. Federal departments and the federal Länder were sent a German translation of this chapter.

#### Recommendation in section D paragraph 5 (b)

11. The Committee recommends that the Federal Republic of Germany

"(b) ... create a central point to assemble relevant nationwide statistical data and information on areas covered by the Convention, request such data and information from the Länder authorities or undertake such other measures as may be necessary to ensure that the State party's authorities, as well as the Committee, are fully apprised of these details when assessing the State party's compliance with its obligations under the Convention;"

12. The Federal Government is working to comply with this recommendation by an expansion of the existing statistical collection system, particularly in order to make meaningful numbers available regarding the problem of claims of ill-treatment by public officials.

13. A variety of statistics exist in the Federal Republic of Germany that deal with the activities of public prosecution offices and courts, as well as with pending and concluded proceedings. To a large extent it involves the following:

(a) Police crime statistics. In the police crime statistics published at the federal level by the Federal Criminal Police Office, crimes handled by the police, including attempts that carry a criminal penalty, are registered. Administrative offences, security-related offences, and traffic offences are not contained therein. The attributes collected are "cases", "suspects", and - as to certain offences - "victims". The police crime statistics, however, currently do not differentiate among groups of offenders (e.g., police officers or teachers as to bodily injury in the discharge of duties pursuant to section 340 Criminal Code (StGB));

(b) Public prosecution office statistics. The public prosecution office statistics are maintained by the individual public prosecution offices and annually published at the national and Länder level by the Federal Statistical Office. They contain data regarding the completion of cases by the public prosecution offices and differentiate among a variety of attributes, such as, e.g. form of initiation, form of conclusion, and duration of proceedings. The conclusion of

investigation proceedings, on the one hand, is evaluated in relation to the proceedings and, on the other hand, in relation to the person as to individual suspects. Since 2004 the subject area: "Proceedings against judicial employees, judges, notaries, other public officials, and attorneys based upon criminal acts in connection with the exercise of their profession (not including corruption offences)" has been included in the catalogue of subject area keys and, accordingly, statistically collected;

(c) Judicial business statistics. The judicial business statistics of the criminal courts are maintained by the various court instances and published annually at the national and L änder levels by the Federal Statistical Office. They contain data regarding the amount and conclusion of criminal proceedings and monetary fine proceedings. As to the proceedings concluded, the form of initiation and completion, along with the number and duration of main hearings and the duration of the entire proceedings are described. Since reporting year 2004, elements of the crime have been included in the data collection cards according to a key based on subject matter that offers 30 options for thematically categorizing a proceeding. However, neither suspects nor prosecuting parties are more specifically classified in the statistics. Since 2004 the subject area: "Proceedings against judicial employees, judges, notaries, other public officials, and attorneys based upon criminal acts in connection with the exercise of their profession (not including corruption offences)" has been included in the catalogue of subject area keys and, accordingly, statistically collected;

(d) Criminal prosecution statistics. The criminal prosecution statistics published by the Federal Statistical Office include all defendants against whom a final order of summary punishment or a criminal proceeding was finally concluded after initiation of the main proceeding by a judgement or issuance of an order suspending the proceedings. Administrative violations, decisions prior to the opening of the main proceedings, and decisions after the judgement has become final are not included in the statistics. The information for the criminal prosecution statistics are ascertained by the Land statistics agencies and compiled by the Federal Statistical Office to produce national results.

14. The Federal Government takes into account the Committee's recommendation in a first step within the framework of the introduction of the new police crime statistics, which, however, cannot take place before 1 January 2006. In contrast to the current system, the new police crime statistics will contain additional criminal offence keys. Thus, for example, as to the elements of the crime of bodily injury in public office (sect. 340 StGB), inclusion of the location of the offence is also intended. Through specification according to location "public building/police" or "public building/prison" it will be possible to garner more information from the numbers regarding section 340 StGB as to the offender groups.

15. As to a modification or expansion of the criminal prosecution statistics and the judicial business statistics, the Federal Government relies upon the participation of the L änder. The Committee for Judicial Statistics of the Land Justice Administrations, a subcommittee of the Conference of Justice Ministers, decides on modifications. The Federal Ministry of Justice participates in the annual meetings and has a right of recommendation, however, no authority to vote. To the extent the committee agrees with a particular recommendation, the modifications to the data collection card instructions at issue can be implemented at the earliest from the

second year after the resolution.

Recommendation in section D paragraph 5 (e)

16. The Committee recommends that the Federal Republic of Germany

"(e) ... provide the Committee with details on how many cases of extradition or removal subject to receipt of diplomatic assurances or guarantees have occurred since 11 September 2001, what the State party's minimum requirements are for the content of such assurances or guarantees and what measures of subsequent monitoring it has undertaken in such cases;"

(a) Preliminary remarks. Retrospective ascertainment of diplomatic assurances or guarantees in all extradition cases since 11 September 2001 is not possible based upon the large number of extradition cases. This is because several hundred extradition cases in regard to non EU States alone are handled each year by the Federal Ministry of Justice. Of these, in each of 2002 and 2003 between 80 and 90 extraditions to non-EU States were approved. However, no significant statistical anomalies have been observed in comparison to the years prior to 11 September 2001. In order to provide the Committee with a current picture of the Federal Republic of Germany's approach in regard to the minimum requirements for diplomatic assurances or guarantees as to extraditions, in subsection (c) below April and May 2005 are described as examples;

(b) Distinction between EU States and non-EU States. In principle, there is a distinction between extraditions to States members of the European Union and extraditions to non-EU States. As to extraditions to States members of the European Union, no particular guarantees are required. If a specific extradition treaty exists with a non-EU State, some guarantees are already generally established, so that additional assurances are required or conditions applied only in exceptional cases. Germany has concluded specific extradition treaties with four non-EU States. In dealings with other States, the European Convention on Extradition from 1957 or the German-British Treaty on Extradition from 1872 apply. As to extradition matters with non-EU States without a treaty, the Federal Republic of Germany requires concrete assurances when appropriate in the individual case;

(c) Minimum requirements for diplomatic assurances or guarantees as to non-EU States. The approach taken by the Federal Republic of Germany in regard to the minimum requirements for diplomatic assurances or guarantees in extradition matters is described below on the basis of April and May 2005. During this time period a total of 18 extradition authorizations were granted to non-EU States. Of those, in 10 extradition cases assurances were obtained regarding detention conditions. The contents of the assurances differed depending on whether or not the requesting State had signed the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). In the first case, it is required that the extradited person be housed in a detention facility that comports with the requirements of the ECHR and the European prison rules/minimum rules for the treatment of prisoners dated 12 February 1987. Otherwise, Germany requires an assurance that after his transfer the person is housed in a detention facility that meets or exceeds the United Nations "Standard Minimum Rules for the Treatment of Prisoners." To the extent necessary, an

assurance is demanded that German consular officials can visit the extradited person in the detention facility. In extradition matters not governed by treaty, the Federal Republic of Germany requires assurances:

- (i) That the person will only be punished, subjected to a limitation of his personal freedom, or prosecuted by measures that could only take place in his presence as to which the extradition was approved;
- (ii) That he can only be further delivered, transferred, or deported to another country in agreement with Germany;
- (iii) That a court proceeding will be conducted that accords with international standard conditions and fundamental requirements of human rights;
- (iv) That the punishment expected will not be increased based upon political, military, or religious grounds; and
- (v) That the time spent in extradition detention will be accounted for in the punishment.

To the extent necessary in an individual case, the Federal Republic of Germany insists on the assurance that the death penalty will not be imposed on the person after the extradition or, in the event it was imposed, that it will not be carried out. The Federal Republic of Germany requires the assurance in written form as an official statement of the government of the requesting State. The Federal Republic of Germany is in a position to ensure these assurances through embassy and consular personnel. Possibilities include, for example, participation in court hearings as an observer and visits to the detention facilities;

(d) Diplomatic assurances or guarantees in cases of deportation. As to deportations, assurances and guarantees of treatment comporting with human rights only come under consideration in connection with the removal of impediments to deportation and only in certain combinations. The requirements of such diplomatic assurances in cases of deportation are not abstractly established, but rather, depend upon the individual matter. With one exception, since 11 September 2001 there have not been any cases of deportation in which diplomatic assurances were required.

Recommendation in section D paragraph 5 (f)

17. The Committee recommends that the Federal Republic of Germany

"(f) ... clarify for the Committee (i) whether all complaint facilities and avenues of legal redress (including State assumption of responsibility for the acts of its agents) that are available against members of the law enforcement authorities are applicable to the employees of private security companies engaged by the State party; and (ii) what kind of training is provided to such employees on issues arising under the Convention;"

18. In written question No. 7 presented before the presentation of the Republic of Germany's third periodic report and with additional questions at the 600th meeting on 7 May 2004, the Committee requested information about the accommodations for asylum-seekers at the Frankfurt am Main airport. Thereupon, in section C paragraph 4 (e) of its conclusions and recommendations, the Committee expressed its concern regarding the legal controls over and training of private security companies that are used to provide security at certain detention facilities at the Frankfurt am Main airport. The recommendation in section D paragraph 5 (f) is based upon this.

19. The Federal Government correspondingly limits itself in its statement to the accommodations for asylum-seekers ("Hessian initial intake facility") at the Frankfurt am Main airport. The Federal Government is not aware of other State institutions in which private security companies are employed in a similar way.

#### Tasks and activities of the security company

20. The private security company active at the Hessian initial intake facility at the Frankfurt am Main airport was commissioned by the federal Land of Hesse on its own authority. The Federal Government did not exert any influence over this. The security company was carefully selected by the federal Land of Hesse. The federal Land of Hesse imposed conditions on the company from the outset and set requirements that had to be fulfilled in order for it to be allowed to exercise the activities. It was made clear that the Hessian initial intake facility at the Frankfurt am Main airport was a sensitive facility with a special status and that the personnel had to act accordingly. These requirements were fulfilled by the company commissioned. The personnel were consciously made up of persons of different nationalities. Written instructions govern the authorities and responsibilities of the employees and establish that only general supervisory functions (e.g., control and accompaniment of visitors, telephone service, inspection rounds in the accommodations area) could be undertaken. The employees of the security company are unarmed and wear regular uniforms.

21. The operations are separated into two shifts: a day shift from 7:00-19:00 with three guards, including a woman, and a night shift from 19:00-7:00 with two guards and a female service employee for care activities. This guarantees that gender-specific needs are taken into account.

22. In addition, the Land of Hesse is represented by its own personnel at the airport accommodations. This includes four trained social workers who guarantee continuous care of the persons housed there. Further, the asylum-seekers are provided medical and pastoral care.

23. During the day the security firm is supervised by the social workers present. After this, unannounced inspections take place at irregular intervals by both the supervisors of the employees as well as the head of the facility (Land employee).

24. Both as to functional matters as well as to disciplinary ones, the private security workers are also under the authority of the head of the Hessian initial intake facility at the Frankfurt am Main airport, so that at all times it is guaranteed that the security services are properly carried

out.

25. The agreement between the federal Land of Hesse and the security company also governs qualitative requirements for the security personnel. This particularly includes that the employees are specially trained for their duties in the sensitive area of the initial intake facility. Possibilities for legal redress against employees of the security company

26. In the case of violations of duty or attacks by employees of the security company, they will be held accountable under criminal law. The protection of the standards of general criminal law are available to the persons affected, as is true in other cases as well. To the extent employees of the security company commit criminal acts, e.g. bodily harm or coercion, against inmates of the Hessian initial intake facility at the Frankfurt am Main airport, they have the possibility of initiating a criminal prosecution regarding the offence by the public prosecution office through filing for criminal prosecution or filing a report of a crime. If filing for prosecution is not necessary pursuant to the Criminal Code, a criminal law investigation will be initiated ex officio by the public prosecution office.

27. In the assessment of the Federal Government, those belonging to the private security company active at the Hessian initial intake facility at the Frankfurt am Main airport are not public officials within the meaning of section 11 subsection (1) of the Criminal Code (StGB). However, this only has the consequence that the special offences of crimes in public office (sects. 331 et seq. StGB) are inapplicable. However, since, as stated above, the Criminal Code is otherwise applicable without limitation, there is no deficiency regarding criminal prosecutions.

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**CAT, CAT/C/DEU/CO/3/Add.1 (2007)**

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

[25 September 2007]

**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, either 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

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\* 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