



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

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Committee against Torture

List of issues prior to submission of the seventh periodic report of Germany*

Specific information on the implementation of articles 1–16 of the Convention, including with regard to the Committee’s previous recommendations

Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations,¹ the Committee requested the State party to provide information on follow-up to the Committee’s recommendations on the National Agency for the Prevention of Torture, investigation of violence against asylum seekers and migrants, and training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) (paras. 14, 31 (d) and 55 (c), respectively). Noting that replies concerning the information sought by the Committee were provided on 20 July 2020,² and with reference to the letter dated 4 September 2020 from the Committee’s Rapporteur for follow-up to concluding observations, the Committee considers that the recommendations included in paragraphs 14, 31 (d) and 55 (c) of the previous concluding observations have been partially implemented.

Articles 1 and 4

2. With reference to the Committee’s previous concluding observations,³ please indicate whether the State party’s criminal laws have been amended to criminalize torture as a specific offence that is consistent with article 1 of the Convention. Please also provide information on the measures taken to ensure that such acts are not subject to any statute of limitations.

Article 2⁴

3. In the light of the Committee’s previous concluding observations,⁵ please provide information on any measures taken by the State party during the reporting period to ensure that all persons who are arrested or detained are afforded, in practice, all fundamental legal

* Adopted by the Committee at its seventy-third session (19 April–13 May 2022).

¹ CAT/C/DEU/CO/6, para. 59.

² See CAT/C/DEU/FCO/6.

³ CAT/C/DEU/CO/6, paras. 9–10.

⁴ The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee’s general comment No. 2 (2007) on the implementation of article 2, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

⁵ CAT/C/DEU/CO/6, paras. 11–12.



safeguards against torture from the very outset of their deprivation of liberty. Please indicate the measures taken to monitor compliance by law enforcement officials with those safeguards, and any disciplinary measures taken since the consideration of the State party's previous periodic report against law enforcement officials who did not immediately allow persons deprived of their liberty to benefit from those safeguards.

4. Bearing in mind the Committee's previous concluding observations⁶ and the State party's follow-up replies,⁷ please provide information on the concrete measures that have been adopted to ensure that the National Agency for the Prevention of Torture is equipped with the necessary financial and personnel resources for the performance of its work. Please also provide information on the mechanism's activities and achievements with respect to the prevention of torture and ill-treatment during the period under review. In this regard, please include information about the steps taken by the State party in response to the recommendations made by the National Agency for the Prevention of Torture. Please further indicate the steps taken to ensure that the National Agency is given authority to publish the names of the privately run institutions that are visited, as well as the visit reports and respective statements made by the competent ministries.

5. Further to the Committee's previous concluding observations,⁸ please indicate whether the German Institute for Human Rights has been invited to monitor and evaluate the State party's compliance with the Convention. Please also provide information on the measures taken to ensure that the German Institute for Human Rights operates in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

6. With reference to the Committee's previous concluding observations,⁹ please provide information, disaggregated by age, sex and ethnicity or nationality of the victims, on the number of complaints, investigations, prosecutions and sentences recorded in cases of trafficking in persons since the consideration of the State party's previous periodic report. Please also provide information on the provision of redress to victims of trafficking during the reporting period, including data on the number of persons who benefited from protection and support measures for victims.

7. Please provide information on measures taken by the State party to combat all forms of violence against women and girls, including domestic violence, in particular with regard to cases involving the actions or omissions of State authorities or other entities that engage the State party's international responsibility under the Convention.¹⁰ Please also provide information on the protection and support services available to victims of gender-based violence. Please include statistical data on the number of complaints, investigations, prosecutions, convictions and sentences resulting from those complaints since the consideration of the State party's previous periodic report. Furthermore, please provide up-to-date information on the measures taken to prevent all forms of violence against women and to strengthen training programmes on the prosecution of gender-based violence for law enforcement officers and justice officials.

Article 3

8. Further to the Committee's previous concluding observations,¹¹ please provide information on the measures that have been taken to revise domestic legislation on refugees and asylum seekers to fulfil all the obligations under article 3 of the Convention. In this regard, please describe the measures taken during the period under review to ensure that, in practice, no person is returned to a country where that person would be in danger of torture.

⁶ Ibid., paras. 13–16.

⁷ CAT/C/DEU/FCO/6, paras. 2–8. See also letter dated 4 September 2020 from the Rapporteur for follow-up to concluding observations, available at https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/DEU/INT_CAT_FUL_DEU_43018_E.pdf.

⁸ CAT/C/DEU/CO/6, paras. 17–18.

⁹ Ibid., paras. 48–49.

¹⁰ CCPR/C/DEU/CO/7, paras. 16–17.

¹¹ CAT/C/DEU/CO/6, paras. 25–26.

Please indicate how the State party ensures effective access to refugee status determination procedures, especially since the beginning of the coronavirus disease (COVID-19) pandemic. Please indicate the measures taken to ensure compliance with procedural safeguards against refoulement. Please also indicate what measures have been taken to ensure that all persons in need of protection receive appropriate and fair treatment in all asylum procedures and that appeals under the accelerated deportation procedure have a suspensive effect¹² Please also provide information on the measures taken to identify persons in a situation of vulnerability, such as victims of torture or similar trauma, among asylum seekers in Germany and to ensure that their specific needs are fully taken into consideration and addressed in a timely manner.¹³ Please indicate whether individuals facing expulsion, return or extradition are informed of their rights to seek asylum and to appeal a decision authorizing an expulsion.¹⁴ Please provide information on how the State party ensures that asylum seekers have access to legal aid and interpretation services during the asylum procedure.¹⁵

9. Please provide information on the number of asylum applications received during the period under review, the number of successful applications and the number of asylum seekers whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin. Please provide updated information on the type of appeal mechanisms that exist, and on any appeals that have been made and their outcome. Please include information, disaggregated by sex, age and country of origin or receiving country, on the number of persons who have been returned, extradited or expelled since the consideration of the State party's previous report. Please provide details of the grounds on which they were sent back, including the list of countries to which individuals were returned. Please indicate whether the State party has put in place a mechanism to monitor the situation of individuals and groups in the countries to which they are returned.¹⁶

10. With reference to the Committee's previous concluding observations,¹⁷ please indicate the number of returns, extraditions and expulsions carried out by the State party during the reporting period after receiving diplomatic assurances, as well as the number of cases in which the State party has provided diplomatic assurances or guarantees. Please indicate the minimum required content of these assurances or guarantees, whether given or received, and the arrangements made for subsequent monitoring in these cases.

Articles 5–9

11. Bearing in mind the Committee's previous concluding observations,¹⁸ please provide information on any new legislation or measures that have been adopted to implement article 5 of the Convention. Please comment on information before the Committee that German authorities continued to investigate serious international crimes, including torture, related to the conflict in Iraq and the Syrian Arab Republic.¹⁹ Please inform the Committee of any extradition treaties concluded with other States parties and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties. Please describe the legislative and administrative measures taken by the State party to ensure that the Convention may be invoked as a legal basis for extradition in respect of the offences referred to in article 4 of the Convention when it receives an extradition request from a State with which it has no extradition agreement or treaty. Please indicate what measures have been adopted by the State party to comply with its obligation to extradite or prosecute (*aut dedere aut judicare*). In particular, please provide updated information on any changes in the State party's position with regard to the extradition or prosecution of persons suspected of crimes of torture in the *Colonia Dignidad* case in Chile. Please clarify what treaties or

¹² Ibid., paras. 25 (a)–(b) and 26 (a)–(b); and [CCPR/C/DEU/CO/7](#), paras. 38 (d) and 39 (d).

¹³ [CAT/C/DEU/CO/6](#), paras. 25 (d) and 26 (f); and [A/HRC/39/9](#), para. 155.254.

¹⁴ [CAT/C/DEU/CO/6](#), para. 26 (e).

¹⁵ [A/HRC/39/9](#), paras. 155.128 and 155.253.

¹⁶ Ibid., para. 155.121.

¹⁷ [CAT/C/DEU/CO/6](#), paras. 23–24, 42 and 46.

¹⁸ Ibid., paras. 19–22.

¹⁹ See Office of the United Nations High Commissioner for Human Rights, “German court’s historic crimes against humanity finding in Syria case must spur momentum for international justice – Bachelet”, 13 January 2022.

agreements on mutual legal and judicial assistance the State party has entered into, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment. Please provide examples.

Article 10

12. With reference to the Committee's previous concluding observations²⁰ and the State party's follow-up replies,²¹ please provide detailed information on the training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons on detecting the physical and psychological sequelae of torture, including whether they contain specific training with regard to the Istanbul Protocol. Please also indicate the number of training programmes delivered since the previous reporting period and whether they were of a voluntary or mandatory nature. Additionally, please provide updated information on educational programmes developed by the State party to ensure that all public officials, in particular law enforcement officials, military personnel, prison staff and medical personnel employed in places of detention, are fully aware of the provisions of the Convention and the absolute prohibition of torture, and know that breaches will not be tolerated and will be investigated, and that any offenders will be prosecuted. Please indicate whether law enforcement officials receive adequate training on the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.²² Please also provide details of the training programmes for police officers and other law enforcement officials on non-coercive investigation techniques. Please indicate whether the State party has developed a methodology to assess the effectiveness and impact of training and educational programmes in reducing the number of cases of torture and ill-treatment and, if so, please provide information on the methodology. Lastly, please also indicate the measures taken to give effect to the provisions of article 10 (2) of the Convention.

Article 11

13. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any interrogation rules, instructions, methods and practices or arrangements for custody, in particular those that may have been introduced or updated since the consideration of the State party's previous periodic report. Please indicate the frequency with which they are reviewed. Taking note of the Committee's previous concluding observations,²³ please indicate the steps taken to ensure that all law enforcement officials on duty are equipped with visible identification badges. Please also provide information on the measures taken to monitor and prevent racial profiling by law enforcement officials.²⁴

14. Please provide statistical data, disaggregated by sex, age and ethnic origin or nationality, on the number of pretrial detainees and convicted prisoners and the occupancy rate of all places of detention. Please describe the steps taken by the State party to reduce prison overcrowding and improve the material conditions in the Karlsruhe, Schwäbisch Hall and Tegel prisons. Please also provide information on measures taken to address concerns about deficiencies in access to appropriate mental health care in places of detention. In the light of the Committee's previous concluding observations,²⁵ please indicate whether the State party has taken measures to bring its legislation and practice on solitary confinement into line with international standards, such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). Please also provide information on the protocols that govern the use of restraint measures in prisons, psychiatric institutions and juvenile prisons and other detention centres.²⁶

²⁰ CAT/C/DEU/CO/6, paras. 52–55.

²¹ CAT/C/DEU/FCO/6, paras. 13–14. See also letter dated 4 September 2020 from the Rapporteur for follow-up to concluding observations.

²² CCPR/C/DEU/CO/7, para. 27.

²³ CAT/C/DEU/CO/6, paras. 38 and 40; and CCPR/C/DEU/CO/7, paras. 26–27.

²⁴ A/HRC/39/9, paras. 155.78 and 155.80–155.83; and CCPR/C/DEU/CO/7, paras. 12–13.

²⁵ CAT/C/DEU/CO/6, paras. 32–33; and CCPR/C/DEU/CO/7, paras. 32–33.

²⁶ CAT/C/DEU/CO/6, paras. 31 (b) and 34–35.

15. Please provide statistical data regarding deaths in custody during the period under review, disaggregated by place of detention, sex, age and ethnicity or nationality of the deceased persons and the cause of death. Please include information on the results of the investigations into those deaths and on the measures taken to prevent similar cases occurring in the future. Please indicate whether relatives received compensation in these cases. Please also provide information about the frequency of inter-prisoner violence and other violent incidents, including any cases involving negligence on the part of law enforcement personnel, the number of complaints made in this regard and their outcome.

16. With reference to the Committee's previous concluding observations,²⁷ please indicate the measures taken by the State party during the reporting period to ensure that the detention of asylum seekers and undocumented migrants is used only as a last resort, where necessary and for as short a period as possible, and to further implement alternatives to detention in practice. Please provide information on steps taken to ensure that asylum seekers and undocumented migrants held in immigration detention have access to an independent and effective mechanism for addressing complaints. Please indicate whether the State party has ended the practice of placing individuals awaiting deportation in prisons.²⁸

17. Please provide information on the number of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with intellectual or psychosocial disabilities, including care homes. Please also indicate the measures taken to reduce overcrowding in several psychiatric institutions to guarantee access to adequate treatment and respect for the privacy of patients. Please describe the steps taken to ensure that legislation relating to the application of means of restraint in psychiatric hospitals meet the requirements of the Federal Constitutional Court's ruling of 24 July 2018 in all Länder, in particular in Saarland, Thuringia, Berlin, Lower Saxony and Saxony-Anhalt. Please indicate what the situation is with respect to alternative forms of treatment, such as community-based rehabilitation services and other forms of outpatient treatment programmes.

Articles 12–13

18. Further to the Committee's previous concluding observations,²⁹ please provide updated statistical data, disaggregated by sex, age and ethnicity or nationality of the victims, on complaints of acts of torture, ill-treatment and excessive use of force recorded by the State authorities during the reporting period. Please provide information on all judicial and disciplinary proceedings initiated, convictions handed down, decisions to stay proceedings made, cases dropped and criminal penalties and disciplinary measures imposed. Please provide examples of relevant cases and judicial decisions. Please also provide information on the measures taken to establish, at the federal and Länder levels, independent bodies to investigate all complaints of police misconduct.³⁰

19. With reference to the previous concluding observations,³¹ please indicate whether the State party has completed the investigation into the alleged complicity of Germany in rendition and secret detention programmes of the Central Intelligence Agency of the United States of America between 2001 and 2008, which involved torture and ill-treatment of persons suspected of involvement in terrorism-related crimes. If so, please indicate the results of the investigation. Please also indicate the measures taken to ensure that those responsible are prosecuted, and that all victims are able to access a remedy and obtain redress.

Article 14

20. Taking note of the Committee's previous concluding observations,³² please provide information on redress and compensation measures, including the means of rehabilitation, ordered by the courts or other State bodies and actually provided to victims of torture or their families since the consideration of the State party's previous periodic report. Please include

²⁷ Ibid., paras. 27–31. See also [A/HRC/39/9](#), para. 155.254.

²⁸ [CCPR/C/DEU/CO/7](#), paras. 38 (c) and 39 (c).

²⁹ [CAT/C/DEU/CO/6](#), paras. 31 (d) and 37–40.

³⁰ [A/HRC/39/9](#), paras. 155.122 and 155.126.

³¹ [CAT/C/DEU/CO/6](#), paras. 42 and 46; and [CAT/C/DEU/CO/5](#), para. 26.

³² [CAT/C/DEU/CO/6](#), paras. 50–51.

the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. Please also provide information on any ongoing reparation programmes, including the treatment of trauma and other forms of rehabilitation, provided to victims of torture and ill-treatment, and on the material, human and budgetary resources allocated for their effective functioning. Please include information on any new measures taken by the State party during the reporting period to ensure funding is available in all Länder for rehabilitative services for victims of torture and ill-treatment.

Article 15

21. Please provide information on the specific measures that have been adopted to ensure respect in practice for the principle of the inadmissibility of evidence obtained through torture or ill-treatment. Please also provide examples of any cases that have been dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment.

Article 16

22. With reference to the Committee's previous concluding observations,³³ please provide information on any measures taken to combat racist and xenophobic attacks, including threats and acts of violence against refugees, asylum seekers and migrants. Please comment on reports of a rise in anti-Semitic crimes and crimes against Muslims.³⁴ Please indicate what concrete measures have been taken to ensure that all hate crimes are properly and promptly investigated and prosecuted.

Other issues

23. Further to the Committee's previous concluding observations,³⁵ please provide updated information on the measures taken by the State party to respond to the threat of terrorism. Please describe whether those measures have affected human rights safeguards in law and in practice and, if so, how they have affected them. Please also describe how the State party has ensured that counter-terrorism measures are compatible with all its obligations under international law, especially the Convention. Furthermore, please indicate what training is given to law enforcement officers in this area; the number of persons who have been convicted under legislation adopted to combat terrorism; the legal remedies and safeguards available in law and in practice to persons subjected to counter-terrorism measures; and whether there have been complaints of the non-observance of international standards and, if so, what the outcome was.

24. Given that the prohibition of torture is absolute and cannot be derogated from, including within the framework of measures related to states of emergency and other exceptional circumstances, please provide information on any steps taken by the State party during the COVID-19 pandemic to ensure that its policies and actions comply with its obligations under the Convention. In addition, please specify the measures taken in relation to persons deprived of their liberty and in other situations of confinement, such as in homes for the elderly, hospitals or institutions for persons with intellectual or psychosocial disabilities.

25. In the light of the Committee's previous concluding observations,³⁶ please provide information on court cases in which the Convention has been invoked or directly applied, and also on any measures taken to disseminate the Convention to all public authorities, including the judiciary.

³³ CAT/C/DEU/CO/6, para. 31 (f); CCPR/C/DEU/CO/7, paras. 10–11; A/HRC/39/9, paras. 155.245, 155.247–155.252 and 155.255.

³⁴ A/HRC/39/9, paras. 155.86 and 155.138.

³⁵ CAT/C/DEU/CO/6, paras. 41–47; CCPR/C/DEU/CO/7, paras. 14–15; and A/HRC/39/9, para. 155.118.

³⁶ CAT/C/DEU/CO/6, paras. 57–58.

General information on other measures and developments relating to the implementation of the Convention in the State party

26. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the State party's previous periodic report to implement the provisions of the Convention or the Committee's recommendations. Such measures may include institutional developments, plans or programmes. Please indicate the resources allocated and provide statistical data. Please also provide any other information that the State party considers relevant.
