



Bundesministerium  
der Justiz und  
für Verbraucherschutz

**Response by the Federal Government to the request for information sent by the Rapporteur of the Committee Against Torture (CAT) by letter of 11 June 2013 regarding the four concluding observations contained in paragraph 39 which were adopted in the context of the presentation of the fifth periodic report of the Federal Republic of Germany (CAT/C/DEU/5) by the UN Committee on Prevention of Torture on 18 November 2011 (1046th and 1047th meeting)**

**Berlin, 28 February 2014**

## Introduction

In a Note Verbale dated 26 November 2012 the Federal Government forwarded its response to the four concluding observations referred to in paragraph 39 (as contained in paragraphs 16, 24, 28 and 30) which were adopted in the context of the presentation of the fifth periodic report of the Federal Republic of Germany (CAT/C/DEU/5) by the UN Committee on Prevention of Torture on 18 November 2011.

The Committee's recommendations relate to regulating and restricting the use of physical restraints in all establishments, limiting the number of detained asylum-seekers, including the "Dublin cases", and ensuring mandatory medical checks of detained asylum-seekers, exercising jurisdiction in accordance with Article 5 of the Convention and providing information about the remedies including compensation provided to Mr Khaled El-Masri, and ensuring that members of the police in all *Länder* can be effectively identified and held accountable when implicated in ill-treatment.

In a letter dated 11 June 2013 the Rapporteur of the CAT-Committee requested further information in order to be able to assess progress made in regard to the aforementioned recommendations made by the Committee.

## General remarks

The Federal Government would first like to point out that the information requested regards developments after November 2011, the date of the most recent presentation of Germany's state report. While appreciating the Committee's efforts to follow up on the concluding observations, the Federal Government wishes to note that these developments and statistics would normally be reported to the Committee in the context of the next state report under the new procedure. Given Germany's federal structure, gathering the information requested "out of turn" constitutes a major additional burden on the institutions concerned and in fact almost amounts to an additional state report.

The legal standards and safeguards concerning the rights and guarantees contained in the Convention apply equally at the *Länder* and the federal level. Germany's legal system provides for the protection of human rights without distinction across the whole of the country. In the view of the Federal Government, additional measures to enforce the Convention in some of the *Länder* are, therefore, neither necessary nor indeed possible under the German constitution. The remaining differences as regards interpretation and implementation of certain aspects of detention – such as the use of *Fixierung* as a measure of last resort or the possibility of separating different groups of detainees – do not, in the view of the Federal Government, amount to violations of Convention rights. According to the German Basic Law, the Federal Government is not in a position to prescribe the means of implementing the Convention as long as there has been no violation.

## More specifically

### Physical Restraints (*Fixierung*) (paragraph 16)

The Committee appreciates the information provided that the practice of *Fixierung*, or using restraints to deprive detainees of the ability to move without help, has been completely abolished in a police context in many of the Länder.

- a) Please clarify in which of the Länder the practice of *Fixierung* continues to be used, and provide the Committee with data on the number of cases in which it has been used since November 2011, including any places of deprivation of liberty in which it was used.
- b) Please clarify whether the State party has changed its view on the possibility of fully implementing the recommendation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment that the State party ultimately abandon the practice of *Fixierung* in all non-medical settings at the Länder level.
- c) Please indicate what oversight mechanisms exist to monitor the use of *Fixierung* and other methods of restraint by police, in prisons, psychiatric hospitals, juvenile prisons, and in detention centers for foreigners, and
- d) indicate if any personnel have been subjected to disciplinary or criminal sanctions for improper use of physical restraints, including *Fixierung*, since November 2011.
- e) Please also provide information about training received by law enforcement and other personnel on the use of physical restraints.

The practice of *Fixierung* of detainees, in the sense of using restraints so that the person affected is unable to change the position in which they are sitting or lying down without help (compared to the mere fettering of arms and/or legs), is no longer used in police custody facilities in most of the Länder.

In some Länder this option is still available as the measure of last resort to stop detainees harming themselves or others (i.e. in Bremen, Hamburg, Lower Saxony, North Rhine-Westphalia, Saxony-Anhalt and Schleswig-Holstein). However, in such cases *Fixierung* is permissible only if the detainee is kept under constant observation.

A delegation of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT) carried out a visit in Germany from 25 November to 2 December 2013 to review implementation of the constitutional requirement of distance

between the execution of a prison sentence and preventive detention (*Abstandsgebot*) as well as the use of mechanical restraints (*Fixierung*).

In a letter dated 13 January 2014 the CPT forwarded in writing the preliminary observations which the Head of Delegation had presented at the closing meeting. As regards *Fixierung*, the CPT observed significant improvements. In most prisons visited, no or only very few instances of *Fixierung* had occurred in recent years; the criteria set out by the CPT in previous reports – in particular in regard to arrangements to ensure permanent and direct supervision by a member of staff (*Sitzwache*) – are being effectively implemented in practice.

In the field of psychiatry (general psychiatry and measures of reform and prevention) it is still crucial that the option of using *Fixierung* is available. Despite the relevant personnel being trained and experienced, situations can still arise in which patients become an acute risk to themselves and/or others due to illness. In order to be able to deal with such situations, it may be sensible to use *Fixierung* as a measure of last resort. *Fixierung* must always be ordered and overseen by a doctor. It is a temporary measure and must end as soon as the conditions under which it was ordered no longer apply.

The *Länder* have not yet all introduced binding statutory rules on documenting coercive measures in the field of psychiatry; most institutions do, however, already document relevant cases. In addition, numerous clinics have for many years been taking part on a voluntary basis in a Working Group on the Prevention of Violence and Coercion in Psychiatric Hospitals (cf. [www.arbeitskreis-gewaltpraevention.de](http://www.arbeitskreis-gewaltpraevention.de)) which collects and takes a critical look at relevant data.

In 2010 the German Society for Psychiatry, Psychotherapy and Neurology (DGPPN) published guidelines (“Therapeutic Measures in the Case of Aggressive Behaviour in Psychiatry and Psychotherapy”) for clinics on applying coercive measures. These guidelines are available (in German) online at: [http://www.awmf.org/uploads/tx\\_szleitlinien/038-022\\_S2\\_Therapeutische\\_Massnahmen\\_bei\\_aggressivem\\_Verhalten\\_in\\_der\\_Psychiatrie\\_und\\_Psychotherapie\\_lang\\_08-2009\\_08-2014.pdf](http://www.awmf.org/uploads/tx_szleitlinien/038-022_S2_Therapeutische_Massnahmen_bei_aggressivem_Verhalten_in_der_Psychiatrie_und_Psychotherapie_lang_08-2009_08-2014.pdf)).

We can provide the following statistics:

N.B.: Due to a lack of a common definition and uniform documentation, it cannot be assumed that the available figures are comparable across Germany. The table nevertheless makes it sufficiently clear that the measure is the absolute exception.

Police custody

**(Nov. 2011 – June 2013)**

<i>Land</i>	No. of cases of <i>Fixierung</i>	Criminal and disciplinary proceedings on account of inadmissible <i>Fixierung</i>
Baden-Württemberg	No statistics recorded	None known
Bavaria	0	None
Berlin	0	None
Brandenburg	0	None
Bremen	2  (since 2011/detention pending deportation)	None
Hamburg	No statistics recorded	None
Hesse	0	None
Mecklenburg-Western Pomerania	0	None
Lower Saxony	16 <sup>1</sup>	None
North Rhine-Westphalia	No statistics recorded	No statistics recorded
Rhineland-Palatinate	6 <sup>2</sup>	No statistics recorded
Saarland	2	None
Saxony	0	None
Saxony-Anhalt	None known <sup>3</sup>	None
Schleswig-Holstein	No statistics recorded	No statistics recorded
Thuringia	0	0

<sup>1</sup> Number of cases of *Fixierung* in 2012. In each case the measure was applied due to the detainee posing a danger to himself or himself and others.

<sup>2</sup> Only the central custody unit at Trier Police Headquarters used to have what is known as a *Fixierbett* like that used in medical contexts (e.g. psychiatric clinics). The bed has now been removed.

<sup>3</sup> When asked, two out of the three police headquarters stated that no cases of *Fixierung* were carried out in the reporting period.

Prisons

**(Nov. 2011 – June 2013)**

<b><i>Land</i></b>	<b>No. of cases of <i>Fixierung</i></b>	<b>Criminal and disciplinary proceedings on account of inadmissible <i>Fixierung</i></b>
Baden-Württemberg	50 <sup>4</sup>	
Bavaria	No statistics recorded	None known
Berlin	44	None
Brandenburg	3	None
Bremen	7 <sup>5</sup>	None
Hamburg	9	None known
Hesse	15	None known
Mecklenburg-Western Pomerania	No statistics recorded	None known
Lower Saxony	5 <sup>6</sup>	None known
North Rhine-Westphalia	No statistics recorded	6 <sup>7</sup>
Rhineland-Palatinate	20	None
Saarland	No statistics recorded	None known
Saxony	37 <sup>8</sup>	None
Saxony-Anhalt	No statistics recorded	None known
Schleswig-Holstein	No statistics recorded	None
Thuringia	12 <sup>9</sup>	None known

<sup>4</sup> Average p.a. Only the Psychiatric Unit in Hohenasperg Prison Hospital provides for the option of using *Fixierung* on patients, namely those undergoing alcohol and drug rehabilitation (around 60 to 70 per cent of all cases of *Fixierung*), patients with acute psychoses, with a tendency to self-harm or the declared intent to commit suicide.

<sup>5</sup> *Fixierung* in bed shackles

<sup>6</sup> Cases must be notified to the *Land* ministry of justice since March 2012.

<sup>7</sup> We are aware of six criminal investigations in the reporting period, although they were all terminated due to a lack of sufficient evidence. We are aware of no disciplinary proceedings on account of the inadmissible use of *Fixierung*.

<sup>8</sup> Leipzig Prison Hospital: 22 instances due to the risk to self and others, eight due to an acute risk of suicide, three due to alcohol withdrawal symptoms, one due to drug-induced aggression and three due to drug supervision based on the person posing a risk to others.

<sup>9</sup> *Fixierung* in bed shackles

### Psychiatry and measures of reform and prevention

Enquiries made with all the *Länder* revealed that in the period between November 2011 and June 2013 charges were brought in Saxony in a case of deprivation of liberty (four separate cases joined in one indictment) in the form of the inadmissible use of *Fixierung*, investigations were launched against ten other people, although these were subsequently declared finally terminated. One case in Thuringia is pending before the European Court of Human Rights.

The following applies in principle: Where there is a suspicion that a criminal offence has been committed, it is the public prosecution offices which have exclusive authority to lead the criminal investigations. Practically all the *Länder* guarantee that the requisite concrete investigations are transferred to a police station other than the one against whose employees the accusations have been made. Further, Bremen, Hamburg, Hesse and Thuringia each have a central investigation office which is generally part of the ministry of the interior and leads investigations against police officers. In Schleswig-Holstein disciplinary investigations are carried out centrally in the ministry of the interior by special disciplinary investigators; the highest disciplinary authority is part of a non-police department.

Professional supervision and, where necessary, additional independent “committees of inspection” monitor compliance with minimum standards and principles in prisons at *Länder* level in the context of their monitoring activities.

The *Länder* have all set up committees on petitions in their respective *Land* parliaments. Anyone affected has the unlimited right to contact these committees, in the same way as they can apply to the European Committee for the Prevention of Torture (CPT). In addition, each prison has a prison advisory board (sections 162 et seqq. of the Prison Act (*Strafvollzugsgesetz, StVollzG*)).

Any prisoner may at any time turn to their prison director or the supervisory authority (generally the *Land* ministry of justice).

Above all, however, an extensive system of judicial review and control of remand in custody is in place which guarantees the comprehensive review of all measures which interfere with prisoners’ fundamental rights.

There are also numerous supervisory bodies which are responsible for psychiatric hospitals and measures of reform and prevention: specialist supervisory bodies, committees on

petitions, adult guardianship courts and chambers responsible for the execution of sentences. There are also committees of inspection (in Bavaria, Brandenburg, Bremen, Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, North Rhine-Westphalia, Schleswig-Holstein, Saarland, Saxony, Thuringia), commissioners for patient affairs (North Rhine-Westphalia), a committee for complaints (North Rhine-Westphalia), patient complaints committees (North Rhine-Westphalia), *Land* commissioners for measures of reform and prevention (North Rhine-Westphalia) and psychiatric hospitals (Berlin), coordination offices for district psychiatric hospitals, psychiatric advisory councils (Rhineland-Palatinate), committees on matters concerning psychiatric health care (Lower Saxony, Saxony-Anhalt), volunteer patient advocates (e.g. in Baden-Württemberg, Bremen, North Rhine-Westphalia) and ombudspersons (North Rhine-Westphalia), hospital chaplains (e.g. in Baden-Württemberg, Bremen), and a complaints and information office (Berlin).

It is part of the police's basic understanding of its role to ensure that its actions comply with the rule of law. Attention is already paid to this aspect when selecting personnel, but it is also a key component of *Länder*-specific training and further training. Particular attention is paid to teaching fundamental and human rights in the context of these training courses. In addition, all police officers regularly take part in courses on the lawful use of coercive measures. The focus here is on finding, wherever possible, a non-violent means of intervening to resolve a conflict. The issue of ending coercive measures once the legal conditions no longer apply is addressed in detail in various manuals and codes of conduct. Police officers practise these principles extensively in the context of their operational training.

Officers in the *Land* police forces consider respect for and the protection of human and fundamental rights a self-evident part of their work. That includes observing the principle of proportionality and basing each intervention on suitability, necessity and appropriateness in a specific case.

In order to be able to approach and deal with prisoners appropriately, prison officers need up-to-date knowledge in various different areas. Prisons therefore run annual courses for their own prison staff.

Current examples of training courses run in prisons at *Länder* level include the following:

Berlin: Situational training course on methods and techniques for securing individuals; dealing effectively with aggression and violence – seminar for women; training course on securing individuals and self-defence (basic course); techniques for questioning individuals

following special incidents; dealing with aggression and violence in prison – both between inmates and against prison staff.

North Rhine-Westphalia: Academy of Justice: body language and de-escalation in prison; de-escalation training course.

Saxony-Anhalt: *Land* Training Institute: De-escalation in the grey area between verbal and physical aggression; dealing with physically abusive and aggressive inmates (including structural options for reducing aggression); dealing with special situations – when inmates stage a mutiny (including non-violent resolution of situations).

Schleswig-Holstein: The *Land* publishes its own annual training programme for its around 900 prison staff. The annual programme includes some 150 events and seminars which are tailored to suit the needs of the prison staff. They include workshops run in individual prison units on developing unit-specific strategies. The focus here is on the complex issue of safety as well as on supervising and dealing with prisoners. The programme is drawn up in cooperation with the prisons and with the courts and probation services, whose needs are surveyed once a year.

The German Academy of Judges will be holding a seminar on 19/20 May 2014 on “Medical and Nursing Principles in Regard to *Fixierung*”.

The seminar is aimed primarily at judges in guardianship courts, judges in the social jurisdiction, as well as at judges who deal with cases of *Fixierung* in care facilities and hospitals during their on-call duty or in connection with liability issues.

The course aims to teach judges basic medical and nursing principles of *Fixierung* and to give them the expertise to review *Fixierung* measures applied for as part of an authorisation process.

As regards the content of the seminar: For some time now there have been various projects at federal level aimed at reducing the number of cases of *Fixierung*, such as the so-called “Werdenfelser Way” or the “Redufix” project. What is common to these initiatives is that the *Fixierung* is reviewed critically in regard to its necessity and alternatives are considered.

### Detention pending deportation (paragraph 24)

The Committee appreciates the information provided indicating that the total number of people detained pending deportation in the State party declined from 2011 to 2008 from 8,805 to 6,466.

- a) The Committee would appreciate updated information particularly reflecting the number of individuals detained pending deportation since November 2011, indicating the number of those who were subject to transfer in the context of the Dublin Regulation (Council Regulation (EC) No 343/2003 of 18 February 2003).
- b) The Committee would also appreciate information on the length of detention pending deportation experienced by asylum seekers since November 2011.

### 2012

<b>Land</b>	<b>No.</b>	<b>Dublin cases</b>	<b>Average duration</b>
Baden-Württemberg <sup>10</sup>	454 (1st half of 2012: 224; 2nd half of 2012: 230)	225	1st half of 2012: 34 days 2nd half of 2012: 30 days
Bavaria	1,464	Not recorded	23.8 days
Berlin	327	Not recorded	17 days
Brandenburg	325 (including 7 women from Mecklenburg-Western Pomerania, see below)	Not recorded (3 women from Mecklenburg-Western Pomerania, see below)	25 days
Bremen	32 (incl. 2 women)	None	10.7 days
Hamburg	Recorded on the 1st of every month, see Table 2	Not recorded	approx. 24 days
Hesse	530	Statistics recorded from July 2013	No statistics, approx. 50% less than two weeks, 95% less than three months.
<b>Land</b>	<b>No.</b>	<b>Dublin cases</b>	<b>Average duration</b>

<sup>10</sup> Since people are often in custody over the New Year period, they are recorded twice, which means the actual figure is lower.

Mecklenburg-Western Pomerania	56 men 7 women (in Brandenburg, see above)	28 men 3 women (in Brandenburg, see above)	27% less than two weeks, 55% less than 6 weeks, 18% between 6 weeks and 3 months, None more than 3 months
Lower Saxony	Recorded monthly, see Table 3	29	No statistics recorded
North Rhine-Westphalia	1,448	Statistics recorded from Jan. 2013	34.7 days
Rhineland-Palatinate	118	Not recorded	28 days
Saarland	26	4	32 (Dublin cases: 4, 5, 6 and 62 days)
Saxony	Recorded monthly, see Table 4	Not recorded	4.12 weeks
Saxony-Anhalt	82 (Nov. 2011 – June 2013)	27	24.3 days
Schleswig-Holstein	302 (Rendsburg Facility for Custody Pending Deportation)	261 <sup>11</sup>	28 days
Thuringia	21	1	36 days

<sup>11</sup> The Federal Police supplied this number, since it has competence in this regard and records Dublin cases. The actual number of Dublin cases may possibly be slightly lower.

**Table 2\* - Hamburg**

Date	Detainees pending deportation (men)
1 Jan. 2012	7
1 Feb. 2012	11
1 March 2012	8
1 April 2012	5
1 May 2012	8
1 June 2012	6
1 July 2012	12
1 Aug. 2012	6
1 Sept. 2012	13
1 Oct. 2012	11
1 Nov. 2012	10
1 Dec. 2012	8

**Table 3\* - Lower Saxony**

Month	Detainees pending deportation (men/women)
Jan. 2012	10
Feb. 2012	17
March 2012	22
April 2012	13
May 2012	16
June 2012	14
July 2012	14
Aug. 2012	6
Sept. 2012	6
Oct. 2012	9
Nov. 2012	20
Dec. 2012	10

**Table 4\* - Saxony**

Month	Detainees pending deportation (men/women)
Jan. 2012	21
Feb. 2012	17
March 2012	21
April 2012	7
May 2012	12
June 2012	15
July 2012	10
Aug. 2012	15
Sept. 2012	14
Oct. 2012	20
Nov. 2012	21
Dec. 2012	18

\* N.B.: The table includes multiple entries, since detainees already in custody on the 1st of the month are recorded twice. The total number is, therefore, lower. Please note that the foreigners' authorities in Saxony stopped placing female detainees pending deportation in prisons in Saxony in November 2012 so as to comply with Article 16(1) of Directive 2008/115/EC.

- c) Please also indicate if the State party has taken any measures to further decrease the number of individuals detained pending deportation, such as adopting or broadening application of non-custodial alternatives to detention in such cases.

Under German law, detention pending deportation is the measure of last resort. It is not implemented where it appears certain that the person in question will voluntarily fulfil their duty to leave the country or that a foreigner obliged to leave the country will hold themselves in readiness for deportation or will appear on the date set for the deportation.

German law provides for various measures which serve to ensure that there is no need for detention pending deportation. Given that these are less severe measures, they are to be given priority, where appropriate and depending on the specific case, over detention pending deportation. These measures include taking a passport into custody pursuant to section

50(5) of the Residence Act (*Aufenthaltsgesetz, AufenthG*), restrictions and reporting obligations pursuant to section 61(1) and (2) and section 46(1) of the Residence Act, the provision of evidence of the willingness to leave the country by depositing one's passport and plane ticket with the foreigners' authority, and, depending on the circumstances of the individual case, announcement of the deportation. Finally, measures to facilitate voluntary departure, for instance providing advice on returning home and initial assistance in the home country, can at least be considered indirectly as alternatives to detention pending deportation.

The Committee appreciates the information provided regarding the standards governing interim measures in the case of transfers pursuant to the Dublin Regulation.

- d) Please indicate whether, since November 2011, there has been any case in which the State party has adopted interim measures suspending the transfer of an individual who made a well-substantiated appeal claiming that deportation would give rise to a risk of torture or ill-treatment.

The Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge, BAMF*) examines the matter of whether someone is at risk of torture in their home country as a target state-related obstacle to deportation (section 60(1) to (7) Residence Act) in the context of an asylum application.

Only if the person in question does not file an asylum application will the competent foreigners' authority examine this issue only after involving the Federal Office for Migration and Refugees (section 72(2) Residence Act).

The question of the risk of torture generally has a role to play when it comes to detention pending deportation in cases where asylum applications/follow-on applications are filed by someone who is already in detention. These applications are, in turn, examined by the Federal Office for Migration and Refugees.

No statistical data are recorded concerning the grounds which asylum applicants quote in their proceedings. That is why no details can be provided regarding the number of cases in which deportation is prevented due to the risk of torture or ill-treatment.

The Committee appreciates the information provided regarding measures taken by the State party to ensure that asylum seekers receive mandatory medical checks and systematic examination of mental illness or traumatization upon arrival in all Länder detention facilities.

- e) Please clarify whether the individuals all Länder detention facilities who carry out

initial medical consultations with asylum seekers are independent qualified health professionals, as recommended by the Committee, and describe how their independence is assured.

All doctors who carry out initial medical checks are fully qualified and registered doctors. They are generally a prison doctor in the establishment in question or the competent police doctor. Some of them work in this field in their spare time and have their own private practices, generally general practitioners. Where there is a need for a specialist, one will be called in.

All the doctors are free and independent in their medical decisions; the same applies to doctors employed by the police or prisons.

- f) Please also indicate the number of cases in which a detained asylum-seeker has requested and received an additional advisory physician at his or her own cost since November 2011.

This category is not recorded in Berlin. The other *Länder* stated that no cases were recorded.

The Committee appreciates the information provided regarding the State party's efforts to ensure, when signs of torture or trauma are detected during personal interviews with asylum applicants, that specially trained independent health experts are available to provide medical and psychological exams and reports.

- g) Please indicate if the State party anticipates increasing the number of special asylum officers "for victims of torture and traumatized asylum applicants" beyond the 40 currently employed by the Federal Office for Migration, and if the State party has considered broadening its trainings on the Istanbul Protocol to all asylum officers.

The Federal Office for Migration and Refugees has no plans to increase the number of special commissioners for traumatised asylum applicants and victims of torture. The current number (40) is in line with the number of cases arising. Each of the branches of the Federal Office has at least one specialist commissioner for traumatised asylum applicants and victims of torture; the larger branches have two. The specialist commissioners are also subject to special supervision.

Running special training courses for all employees requires a significant amount of time and effort. That is why the Federal Office has adopted the following approach: The issue of traumatisation and torture is addressed both in basic training courses and advanced courses taken by all decision-makers since there are many points of contact and course participants' awareness can thus be raised for these issues. Advanced training courses based on the Istanbul Protocol are a component of follow-up training courses for the specialist commissioners for traumatised asylum applicants and victims of torture. These specialist

commissioners act as multipliers, in that they go on to inform and advise their colleagues. In addition, there are plans to make a German version of the Istanbul Protocol available online very soon and thus to contribute to its further dissemination.

The Committee appreciates the information provided by the State party on its efforts to provide accommodation for detained asylum-seekers separate from remand detention facilities.

- h) The Committee would appreciate clarification as to which Länder have not yet ensured that immigration detainees are kept physically separate from other prisoners, and the number of immigration detainees presently kept together with other prisoners in those Länder, and any measures being undertaken in those Länder to ensure separation of immigration detainees in the future.

Insofar as detainees awaiting deportation are not already kept in separate facilities, all the Länder can now guarantee that they are kept separate from prisoners.

#### Exercise of jurisdiction (paragraph 28)

The Committee appreciates the information provided regarding the State party's efforts to exercise jurisdiction over allegations of torture and ill-treatment case of Khaled El-Masri. The Committee would appreciate updated information regarding the investigation of the Munich I State Attorney's Office, whether it is ongoing, and whether the State party has extradited any of the wanted individuals in the case. In light of the December 2012 determination by the European Court of Human Rights that Mr. El-Masri experienced torture, please indicate if the State party has undertaken any efforts to ensure that he obtains redress, including rehabilitation.

As regards the exercise of jurisdiction in the case of Khaled El-Masri, Germany would like to inform the Committee that the European Court of Human Rights found a violation of Mr El-Masri's rights by the Former Yugoslav Republic of Macedonia. Germany was not a party to this case. Germany is therefore not under any obligation in this respect.

The arrest warrants against several citizens of the United States of America remain in force. The Committee seems to believe that Germany could (or should) extradite "wanted individuals". This is not the case. The Government of the United States has made it clear that the "wanted individuals" will not be extradited to Germany. Germany has therefore deemed that it would be futile to file a formal request for extradition.

#### Identification of police officers (paragraph 30)

The Committee appreciates the information provided regarding efforts to ensure that members of the police in all Länder can effectively be identified at all times when carrying out their functions.

- a) Please indicate if the anticipated requirements for police to wear identification in Rhineland-Palatinate and Schleswig-Holstein, as described in the follow-up reply, have been implemented, and if any other Länder have made progress in this regard since the submission of your Government's report.
- b) Please also clarify for the Committee which Länder do not presently require police to wear identification while performing official functions, other than during covert operations, and indicate measures the State party is taking to address this situation.
- c) Please also indicate how the State party monitors the implementation of these requirements to ensure that required identification is worn at all times.

With regard to the Committee's recommendation for the State party to assess the cases of lack of investigation raised during the November 2011 dialogue, the Committee notes with regret that the State party has declined to provide updated information, referencing only its supplement to its presentation to the Committee on its fifth periodic report (CAT/C/DEU/C0/5/Add. 1).

- d) Please indicate if the State party has taken steps to undertake a broader assessment of the impact of the failure of police to wear identification badges on the effective investigation of allegations of excessive force by police officers.

The *Länder* are each responsible for deciding whether police officers are required to wear identification badges. The Federal Government has taken note of the Committee's view on this matter and has recommended that the *Länder* take the Committee's view into account. The Federal Government can, however, not take any measures to require the *Länder* to legislate in areas of their own original competence.

The wearing of identification badges has been made obligatory in Berlin, Brandenburg (as of 1 Jan. 2013), Hesse, Rhineland-Palatinate, Saxony-Anhalt and Thuringia. There are different kinds of exemption from this obligation (e.g. in cases where the wearing of the badge would give rise to unreasonable risk).

Hamburg has identified some groups of officers who are obliged to wear identification badges. In all other groups, badges are worn on a voluntary basis.

Schleswig-Holstein recommends that officers in uniform wear identification badges. Officers in uniform must wear identification badges during public lectures and when they are manning information stands. Officers in special police units and closed units wear numbers instead of identification badges.

In Baden-Württemberg, Bavaria, Bremen, Mecklenburg-Western Pomerania, North Rhine-Westphalia, Saxony and Saarland badges are worn on a voluntary basis. In addition, North Rhine-Westphalia has introduced identification numbers on the protective clothing (helmets) worn by riot police. Lower Saxony is currently discussing similar measures with police union representatives. The Federal Police has not introduced identification badges.

Some *Länder* have reported that the use of badges is increasing on a voluntary basis.