

# Forum Menschenrechte



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## LIST OF ISSUES PRIOR TO REPORTING – COMMITTEE AGAINST TORTURE

51st Session – Germany

### Federal Republic of Germany

Submission by the FORUM MENSCHENRECHTE

The **Forum Menschenrechte** is a network of more than 50 German non-governmental organizations, committed to a better and more comprehensive protection of human rights - worldwide, in specific regions of the world, within countries and also within the Federal Republic of Germany. The Forum was established in 1994 following the World Conference on Human Rights in Vienna.

The Forum Menschenrechte welcomes the opportunity to contribute to the reporting process of the Federal Republic of Germany's 6th Periodic Report under the simplified reporting procedure to the Committee against Torture by submitting the following list of issues prior to reporting, especially, by reference to the Committee's Concluding Observations following the 5<sup>th</sup> Periodic Report:

- Reduction of the number of detained asylum seekers (par. 24a)
- Systematic examination for mental illness (par. 24 b)
- Training of Law Enforcement Personnel (paragraph 24 c)
- National Agency for the Prevention of Torture (paragraph 13).

#### **Reduction of the number of detained asylum seekers (par. 24a)**

The Committee has in the past expressed its concerns about the high number of detentions of persons considered to be Dublin cases, in some cases for long periods, after their entry into Germany. The Committee recommended to reduce the number of detainees and to limit the duration of detention (paragraph 24).

From our experience most of the detainees still stem from Dublin cases (which are asylum seekers) and are going to be transferred to another EU country due to the Dublin II Regulation. Whereas the total number of detainees is decreasing the percentage of asylum seekers (Dublin cases) is still very high. In areas close to the border – like detention centers in Rendsburg or Eisenhüttenstadt – some 90 % of the detainees are Dublin cases.

The Forum Menschenrechte therefore recommends that the following questions/ concerns be raised in the list of issues to be reported on by the state party:

- In how many of the cases, who in 2011 and 2012 found themselves in detention, was a Dublin procedure of the Federal Police or the Federal Ministry for Migration and Refugees (BAMF) carried out?

#### **Systematic examination on mental illness (par. 24 b)**

The Committee recommended obligatory medical examinations by independent and qualified medical professionals and systematic reviews of mental illness or trauma for all asylum seekers, including the Dublin cases, as soon as they arrive in the detention facilities of the Bundesländer (federal states) (Par. 24b).

The federal government fails to provide any information on this this issue.

The Forum Menschenrechte knows, that the detention centers do not at all guarantee a systematic examination of mental illness. Psychologists and doctors will usually only be summoned when the guards or social workers, who are not trained in these matters, are convinced that treatment is needed. The so-called medical entrance examination usually involves no diagnosis of mental illness.

The Forum Menschenrechte therefore recommends that the following questions/ concerns be raised in the list of issues to be reported on by the state party:

- In which Bundesländer is medical staff employed in detention settings, which is qualified in regard to identifying and reacting to mental disorders in an intercultural setting?

#### **Training of Law Enforcement Personnel (paragraph 24 c)**

In the context of the training of law enforcement personnel, the Committee also addressed the need for officials and medical personnel involved with asylum-seekers to be specifically trained in the use of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

The Committee noted at the time that especially the identification of the psychological traces of torture was not sufficiently addressed in the trainings that were to be provided to officials involved with asylum seekers. The recommendations made by the Committee also included that the State party “[e]nsure that such training is also provided to personnel involved in asylum determination procedures...”

Medical associations and associations of psychotherapists have for years offered appropriate training on the "Training of Law Enforcement Personnel". Qualified medical and psychological professionals are available in the psychosocial treatment centers and centers for refugees.

The Federal Government gives no information who is responsible for the medical-psychological examination and assessment in the context of the asylum procedures and how many assessments were made from 2008-2012 (see M. Kleinhans in newsletter: Entscheidungen Asyl 2/2008).

The Federal Government states that the Federal Ministry for Migration and Refugees (BAMF) has, since 1996, hired "specialised decision-makers" for torture victims and traumatized asylum seekers and that this should be extended to decision makers for unaccompanied minor refugees and persons, that suffered from gender-based persecution.

The Forum Menschenrechte is however informed that such trainings of decision makers are not at all or not continuously conducted. We appreciate, that in cooperation with the German Society for Supervision (DGSV) a Supervision opportunity for individual decision-makers was introduced. However, the participation is not mandatory. It also does not cover the training to recognize signs of torture and / or trauma ( see Istanbul Protocol).

The Forum Menschenrechte therefore recommends that the following questions/ concerns be raised in the list of issues to be reported on by the state party:

- How often and on what topics are trainings for the employees of the BAMF taking place, in particular concerning
  - intercultural communication and use of interpreters
  - influence of trauma through torture or gender-based violence on the validity of the statement of an asylum seeker,
  - how signs of trauma and torture or other violent experiences can be recognised,
  - how to identify the need for a professional medical / psychological evaluation and assessment in accordance with the Istanbul Protocol and recommended for Germany by the medical and psychological professional associations opinion Standards (s.www.SBPM.de)?
- How will the federal government ensure, that such examinations are delegated to specially educated and experienced - and as described above – medical experts?
- To which extent is there special training for interpreters?

#### **National Agency for the Prevention of Torture (paragraph 13)**

The Committee recommended that the National Agency for the Prevention of Torture has adequate staff, and is provided with financial, technical and logistical resources, so that it is able to function in accordance with Article 18, par. 3 of the Optional Protocol to the Convention against Torture. The National Agency for the Prevention of Torture should have immediate access to all detention facilities, without authorization for the visit.

The Forum Menschenrechte therefore recommends that the following questions/ concerns be raised in the list of issues to be reported on by the state party:

- How will Germany guarantee that the National Agency for the Prevention of Torture has adequate staff, financial, technical and logistical resources to fulfill its mandate?