



Téléfax: (41-22) 917 90 08  
Téléphone: (41-22) 917 91 02  
Internet www.ohchr.org  
Email: jnaiaf@ohchr.org



Adresse:  
Palais des Nations  
CH-1211 GENEVE 10

REFERENCE: cc/jmnf/jli/follow-up/CAT

3 May 2011

Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture, I am writing to thank you for your Government's reply to my letter dated 30 October 2006, which was received on 25 September 2007. The Committee is grateful for the information and clarifications provided.

Our exchange of letters refers to the examination of the third periodic report of Germany (CAT/C/49/Add.4) by this Committee at its 32<sup>nd</sup> session, on 7 and 10 May 2004 (CAT/C/SR.600 and CAT/C/SR.603). At the end of that session, the Committee's concluding observations (CAT/C/32/7) were transmitted to your Permanent Mission. In paragraph 6 of those concluding observations, the Committee requested, pursuant to its rules of procedures, that Germany provide further information regarding areas of particular concern identified by the Committee in paragraphs 5 (a), (b), (e), and (f). Your Government responded on 4 August 2005, and I replied on 30 October 2006, thanking your Government for the information already provided and requesting further clarification in some areas. Your Government responded to this second request on 25 September 2007. Additionally, your Government provided information relevant to some of the issues raised in our correspondence in its fifth periodic report to the Committee, received on 15 December 2009.

I have reviewed the information regarding follow-up with care, and would be grateful for further clarification of the following matters with regard to the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the Federal Republic of Germany.

Measures to address allegations of torture or ill-treatment (paragraph 5(a))

With regard to paragraph 5(a) of the Committee's concluding observations, thank you for the information provided regarding measures to ensure that criminal complaints lodged against law enforcement authorities are resolved expeditiously, particularly concerning the 92 cases of alleged mistreatment by police compiled by NGOs for the period of 1998-2003. Paragraph 4 of the response indicates that 69 of these cases were "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:" Unfortunately, no further details on the remaining cases followed that sentence, perhaps inadvertently. Please forward this information on the outcomes of the prosecutorial investigations to us, including any available data on the number of investigations that led to convictions, the punishments meted out to perpetrators, and the reparation or compensation awarded and provided to victims.

.../...

H.E. Mr. Reinhard SCHWEPPE  
Ambassador  
Permanent Representative of Germany  
to the United Nations Office at Geneva  
Fax: 022 734 30 43

In addition, the Committee welcomes your Government's statement in paragraph 143 of its fifth periodic report that it has made changes to its statistical gathering system so as to make it possible to provide disaggregated data on criminal offenses committed by police officers beginning in 2009. We would appreciate statistical information on the number of criminal offenses – particularly those related to torture or ill-treatment – committed by police officers and other law enforcement officials, as well as information regarding the average length of investigation in cases of alleged abuse by police or other law enforcement officials, and information on the average length of investigations into other cases, so as to permit comparison of the two.

Measures to assemble statistical data and information (paragraph 5(b))

With regard to paragraph 5(b) of the Committee's concluding observations, in which the Committee recommended taking steps necessary to ensure that authorities are fully apprised of information relevant to compliance with the obligations under the Convention, allow me again to commend your Government's efforts to improve the gathering of relevant statistical information. Similarly, we welcome changes that record, as separate statistics, certain acts by police employees, such as intentional homicide, violence and coercion by police. The Committee would appreciate clarification as to other new categories of statistics established which are relevant for assessment of the implementation of the Convention, including information regarding the status of the second phase of the anticipated changes to the police crimes statistical system, as mentioned in paragraph 8 of your response of 25 September 2007. The Committee would also appreciate receiving any such new information gathered prior to the Committee's consideration of your Government's fifth periodic report.

Cases of extradition or removal (paragraph 5(e))

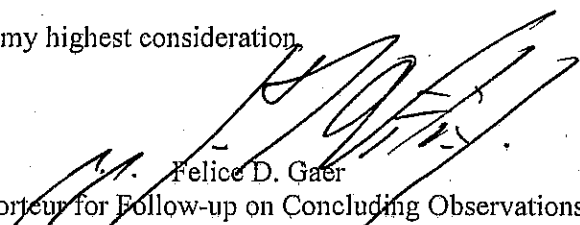
With regard to paragraph 5(e) of the Committee's concluding observations regarding cases of extradition and removal subject to the receipt of diplomatic assurances or guarantees, thank you for clarifying the distinction between deportation and extradition. Please clarify whether the Government has ever resorted to the use of diplomatic assurances or guarantees after coming to the conclusion that, in the absence of such assurances or guarantees, a violation of article 3 of the Convention would occur. Please also clarify whether diplomatic assurances have ever been sought by the Federal Ministry of Interior in cases of deportation. The Committee regrets learning that statistical information regarding the number and nature of diplomatic assurances or guarantees received is not currently available. Please provide any information regarding the Government's efforts to gather this data. The Committee reiterates its request for statistical information on the total number of both EU and non-EU extradition or deportation cases handled by Germany since 11 September 2001, disaggregated by country and the outcomes of each case. With regard to the case of the "Caliph of Cologne" as mentioned in paragraph 13 of your response of 25 September 2007, we would be grateful for updated information as to the current whereabouts of this individual and whether and how he has been protected from torture. In this context, please clarify on how many occasions has he been visited, if any, and by whom. Please provide further information on the measures taken by your Government to monitor the condition of individuals extradited or removed where diplomatic assurances or guarantees were utilized.

Private security companies and avenues for redress (paragraph 5(f))

Finally, the Committee thanks the Government of Germany for providing information relevant to paragraph 5(f) of the concluding observations regarding facilities and avenues of legal redress applicable to the employees of private security companies engaged by the state. The Committee appreciates the information provided regarding oversight of the Hessian private security company. The Committee would appreciate further information regarding the oversight of that company by the "competent Land authorities," as referenced in paragraph 15 of your response of 25 September 2007. The Committee would also appreciate updated information regarding the number of allegations or accusations of mistreatment against employees of this company in connection with the detention facility at the Frankfurt am Main Airport. The Committee regrets learning that there is no training for the employees of private security services specifically directed to the substance of the Convention against Torture and recommends that the Government take steps to ensure that all persons working in positions of authority in detention facilities, even if employed by private security firms, undergo training on issues arising under the Convention.

The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Germany on the implementation of the Convention, and in this context, to receiving clarification on these follow-up questions.

Accept, Excellency, the assurances of my highest consideration.



Felice D. Gaer  
Rapporteur for Follow-up on Concluding Observations  
Committee against Torture