



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

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Held at the Palais Wilson, Geneva, on Monday, 29 April 2019, at 10 a.m.

Chair: Ms. Gaer (Vice-Chair)

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In the absence of Mr. Modvig, Ms. Gaer, Vice-Chair, took the Chair.

The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Sixth periodic report of Germany (CAT/C/DEU/6 and CAT/C/DEU/QPR/6)

1. *At the invitation of the Chair, the delegation of Germany took places at the Committee table.*

2. **Mr. Jugel** (Germany) said that Germany had consistently been supportive of the work of the Committee and had joined the recently established Group of Friends of the United Nations Voluntary Fund for Victims of Torture.

3. **Ms. Wittling Vogel** (Germany), introducing her country's sixth periodic report (CAT/C/DEU/6), said that the delay in its submission had been caused by unforeseen developments combined with a need to update the statistical data on migration following the arrival of a high number of refugees on German soil in 2015.

4. In response to concerns previously raised by the Committee, the State had made great strides in the field of preventive detention, spending over 200 million euros on new buildings and enacting a series of statutes. The legislative reform clarified the fundamental difference between penal imprisonment, on the one hand, and preventive detention that aimed to protect the public from dangerous persons, on the other. In a judgment of December 2018, the European Court of Human Rights had acknowledged that preventive detention in Germany in its current form fully complied with the European Convention on Human Rights. As the reform process had been triggered by human rights case law and monitoring, it was a fine example of successful multilevel cooperation in human rights implementation.

5. German criminal and procedural law provided for the legal means to conduct independent investigations into alleged criminal conduct by law enforcement officials. In practice, steps had been taken by the Länder to improve complaints mechanisms, including the establishment of independent public ombudspersons as auxiliary bodies of the Land parliaments.

6. Following the violent clashes between demonstrators and police officers seen at the Group of 20 summit held in Hamburg in 2017, criminal investigations had been undertaken and a parliamentary committee of inquiry had been established. The public debates following the incidents had demonstrated that a thorough and impartial investigation into the facts would be essential to restore public confidence in the police authorities.

7. Germany carried out the domestic prosecution of international crimes in accordance with the principle of universal jurisdiction. In 2008, a war crimes unit had been established under the Federal Prosecutor General to implement the German Code of Crimes against International Law, which, in accordance with the Rome Statute of the International Criminal Court, allowed for the prosecution of acts of torture under its provisions on crimes against humanity and war crimes. The unit, which had repeatedly been expanded, had recently obtained three convictions for war crimes by higher regional courts, all of which had involved allegations of torture.

8. **Mr. Heller Rouassant** (Country Rapporteur) said that much progress had been made during the period under review. It was clear that torture was not practised in the State party; generally speaking, conditions in prisons and detention centres complied with international standards. However, on a relatively frequent basis, reports alleged acts of violence by law enforcement officials and the use of coercive methods in various situations. Moreover, the authorities faced challenges linked to the emergence of racist and discriminatory attitudes, anti-Semitism, Islamophobia and hate speech. To a certain extent, those problems stemmed from the difficulties inherent to integrating a great number of migrants, refugees and asylum seekers in a complex international climate. The Committee was mindful of the fact that the State party had faced those challenges with a good deal of responsibility.

9. In the list of issues prior to reporting (CAT/C/DEU/QPR/6), the Committee had asked the State party about the measures it had adopted to ensure that the crime of torture was incorporated in its general criminal legislation, and not only in the Code of Crimes against International Law. Under articles 7 and 9 of the latter, acts of torture could only be punished as such if they were committed in an armed conflict or as part of a generalized or systematic attack against a civilian population. The Criminal Code contained no explicit definition of torture in other circumstances, and although it provided for the punishment of certain acts that could constitute torture, such as the extraction of confessions through coercion, such provisions did not necessarily cover all the constitutive elements of torture included in article 1 of the Convention.

10. The European Centre for Constitutional and Human Rights had also drawn attention to lacunae in German legislation relative to German nationals who committed acts of torture abroad. Specifically, it referred to the case of the Colonia Dignidad in Chile, in which a group of German citizens had collaborated with the secret police in the detention, torture and assassination of opponents of the regime of Augusto Pinochet in the 1970s. In 2015, the Chilean authorities had ordered the extradition of a German national who had admitted participating in acts of torture; however, that had not taken place because article 16 (2) of the Basic Law prohibited the extradition of German citizens. In addition, the investigations in Germany had been closed in 2019, since some of the crimes committed were subject to a statute of limitations and, under German law, investigations carried out by another State did not have the same legal value. The case showed that the absence of the criminalization of torture as a specific crime under German law opened the door to impunity, since any German national who committed acts of torture abroad would benefit from immunity once back in Germany. He would welcome further details about the case in question.

11. Given that existing legal provisions on torture did not cover all the constitutive elements of the crime, that German courts had repeatedly invoked the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention), and that the State party had signed the Optional Protocol to the Convention, the delegation should comment on whether plans were in place to amend German criminal legislation with respect to acts of torture.

12. The Committee was aware that the German Institute for Human Rights had recently been accredited with category A status in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). He would appreciate information on the criteria used for appointing members of the Institute as well as its governance structure. The fact that the Institute had assumed the role of overseeing compliance with the Convention on the Rights of Persons with Disabilities and the Convention on the Rights of the Child appeared to contradict the assertion, contained in the State party's common core document, that no special governmental body for the protection of human rights was considered necessary. The delegation should explain the reasons for the apparent contradiction and indicate whether it would consider extending the Institute's supervisory mandate to the Convention and other conventions that gave their custodians the power to receive complaints of human rights violations committed by State agents.

13. With respect to the national preventive mechanism, he understood that members of the National Agency for the Prevention of Torture were appointed by the Ministry of Justice, while members of the Joint Commission of the Länder were appointed by the Conference of Land Justice Ministers. He would welcome further information on the selection criteria of both mechanisms as well as on how their independence was guaranteed. He wondered whether civil society organizations had any say in the composition of membership.

14. The Committee had been informed that the funding received by the national preventive mechanism was insufficient for the exercise of its duties. The delegation should comment on the current level of funding of the mechanism and indicate whether plans were in place to increase its yearly budget beyond the current 540,000 euros.

15. He would be interested to hear more about the use of mechanical restraints in the context of police custody, particularly given that in the majority of cases, police stations did not have the appropriate equipment or expertise to use such restraints safely. The National Agency for the Prevention of Torture had visited five prisons in 2017 and had found, in several cases, conditions that failed to uphold personal dignity. It would be useful if the delegation could comment on those findings.

16. Some non-governmental organizations (NGOs) had expressed concern about the persistence of obstacles to independent and effective investigations into allegations of acts of torture and other ill-treatment committed by law enforcement officials, owing to the lack of investigation mechanisms and independent supervisory bodies. That concern had been echoed by the European Court of Human Rights, which had found, in the 2017 case *Hentschel and Stark v. Germany*, that the authorities had violated the prohibition on torture and other inhuman and degrading treatment, specifically the obligation to effectively investigate criminal charges. The same court had harshly criticized Germany, in its 2017 report, for shortcomings in its complaint and investigation mechanisms. In her letter to the Permanent Mission of Germany following the universal periodic review of the State party in 2018, the United Nations High Commissioner for Human Rights, Michelle Bachelet, had stressed the need for independent, impartial and effective investigations and prosecutions in cases of alleged police violence. In that context, he recommended that an independent special commission, similar to the one set up in Hamburg, should be considered for all Länder. He would appreciate a response from the delegation to that proposal.

17. With reference to paragraph 38 of the State party's report, the Committee would welcome updated information on the status of the consultation launched with civil society and the Länder to review the institution of a national rapporteur and to improve the coordination of strategies and measures serving to combat human trafficking in all its forms.

18. The Committee welcomed the measures taken by the State party to implement the provisions of international human rights instruments, in particular in the context of counter-terrorism measures, and commended the holistic approach it had adopted to preventing extremism. However, he invited the delegation to comment on Amnesty International's assertion that the Government had adopted far-reaching counter-terrorism measures in response to the Christmas market attack in Berlin in December 2016 that violated the rights to a fair trial, privacy, freedom of movement and liberty. Moreover, the Committee had learned that the State party had granted permission for a third party State to use its Ramstein air base to operate drone attacks in other countries. As a result, Yemeni citizens had brought a legal action against the Federal Government and the administrative court overseeing the case had ruled that action must be taken to ensure that attacks coordinated from the military base respected international law. Any further information on that matter would be appreciated, as would the delegation's reactions to the concerns raised by Amnesty International on the legislation adopted by the German Federal Parliament in April 2017 granting expanded powers to the police of the Federation to monitor persons classified as "potential attackers" and in May 2017 facilitating the detention pending deportation of persons "representing a significant security threat".

19. Every year since 2015, the State party had received fewer asylum seekers and refugees, although it continued to welcome persons who had been evacuated from countries including the Syrian Arab Republic, Libya and the Niger. The Committee would welcome further information on the evaluation of the pilot project aimed at streamlining and expediting asylum proceedings that had been implemented by a number of German welfare organizations in March 2017. The State party was nonetheless still criticized for its treatment of asylum seekers and refugees. He invited the delegation to comment on the concerns that had been voiced by NGOs about cases of migrants in an irregular situation being held for prolonged periods in detention pending deportation and of Afghan citizens being returned despite the deterioration of the situation on the ground in their home country. There had also been reports of asylum seekers being sent home with their cases still pending, and further information on the case of a Tunisian man who had been deported despite a legal order blocking his return because he was at risk of torture in his home country would be appreciated. The Committee would also welcome information about the

steps that had been taken to ensure that trained health-care professionals conducted medical and psychological examinations on vulnerable migrants to identify any trauma suffered as a result of torture. Clarification as to how the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) was used to identify torture victims among asylum seekers, including specific data, would be of particular interest.

20. With regard to violence against refugees and asylum seekers, he invited the delegation to comment on the following cases that had been highlighted by Human Rights Watch (HRW): violent scenes at xenophobic demonstrations in Chemnitz triggered by the alleged killing of a German man by two foreign nationals; the conviction by a judge in Dresden of eight people from a far-right group for attacks in 2015 on refugee shelters and a local politician; and the conviction by a judge in Munich of a man for murder, terror offences, and arson in relation to acts carried out by a neo-Nazi group. Further clarification on the draft law on orderly return that had recently been adopted by the Federal Government would also be appreciated. The new legislation provided for a series of worrying changes to the lives of asylum seekers in the State party including the deprivation of rights, the expansion of the use of detention and the withdrawal of social benefits. It would also be useful to know whether the national preventive mechanism would be permitted to visit the transit centres that had been set up to host asylum seekers at the borders with Austria and France.

21. Further information on the status of the execution of the judgment handed down by the European Court of Human Rights on the case concerning the abduction of Mr. El-Masri, as referred to in paragraph 92 of the State party's report, would be welcome. In 2017, 22 Syrian nationals residing in Germany had submitted four criminal complaints to the office of the Federal Public Prosecutor General against 27 Syrian officials working for the military police and different intelligence services for their alleged involvement in torture as a war crime and a crime against humanity. In the light of the news that three convictions had been handed down, the Committee would welcome further information on the status of any ongoing trials related to the original complaints.

22. With reference to article 14 of the Convention, it had been brought to the Committee's attention that the funding provided by the Federal Government to NGOs was not sufficient to cover the cost of redress, compensation and means for rehabilitation for torture victims. The German Association of Psychosocial Centres for Refugees and Victims of Torture had stated that access to rehabilitation measures for asylum seekers and refugees who had suffered torture was restricted because there was no comprehensive and monitored procedure for the assessment of an individual's therapeutic or psychosocial needs. The Committee would therefore welcome further information on whether the State party intended to take any measures to address the situation and, in particular, whether any plans had been made to establish a regular budget for all Länder to ensure that torture victims received specialist treatment throughout Germany.

23. Despite the information provided by the State party on the right of intersex persons to consent for surgical or other medical interventions, the Committee had learned that traditional forms of genital mutilation were regularly performed on intersex persons in Germany. The Government had pledged to adopt legislation prohibiting the enforcement of medical interventions on intersex minors, apart from in situations where their lives were at risk. He invited the delegation to comment on why that promise had not been fulfilled.

24. In recent years, Germany had pursued its controversial policy of exporting weapons to Saudi Arabia and the United Arab Emirates, two countries that were involved in the conflict in Yemen. Numerous violations of human rights and international humanitarian law had been perpetrated in Yemen since the start of the war. In the year 2000, the Government had adopted a policy to ban weapons exports to destinations where they would be used to repress the local population or contribute to human rights violations. He would like to know what the current status of implementation of that regulation was. Did the legislation need to be amended to make it stricter and bring it into line with the national approach to human rights? Lastly, the Committee would be interested to learn more about the State party's response to the case of Jamal Kashoggi, the journalist who had allegedly been kidnapped, tortured and murdered in the Saudi consulate in Istanbul.

25. **Mr. Tuzmukhamedov** (Country Rapporteur) said that he commended the State party for a well-prepared and detailed report. The information provided did nonetheless indicate worrying discrepancies between the Convention's definition of torture and that incorporated into German domestic law. For example, there were references in the State party's report to the criminalization of "Körperverletzung" (bodily harm), a term that fell short of covering all the elements of the crime of torture. It would be useful to know if a direct translation of the term "torture" appeared in article 225 of the Criminal Code, as suggested by the English translation of German legislation offered by the European Union, even though that provision was restrictive in terms of both the circumstances and the range of persons to which it applied. He invited the delegation to indicate any other specific provisions of the Criminal Code or the Military Penal Code where the term "torture" appeared with respect to a criminal offence. Overall, the Committee wished to reiterate its recommendation, previously included in its concluding observations on the fifth report of Germany, that the State party should include torture as a specific offence in its general criminal law and ensure that its definition encompassed all the elements of article 1 of the Convention (CAT/C/DEU/CO/5, para. 9).

26. Although the State party had declared in its report that German courts had repeatedly referred to the Convention, the Committee's research had revealed that the Federal Constitutional Court had made only one such reference during the reporting period. An update on the implementation of that judgment, rendered by the Court on 24 July 2018 on the use of physical restraints in psychiatric institutions, would be welcome. However, the Committee had observed that the Court was more inclined to cite European Union instruments than to refer to the Convention. Clarification as to whether the Court was aware of the Committee's Views and willing to cite them would also therefore be appreciated.

27. The Committee had received information about a criminal trial in which the judge had forced an alleged rape victim to view a recording of her assault despite her obvious psychological distress at being ordered to do so. The judge's alleged actions appeared to fall within the definition of torture under article 1 of the Convention. He would be interested to hear the delegation's comments on whether the judge in that case might have acted differently if the Criminal Code had contained a definition of torture. He urged the State party to remove the statute of limitations applicable to torture-related offences.

28. Turning to the issue of the training of law enforcement personnel, he noted that while the State party had indicated in its report that the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) was available online, no specific information had been provided on the teaching of its content. He said that he wished to learn whether personnel working with asylum seekers received training in intercultural communication and the identification of psychological suffering. It would be useful to hear whether interpreters were made available as required, and whether they possessed the skills necessary to assist medical personnel in communicating with persons who had suffered physical or psychological torture. He would also welcome the delegation's comments on the broader issues of education and information addressed in article 10 of the Convention.

29. The Manual on the Law of Armed Conflict, the State party's basic training tool for military personnel in matters of international law, appeared to contain very few references to either the Convention or the Optional Protocol and therefore did not meet the requirements of article 10 of the Convention. He would welcome clarification of whether the courses taught at the United Nations Training Centre of the German Armed Forces included information on international humanitarian law and human rights law. In the light of the assurances the State party had given the Human Rights Committee in 2005 to the effect that the training given to security forces deploying on international missions included instruction in the provisions of the International Covenant on Civil and Political Rights, he would be grateful to know whether the Government would consider extending the same assurances to the Committee against Torture in respect of its Convention.

30. He would welcome the delegation's response to information received by the Committee that persons taken into custody in Brandenburg, Hamburg and Mecklenburg-Western Pomerania were not informed of their rights in writing and that in a police station in Lower Saxony information leaflets for such persons were available only in German.

31. He reiterated the Committee's request for information on how the authorities ensured, in all parts of the State party, that police questioning was always suspended pending the arrival of a lawyer. Citing paragraph 17 of the State party's report, he said that he would appreciate clarification of the wording of the Code of Criminal Procedure with respect to the right of suspects to refuse to answer questions without a lawyer present, since the provisions quoted in that paragraph did not appear to match those that appeared on the website of the Federal Ministry of Justice.

32. Turning to the use of physical restraints, he said that he would be interested to learn whether the judgment handed down by the Federal Constitutional Court concerning cases in Baden-Württemberg and Bavaria involving persons in psychiatric hospitals had an effect similar to a class action suit, and whether it had any bearing on the remaining 14 Länder. It was unclear whether the judgment would be applicable in settings other than psychiatric hospitals.

33. It would be helpful to hear about any pieces of legislation or judicial decisions that had been deemed unconstitutional and whether they had been revoked as a result. In addition, he would appreciate clarification of whether the remarks made by the Federal Constitutional Court to the effect that statements made by the Committee on the Rights of Persons with Disabilities were not binding on domestic courts should be understood to refer to all human rights treaty bodies. It would be interesting to learn whether those remarks had been based on comparative research into the legislative and judicial practices of other States parties to the Convention.

34. Lastly, he would appreciate an update on the status of the declaration the State party had made at the time of its ratification of the Optional Protocol with regard to the requirement for a treaty to be agreed between the Länder and approved by parliament before a national preventive mechanism could be established. Was any information available on the progress made toward such a treaty? If the declaration had been revoked, did the State party intend to inform the relevant United Nations bodies?

35. **Ms. Belmir** said that she would be grateful for details of the follow-up that had been given to the judgment handed down by the Federal Constitutional Court in 2009, in which the Court had found that the Government's lack of cooperation with the inquiry into illegal transfers and secret detention had violated the Constitution. She would also appreciate an update on whether the section of the Asylum Procedure Act that excluded provisional legal protection in the case of transfers to third countries under the Dublin II Regulation continued to be applied despite the rulings of the Federal Constitution Court and the European Court of Human Rights.

36. She would welcome information with regard to the appeal lodged with the Federal Constitutional Court by the German Federation of Journalists in connection with the powers granted to the intelligence services to monitor the communications of foreign nationals. Further details would be useful on the action taken following the findings of the Working Group on Arbitrary Detention with respect to post-sentence preventive detention.

37. **Ms. Racu** said that according to information received by the Committee, the use of solitary confinement as a disciplinary measure was permitted in the State party up to a maximum of four weeks for adult prisoners and two weeks for juveniles. Given that those periods had been deemed excessive by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, she wished to learn whether the State party intended to amend its legislation on the use of solitary confinement to bring it into line with international standards, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

38. **The Chair** said that the Committee had received information that very few cases involving anti-Semitic or Islamophobic attacks had been brought to trial. She would be interested to hear the delegation's comments on whether the authorities were doing enough to protect migrants and refugees from such attacks, which were becoming increasingly frequent.

39. With reference to cases of war crimes, she wished to know how many of the trials that had been or were being conducted involved members of the Yazidi community from

Iraq, and how many perpetrators had been charged with crimes against humanity committed in Iraq and the Syrian Arab Republic.

40. Citing the case of a female lawyer of Turkish origin who had allegedly received threats against the life of her young daughter after police officers in Frankfurt shared the woman's private address with right-wing extremist networks, she asked what steps the Government was taking to tackle the apparent complicity of the police in cases involving that form of extremism.

41. She would appreciate clarification on an event after the Chemnitz riots in which police officers had shown members of a far-right group an arrest warrant with personal details about two migrants accused of stabbing a man to death. She wondered whether the Government intended to take any action in the cases of German citizens, including women, who were allegedly being held in Syria by Kurdish groups for participating in crimes against humanity. Finally, it would be useful to have updated data on domestic violence and other forms of abuse, including the proportion of migrants, especially new migrants from Iraq or Syria, who had been victims of such crimes.

The meeting was suspended at 12 p.m. and resumed at 12.25 p.m.

42. **Ms. Wittling Vogel** (Germany) said that a federal law on the structure of the German Institute for Human Rights had been passed several years ago. The two independent directors of the Institute were selected by the board of trustees following a public job advertisement. The board of trustees appointed a selection committee, which would draw up a shortlist of applicants to present to the entire board for review. The board of trustees consisted of full members, who were independent, and representatives of the Government without voting rights. The independent members, including academics, representatives of non-governmental organization and practitioners, were appointed by a civil society organization, the Forum Menschenrechte, and the remaining members were appointed by the human rights committee of the German parliament.

43. The programme of the current Government included plans for legislation to ensure that operations on intersex children would only be admissible in urgent cases. A meeting had already been held with experts in the field and representatives of relevant associations. The outcome of the meeting would be reviewed and a bill drafted in the near future. The Federal Ministry for Family, Senior Citizens, Women and Youth had produced a leaflet aimed at parents of intersex children, which encouraged them not to push for an operation and referred them to the support services available. An online portal also provided information to parents in the same situation.

44. The Higher Administrative Court in Münster had issued a judgment on the responsibility of the Government of Germany for drone attacks by the United States of America that involved a United States military base in Ramstein. No drones were controlled from Ramstein, but the base's technical facilities were used to relay signals sent from the United States of America. The Government was in constant contact with representatives of the United States of America who were stationed in Ramstein; the incidents concerned had been discussed and the United States of America had been reminded of its international obligations. The judgment in question, which was not yet final, required the German Government to take more action but it was not clear what that would entail. The Government was likely to appeal so that the matter could be decided by a higher court.

45. **Mr. Behrens** (Germany) said that the Government understood the concerns about the insufficient financial resources of the national preventive mechanism and planned to address them. That required coordination with all 16 Länder and talks to that end would be held in 2019. The members of the mechanism's Joint Commission were selected to ensure that different competences were available, with representatives from the police, the judiciary, psychiatry and the prison service. The members were often former civil servants who remained aware of the situation in their field. They had been appointed by federal ministries or by the Conference of Land Justice Ministers. The involvement of civil society in the selection of candidates had recently been expanded.

46. The declaration that Germany had made on ratification of the Optional Protocol had only been made as a precaution because it had not been clear when the treaty between the Länder needed to establish the national preventive mechanism would be concluded. After conclusion of the treaty, the Government had informed the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the declaration had become null and void.

47. The judgment of the European Court of Human Rights in the El-Masri case had been against North Macedonia, which had been ordered to pay damages of €60,000. Germany had been involved only for monitoring purposes as a member of the Council of Europe. In the related criminal case, all the persons accused of involvement in the kidnapping of Mr. El Masri were citizens of the United States of America. Since their extradition to Germany had been refused and that was not expected to change, the public prosecutor's office of Munich had dismissed the case under the statute of limitations.

48. For the Government, preventive detention and pretrial detention were very different concepts. The reforms made in recent years and which a judgment of the European Court of Human Rights had found to be in line with the international obligations of Germany concerned preventive detention.

49. **Ms. El Samadoni** (Germany) said that she had been appointed as the Public Ombudsperson for Social Affairs for Schleswig-Holstein in 2014, for a period of six years, pursuant to an Act of the Schleswig-Holstein parliament. The office was an independent parliamentary body that contributed to legislative oversight of the executive branch. She had no operational supervision and was only subject to the same level of administrative supervision as the independent judiciary. In 2016, the office of Commissioner for the Land Police had been established and she had taken on that role. It was an independent office, meaning that she did not receive instructions and was bound only by the law. Her main tasks were to receive complaints about police misconduct from the general public, but also submissions from police officers regarding their problems, referred to as "petitions". Complaints and petitions could be made anonymously. Police officers who wished to submit a petition did not need permission from their superiors and could not be subject to retaliation. Her aims in handling complaints and petitions were to reach an amicable settlement, to improve mutual understanding and to support communication.

50. The law provided for a low threshold for action, which meant that she could act whenever a reasonable assessment of the reported facts indicated the possibility of a breach of the law or serious misconduct. She was also able to act on her own initiative without a complaint, for example based on a media report. To investigate the cases, she had the right to obtain oral and written information from every police station and other government agencies and to talk to witnesses. She could view all types of records, subject to privacy and national security constraints. After a review of the facts and a legal assessment, she made a recommendation. The relevant authority could remedy the situation or provide a written explanation. Where appropriate, cases were referred to the competent authority to initiate disciplinary or criminal proceedings. If she identified structural problems, she could make recommendations to parliament. After the investigation of a petition or complaint, a statement was provided to the complainant with the reasons for the decision. If a disciplinary or criminal case was ongoing, it was possible to suspend proceedings to try to reach an amicable settlement and resume them after the process had been completed.

51. A report on her activity for the period from October 2016 to September 2018 was currently being prepared and subsequent reports would be annual. Her office received earmarked funding from the budget of the Schleswig-Holstein parliament and she then managed that budget. Between October 2016 and March 2019, she had received 128 complaints from the public, 371 petitions from police officers and had acted on her own initiative in 6 cases. Complaints by the public typically concerned impolite treatment at police traffic checks or allegations of delays in processing reports. Many of those complaints had been found to be justified. There had also been accusations of assault, illegal detention and theft. In all those cases, a criminal charge had been filed and the proceedings were still being handled by the courts. Petitions from police officers might concern problems with equipment and facilities, the recruitment process, internal communication and disciplinary proceedings, accidents at work and fitness for service or

conflicts with superiors. One case had concerned two police officers who were involved in organized crime. The petition had related to police records and whether exonerating evidence had been duly entered into the files. That had resulted in a parliamentary commission of inquiry, which had called its first witnesses in January 2019.

52. She had not identified any structural problems in the Schleswig-Holstein police but had found individual cases of misconduct. She often found a lack of communication, transparency and public understanding of police actions. On the positive side, she appreciated the high level of cooperation from the judiciary and the police authorities in providing access to files. Her objective was to raise awareness of her office among persons who might need its support.

The meeting rose at 12.55 p.m.