



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
Seventy-ninth session

**List of issues to be taken up in connection with the consideration of the
fifth periodic report of GERMANY (CCPR/C/DEU/2002/5), adopted
by the Human Rights Committee on 23 October 2003**

Implementation of the Covenant and right to an effective remedy (art. 2)

1. Please provide information on specific instances, over the reporting period, in which the Federal Constitutional Court (*Bundesverfassungsgericht*) as well as the other highest federal courts have referred in their judgements to the Covenant or to the recommendations of the Committee, particularly its Views on individual communications under the Optional Protocol.
2. In view of the State party's federal structure as well as the State party's overall responsibility for compliance with the Covenant, please describe measures to ensure that acts and omissions of the authorities of the provinces (*Bundesländer*) in areas of their exclusive competence are consistent with the Covenant. Please provide information on avenues available to remove inconsistencies.
3. Please clarify whether the State party regards the Covenant as applicable to its armed or police forces deployed internationally, including in Afghanistan. What degree of human rights training is provided for members of armed or police forces prior to deployment in peacekeeping operations, and how many cases of criminal or disciplinary sanctions have arisen concerning any alleged human rights violations by German troops?
4. Please explain how the State party regards the anti-terrorism measures it has adopted subsequent to 11 September 2001, notably the Law on the Combat of Terrorism (*Terrorismusbekämpfungsgesetz*), to be consistent with the provisions of the Covenant. (See also the Committee's Question 17.)

Equality of men and women (art. 3)

5. Please describe the effects of the 2001 Federal Equality Act for the federal administration and the courts of the federation in achieving equality in practice for men and women in the public service.

Right to life (art. 6)

6. In view of reported cases of deaths in police custody, please report on the criminal and disciplinary measures taken against the persons responsible. In particular, please detail the results of the investigation into the death, on 11 May 2002, of Stephan Neisius in Cologne, following suspected assault in police custody.

7. In the light of reports of cases of injuries and death occurring during deportation of foreigners (including Mokhtar Bahira and Aamir Ageeb), please provide information about these cases, and on criminal and disciplinary steps taken against those responsible as well as on measures taken to prevent such incidents in the future.

Rights to be free from torture or cruel, inhuman or degrading treatment or punishment and to be treated, as a prisoner, with dignity (arts. 7 and 10)

8. Please provide information about the number of cases of allegations of ill-treatment of persons, in particular of foreigners, by the police, the number of investigations conducted and the outcome of such investigations in recent years.

9. Please comment on the State party's position regarding publicly expressed opinions by members of the police and of the judiciary that torture should be permissible in extreme circumstances.

10. Please explain the State party's position regarding protection against forcible return to a country where there exists a specific danger of torture or killings by non-State actors. Do the decisions of the Federal Administrative Court (judgements of 15 April 1997 and 2 September 1997) that article 3 of the European Convention on Human Rights does not protect against forcible return in case of non-State torture also apply to article 7 of the Covenant? How many persons facing a specific danger of being tortured by non-State actors in their country of origin have been deported to such countries during the period under review?

11. Please explain how the State party reconciles article 16 (a), paragraph 2, of its Basic Law (*Grundgesetz*) which, as amended in 1993, provides that an asylum-seeker cannot refute the determination that a designated "safe third country" is in fact unsafe in his or her case, with the duty to provide an effective remedy in cases where the individual concerned would be threatened with torture or death in the third country or a country to which he or she would be returned to by the authorities of the third country.

12. In the light of the degrading treatment to which elderly persons have been exposed to in certain long-term care homes described in the State party's report (paras. 109 to 116), please inform the Committee on the results of any measures taken, including criminal prosecutions for neglect, to remedy such situations.

13. Please provide statistical information about criminal and disciplinary proceedings against police officers, prison wardens and persons in similar positions regarding ill-treatment of detainees and the outcome of such proceedings.

14. Please provide statistical information about the number and lengths of cases of solitary confinement in prisons.

Right to be free from slavery (art. 8)

15. Please indicate what steps have been taken to reduce and discourage the incidence of trafficking of human beings, especially of women, to the State party. Please include statistics on prosecutions brought and convictions obtained, as well as efforts undertaken in States of origin and transit to combat sources of trafficking.

16. Please elaborate on the measures taken in practice to ensure that women engaged in prostitution are not subject to contemporary forms of slavery, including debt bondage, by third parties.

Privacy and family life (art. 17)

17. Please describe in detail the extent to which the State party's authorities have made use of the broader powers that have been adopted subsequent to 11 September 2001, and which give law enforcement authorities more intrusive scope to monitor and investigate persons suspected of possible involvement in terrorist activities. Please advise whether the anti-terrorism powers conferred on competent authorities have also been utilized with respect to the investigation and prosecution of offences and suspects *not* directly related to terrorism.

Freedom of thought, conscience and religion (arts. 18 and 19)

18. Please clarify how membership of "sects and psycho groups", including members of the Scientology group, is determined to affect adversely an individual's aptitude for public service; please provide pertinent examples.

Protection of the family and children (arts. 23 and 24)

19. What measures does the State party take to discourage, prevent and provide redress for the removal of children to third jurisdictions by parents or guardians in order to undergo treatment contrary to article 7, such as genital mutilation, or to be subjected to practices otherwise contrary to their rights under the Covenant, such as forced marriage? Please provide statistics on prosecutions relating to such activities, as well as the degree of cooperation in investigation with States where these acts or practices are suspected to have occurred.

Right to be free from discrimination and rights of minorities (arts. 26 and 27)

20. Please provide detailed information on the steps taken in view of the State party's statement in paragraph 372 of its report that it will examine its reservation under the Optional Protocol to article 26 of the Covenant once it has ratified the 12th Optional Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

21. Please describe the steps taken subsequent to the 2001 World Conference on Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance to combat xenophobia and anti-Semitism. Please detail the prosecutions that have taken place since examination of the last report, with respect to the relevant criminal offences.

Dissemination of the Covenant and Optional Protocol

22. Describe the measures taken to disseminate information on the submission of reports and on their consideration by the Committee, particularly on the Committee's concluding observations. Please inform the Committee of any role of the Federal Parliament or its subsidiary bodies with regard to the Committee's concluding observations.
