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**Consideration of reports submitted by States parties
under article 40 of the Covenant**

**List of issues to be taken up in connection with the
consideration of the sixth periodic report of Germany,
adopted by the Committee at its 105th session (9–27 July
2012)**

Addendum

Replies of Germany to the list of issues* **

[8 October 2012]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited.

** Annexes can be consulted in the files of the secretariat.

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I. Introduction

1. On 8 April 2011, the Government of the Federal Republic of Germany submitted the sixth periodic report (CCPR/C/DEU/6) in accordance with Article 40 of the International Covenant on Civil and Political Rights (hereinafter: the Convention). The Report covers the period starting from the presentation of the fifth periodic report in March 2004 until March 2010.
2. In a letter dated 24 July 2012, the Human Rights Committee requested the Government of the Federal Republic of Germany to respond to a list of issues (CCPR/C/DEU/Q/6), containing 22 questions, by 5 October 2012.
3. The Government of the Federal Republic of Germany hereby submits its replies to the list of issues.
4. Looking forward with great interest to the presentation of its sixth periodic report under the Convention, the Government of the Federal Republic of Germany hopes for a constructive dialogue with the Committee. The Government further affirms that it will continue its practice of taking due notice of the results of the presentation and the recommendations to be issued.

II. Responses to the issues raised in the list of issues (CCPR/C/DEU/Q/6)

Constitutional and legal framework within which the Covenant is implemented (art. 2)

Response to the issues raised in paragraph 1 of the list of issues

5. In Germany, most of the decisions in the lower courts will not be published in official gazettes or on the Internet. The Federal Government has therefore no means of giving a comprehensive overview of the number of cases in the German courts where the provisions of the Covenant have been invoked. However, research undertaken by the Federal Government and the *Länder* Ministries of Justice has provided a number of examples where the Covenant has actually been the subject of judicial decisions. The topics involved cover a wide area of law. A list of decisions with short descriptions of the legal issues at stake in each case is attached as annex 1.

Response to the issues raised in paragraph 2 of the list of issues

6. The procedures for the implementation of any Views under the Optional Protocol will vary according to the nature of the case. In general, however, the Federal Ministry of Justice as the Ministry in charge of the implementation of the Covenant will, as the first step, inform all authorities involved in the relevant case – and all authorities which might be confronted with similar cases in the future – about the decision and provide them with an official translation. The Ministry will then, if necessary, issue an explanatory note in order to explain, for example, necessary changes in administrative practice. If the Views indicate the necessity of legislative changes, it would fall to the Ministry responsible for the relevant law to introduce them.

7. Individual measures, including compensation, if called for, would have to be decided by the Ministry responsible for the relevant action, whether on the federal or on the *Länder* level.

Response to the issues raised in paragraph 3 of the list of issues

8. The examination referred to in para 114 of the State Report has led to the result that the reservation to article 15, paragraph 1 of the Covenant should not be withdrawn for the time being. The Federal Government has therefore not initiated any steps towards the relevant legislative process.

9. Germany does not intend at present to withdraw any of the other reservations and interpretative declarations mentioned.

Non-discrimination, equality between men and women (arts. 2, para. 1, 3 and 26)

Response to the issues raised in paragraph 4 of the list of issues

(a) Women's status in the political, economic and social life of the country

10. Equality between men and women has constitutional status in Germany. Equality at work is a major goal of the Federal Government's policy. The Federal Government sustains an intensive effort to achieve equality and equal opportunities for women and men. As a matter of principle, the State's activity in Germany follows the principle of gender mainstreaming. Accordingly, equality of women and men is a constant guiding principle, and is to be promoted in all political, legislative and administrative measures on principle.

11. For this reason, the Federation, the Länder and the local authorities are implementing a large number of measures at various levels serving real enforcement of equality of women and men and attempting to eliminate existing disadvantages.

12. The following can be stated as to the share of women in the German Federal Parliament, as well as in the occupation of judges' posts:

13. The share of women in the current 17th German Federal Parliament is 32.9 percent (620 representatives, 204 women and 416 men), and hence rose slightly in comparison to the share of women in the 16th German Federal Parliament – which was 32.0 percent. It should be noted in this respect that almost all the parties represented in the German Federal Parliament have imposed internal quota or quora regulations for equal participation of women. In an EU-wide comparison, the share of women in the German Federal Parliament and in the Federal Cabinet is far above average.

14. The share of women in occupying judges' posts emerges from Annex 2.

(b) Percentage of positions of responsibility held by women

15. The Federal Government has played an active role in recent years in increasing the share of women in leadership positions. It will also continue to make all the necessary efforts to enable women to participate fairly in the top positions in industry.

16. Progress has already been made in this regard in the 30 largest listed companies in Germany. In the DAX 30 companies, only in the last year the share of women in boards has increased from 2.15 % (2011) to 6.32 % (as per: 14 July 2012) and in the supervisory councils from 13.63 % (2011) to 19.2 % (as per: 14 July 2012).

17. At the same time, it can be observed that companies are becoming more aware of the topic. The recommendations of the German Corporate Governance Code drafted in greater detail in 2010 have also made a contribution here. It contains explicit recommendations to accommodate women on boards of directors and supervisory councils, as well as in other leading functions of listed enterprises. At the invitation of the Federal Government, moreover, almost all DAX 30 companies set specific goals at two summits which took

place in 2011 to promote women in leading positions below the level of boards of directors and supervisory councils.

18. The Federal Government is additionally supporting a number of further projects and promotional activities in order to grow the pool of women who can be considered for top positions and to advance the necessary change of culture in the workplace.

(c) Hiring practices to close the wage gap

19. The wage gap in Germany between women and men when starting in the same profession is slight. As careers continue, the wage gap frequently widens as women interrupt their careers because of family responsibilities. Here, the Federal Government is trying to take measures such as the parental allowance to reduce women's career breaks by promoting "parental time" for fathers. Furthermore, the expansion of childcare for the under-threes is being intensively supported. The Federal Government has additionally launched the "Prospects for reintegration" action programme for women who have already interrupted their careers for some time.

20. The wage gap between men and women in different professions is not caused by recruitment practices. The vertical segregation of the labour market is largely caused by the fact that young women and men take up different training occupations and engage in different courses of study. The Federal Government is attempting to counter this through further initiatives (cf. subsection (d) below).

(d) Segregation of the labour market between gender lines

21. The Federal Government attaches considerable significance to the equality of women and men in its active labour market policy. Additionally, the Federal Government is promoting the expansion of women's employment opportunities by means of targeted activities such as the "Bringing about equality – Federal initiative for women in industry" programme or the "National Pact for Women in MINT Careers - "Go MINT!"". These motivate young women to take up promising professions from natural and engineering sciences.

22. The "Girls' Day – Future Prospects for Girls" should be mentioned as a further important activity, which already took place for the twelfth time on 26 April 2012. This project aims amongst other things to motivate girls to enter professions in which they remain underrepresented.

Response to the issues raised in paragraph 5 of the list of issues

23. The general anti-discrimination principle contained in section 25 of the Act on Federal Civil Servants (BBG) is implemented by various provisions contained in the Federal Ordinance on Career Paths (Bundeslaufbahnverordnung). Thus, for instance when calculating the service period of part-timers which relates to career advancement, as a matter of principle reduced and standard times are treated equally. This relates in particular to probationary and trial periods, introductory periods when being promoted and taking account of full-time activities. Additionally, the probationary period is not interrupted by parental leave or family leave if the minimum probationary period has been served. This reduces disadvantages incurred in promotions because the last regular assessment is to be fictitiously carried forward during parental leave if there is no current assessment because of the absence. Finally, parental leave is regarded as probation time served if it is highly likely that the probation period would have been completed successfully.

24. Section 25 of the Federal Act on Gender Equality (Bundesgleichstellungsgesetz) of 2001 provides for a regular duty to report in accordance with which the Federal Government must submit an experience report to the German Federal Parliament every four years. The second Experience Report was adopted by the Federal Cabinet in December

2010 and forwarded to the German Federal Parliament. The report covers the period from 1 July 2004 to 30 June 2009. The report records that improvement has been made in important equality indicators – such as the increase in the share of women among the employees of the federal service, in leading positions or in promotions. Encouraging progress has been recorded in the implementation of the goal of improving the reconciliation of family and work. This relates for instance to the creation of more flexible work schedules, the introduction of “Reentry-programmes” or the provision of “family services” in a number of Federal Ministries and other authorities. With regard to leading positions within the Federal Ministries, a marked change has taken place in the period following the Report as regards State Secretaries’ positions: The number of tenured female State Secretaries rose from 1 (in 2009) to 6 (in 2012), that is to a share of 24 %.

Response to the issues raised in paragraph 6 of the list of issues

25. The Federal Government is well aware that the provision of housing is a particularly sensitive area, also in view of possible discrimination on grounds of ethnic origin. It nonetheless considers the provision contained in section 19 subs. 3 of the General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz – AGG) to be necessary in order to do justice to the principles of social urban and housing policy, which has proven its value in Germany. The co-existence of different cultures without marginalising one another is contingent on socially-stable residential structures existing in urban neighbourhoods. Managing the occupancy of housing solely serves to create balanced economic, social and cultural conditions, and hence paves the way for the integration of people with different origins. Section 19 subs. 3 of the General Equal Treatment Act does not aim to facilitate discrimination, but to make integration easier by avoiding wherever possible the formation of closed residential areas of different population groups. The more successful the integration of people of different origins, the less discrimination there will be. Occupancy management sets the stage for achieving this goal.

Response to the issues raised in paragraph 7 of the list of issues

26. Germany has created the “National Action Plan for Integration” in order to eliminate discrimination against persons with an immigration background.

27. In the field of employment, a major part of this Action Plan is accounted for by the federal programme entitled “XENOS – Integration and Diversity”, which promotes action against marginalisation and discrimination in the transition between school, training and work. It focuses on juveniles and young adults with and without an immigration background experiencing problems in gaining access to school, training and jobs. XENOS aims to impart special skills and strengthen structures reducing xenophobic and discriminatory attitudes, and in particular to sustainably support migrants in entering the labour market and becoming integrated into society. 252 individual projects all over the country have been promoted in this programme since October 2008, with an assistance volume of € 130 million. A total of 89 projects with an assistance volume of roughly € 42 million are accounted for by the priority focus on “Integration of migrants”. Another 113 projects and project associations all over the country have been promoted from January 2012 onwards and until the end of 2014 in the context of a second round of promotion. An additional Euro 104 million in promotion is available for this.

28. A priority in the elimination of discrimination in housing is social housing promotion, which makes a major contribution towards social stability in neighbourhoods. The Federal Government provides 518,2 million Euro per year for social housing programmes, which are administrated by the Länder. It should be ensured as early as in the planning and fund-approval stages that social housing is created in different parts of town in order to prevent segregation between individual groups, in particular of persons with a migration background. A further focus lies in urban development subsidies and in urban development itself. Particularly with the urban development subsidy programme entitled

“Social cities – Investing in Neighbourhoods”, the Federation is supporting improvements in urban development and enhancing social cohesion in disadvantaged neighbourhoods where the structure is poor, that is in those neighbourhoods in which a relatively large share of unemployed people with (and without) a migration background coincides with a weak local economic structure and educational opportunities. Within integrated development concepts, urban renewal through investment in building is linked to measures to improve living conditions in the neighbourhood. The focus is on necessary urban investment to improve living conditions, the residential environment and the social infrastructure since the infrastructure in “social flashpoints” is frequently inadequate, and in particular the quality of the residential environment very much influences people’s choice of where to live. Roughly 600 overall projects have so far been promoted in approx. 375 localities. The programme has Euro 83 million at its disposal from 2011 to 2014.

29. The ongoing activities in education include (special) language instruction in early childhood and school education, all-day offers, the deployment of educational assistants, the reduction of class sizes in classes with a high percentage of pupils with an immigration background, offering summer schools to help language acquisition, increased recruitment of teachers with an immigration background, instruction being offered in the languages of origin, trials of “Islamic studies” in German, the network of teachers with an immigration background, the school trial “Language of origin as a second foreign language”, as well as bilingual parent-teacher meetings at schools and parents’ evenings with information for vocational orientation.

30. The statistic recording of complaints of discrimination is being dealt with differently in Germany at present. The Federal Anti-Discrimination Agency (ADS) attempts to achieve improvement by means of a standardised recording of discrimination complaints. For instance, the ADS records the respective characteristic or characteristics to which the enquiry refers when receiving the consultation enquiries. There have been 1,736 consultations on the topic of ethnic origin since the Agency was established (as per June 2012).

Right to life, prohibition of torture and cruel, inhuman or degrading treatment or punishment (arts. 6 and 7)

Response to the issues raised in paragraph 8 of the list of issues

31. The Federal Government adopted the Second Action Plan to Combat Violence against Women (“*Zweiter Aktionsplan zur Bekämpfung von Gewalt gegen Frauen*”) in September 2007 in order to combat violence against women and children. This Action Plan II combines more than 130 of the Federal Government’s activities, some of which are ongoing and others that have already been implemented in the spheres of prevention, legislation by the Federation, the aid system to support and advise women affected by violence, nationwide networking in the aid system, cooperation between state institutions and non-governmental helpers, work with offenders, skill-building and awareness-raising, research, European and other international cooperation, as well as support measures for women abroad.

32. The Action Plan II sets particular priorities with regard to combating violence against women with disabilities, as well as women and girls with an immigration background. Unfortunately, Turkish-origin women and women from the countries of the former Soviet Union and the successor states are much more frequently victims of physical or sexual violence than the average female population of Germany. The increased potential for violence is due especially to the frequently more difficult social conditions and lack of educational and economic resources of those concerned. Studies have shown that women with an immigration background are less likely to take up support services than their contemporaries who do not have an immigration background. For this reason, Action Plan II amplifies the protective measures for migrant women against violence.

33. As a central measure in the field of violence against women, the Federal Government is establishing the “violence against women” nationwide telephone hotline at the beginning of 2013. The new helpline will be a major addition to the existing advice available for such victims of violence in particular for whom it is difficult, physically, linguistically or culturally, to consult an advice agency, such as for women and girls with an immigration background, victims of human trafficking and forced marriage or women with a disability. The service will be available free of charge, 24/7, in several languages, anonymously, barrier-free and publicised nationally. Victims of violence are thus to be advised as quickly and early as possible and “navigated” to the assistance facilities near where they live.

34. There are also already further training activities in this context. There are, for instance, in the German Judicial Academy – an advanced training facility which is funded jointly by the Federation and the *Länder* – nationwide further training courses for judges of all branches of the court system, as well as public prosecutors. There are regular seminars, which – also with interdisciplinary approaches – particularly address protection of women, juveniles and children against sexual violence and exploitation. Examples are events on “Violence in the family – family or criminal law aspects, stalking and child abuse” or on “Dealing with victims of sexual violence in criminal procedure”, “Current developments in criminalistics and the administration of criminal justice”, “The law, violence and aggression” or indeed specifically on the complex topics related to international human trafficking.

35. What is more, regular further training events take place in all Federal *Länder* for the police on the topic of “domestic violence”. Examples are as follows:

- In Baden-Württemberg, in the advanced training seminar entitled “Violence in the immediate social environment – legal and psychological-tactical aspects of police intervention” legal certainty and certainty of action in police intervention is dealt with in this sensitive area and aspects covered by in training are reinforced. Victim protection is also dealt with here.
- In the Bavarian police, the topic “Violence against women” is dealt with in the seminar entitled “Domestic violence/victim protection”. In addition, there are lesson units in psychology/spiral of violence, legal instruction in the Violence Protection Act (*Gewaltschutzgesetz*) and also the lecture by a female victim of stalking. Furthermore, the seminar entitled “sexual offences/abuse of children and juveniles” is offered covering the following topics: victim protection and victims’ needs/tasks of a victim protection office, case descriptions (sex, coercion and rape) by case-officers of criminal police stations, violence and sexual violence on the Internet (including child pornography), tasks of the youth welfare office with regard to violence against children and juveniles, evidence of sexual offences and abuse crimes and its preservation, questioning victims of sexual offences, experiences of violence/impact, video questioning (by judges and the police) and operative case analysis with sexual offences.
- An interdisciplinary conference takes place in Hesse, in cooperation with the “*Land* anti-domestic violence coordination unit”, which has been established in the Ministry of Justice, on the topic of “Domestic violence”, also addressing judges, public prosecution officers, police officers, staff of victim assistance associations and women’s refuges. This event is supplemented by one-day workshops dealing with a specific topic from this complex, such as the impact of domestic violence on children and related problems of access and custody law. Furthermore, the further training programme of the Hesse Police Academy offers various seminars on the topic of violence against women, such as the seminar entitled “Violence in marriage/partnership”, the seminar entitled “Management of risk situations” and the seminar entitled “Rape”. The interdepartmental further training course was also

included as a priority of the “2nd Action Plan of the *Land* Hesse to Combat Domestic Violence”.

- In Thuringia, the topic of violence against women is included in the group of further training courses entitled “Domestic violence”. The following topical content, amongst other things, is imparted in a workshop: awareness-creation for dealing with victims, overcoming different scenarios of domestic violence, practical application of the principles of the search for and securing of evidence at the crime scene, documenting and safeguarding the typical case-specific state of evidence at the crime scene, obtaining certainty as to what to do in dealing with offenders/victims, preparing documentation of operations, as well as initiating and arranging for emergency and follow-up measures.

36. From 1 January 2011, a new category, “violence in close social relations”, has been introduced in the standard police statistics to collect statistical data regarding domestic violence. The data for 2011 are available in Annex 3, which is enclosed. Furthermore, criminal offences in accordance with section 4 of the Act on Protection against Violence (Gewaltschutzgesetz) have also been shown since 2009 under offence code 720011 of the police criminal statistics. Annex IV contains the data on code 720011 (criminal offences in accordance with section 4 of the Act on Protection against Violence).

37. There were 424 sets of criminal proceedings relating to offences under section 4 of the Act on Protection against Violence in 2009, leading to 286 convictions. There were 490 sets of proceedings in 2010, with 363 convictions.

38. Women and girls who have been the victims of a violent offence in the territory of the Federal Republic of Germany can lodge claims in accordance with the Act on Compensation for Victims of Violent Offences (Victims’ Compensation Act [Opferentschädigungsgesetz – OEG]). This is contingent on their having suffered damage to their health through an intentional, unlawful assault or in defending themselves against it. The core concept of the Victims’ Compensation Act is an obligation incumbent on the State to stand up for innocent victims of intentional violent offences. The Act hence regulates separate state compensation which as a matter of principle is provided independently of the general social security systems and social assistance for those whom the German State with its police organs was unable to protect against an intentional violent offence. The scope and the amount of the benefits to be provided are in line with the extent and gravity of the consequences of the damage and the respective needs, composed of several individual benefits (therapeutic treatment, rehabilitation and participation benefits, non-means-tested basic pensions, means-tested further pension payments, welfare benefits).

39. As a matter of principle, no statistics are kept breaking down the compensation paid in accordance with the Victims’ Compensation Act by groups of victims. Hence, it is not possible to say anything about the amount of the benefits specifically paid to women and girls in accordance with the Victims’ Compensation Act.

40. Moreover, compensation (damages and pain and suffering money) is conceivable via civil actions, in the adhesion procedure (damage claims in connection with criminal proceedings), as well as in conditions and instructions under criminal law relating to young persons and probation conditions or conditions imposed on discontinuation of the proceedings. No data are however available for any of the above categories broken down by the gender of the victims.

41. The Federal Government presented a report on the situation of women’s refuges, specialist advice agencies and other support services for women affected by violence and their children on 15 August 2012. The stock-take reveals that Germany has 353 women’s refuges and at least 41 sheltered accommodation units with more than 6,000 places, offering protection and advice to roughly 15,000 to 17,000 women with their children – that is roughly 30,000 to 34,000 persons – per year. Added to this is a national number of more

than 750 specialist advice centres providing qualified advice and support to women affected by violence. In addition to the large number of women's advice centres and emergency helplines, which aim to provide professional assistance in cases of violence against women in general or whose work focuses on advising in case of sexual violence, and roughly 130 intervention centres for domestic violence, roughly 40 specialist advice centres for victims of trafficking in women, as well as further services specialising in specific forms of violence. These include specialist advice and cooperation agencies specialising in forced marriage or stalking.

42. The women's refuges are funded in very highly varied ways all over Germany: Most Federal *Länder* provide for mixed funding for women's refuges and protective housing for women consisting of daily rates and of funds provided from the Land and/or local authority budgets. Some *Länder* fund women's refuges almost entirely from subsidies provided by the *Länder* or local authorities. A further source of income in all Federal *Länder* is donations or funds from the institutions themselves.

Response to the issues raised in paragraph 9 of the list of issues

43. The Criminal Code as well as the Code of Crimes against International Law already provide provisions which allow the prosecution of torture. The Federal Government believes that German criminal law sufficiently incriminates and adequately sanctions all acts of torture.

44. In particular, the criminal offence of section 343 of the Criminal Code (Strafgesetzbuch – StGB)¹ covers a typical case of torture. The gravity of the crime is also taken into account by providing that these elements constitute a felony and with the provided statutory range of punishment of between one and ten years' imprisonment. Therefore, making torture a specific offence in the context of general criminal law is currently not being contemplated.

Table 1

Sets of investigation proceedings dealt with by the public prosecution office at the Regional Court and by lower prosecution authorities (Amtsanwaltschaften) from 2009^a to 2011

Table 1 (a) – 2009

<i>Sets of investigation proceedings dealt with^o,</i>									
	total	of which dealt with by						other**	
		charge *	Request for an order imposing punishment	discontinuation in accordance with section 153 subs. 1 of the Code of Criminal Procedure ^b	section 153a of the Code of Criminal Procedure ^c	section 154 subs. 1 of the Code of Criminal Procedure ^d	section 154e of the Code of Criminal Procedure ^e		section 170 subs. 2 of the Code of Criminal Procedure ^f
<i>Relating to criminal offences committed by police officers in 2009</i>									
Intentional	21	3	1	1	0	1	0	13	2

¹ Section 343 Forcing someone to make a statement
 (1) Whoever as a public official involved in
 1. a criminal proceeding, a proceeding for the purpose of detention by a public authority;
 2. a proceeding to impose a summary fine; or 3. a disciplinary proceeding, disciplinary court or professional disciplinary court proceeding physically abuses another, otherwise uses force against him, threatens him with force or abuses him mentally in order to force him to testify or to declare something in the proceeding or to fail to do so shall be liable to imprisonment from one to ten years.
 (2) In less serious cases the penalty shall be imprisonment from six months to five years.

<i>Sets of investigation proceedings dealt with^o,</i>									
	total	of which dealt with by							other**
		charge *	Request for an order imposing punishment	discontinuation in accordance with					
<i>Relating to criminal offences committed by police officers in 2009</i>				section 153 subs. 1 of the Code of Criminal Procedure ^b	section 153a of the Code of Criminal Procedure ^c	section 154 subs. 1 of the Code of Criminal Procedure ^d	section 154e of the Code of Criminal Procedure ^e	section 170 subs. 2 of the Code of Criminal Procedure ^f	
homicide									
Using and exposing to violence	1,292	24	11	29	20	4	62	1,128	11
Coercion and abuse of office	1,176	10	7	28	14	5	26	1,073	13

Notes: ^a Not incl. Hamburg, no information is available from Hamburg concerning the type of termination.

Because criminal offences committed by police officers (subject areas 52 to 54) were separated from criminal offences committed by (other) judicial staff for the first time, the data up to 2009 are not reliably portrayed by subject areas.

^o Not incl. submission to the administrative authority as a regulatory offence (sections 41 subs. 2 and 43 of the Regulatory Offences Act [OWIG]), submission to another public prosecution office and joinder with another case.

* Incl. application for simplified juvenile proceedings

** Discontinuation in accordance with sections 45 of the Youth Courts Act (JGG), 154b subs. 1 and 154d as well as 154f of the Code of Criminal Procedure, 20 of the Criminal Code (StGB), other (temporary) discontinuation, reference to filing a private action.

^b No Prosecution of Petty Offences (§ 153 StPO)

^c Discontinued after fulfilment of conditions and instructions (§ 153a StPO)

^d Discontinued as insignificant secondary prosecution (§ 154 StPO)

^e Discontinued because of pending disciplinary proceedings (§ 154e StPO)

^f Discontinued because of lack of sufficient reason for preferring public charges (§ 170 Abs. 2 StPO)

Table 1 (b) – 2010

<i>Sets of investigation proceedings dealt with^o,</i>									
	total	of which dealt with by							other**
		charge*	Request for an order imposing punishment	discontinuation in accordance with					
<i>Relating to criminal offences committed by police officers in 2010</i>				section 153 subs. 1 of the Code of Criminal Procedure	section 153a of the Code of Criminal Procedure	section 154 subs. 1 of the Code of Criminal Procedure	section 154e of the Code of Criminal Procedure	section 170 subs. 2 of the Code of Criminal Procedure	
Intentional homicide	28	9	0	1	0	0	0	14	2
Using and exposing to	2 060	39	24	58	32	4	59	1 826	16

<i>Sets of investigation proceedings dealt with^o,</i>									
	total	of which dealt with by							other**
		charge*	Request for an order imposing punishment	discontinuation in accordance with					
				section 153 subs. 1 of the Code of Criminal Procedure	section 153a of the Code of Criminal Procedure	section 154 subs. 1 of the Code of Criminal Procedure	section 154e of the Code of Criminal Procedure	section 170 subs. 2 of the Code of Criminal Procedure	
<i>Relating to criminal offences committed by police officers in 2010</i>									
violence									
Coercion and abuse of office	1 683	27	13	28	23	6	41	1 537	7

Notes: ^o Not incl. submission to the administrative authority as a regulatory offence (sections 41 subs. 2 and 43 of the Regulatory Offences Act [OWIG]), submission to another public prosecution office and joinder with another case.

* Incl. application for simplified juvenile proceedings.

** Discontinuation in accordance with sections 45 of the Youth Courts Act (JGG), 154b subs. 1 and 154d as well as 154f of the Code of Criminal Procedure, 20 of the Criminal Code (StGB), other (temporary) discontinuation, reference to filing a private action.

Table 1 (c) – 2011

<i>Sets of investigation proceedings dealt with^o,</i>									
	total	of which dealt with by							other**
		charge*	Request for an order imposing punishment	discontinuation in accordance with					
				section 153 subs. 1 of the Code of Criminal Procedure	section 153a of the Code of Criminal Procedure	section 154 subs. 1 of the Code of Criminal Procedure	section 154e of the Code of Criminal Procedure	section 170 subs. 2 of the Code of Criminal Procedure	
<i>Relating to criminal offences committed by police officers in 2011</i>									
Intentional homicide	18	0	0	3	0	0	0	13	2
Using and exposing to violence	2 324	52	21	62	35	4	54	2 087	9
Coercion and abuse of office	1 764	19	19	44	18	3	33	1 602	26

^o Not incl. submission to the administrative authority as a regulatory offence (sections 41 subs. 2 and 43 of the Regulatory Offences Act [OWIG]), submission to another public prosecution office and joinder with another case.

* Incl. application for simplified juvenile proceedings.

** Discontinuation in accordance with sections 45 of the Youth Courts Act (JGG), 154b subs. 1 and 154d as well as 154f of the Code of Criminal Procedure, 20 of the Criminal Code (StGB), other (temporary) discontinuation, reference to filing a private action.

Source: Federal Statistical Office (ed.), Staatsanwaltschaften 2009, 2010 and 2011.

45. No nationwide statistics are kept on the number of complaints against prison staff. Prisons are within the remit of the Länder.

46. A survey among the Land administrations of justice has revealed that no statistics giving comprehensive coverage are kept there either. Annex 5 contains a summary of the information ascertained there in each case on the basis of the enquiry by the Committee.

47. For granting compensation in accordance with the Victims' Compensation Act no distinction is made as to the motivation, the profession or the origin of the respective offender. Therefore, no data are available regarding whether and in how many cases of abuse by police officers compensation was awarded in accordance with the Victims' Compensation Act.

Response to the issues raised in paragraph 10 of the list of issues

48. At the outset, the Federal Government wishes to stress that police officers on duty are required by the respective Länder laws to show their official legitimising documents on request, which give their name.

49. In Berlin, Brandenburg, Rhineland-Palatinate, Hessen, Saxony-Anhalt and Thuringia, police officers must wear badges indicating their name or identification number when carrying out their duties (excluding situations where operative reasons do not allow this, e.g. covert operations).

50. Most other Länder provide for the possibility of carrying such badges but do not require the officers to wear them in all circumstances.

51. The Berlin police headquarters has had a report drawn up by the Free University of Berlin as to the question of how wearing or not wearing name badges affects the conduct of investigations in cases of alleged misconduct by law enforcement personnel, and the fight against impunity in the police service. The report comes to the final conclusion that the obligation to wear a badge does not lead to more effective investigations.

Response to the issues raised in paragraph 11 of the list of issues

52. The decision of the Federal Constitutional Court of 14 May 1996 should be taken into account with regard to the application of section 34a subs. 2 of the Asylum Procedure Act (AsylVfG). Accordingly, the exclusion of provisional legal protection in the case of transfers to safe third states and Member States of the EU and other European states participating in the "Dublin Regulation" (Regulation (EC) No. 343/2003 of 18 December 2003) is possible as a matter of principle.

53. Provisional legal protection should however be granted if the person who is to be transferred claims that an individual risk applies in the "safe third state" or in the state which is responsible in accordance with the Dublin Regulation. This is the case, for instance, if there are concrete indications that degrading or inhuman treatment or punishment is threatened in that state in violation of Art. 3 of the ECHR. In accordance with the case-law of the European Court of Human Rights on effective legal protection in accordance with Article 13 of the Convention (decision in the case of *M.S.S. vs. Greece and Belgium* of 21 January 2011), a substantiated complaint of being exposed to treatment in breach of Article 3 of the Convention as a result of extradition to another country must be thoroughly investigated.

54. The Dublin Regulation is at the moment under discussion in the EU context. Germany will await the outcome of these discussions before entering into any legal amendments on this subject.

55. The "airport procedure" under Article 18 a of the Asylum Procedure Act applies only if an asylum seeker arrives from a "safe country of origin" or without a valid passport. Rejection of the application is possible only if the application is manifestly ill-founded.

When assessing this, the BAMF takes into account whether there is any reasonable ground to expect torture or ill-treatment in case of rejection and deportation. The applicant may appeal to the administrative court against the decision.

Table 2

<i>Period</i>	<i>Receipt of files</i>	<i>Entry permitted</i>							
		acc. to section 18 a subs. 6 No. 1 of the Asylum Procedure Act	Total	of which recognised	of which rejected as manifestly ill-founded	of which discontinued	lodged	accepted**	rejected**
2004	587	278	304	0	304	0	224	8	214
2005	427	182	236	0	235	1	181	19	148
2006	601	313	275	0	275	0	207	6	195
2007	608	426	183	0	183	0	134	6	127
2008	649	454	174	0	174	0	141	13	130
2009	432	325	54	0	53	1	48	0	46
2010	735	565	57	0	55	2	36	0	35
2011	819	774	60	0	60	0	50	1	49

* only data for Frankfurt Airport available here

** where appropriate also includes rulings on appeals lodged in the previous year.

The values of past periods may be subject to change because of subsequent corrections.

56. No statistical data are collected as to the reasons submitted by asylum-seekers in the proceedings. It is therefore not possible to say anything about the number of asylum applications by conscientious objectors. In principle, the evaluation of the submission in asylum procedures depends on the measures threatened in the respective country of origin. Punishment for refusing to render war service does not per se constitute political persecution. Providing protection may however be considered if the punishment is targetedly used vis-à-vis specific persons refusing to render military service, and hence for instance intends to bring about political disciplining and intimidation of political opponents, re-education of dissidents or forced assimilation of minorities. In favour of the person concerned, it is also taken into account whether the punishment is more severe than is customary in such cases. In the case of refusal to render war service being punished in a manner that is unreasonably severe or cruel in objective terms, moreover, it can be considered to issue a deportation ban.

Response to the issues raised in paragraph 12 of the list of issues

57. Germany reserves the right to rely on diplomatic assurances as a tool to resolve deportation or extradition bans. The Act on International Mutual Assistance in Criminal Matters (Gesetz über die internationale Rechtshilfe in Strafsachen – IRG) makes this possible in agreement with the European Extradition Convention.

58. Such an assurance can only be considered in exceptional cases. Diplomatic assurances regarding deportation have so far only been obtained in two cases. Diplomatic

assurances with regard to extraditions are more frequent; they do however mostly relate to questions of either the applicable criminal provisions or types of sentence (e.g. exclusion of the death penalty) or to individual questions of execution of sentence (e.g. placing in a specific facility). The assurance itself must be such that compliance with the international obligations of Germany (ECHR, Civil Covenant, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention relating to the Status of Refugees) appears to be ensured. As to the question of the reliability of the assurance, as a rule information is requested from the Federal Government (in most cases via the Federal Foreign Office). The Foreign Office reviews each case as to its suitability, examining the content and the period of time covered by the diplomatic assurance, the monitoring, the sanctions as well as the written nature of the assurances, and draws up a risk prognosis and analysis, including all the circumstances of the individual case. Depending on the situation of the individual case, the Federal Government demands an advance written confirmation that compliance with the diplomatic assurances can be verified once extradition has taken place.

59. The following verification mechanisms can be considered: Prison visits to extradited persons by members of the German representation abroad, the presence of a consular official at the main hearing or a guarantee that the extradited person will be locked up only in specific detention facilities meeting European standards. It is also possible that the Federal Republic of Germany in mutual agreement with the receiving state specifies an independent institution (as a rule an NGO) whose access to the individual in question is also covered by the assurance. Germany acquires assurance here both of confidential communication with the person in question and of undisturbed written correspondence between the independent institution and the German authorities. The Foreign Office has also maintained direct contact with the persons in question in the past via the respective embassies in order to verify compliance with the assurance. Should it emerge in an individual case that the receiving state does not comply with the assurance, the Foreign Office takes up the matter with the authorities of the receiving state.

Right to liberty and security of person, treatment of persons deprived of their liberty and fair trial (arts. 9, 10 and 14)

Response to the issues raised in paragraph 13 of the list of issues

60. A disproportionately high incarceration rate of foreigners or foreign-origin Germans can be ascertained, especially when it comes to remand detention.

61. The presumption that remand detention of foreigners is ordered too easily by arguing a lack of local ties cannot explain this finding in the view of the Federal Government. A larger share of foreigners and foreign-origin Germans among remand detainees can for instance be caused equally by the specific prevalence of various groups in different social structures, e.g. unskilled and unemployed young male adults.

62. Furthermore, it is recognised in the case-law that a documented place of residence cannot be considered to constitute a danger of flight within the meaning of section 112 subs. 1 No. 2 of the Code of Criminal Procedure because this would constitute a breach of the ban on discrimination under European law. It is also recognised that a place of residence abroad, be it as a German or as a foreigner, does not constitute a danger of flight by itself.

63. Independently of this, prevention of crime and violence in general play a major role, both in labour market, child, youth and family policy, and in the education, health and media policy of the Federal and Land Governments. There have been large numbers of projects and initiatives on this in recent years. For instance, the Federal Government has been promoting the project of the German Youth Institute (DJI) "Violent young offenders

between youth welfare and a criminal career” since October 2011. In the three-year project, the prospects of the addressees, that is the juveniles themselves, as well as that of the participating institutions such as youth welfare and the judiciary, are subjected to an empirical analysis. The aim is to improve cooperation between the institutions and to research how negative careers can be interrupted or avoided. Additionally, the Federal Government is promoting social, school and professional integration of young people with poorer initial chances with the “JUGEND STÄRKEN” initiative to enhance young people’s prospects. There are also large numbers of crime prevention measures at Länder level. For instance, Land prevention councils are in operation in Hesse and North Rhine-Westphalia and various studies on the topic of intensive offenders have been drawn up on behalf of the “Berlin Land Commission against Violence”: “Intensive offenders Part I – Results of the analysis of ‘intensive offenders’ files’ of Berlin public prosecution office” 2006), “Intensive offenders in Berlin Part II – Results of the survey of ‘intensive offenders’ and evaluation of their school files”(2007), “Intensive offenders in Berlin Part III – Detention careers and outlook for good conduct of young multiple offenders” (2011). In addition to these concrete initiatives there are also roughly 2000 crime prevention bodies in Germany in which in particular the judiciary, the police, youth welfare, schools, religious communities, associations and industry work together and exchange information and experience and develop joint crime prevention strategies which they implement in a division of tasks.

64. Additionally, the “German Forum for Crime Prevention” (DFK) foundation, as an independent centre of pan-societal prevention, the President of whose Board of Trustees is Federal Minister of Justice Sabine Leutheusser-Schnarrenberger, maintains and promotes large numbers of measures. The cooperation project of Deutsche Bahn AG, DFK and the Free University of Berlin to disseminate development-orientated programmes to implement the fairplayer programme, the “German Prevention Day” cooperation partnership, as well as working in the cities’ crime prevention network, should be mentioned here as topical examples.

Response to the issues raised in paragraph 14 of the list of issues

65. The Federal Government’s draft Bill “on nationwide implementation of the principle of distinct prison regimes (Abstandsgebot) in the law on preventive detention” is currently in the parliamentary procedure. After consultation of the Federal Council, the first reading of the draft in the German Federal Parliament took place on 14 June 2012. Efforts are underway for the Act to be promulgated by the end of 2012.

66. The instructions of the Federal Constitutional Court (ruling of 4 May 2011, 2 BvR 2365/09 et al.) primarily refer to the “cases of legal protection of legitimate expectations” in which according to the case-law of the European Court of Human Rights the ban on retrospective effect under Article 7 of the European Convention on Human Rights is violated. In these cases – to be brief – the ordering of committal or its continuation is only permissible if “an extreme danger of highly serious violent or sexual offences can be deduced from concrete circumstances lying in the person or the conduct of the detainee and the latter suffers from a mental disorder [...]” This is to ensure amongst other things that deprivation of liberty only takes place in such cases if this is permissible in accordance with Article 5 (1) sentence 2 (e) of the European Convention on Human Rights.

67. At the same time, the Court instructed the legislatures in the Federation and in the Länder, as well as practitioners in the prisons, to draw up and implement an overall concept for committal in preventive detention which does justice to the stipulations of the Constitution and of the European Convention on Human Rights. The core lies in elaborating the laws and the execution of the committal in a manner which must be orientated in line with detainees’ therapeutic needs, and must always target the goal of offering detainees a realistic outlook for a life in freedom and enabling them to actually live in freedom as soon as possible. This particularly corresponds to the constitutional “principle

of preventive detention constituting a distinct prison regime”, which requires preventive detention after a prison sentence to be enforced differently, namely by maintaining a “distinction” vis-à-vis the regime observed when a person serves a prison sentence. In concrete terms, this means above all, in addition to the therapy orientation already mentioned above and the goal of a release as soon as possible, that restrictions and burdens of the detainee are only permissible to the extent absolutely required during the deprivation of liberty.

68. The new Act is in compliance with Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, and hence also with Article 9 of the Covenant.

69. The following data on the number of individuals still kept in preventive detention, as well as on the duration of preventive detention following on from serving a prison sentence, can be provided:

Table 3
Data on individuals in preventive detention

<i>Duration of preventive detention</i>	<i>As per 31 August 2009</i>	<i>As per 31 August 2010</i>	<i>As per 31 March 2011</i>
less than five years	295	304	304
5 – 10 years	140	139	131
11 – 15 years	53	45	42
16 – 20 years	18	17	9
more than 20 years	4	3	4
Total	510	508	490

Response to the issues raised in paragraph 15 of the list of issues

70. In the view of the Federal Government, the use of physical restraints on dementia sufferers in residential homes must be avoided, and may only be used as a last resort. Such measures may only be considered when other assistance is not possible.

71. As a matter of principle, the use of physical restraints in a residential home – if the person concerned is not personally able to consent – may only be approved of by the custodian or the holder of a precautionary power of attorney. The custodian must examine whether physical restraints can be replaced by other measures to avert the health hazards for the person concerned not involving an encroachment on the personal liberty of the person under custodianship. The consent of the custodian or of the authorised representative must be additionally approved by the custodianship court.

72. The custodianship court may only grant approval if the measure is necessary in the best interests of the person under custodianship, if for instance by reason of a mental illness or mental or psychological disability of the person under custodianship there is a danger that he/she would cause substantial damage to his own health without the measure, cf. section 1906 subs. 1 No. 1 and subs. 2 of the Civil Code (Bürgerliches Gesetzbuch – BGB)². Only subject to this precondition is it permissible, subject to the law, for a person

² Section 1906 Approval of the custodianship court with regard to accommodation

(1) It is admissible for the custodian to put the person under custodianship in accommodation that is associated with deprivation of liberty only as long as this is necessary for the best interests of the

under custodianship who is in an institution, a residential home or other establishment to be deprived of their liberty by mechanical devices such as bedrails or belts, medical drugs or in another way for a substantial period of time or on a regular basis, section 1906 subs. 4 of the Civil Code. Measures entailing deprivation of liberty in the interest of third parties – such as fixation in order to make the organisation of procedures in the residential home easier – are not permissible in accordance with the law.

73. If these provisions are not adhered to in the context of a measure involving physical restraint (i.e. in particular no judicial approval obtained in advance or promptly thereafter), and if there is no other (presumed or actual) consent or a justifying emergency situation, this has legal, and possibly criminal, consequences for the causer(s), including possible compensation obligations. This also applies if the reason of the deprivation of liberty has ceased to exist and the measure is not promptly terminated.

74. The Federal Government has also done much in past years to support the discussion among care professionals on the application of physical restraints with the aim of reducing their actual use and promoting knowledge of alternatives. Within this responsibility, for instance, there is the “ReduFix” project, which aims to reduce the use of restraints attached or adjacent to the bodies of dementia sufferers in residential homes. The project was launched in order to minimise the risks for dementia sufferers with a tendency to run away. The project has shown that the frequency and duration of fixation can be reduced by combining simple measures. Projects are also being promoted in the Federal Länder aiming to reduce the use of physical restraints. For instance, the “Werdenfels method” has been developed in Bavaria, aiming to avoid restrictions of liberty by intensively examining alternative care methods. To this end, the court deploys specially-trained *curators ad litem* with their own professional care experience who examine together with all concerned in each individual case whether fixation of the person concerned can be avoided through preventive measures such as low-sided beds, protective clothing or movement training. This project is showing initial success. For instance, the number of approvals in Bavaria fell on a year-on-year basis by 3,396, that is by almost 14%, in 2011.

person under custodianship because

1. by reason of a mental illness or mental or psychological handicap of the person under custodianship there is a danger that he will kill himself or cause substantial damage to his own health, or

2. an examination of the state of health of the person under custodianship, therapeutic treatment or an operation is necessary without which the accommodation of the person under custodianship cannot be carried out and the person under custodianship, by reason of a mental illness or mental or psychological handicap, cannot recognise the necessity of the accommodation or cannot act in accordance with this realisation.

(2) The accommodation is admissible only with the approval of the custodianship court. Without the approval, the accommodation is admissible only if delay entails risk; the approval must thereafter be obtained without undue delay.

(3) The custodian must terminate the accommodation if its requirements cease to be satisfied. He must notify the custodianship court of the termination of the accommodation.

(4) Subsections (1) to (3) apply with the necessary modifications if the person under custodianship who is in an institution, a home or another establishment without being accommodated there is to be deprived of his liberty by mechanical devices, by medical drugs or in another way for a long period of time or regularly.

(5) The accommodation by an authorised person and the consent of an authorised person to measures under subsection (4) require that the power of attorney be granted in writing and expressly covers the measures set out in subsections (1) and (4). Apart from this, subsections (1) to (4) apply with the necessary modifications.

Elimination of slavery and servitude (arts. 2, 8 and 26)

Response to the issues raised in paragraph 16 of the list of issues

75. The Federal Government refers to its report of 31 March 2010 (paras. 147-158), and would like to stress once more that it remains decided to act against human trafficking with all insistence. As far as the Federal Government can ascertain, both from the Federal situation report on human trafficking drawn up by the Federal Criminal Police Office and from the feedback from the specialist advice units, one may not presume that an increase has taken place in the trafficking in women in sexual exploitation or to exploit their labour. The Federal Government has also taken considerable action to fight human trafficking in recent years, and has for instance commissioned a study entitled “Development of viable support structures for those affected by human trafficking to exploit labour in Germany”, and has organised a workshop entitled “Exploitative human trafficking in Germany: A trendy topic or a blind spot?”. The “Berlin alliance against human trafficking for labour exploitation” furthermore distributes information flyers on the rights of male and female workers and the most important help agencies in 15 languages, launched on 7 October 2011 the campaign “What do you know about human trafficking and work exploitation in Germany?” with a film clip and posters, and carried out training on the topic of “Recognising and reacting to human trafficking and work exploitation” for persons in relevant occupational areas.

76. With regard to the number of criminal charges for human trafficking, reference should be made to the following criminal offences: “Human trafficking for the purpose of sexual exploitation” (section 232 of the Criminal Code³), “Human trafficking for the purpose of work exploitation” (section 233 of the Criminal Code⁴), as well as “Assisting in human trafficking” (section 233a of the Criminal Code⁵).

³ Section 232 Human trafficking for the purpose of sexual exploitation

(1) Whosoever exploits another persons predicament or helplessness arising from being in a foreign country in order to induce them to engage in or continue to engage in prostitution, to engage in exploitative sexual activity with or in the presence of the offender or a third person or to suffer sexual acts on his own person by the offender or a third person shall be liable to imprisonment from six months to ten years. Whosoever induces a person under twenty-one years of age to engage in or continue to engage in prostitution or any of the sexual activity mentioned in the 1st sentence above shall incur the same penalty.

(2) The attempt shall be punishable.

(3) The penalty shall be imprisonment from one to ten years if

1. the victim is a child (section 176 (1));
2. the offender through the act seriously physically abuses the victim or places the victim in danger of death; or
3. the offender commits the offence on a commercial basis or as a member of a gang whose purpose is the continued commission of such offences.

(4) The penalty under subsection (3) above shall be imposed on any person who

1. induces another person by force, threat of serious harm or by deception to engage in or continue to engage in prostitution or any of the sexual activity mentioned in subsection (1) 1st sentence above or
2. gains physical control of another person by force, threat of serious harm or deception to induce them to engage in or continue to engage in prostitution or any of the sexual activity mentioned in subsection (1) 1st sentence above.

(5) In less serious cases under subsection (1) above the penalty shall be imprisonment from three months to five years, in less serious cases under subsections (3) and (4) above imprisonment from six months to five years.

⁴ Section 233 Human trafficking for the purpose of work exploitation

(1) Whosoever exploits another persons predicament or helplessness arising from being in a foreign country to subject them to slavery, servitude or bonded labour, or makes him work for him or a third person under working conditions that are in clear discrepancy to those of other workers performing

77. The following figures are available on human trafficking for purposes of sexual exploitation:

Table 4

	2004	2005	2006	2007	2008	2009	2010
No. of criminal proceedings	972	642	775	689	676	710	610

78. Figures on human trafficking for the purpose of work exploitation have only been available since 2006, given that section 233 of the Criminal Code was not introduced until 2005:

Table 5

	2006	2007	2008	2009	2010
No. of criminal proceedings	83	101	96		41

79. The following figures are available as to the number of sets of criminal proceedings, convictions and sanctions against persons involved in human trafficking for 2010:

Table 6

	<i>section 232 of the Criminal Code</i>	<i>section 233 of the Criminal Code</i>	<i>section 233a of the Criminal Code</i>
Criminal proceedings	172	17	3
Convictions	115	13	3
Prison sentences without probation (including youth custody)	29	1	0
Prison sentences with probation (including youth custody)	76	5	1

the same or a similar activity, shall be liable to imprisonment from six months to ten years.

Whosoever subjects a person under twenty-one years of age to slavery, servitude or bonded labour or makes him work as mentioned in the 1st sentence above shall incur the same penalty.

(2) The attempt shall be punishable.

(3) Section 232 (3) to (5) shall apply mutatis mutandis.

⁵ **Section 233a Assisting in human trafficking**

(1) Whosoever assists in human trafficking under section 232 or section 233 by recruiting, transporting, referring, harbouring or sheltering another person shall be liable to imprisonment from three months to five years.

(2) The penalty shall be imprisonment from six months to ten years if

1. the victim is a child (section 176 (1));

2. the offender through the act seriously physically abuses the victim or places the victim in danger of death; or

3. the offender commits the offence on a commercial basis or as a member of a gang whose purpose is the continued commission of such offences.

(3) The attempt shall be punishable.

	<i>section 232 of the Criminal Code</i>	<i>section 233 of the Criminal Code</i>	<i>section 233a of the Criminal Code</i>
Criminal fines	7	3	1
Other (disciplinary measures)	3	4	1

80. Large numbers of training courses take place in this field. For the judiciary and the public prosecution office, primarily conferences take place at the German Judicial Academy, such as a conference on the topic of “International human trafficking”. The “Phenomenon of human trafficking”, as well as the role of the victim in investigation and criminal proceedings form the focus here.

81. The Federal Criminal Police Office regularly offers further training events on this topic for the police, also attended by police officers of the Länder. The training courses entitled “Human trafficking for the purpose of sexual exploitation” and “Human trafficking for the purpose of work exploitation” can be mentioned as examples here. But large numbers of courses for the police also take place in the Federal Länder, such as the seminar entitled “Human rights and human trafficking” in Berlin, the conference entitled “Sex work – forced prostitution – human trafficking” in Bremen, courses on “Sexual violent crime”, “Human trafficking” in North Rhine-Westphalia or the seminars entitled “Anti-crime measures in the red light world”, “Illegal foreigners”, “Organised crime I and II” in Saxony-Anhalt. A workshop of the United Nations Office on Drugs and Crime (UNODC), the International Organization for Migration (IOM) and the Austrian NGO EXIT was recently implemented in Hesse which completed a project to prevent and overcome human trafficking between Nigeria and EU States (“Enhancing multistakeholders cooperation to fight human trafficking in countries of origin and destination”). In Lower Saxony, the Central Coordination and Advice Unit for Victims of Human Trafficking, KOBRA, implements, amongst other things, Land-wide further training for staff of institutions dealing with human trafficking. The fields of the police, the judiciary, immigration, social security and youth welfare authorities are involved here.

82. Victims of human trafficking may in principle be entitled to claims in accordance with the Victims’ Compensation Act in individual cases if the preconditions apply. What is more, they are entitled to file a private accessory prosecution in criminal proceedings, and to file civil law compensation and pain and suffering claims. Furthermore, victims of human trafficking may receive a provisional residence permit if they are willing to testify in criminal proceedings. Furthermore, they can also receive a residence title for general humanitarian reasons.

Response to the issues raised in paragraph 17 of the list of issues

83. In connection with the allegations that families were forcibly evicted at gunpoint in August 2001 from their homes and lands in Naluwondwa-Madudu, Mubende District, Uganda, to make way for a large coffee plantation owned by Kaweri Coffee Plantation Ltd., a wholly-owned subsidiary of Neumann Kaffee Gruppe Hamburg, complaint proceedings have taken place before the German National Contact Point within the meaning of the “OECD Guidelines for Multinational Enterprises”.

84. The non-governmental organisations FoodFirst Informations- und Aktionsnetzwerk, FIAN Germany e.V., and Wake up and Fight for Your Rights Madudu Group, Uganda, submitted a complaint on 15 June 2009 the main subject-matter of which were the allegations of inadequately compensated violent evictions by the Ugandan military prior to the establishment of a coffee plantation by the subsidiary of the Neumann Gruppe, the Kaweri Coffee Plantation, as well as a lack of willingness on the part of the enterprise, as

the beneficiary of re-settlement, to enter into a dialogue and put pressure on the Ugandan Government.

85. The German National Contact Point carefully examined the questions which arose and consulted statements from both parties. Several discussions were also carried out with both sides, and the German Embassy in Kampala (Uganda) was involved. Thereupon, a joint final consultation took place on 8 December 2010 between the complainants and the Neumann Gruppe in Berlin, also attended by the Federal Ministries involved. It became clear here that the Neumann Gruppe has now met the complainants' main demands (to take up a dialogue with the complainants and the Ugandan Government, as well as to cooperate in accelerating the court proceedings in Uganda). It also pointed to the charitable social programmes of the Hanns R. Neumann Foundation which is closely associated with it, which credibly stressed its intensive commitment in coffee-growing countries. Compensation demands against the Neumann Gruppe for alleged expulsion of settlers and breaches of the law continue. However, it has also become clear that no indications have been revealed in the investigations that the Neumann Gruppe was not able to presume in good faith that it had bought the land for the Kaweri coffee plantation from the Ugandan investment authority free of encumbrances and claims of third parties and for its use. Despite the rapprochement which has begun between the two sides and the demands having been met, the complainants nonetheless refused to contribute towards drawing up a joint final declaration and to comply with the non-campaigning principle which applies during the mediation procedure. The complaint proceedings were therefore concluded with a unilateral declaration.

Non-discrimination, freedom of religion and belief and incitement to discrimination and violence (arts. 3, 18, 20(2), 24 and 26)

Response to the issues raised in paragraph 18 of the list of issues

86. The German Federal Parliament called on the Federal Government by resolution of 19 July 2012 to present a draft Bill in the autumn of 2012 which, whilst taking account of legal interests such as the best interests of the child, his/her physical integrity, freedom of religion and the right of the parents to bring up their children, ensures that proper medical circumcision of boys without unnecessary pain is permissible as a matter of principle. The resolution explicitly stresses that Jewish and Muslim religious life must continue to be possible in Germany. A draft Act has been circulated among authorities and civil society for comments which will now be considered in preparation of the final version. The draft Act will then be introduced into legislative procedure.

Response to the issues raised in paragraph 19 of the list of issues

87. The Federal Government regrets that renewed criminal offences have recently been committed with an anti-Semitic motivation. Even if the number of anti-Semitic criminal offences has fallen as a whole, Germany is aware of its special responsibility and is fighting with all emphasis against all anti-Semitic tendencies. Here, in addition to the measures of the security authorities (police and Federal Agency for Internal Security), a holistic approach is being pursued aiming to involve all relevant levels of society. The number of anti-Semitic criminal offences fell by 2.3 % as a whole in 2011. These are the lowest numbers of cases of anti-Semitic criminal offences since the introduction of the statistical recording of Politically-Motivated Crime (PMC) in 2001.

Table 7

<i>Year</i>	<i>Right-wing PMC</i>	<i>Left-wing PMC</i>	<i>PMC foreigners</i>	<i>PMC others</i>	<i>Total</i>
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<i>Year</i>	<i>Right-wing PMC</i>	<i>Left-wing PMC</i>	<i>PMC foreigners</i>	<i>PMC others</i>	<i>Total</i>
2001	1,629	2	31	29	1,691
2002	1,594	6	89	82	1,771
2003	1,226	6	53	59	1,344
2004	1,346	4	46	53	1,449
2005	1,682	7	33	26	1,748
2006	1,662	4	89	54	1,809
2007	1,561	1	59	36	1,657
2008	1,496	5	41	17	1,559
2009	1,520	4	101	65	1,690
2010	1,192	1	53	22	1,268
2011	1,188	6	24	21	1,239

88. The incidence of anti-Semitic violent crime is also declining, the figure falling by 21.6 % in 2011.

Table 8

<i>Year</i>	<i>Right-wing PMC</i>	<i>Left-wing PMC</i>	<i>PMC foreigners</i>	<i>PMC others</i>	<i>Total</i>
2001	27	0	1	0	28
2002	30	1	7	1	39
2003	38	0	7	1	46
2004	40	1	3	1	45
2005	50	1	3	2	56
2006	44	0	7	0	51
2007	61	0	3	0	64
2008	44	2	1	0	47
2009	31	0	9	1	41
2010	31	0	6	0	37
2011	26	1	2	0	29

89. Developments in anti-Semitic criminal offences against Jewish cemeteries have been as follows since 2001:

Table 9

	<i>Total</i>	<i>of which left- wing PMC</i>	<i>Right-wing PMC</i>	<i>PMC foreigners</i>	<i>PMC - others</i>	<i>unknown</i>
2001	52	0	49	2	0	1
2002	59	0	54	1	0	4

	<i>Total</i>	<i>of which left-wing PMC</i>	<i>Right-wing PMC</i>	<i>PMC foreigners</i>	<i>PMC - others</i>	<i>unknown</i>
2003	61	0	57	0	1	3
2004	38	0	38	0	0	0
2005	58	0	58	0	0	0
2006	37	0	37	0	0	0
2007	42	0	42	0	0	0
2008	63	0	63	0	0	0
2009	38	0	35	1	2	0
2010	41	0	41	0	0	0
2011	33	0	32	0	1	0
Total	522	0	506	4	4	8

90. Overcoming anti-Semitic, xenophobic, racist criminal offences also includes overcoming political, right-wing motivated crime, although this is only part of the problem. The Federal Government aims to combine all political and civil society forces to combat such manifestations effectively and decisively before they occur. This holistic approach includes both consistent prosecution and preventive standard activities, such as stepping up the hidden and open police presence, offensive public relations work, as well as enhanced protection of property and increasing the number of police patrols in places which are particularly at risk (such as Jewish cemeteries). The police forces of the Länder further support projects, associations and facilities of victims' assistance and other advisory agencies. The Federal Criminal Police Office furthermore actively supports close international police cooperation, for instance through bilateral expert meetings. The "Expert Meeting on Right-wing Extremism" (EMRE) was launched on 31 January 2007. Participants of the EMRE are representatives of the security authorities from Austria (BVT), Sweden (Säpo), Switzerland (DAP) and Germany (BKA). These meet regularly to exchange knowledge of phenomena and developments, and initiate ad hoc joint projects.

91. There are a large number of measures aimed to overcome racially-motivated criminal offences against members of the Jewish and Muslim communities and the community of the Roma/Sinti, as well as against Germans of foreign origin and asylum applicants. For instance, the Federal Agency for Civic Education (Bundeszentrale für politische Bildung – BpB) is mandated to engage in political educational measures to enhance understanding of political circumstances, anchor a democratic awareness and strengthen willingness to engage in political activity. In addition to the general education which it offers, it is committed to various projects, such as the project entitled "School without racism", offering children and juveniles the opportunity to actively influence the atmosphere at their schools by deliberately tackling all manifestations of discrimination, mobbing and violence. Additionally, the Federal Government supports a large number of programmes.

Response to the issues raised in paragraph 20 of the list of issues

92. Hate speech and racist propaganda on the Internet are consistently prosecuted as criminal offences of dissemination of propaganda material of unconstitutional organisations

in accordance with section 86 of the Criminal Code⁶ and incitement to hatred in accordance with section 130 of the Criminal Code⁷.

- ⁶ Section 86 Dissemination of propaganda material of unconstitutional organisations
- (1) Whosoever within Germany disseminates or produces, stocks, imports or exports or makes publicly accessible through data storage media for dissemination within Germany or abroad, propaganda material
1. of a political party which has been declared unconstitutional by the Federal Constitutional Court or a political party or organisation which has been held by final decision to be a surrogate organisation of such a party;
 2. of an organisation which has been banned by final decision because it is directed against the constitutional order or against the idea of the comity of nations or which has been held by final decision to be a surrogate organisation of such a banned organisation;
 3. of a government, organisation or institution outside the Federal Republic of Germany active in pursuing the objectives of one of the parties or organisations indicated in Nos 1 and 2 above; or
 4. propaganda materials the contents of which are intended to further the aims of a former National Socialist organisation, shall be liable to imprisonment not exceeding three years or a fine.
- (2) Propaganda materials within the meaning of subsection (1) above shall only be written materials (section 11(3)) the content of which is directed against the free, democratic constitutional order or the idea of the comity of nations.
- (3) Subsection (1) above shall not apply if the propaganda materials or the act is meant to serve civil education, to avert unconstitutional movements, to promote art or science, research or teaching, the reporting about current or historical events or similar purposes.
- 4) If the guilt is of a minor nature, the court may order a discharge under this provision.
- ⁷ Section 130 Incitement to hatred
- (1) Whosoever, in a manner capable of disturbing the public peace
1. incites hatred against segments of the population or calls for violent or arbitrary measures against them; or
 2. assaults the human dignity of others by insulting, maliciously maligning, or defaming segments of the population,
- shall be liable to imprisonment from three months to five years.
- (2) Whosoever
1. with respect to written materials (section 11(3)) which incite hatred against segments of the population or a national, racial or religious group, or one characterised by its ethnic customs, which call for violent or arbitrary measures against them, or which assault the human dignity of others by insulting, maliciously maligning or defaming segments of the population or a previously indicated group
 - a) disseminates such written materials;
 - b) publicly displays, posts, presents, or otherwise makes them accessible;
 - c) offers, supplies or makes them accessible to a person under eighteen years; or
 - d) produces, obtains, supplies, stocks, offers, announces, commends, undertakes to import or export them, in order to use them or copies obtained from them within the meaning of Nos (a) to (c) or facilitate such use by another; or
 2. disseminates a presentation of the content indicated in No 1 above by radio, media services, or telecommunication services
- shall be liable to imprisonment not exceeding three years or a fine.
- (3) Whosoever publicly or in a meeting approves of, denies or downplays an act committed under the rule of National Socialism of the kind indicated in section 6 (1) of the Code of International Criminal Law, in a manner capable of disturbing the public peace shall be liable to imprisonment not exceeding five years or a fine.
- (4) Whosoever publicly or in a meeting disturbs the public peace in a manner that violates the dignity of the victims by approving of, glorifying, or justifying National Socialist rule of arbitrary force shall be liable to imprisonment not exceeding three years or a fine.
- (5) Subsection (2) above shall also apply to written materials (section 11(3)) of a content such as is indicated in subsections (3) and (4) above.
- (6) In cases under subsection (2) above, also in conjunction with subsection (5) above, and in cases of subsections (3) and (4) above, section 86(3) shall apply mutatis mutandis.

93. The police forces of the Länder are competent as a matter of principle for overcoming and prosecuting hate speech and racist propaganda under policing law and criminal law. There are a large number of measures for this at Länder level. Dealing with these crimes in special departments and the implementation of information-dissemination measures through brochures, in youth work and by addressing persons considered a potential threat can be named here as examples. Furthermore, Brandenburg has been implementing its “PMC Action Plan” since 2003, prioritising the fight against extremism by sustainedly investigating and prosecuting, as well as preventing, extremist activities and events by exhausting all legal and tactical possibilities.

94. At federal level, the Federal Criminal Police Office and the domestic intelligence service of the Federal Republic of Germany (Bundesamt für Verfassungsschutz – BfV) contribute to the “Coordinated Internet evaluation of right-wing extremism” (KIAR) established in the winter of 2011 in connection with the establishment of the Joint Defence Centre against Right-Wing Extremism (GAR) following the discovery of the “National Socialist Underground” (NSU) right-wing terrorist group. Within the KIAR, the Federal Criminal Police Office and BfV carry out research into right-wing Internet activities with corresponding specialist and technical expertise, evaluating them and initiating criminal proceedings where appropriate. Additionally, the Federal Government is promoting civil society initiatives to provide information on right-wing extremism, racism and anti-Semitism on the Internet – and in social networks in particular – to develop counterarguments and to motivate democratically-minded users to do more to fight hate propaganda on the Internet.

95. The figures for 2010 for criminal proceedings in accordance with section 86 and 130 of the Criminal Code for adults and juveniles are as follows:

Table 10

	<i>section 86 of the Criminal Code</i>	<i>section 130 of the Criminal Code</i>
No. of convictions	1,275	465
Sentences	1,005	317
Acquittals	36	42
other termination	234	106

Rights of persons belonging to national minorities (art. 27)

Response to the issues raised in paragraph 21 of the list of issues

96. The Federal Government pledges itself to the prohibition of discrimination against ethnic or religious minorities. It recognizes its special responsibility in this respect in view of German history.

97. Within the broad-based policy on minorities, the German integration efforts take account of the interests of the Roma communities. The latter ranges from political education to promote democracy, freedom, diversity and tolerance via large-scale initiatives at federal level through to small-scale local integration projects.

98. The Federal Government has taken the following measures above all to improve access of Sinti and Roma to education, employment, housing and healthcare.

(a) Access to education

99. Germany is highly dedicated to more educational involvement and equal opportunities, in particular for disadvantaged groups. Thus, more is being invested in early

childhood education and steps are being taken to ensure that each child is enabled to complete school or obtain a vocational qualification.

(b) Access to employment

100. The right to take up employment promotion tools in Germany does not depend on nationality or ethnic affiliation. The special promotional measures enacted by the Länder are problem-orientated and tailored to the regional differences in integration and support needs of the Roma and other minorities, and are co-funded, amongst other things, by funds from the European Structural Fund.

(c) Access to housing

101. A supply of affordable housing as it is needed is an important concern of the Federal Government's housing and social policy. This policy guarantees the supply of housing to all population groups without distinguishing by ethnic affiliation. Some towns and cities particularly take the interests of Sinti and Roma into account in housing and urban development policy.

(d) Access to health care

102. Health care of Sinti and Roma who live in Germany is as a matter of principle ensured via obligatory statutory or private health insurance. They are entitled to health care services and prevention to the same degree as other groups of insured individuals, so that their healthcare is ensured.

103. No data can be reported regarding the measures mentioned in paragraphs 48 – 53 of the report because no statistical data have been collected in Germany on an ethnic basis since the end of the Second World War. This is rooted amongst other things in the historical experience in Germany, in particular in relation to the persecution of minorities in the National Socialism period. Also the national minorities themselves have reservations against the collection of ethnic data on the situation of the national minorities in Germany.

104. The topic of discrimination against Sinti and Roma in Germany is carefully followed by the governments of the Federation and the Länder and regularly discussed with the associations of the Sinti and Roma and the Advisory Committee on the Council of Europe's Framework Convention for the Protection of National Minorities. This has already led to large numbers of concrete measures. For instance, a model decree on the protection of national minorities for police authorities has been developed which once more summarises the already applicable minimum requirements of discrimination-free conduct of police authorities vis-à-vis national minorities. The decree is implemented by the Federation and in almost all the Länder, and is binding on the police authorities. In order to guarantee appropriate reporting in the press, the German Press Council (a voluntary self-regulation body) gave a corresponding recommendation: "Suspects' or offenders' membership of religious, ethnic or other minorities should only be mentioned when reporting on criminal offences if a justifiable factual connection exists for the understanding of the reported event. It should be particularly kept in mind that mentioning them could trigger prejudices vis-à-vis vulnerable groups."). Additionally, it holds regular talks on complaints of breaches of this recommendation with the Central Council of Sinti and Roma and where appropriate issues notices, reprimands or complaints towards the press organ in question, in line with its Complaints Code. Furthermore, two projects have been supported within the federal "XENOS – Integration and Diversity" programme, namely "Labour market for Romas" (assistance volume € 172,255) and "Ajde (Come with me) – positive learning experience and self-determined life planning versus resignation and no prospects among Roma juveniles" (assistance volume € 132,183), aiming to reduce prejudices against young Roma and to improve their chances of access to the labour market and integration into society.

105. The Federal Government refers first and foremost to the information contained in its periodic report (paragraphs 53-56) with regard to its returns practice. Accordingly – and in compliance with international standards – it is always only the respective nationality of the person in question, and not their ethnicity, that is relevant for returns. Moreover, the principle of non-discrimination is already taken into account in the valid German law. This also applies without restriction to the implementation of returns.

106. Germany has already been committed for years in the field of reintegration of returnees in Kosovo. For instance, the initially European “URA” project (Albanian for bridge) from 2006 has been continued since 2009 as a purely nationally-funded Federation-Länder return project “URA 2”. Independently of their ethnicity or of the circumstances surrounding their return, the Returnees Centre in Pristina provides assistance to voluntary returnees, persons who have been deported and a small number of locals. The “URA 2” project collaborates closely with the Kosovo Ministry of the Interior, as well as with local, national and international organisations, in order – wherever possible – to provide as-needed, individual support for returnees after their arrival and during reintegration into the Republic of Kosovo. Members of the Roma, Ashkali and Egyptian minorities in Kosovo also routinely benefit from this. In concrete terms, the project offers amongst other things support in obtaining documents and school reports from Germany, bureaucracy, family reunification, obtaining housing and work, as well as psychological assistance and social advice. Specially for returning children and juveniles, language courses are organised where needed and school material provided. Moreover, financial promotion is granted within the project, such as for paying housing rent, initial fittings, training costs, starting up in business, etc. The commitment of the German “URA 2” return project was awarded the “Mother Teresa Prize”, which is endowed by the President of Kosovo, in the autumn of 2010.

Dissemination of information relating to the Covenant and the Optional Protocol (art. 2)

Response to the issues raised in paragraph 22 of the list of issues

107. A specialist consultation was held on 18 November 2009 on the sixth periodic report, attended both by representatives of various Federal Ministries and the German Institute for Human Rights, as well as by large numbers of representatives of the following NGOs: Action Courage – SOS Rassismus, Amnesty International, the Office for the Implementation of Equal Treatment (BUG), the German Red Cross, Human Rights Watch, the Humanist Union (HU), the Association for Self-Determined Living in Germany – ISL e.V., the German nationwide activist coordination group combating trafficking in women and violence against women in the process of migration (KOK) and the Lesbian and Gay Federation in Germany (LSVD). The conclusion of this constructive and critical exchange of opinions was reflected in several topics – e.g. LGBT rights - and in the structure of the periodic report. Once Cabinet had deliberated on the report, it was forwarded to the German Federal Parliament, the NGOs and the Ministries of Justice of all Federal Länder. The periodic report itself can be obtained in German and English from the website of the Federal Ministry of Justice. Further reference is made to the presentation.

108. Finally, the German Institute for Human Rights regularly hosts an expert consultation for NGOs and government representatives subsequent to the presentation of periodic reports to the United Nations in order to discuss the concluding observations and any implementation measures. These events have definitely proven to be most valuable as multiplier events to disseminate the reports and make the Committees’ views known.