UNITED
NATIONS

CAT

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

Distr.
GENERAL

CAT/C/SR.603
14 May 2004

Original: ENGLISH

COMMITTEE AGAINST TORTURE

Thirty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 603rd MEETING

Held at the Palais Wilson, Geneva,
on Monday, 10 May 2004, at 3 p.m.

Chairperson: Mr. MARIÑO MENÉNDEZ

CONTENTS

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.603/Add.1.

GE.04-41579 (E) 120504 140504

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Third periodic report of Germany (continued) (CAT/C/49/Add.4 written replies (in German))

1. At the invitation of the Chairperson, the members of the delegation of Germany took places at the Committee table.

2. Mr. STOLTENBERG (Germany) said that ratified international human rights treaties - including the Convention - had the status of Federal law. Consequently, in accordance with article 31 of the German Basic Law, which stipulated that Federal law took precedence over Länder law (Landesgesetz), Länder law that was in contradiction with the terms of a ratified human rights treaty was invalid. Furthermore, the German Constitutional Court had ruled that in the event of a choice between several interpretations of a national law, the interpretation that should prevail was the one that complied with the requirements of the international treaty; human rights agreements therefore in effect took precedence over both Federal and Länder law. In the event that Länder law nonetheless contradicted the provisions of the Convention, the individual concerned could pursue the matter before the courts; that right was guaranteed in article 19, paragraph 4, of the German Basic Law. That provision not only protected the individual from violations of their human rights; it also ensured that both the Federal Government and the Länder abided by their human rights obligations. In addition, the Federal Government could send officials to the Länder in order to ensure that the Länder were properly implementing Federal law, and could also ask the Constitutional Court to rule on the legality of a law passed by a Land that was in contradiction with Federal law, although that had never been necessary. The Länder were committed to protecting human rights, and the Constitutions of several Länder made explicit reference to the protection of human rights.

3. The discrepancy between the number of allegations of ill-treatment in police custody and the number of cases that went to court was due to the paucity of evidence on which the accusations levelled by non-governmental organizations (NGOs) were often based. Although all such complaints were investigated, a proportion of them were unfounded or could not be proven. He referred the Committee to reports by Amnesty International and Aktion Courage dated January 2004 and December 2003 respectively, which described 100 cases; there had been criminal proceedings in 69 of those. Fifteen cases had resulted in either a fine or a custodial sentence, and therefore also in dismissal from the police force. He contested allegations that indications of ill-treatment by the police were not taken seriously. If an allegation did not go to trial, it was because there was insufficient evidence. In that respect, he noted that under German law suspects did not have to testify, i.e. they could not be obligated to incriminate themselves. In the event that the sentence imposed was less severe than the victim would have liked, that was often because only a lesser offence could be proven. An acquittal indicated either that the defendant was not guilty, or that the offence could not be proven.

4. If Germany were to sign and ratify the Optional Protocol to the Convention, it would have an obligation to set up independent observer bodies as a national preventive mechanism. No such body yet existed for the Länder police or the Federal Border Police; a Federal or joint

Federal-Länder body with responsibility for monitoring the Länder police as well as the Federal Border Police would be unconstitutional, because police matters was an area for which the Länder had responsibility. For that reason, Germany did not intend to establish a central independent observer body for police misconduct, but was seeking a solution that would involve setting up several observer bodies.

5. The export of instruments that could be used for torture was subject to the approval of an export licence. The products that were subject to that licensing procedure were listed in an annex to the licensing regulation. Any application for the export of such products was carefully examined in order to ensure that the products would not be used for torture; however, such applications were rare in Germany. Germany actively supported a European Union plan that would prohibit the import or export of products that could be used for torture or for carrying out the death penalty. The German Criminal Code did not expressly prohibit trading in instruments of torture, but manufacturers or exporters of such instruments could be charged with being an accessory to torture. Germany did not plan to introduce a specific law to prohibit the trade in instruments of torture, not least because many of the products that could be used for torture also had other uses.

6. Mr. KIEL (Germany) said that examination by the public prosecutor of allegations of ill-treatment was in the interest of the Federal Border Police itself (para. 45) because the proper investigation of such allegations protected officers against being falsely accused.

7. Mr. MENGEL (Germany) said that because article 53, paragraph 1, of the Aliens Act (para. 15) was interpreted in the light of article 3 of the Convention, there was essentially no difference between "concrete risk" and "substantial grounds". A concrete, as opposed to abstract, risk meant, for example, not only that the use of torture by police was known to be widespread in the country concerned, but also that it was known that the individual was likely to be arrested on his or her return. In accordance with the Aliens Act, individual cases were comprehensively examined in the light of both provisions. Although there had been cases in which a "concrete risk" had been established, no statistics were available. He observed that as the threat of torture was often related to political persecution, those affected were often also eligible for political asylum. Although article 53, paragraph 1, of the Aliens Act only covered a risk of torture by agents of the State, paragraph 6 provided that a concrete risk to the life, limb or freedom of the foreigner in the other country constituted an impediment to deportation. Such cases were rare, because of the additional requirement to establish that the foreigner could not expect protection in the foreign country, which included consideration of alternative domestic solutions.

8. Mr. STOLTENBERG (Germany) said that in view of the diverse nature of torture offences and of the fact that there was no lacuna in the existing legislation, his Government did not see any need to consolidate all torture offences into a single criminal law. In addition to the statistics provided in paragraph 20 of the report on bodily harm and the extortion of testimony, he could report that in the armed forces there had been 13 cases of ill-treatment of subordinates, 17 cases of degrading treatment of subordinates, 2 cases of the abuse of position of command for illegal purposes, and 1 case of the suppression of complaints between 1998 and 2002.

9. Mr. KIEL (Germany) said that one of the main objectives of police training was to educate officers about citizens' fundamental and human rights and to instil the values of cooperation, sensitivity and tolerance of other foreign cultural influences. That theoretical element of the training was supplemented by special training on how to communicate with citizens, conflict mediation, etc. Training seminars were held on issues such as political extremism, xenophobia and anti-Semitism. Representatives of NGOs involved in the human rights field also participated in those seminars, which helped to ensure that there was an ongoing exchange between the police and representatives of immigrant organizations. The recommendation of the European Committee for the Prevention of Torture that asylum-seekers at airport holding facilities should be allowed visits from friends or family before a decision was taken on their asylum application had been implemented. Access to a lawyer was basically possible; however, the Constitutional Court had upheld the regulation that stipulated that it was not necessary for an asylum-seeker to meet with a lawyer before being interviewed by an immigration official. The legislator placed particular importance on the asylum-seeker being given the opportunity to present his reasons for fleeing without being influenced by a third party, which was considered to add weight to the credibility of the asylum-seeker's claims. Asylum-seekers were then permitted to see a lawyer, who could meet with the asylum-seeker at the holding facilities at any time.

10. Because police matters were an area for which the Länder had responsibility, the Federal Government was not able to introduce a Federal scheme for educating people in custody about their rights. However, the Federal Government did have an interest in ensuring that people who did not speak German were made aware of their rights, and had informed all Länder that the introduction of multilingual leaflets could be helpful. Although multilingual leaflets for people in police custody were not yet available in 6 out of the 16 Länder, such leaflets were in preparation in 3 of those Länder, while in a fourth, people in custody who did not speak German were informed of their rights orally through an interpreter. It was anticipated that those Länder that did not yet use multilingual leaflets would adopt the practice in the foreseeable future, in the interests of efficiency and cost-effectiveness. However, it also had to be ensured that during questioning the services of an interpreter could be called upon if required.

11. Mr. STOLTENBERG (Germany) said that article 136 (a) of the Code of Criminal Procedure forbade the use of ill-treatment, exhaustion, physical contact, the administration of substances, cruelty, deception or hypnosis as interrogation methods; the threat of illegal measures or the promise of improper advantage was also prohibited. Moreover, measures that affected the memory or the comprehension faculties of the suspect were not permitted. The use of lie-detectors was also prohibited. Those prohibitions applied even if the suspect gave his or her consent.

12. Regarding whether it was possible for a judge to order torture, the prohibition of torture and inhuman or degrading treatment was absolute. In addition to the international instruments signed and ratified by Germany, that prohibition resulted directly from the Constitution. The inviolability of the dignity of every person and the commitment to human rights were the most important values contained in article 1 of the Basic Law. Torture was also prohibited under article 104, paragraph 1, of the Basic Law, according to which detainees could not be physically or psychologically ill-treated. The prohibition of torture was directly applicable and must be respected by all authorities exercising sovereign power.

13. Information obtained using prohibited interrogation methods could not be used in criminal proceedings, according to the Code of Criminal Procedure. That applied regardless of whether a statement was true, or if it was incriminating or exculpatory, and even if the accused had subsequently agreed to it.

14. Mr. MENGEL (Germany) said that it was possible for an asylum-seeker to argue the risk of torture in the event of deportation as part of the airport procedure. The airport asylum procedure was a full status procedure, in which the same circumstances could be claimed as in a normal asylum procedure. Since its introduction in July 1993, and up to 31 March 2004, it had dealt with 21,965 asylum requests. Although a judicial decision on entry could also be taken under the airport procedure, in the majority of cases the Federal Office for the Recognition of Foreign Refugees did not take any substantive decision, and the asylum-seeker was allowed to follow the normal asylum procedure, which explained why there had been only 49 positive decisions in total. If a positive outcome was envisaged, the foreigner was allowed entry, and in that way, the Federal Office could concentrate on cases in which a negative decision and immediate refoulement were likely.

15. Regarding the suicide of the asylum-seeker Naimah H, nobody had ever been held responsible, but that tragic event had highlighted the need to improve the premises in Frankfurt. Since the new facility had been opened in 2002, the situation had improved significantly.

16. Regarding the maximum stay in airport accommodation, although the airport asylum procedure should, as a rule, be completed in 19 days, it could be extended due to public holidays, or if the foreigner was sick and needed medical care. If an asylum application was rejected, however, and the foreigner was obliged to leave the country, there was no legal time limit to be observed. The duration of the stay depended on the willingness to cooperate of the foreigner and the State to which he was to be returned, and could spread over several months. The Federal Ministry of the Interior received a monthly report of the persons to be deported who were still in airport accommodation. If, despite all efforts to facilitate repatriation, no result was foreseeable, or if repatriation failed, entry was permitted.

17. Regarding the new provisions concerning deportation of foreign nationals, as they had been specifically designed for repatriation by air, they could not be applied to deportation by land. The regulations had been issued by the Federal Ministry of the Interior, and applied only to repatriation involving the Federal Border Police, which in the vast majority of cases was by air.

18. Mr. STOLTENBERG (Germany), referring to the case of the Sudanese national Amir Ageeb, who had died during deportation, said that the length of the preliminary proceedings had been due to the need to carry out lengthy investigations, particularly forensic examinations, and to gather statements from witnesses, who in some cases had been abroad. Mr. Ageeb had died on 28 May 1999. The Forensic Medicine Institute of the University of Munich had carried out an autopsy, and a provisional certificate had been issued on 31 May. On 24 June, the Office of the Public Prosecutor had ordered additional examinations at the Forensic Institute. On 15 September, a reconstruction of the events had taken place in a Lufthansa plane at Frankfurt airport. Until November 1999, the Office of the Public Prosecutor of Frankfurt had been involved in taking witnesses' statements, and had requested that the Egyptian criminal prosecution authorities interview five witnesses, including doctors who had attempted to resuscitate Mr. Ageeb. That procedure had not been completed until August 2000.

The results of the interviews had been submitted to the Munich Institute of Forensic Medicine for consideration, and a new certificate had been issued on 1 June 2001. The Office of the Public Prosecutor had closed the preliminary proceedings on 16 January 2002 and filed the suit at the District Court in Frankfurt.

19. Mr. KIEL (Germany) said that in the case of accusations of abuse, disciplinary proceedings were taken against the civil servant concerned, and the appropriate public prosecution authority was informed. Although disciplinary and public proceedings were carried out independently, disciplinary proceedings did depend to some extent on the criminal proceedings. If criminal proceedings were initiated against the official, the disciplinary proceedings were suspended for their duration, in accordance with the Federal Disciplinary Code. Once the criminal proceedings had been concluded, the disciplinary proceedings resumed immediately, even in the case of acquittal. If the civil servant had been acquitted in the criminal proceedings, then a disciplinary measure could be imposed only if the act constituted an offence under service regulations.

20. Regarding the assertion that in many cases foreigners who were to be deported made false allegations of police abuse, the Federal Border Police did not have any statistics on alleged cases of abuse. However, in 2003, a well-known Bavarian refugee organization had made substantial accusations that members of the Federal Border Police had severely injured a foreign national during the deportation process. The press release issued by the organization, which referred to brutal mistreatment by individual border police officials and made collective accusations against the border police, had been disseminated by various media. However, the judicial examination of the matter by the Munich authorities had found the accusations to be unjustified. The representative of the refugee organization, a German national, had been sentenced to a fine of up to 50,000 euros and forbidden by the court to repeat the allegations.

21. Mr. MENGEL (Germany), referring to the connection between article 3 of the Convention and the ban on deportations under the Geneva Refugee Convention, said that whereas the latter protected against political persecution, which often took the form of torture, article 3 also protected against torture which was not politically motivated. In practice, deportation to a State where the risk of political persecution or torture existed did not take place. Refugee status could be refused, despite the danger of political persecution, if grounds for disqualification, as defined in section 51, subsection 3, of the Aliens Act and article 1F of the Geneva Refugee Convention, existed. The reason given in section 51, subsection 3, of the Aliens Act was not valid for the deportation obstacle in section 53 of the Aliens Act. Therefore, the protection against torture applied in all cases.

22. Although no official statistics were available, it was estimated that approximately 80 per cent of asylum-seekers did not have any documents. However, it was difficult to ascertain whether they had never had any to begin with, or whether they had destroyed or hidden them or passed them on to a third party. Repatriation was significantly complicated by the fact that new documents from the State of origin had to be obtained, and the State of origin and the asylum-seeker were often unwilling to cooperate.

23. Mr. STOLTENBERG (Germany), referring to criminal charges in proceedings to enforce public prosecution in the context of deportations, said that the determining factor was usually the criminal offence of bodily harm in the exercise of official duty, according to article 340 of the

Criminal Code. If statistics were kept on such procedures, a distinction would have to be made between different cases and criminal offences, which was not currently the practice of the legal administration of the Länder. Insofar as offences of bodily harm in the exercise of duty were included in the statistics, it was not clear whether they related to deportations, as there was no breakdown of the different types of offences. As there were so few cases, it had not been felt necessary to compile statistics.

24. Mr. MENGEL (Germany), responding to the questions posed by Mr. El-Masry, said that diplomatic assurances usually provided a suitable means of eliminating obstacles to deportation, particularly the obstacle provided for in section 53, subsection 2, of the Aliens Act, if there was the danger of the death penalty. Therefore, the usual practice was to ask for the assurance of the foreign State that the death penalty would not be imposed. However, in the case of States that used torture, diplomatic assurances were considerably more problematic, as it was doubtful whether such States would keep their promise not to use torture. The assurances must be re-examined for credibility in each case, and therefore must be submitted to the control of the courts.

25. The Metin Kaplan case was not relevant in that context, as a violation of article 3 was not suspected. The Regional Court of Düsseldorf had not assumed that Metin Kaplan was at risk of torture in Turkey, but rather that he could not expect a fair hearing, as there was the danger that testimonies that had been obtained through torture could be used against him. It could therefore be considered a violation of article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, on the right to a fair hearing. It was not possible to give more information on that case, as it was still before the Supreme Administrative Court of Münster.

26. Mr. KIEL (Germany), responding to Mr. Rasmussen's question on medical examinations in the case of deportations, said that in the case of return by air, the regional authorities were expected to examine the persons concerned before handing them over to the Federal Border Police to ascertain whether they were fit to travel, particularly in cases where there were possible health risks. The failure of a deportation did not automatically give rise to a medical examination of the returnee. For example, if the authorities in the country of origin had simply refused to allow the citizen entry to the country, there was no reason to have the person medically examined on return to Germany. However, the deportee would be medically examined if injured or claiming to be in pain. Details of injuries of the border police officials as well as of the deportees were included in the documentation about the return.

27. Before conducting deportations, police officers or members of the Federal Border Police had to undergo training of at least three weeks, in which they learned the legal and tactical fundamentals and trained in such areas as conflict management and communication. They received a qualification at the end of training, and after three years, and every two years thereafter, they underwent a further two-day training. Members of the Federal Border Police generally volunteered to accompany deportees, and were not exclusively used for those activities. When drawing up the service plans, the authorities ensured that those officials were not used too often for deportation duty within a short space of time, in order to avoid burnout. If an officer was judged no longer capable of accompanying deportees, he would be assigned to other tasks.

28. Regarding medical treatment for deportees against their will, the administration of drugs which only served to guarantee a smooth return was forbidden. However, there were cases where medical treatment could be necessary, even against the will of the deportee. For example, if persons injured themselves to avoid deportation, and put their life or health at risk.

29. Mr. MENGEL (Germany), responding to Ms. Gaer's questions, said that the private security service at Frankfurt airport had been carefully selected by the Land of Hesse. It had been made clear to the firm that that institution enjoyed a particular status and that personnel must act accordingly, and all requirements had been satisfied. Personnel from different countries had been chosen deliberately to create a good atmosphere. Written service regulations governed the powers and competencies and established that only general supervisory functions could be carried out. The employees were unarmed and wore ordinary service clothing. The working hours were divided into two shifts, and a female employee was present at all times to ensure that gender-specific requirements were taken into account. The Land of Hesse was also represented by staff at the airport accommodation, including four trained social workers. During the day, the security firm was monitored by employees from the social care facilities, and unannounced checks were also carried out at irregular intervals. In the last two years, no complaints had been lodged against the security firm. In the event of any excesses being committed, those responsible would be subject to the provisions of general criminal law.

30. Mr. STOLTENBERG (Germany) said that the Committee had asked what the obstacles were to Germany ratifying the Optional Protocol to the Convention and whether the country's reservations had been caused by differences in attitude between the eastern and western parts of the country. There were no national control bodies within the terms of the Optional Protocol, so new institutions would have to be created and maintained by the Federation and by the 16 Länder. It was constitutionally impossible to have a control institution at the Federal Government level. Germany had domestic systems for preventing torture in psychiatric institutions and a series of monitoring and visiting provisions, all of which would have to be adapted to the requirements of the Optional Protocol. The Länder welcomed the objectives of the Optional Protocol, but had raised objections to the structural changes required, due to the costs that would be incurred. The objections were not caused by differences in attitude between the eastern and western parts of the country.

31. Mr. KIEL (Germany), regarding statistics on the number of victims of police abuse, said that Germany's official statistics did not differentiate between the perpetrators of acts of torture or ill-treatment.

32. Mr. STOLTENBERG (Germany) said that in the event that Germany ratified the Optional Protocol to the Convention, it would have to set up one or several independent observer bodies for the institutions within the remit of the Convention. For constitutional reasons it was not possible either to create a federal body to control police institutions at the Länder level or to have a uniform joint Länder body for the Federal Border Police. Germany therefore did not intend to create a central observation body for police misconduct, but it was examining possible alternatives.

33. Mr. MENGEL (Germany) said that the Federal Office for the Recognition of Foreign Refugees had extensive statistics on refugees, which included a breakdown by country of origin, age and gender. Although the statistics appeared to show that women had a slightly higher

success rate than men when applying for asylum, all asylum applications were judged equally and were not subject to discrimination. The Federal Office had taken measures to avoid discrimination within asylum procedures, including employing women decision-makers and interpreters. All female applicants were informed that they could request a female interpreter. All applicants were provided with a data sheet, which was available in 58 languages.

34. Mr. KIEL (Germany), responding to the Committee's question on whether Germany had a monitoring system to prevent violence, and sexual violence in particular, in detention centres, both between detainees and between staff and detainees, said that the police and justice authorities made the maximum effort to ensure that such cases did not occur. There were detailed regulations for custody conditions and violence in detention institutions was forbidden as a matter of course. In the event that violence did occur, appropriate measures would be taken. Detention facilities were under constant supervision by staff at the management level, visiting rights were ensured and rooms where there was a danger of suicide or violence were monitored with video cameras. Some detention institutions had advisory boards to receive complaints. The investigation of such complaints was guaranteed by the courts and by the Public Prosecutor's Office.

35. Mr. STOLTENBERG (Germany) said that statistics on ill-treatment in schools could not be provided since criminal statistics did not differentiate between the perpetrators of acts of ill-treatment.

36. Mr. KIEL (Germany) said that if there was suspicion of misconduct by a police officer, disciplinary proceedings were initiated automatically. Police service regulations provided for sanctions, even if the act committed was not classified as criminal. Such sanctions included reprimands, fines, downgrading, reduced pensions and dismissal. If a police officer was involved in a criminal procedure resulting in a sentence of detention for more that one year, he or she would be dismissed.

37. Mr. STOLTENBERG (Germany) said that Germany was engaged in international initiatives for the prevention of trafficking in human beings. Germany had signed the Optional Protocol to the United Nations Convention on the Rights of the Child, the Recommendation of the Committee of Ministers of the Council of Europe on the protection of children against sexual exploitation, the Framework Decision of the Council of Europe to combat trafficking in human beings, International Labour Organization Convention No. 182 and the United Nations Convention against Transnational Organized Crime. During the sixtieth session of the United Nations Commission on Human Rights, Germany had tabled a resolution on the appointment of a Special Rapporteur on trafficking in human beings, which had been adopted by consensus.

38. Mr. MENGEL (Germany) said that there was a conceptual difference between deportation provided for in article 51 of the Aliens Act, and that provided for in article 53 of the same Act, although under both articles there were cases in which deportation did not take place. Article 51 of the Aliens Act implemented the Geneva Convention, and article 53 of that law implemented the United Nations Convention against Torture and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

39. Mr. STOLTENBERG said that Germany attached a great deal of importance to the observance of human rights in the countries with which it had concluded extradition treaties. If the country was not a member of the Council of Europe, then it must fulfil its obligations under the United Nations International Covenant on Civil and Political Rights, both in law and in practice. If the country in question was a member of the Council of Europe, then it must fulfil its obligations under the European Convention for the Protection of Human Rights and Fundamental Freedoms.

40. The Committee had mentioned an extradition case in which an Indian national had been extradited for committing crimes, the damage resulting from which totalled approximately 2.1 million euros. The decision of the Federal Constitutional Court had not been based substantively on the fact that Germany had concluded an extradition treaty with India. The extradition did not constitute a violation of German constitutional regulations. The Court's decision had been based on the fact that India had signed the United Nations Convention against Torture and had held an awareness-raising campaign on issues related to torture. Criminal proceedings against a co-defendant in the case had been concluded and no torture had been known to have taken place. The Federal Republic had agreed with the decision, in accordance with the extradition agreement concluded between Germany and India. The punishment handed down to the defendant had not been deemed intolerably severe and the German diplomatic representative in India had been charged with monitoring the treatment of the defendant on his return to India.

41. Mr. MENGEL (Germany) said that section 53, paragraph 6, of the Aliens Act was applied when considering deportation to a country where there was a threat of torture or persecution by non-governmental agencies, which had gained sovereign power in the country concerned after ousting the Government. Before a decision could be made, it had to be ascertained whether there would be a specific danger to the life, limb and freedom of the person concerned, in that State. The Federal Government was planning to improve its immigration law, and discussions on the issue were currently taking place. Germany had recently adopted a European Union directive on the protection of refugees, which recognized persecution by non-governmental agencies.

42. Mr. KIEL (Germany) said that, according to article 104 of the Basic Law, all persons in detention had the right to contact their next of kin or a person in their confidence. They also had the right to contact a representative of their diplomatic mission. Such rights were equally applied to those held in police custody for their own protection.

43. Ms. GAER said that she wished to know whether the German Government would consider investigating Colonia Dignidad, a German colony in Chile where torture chambers from the Pinochet Government were alleged to exist and acts of sodomy and child molestation were alleged to have been carried out by Paul Schäfer, the head of the community. Non-governmental organizations (NGOs) had reported that neither the Chilean nor the German authorities had investigated the situation effectively. Since the people alleged to have perpetrated such acts of torture were German nationals, she wished to know whether the German Government would request their extradition for acts of torture that had taken place in Chile. She wondered whether the case came within the jurisdiction of Germany or Chile.

44. Mr. STEINER (Germany) said that the case of Colonia Dignidad had been of particular personal importance to him, as he had previously worked for Amnesty International as a specialist in international human rights law, and at the time had urged the German Government to investigate the situation. Although he was not aware of any current Government action, he knew that there had been interventions on the part of both the Chilean and the German Governments. It was possible that the German Government would take measures if it considered that the case was not being handled adequately.

45. The CHAIRPERSON asked whether in Germany it was possible to bring civil proceedings against foreign States in cases of German nationals being tortured abroad, if there was no reparation in that State. He wondered whether immunity could be waived in cases of torture.

46. Mr. STOLTENBERG (Germany) said that complaints could be filed within the remit of the Council of Europe or the International Covenant on Civil and Political Rights. In other cases of States that were not members of the Council of Europe or party to the International Covenant on Civil and Political Rights, immunity could hamper national legal proceedings.

47. The CHAIRPERSON thanked the delegation of Germany for their replies and invited them to be present to hear the Committee's conclusions and recommendations later in the current session.

48. The delegation of Germany withdrew.

The public part of the meeting rose at 5.05 p.m.