



NATIONAL
AGENCY
FOR THE
PREVENTION
OF
TORTURE

ANNUAL REPORT 2024

Period under review

1 January 2024-31 December 2024

© 2025 National Agency for the Prevention of Torture
All rights reserved
Layout: webmelone.net
Printed by: Heimsheim Prison

National Agency for the Prevention of Torture
Luisenstraße 7
65185 Wiesbaden
Tel.: +49 (0)611-160 222 8-18
Fax: +49 (0)611-160 222 8-29
E-mail: info@nationale-stelle.de
www.nationale-stelle.de/en/home.html

An electronic version of this Annual Report can be found in the “Publications” section of the website
<https://www.nationale-stelle.de/en/home.html>

FOREWORD

The National Agency for the Prevention of Torture is the body responsible in Germany for ensuring humane detention conditions and treatment of prisoners. The Agency hereby presents an annual report of its activities to the Federal Government, the German *Bundestag*, the *Land* governments and the *Land* parliaments. The report covers the period from 1 January to 31 December 2024. In the 2024 reporting year, the National Agency once again faced considerable structural problems and financial challenges, and a lack of financial resources forced the Agency to suspend its visits for six weeks. The – absolutely essential – increase in the Agency’s budget that had been proposed did not come into effect until the end of November 2024, too late to ensure the uninterrupted exercise of the Agency’s mandate. Nonetheless, the National Agency visited a total of 49 facilities and observed four deportation procedures in 2024. Once again, the Agency found a number of serious issues, including systematic breaches of minimum human rights standards and violations of human dignity, which is protected by Article 1(1) of Germany’s Basic Law (*Grundgesetz*).

The National Agency focused on three main areas in 2024: psychiatric care in prisons; police operations, in particular in the context of the European Football Championship; and deportations. Details of particularly serious issues can be found under “Current issues”; further findings are set out in the sections on specific facilities. Overall, it is worth emphasising here that the National Agency once again found serious problems in 2024, some of which it had already raised in previous years. For example, there were cases of individuals being held for days in windowless specially secured cells, in some cases naked and without even the most basic of furnishings. Some prisoners with mental health issues were held in complete isolation over a period of weeks. In a

number of *Länder*, there were cases of individuals being anchored to the floor with metal cuffs, in certain instances even without judicial approval or a sufficient statutory basis. Overcrowding continued to be a systemic problem in many forensic psychiatric detention facilities. Individuals had in some cases to lie on mattresses on the floor because there were not enough beds. Serious shortcomings were also recorded in the deportations observed: families with children were split up; collection at night was common even for deportations involving children; and there were cases of problematic strip-searches.

The observations documented in this annual report clearly highlight the urgent need for action by the competent supervisory authorities. Proactive implementation of the National Agency’s standards and recommendations is extremely important.

At the same time, the observations documented here illustrate the urgent need to provide the National Agency, permanently, with the resources it requires to effectively exercise its mandate under domestic and international law in the long term. Under current conditions, the Agency is seriously limited in its ability to carry out its work, with inaction once again in 2024 on the part of the supervisory authorities and a failure to address the National Agency’s lack of resources until far too late. When one considers the limited staff and financial resources available to the National Agency and the large number of places of detention in Germany (around 13,000), it is clear that the response to the central objective of the prevention of torture in general is still not sufficient.

One chapter in this report focuses on current problems, their scope and the urgent need for action, and it sets out in detail the serious issue of underfunding and the resulting restrictions on the National Agency’s work.



Rainer Dopp
State Secretary (retd)
Chair of the Joint Commission



Ralph-Günther Adam
Senior civil servant and prison director (retd)
Director of the Federal Agency

TABLE OF CONTENTS

Foreword	3
List of abbreviations	9
I Systemic problems and an urgent need for action	10
II Current issues	13
III General information about the work of the National Agency	15
1 – Institutional framework	16
2 – Tasks	16
3 – Powers	17
4 – Enquiries by individuals	17
5 – Torture prevention worldwide	17
5.1 – Network of German-speaking NPMs	17
5.2 – International dialogue	18
IV Prisons	19
1 – Focus: psychiatric care	20
1.1 – Basic in-patient psychiatric care infrastructure	21
1.2 – Focus area: findings and recommendations	24
2 – Further findings and recommendations for prisons	36
2.1 – Disciplinary detention	36
2.2 – Protection of privacy	37
3 – Findings from the visit to Augsburg-Gablingen Prison	40
3.1 – Unannounced visits	40
3.2 – Prevention of human rights violations	41
V Focus: observation of police operations	42
1 – Policing at the 2024 European Football Championship	43
1.1 – Introduction	43
1.2 – Findings and recommendations	44
1.3 – Conclusion	46
2 – Deportations	46
2.1 – Introduction	46
2.2 – Visits	48
2.3 – Conclusion	53

VI Other visits.....	54
1 – Custody pending deportation	55
1.1 – Differentiation requirement	55
1.2 – External contact.....	56
1.3 – Multiple occupancy.....	57
1.4 – Full strip-searches.....	57
2 – Federal and <i>Land</i> Police	57
2.1 – Furnishing and fittings in custody cells	57
2.2 – Outdoor exercise	58
2.3 – Visibility of toilets.....	58
2.4 – Shackling.....	58
2.5 – CCTV monitoring	59
3 – The Federal Armed Forces	59
3.1 – Introduction.....	59
3.2 – Visits	60
4 – Placement of children and juveniles involving the deprivation of liberty	60
4.1 – Outdoor exercise	60
4.2 – Complaints management	61
4.3 – Statutory basis for measures involving deprivation of liberty	61
4.4 – Physical restraint	62
4.5 – Information on rights	62
5 – Forensic psychiatric detention.....	63
5.1 – Introduction	63
5.2 – Findings and recommendations.....	63
6 – Fixed border controls	72
6.1 – Introduction	72
6.2 – Federal Police practice: border checks	72
6.3 – Visits	72
6.4 – Findings and recommendations.....	73
VII Appendix	75
1 – List of visits in 2024.....	76
2 – Statements on draft legislation	79
3 – Members of the Federal Agency.....	79
4 – Members of the Joint Commission	79
5 – Secretariat staff	80
6 – Activities in the 2024 reporting period	80
7 – National Agency articles etc. in the reporting year	82

VIII Standards	83
1 – Deportations	84
1.1 – Time of collection	84
1.2 – Deportation from prison	84
1.3 – Deportation from educational, medical, and care facilities.....	84
1.4 – Respect for the best interests of children.....	84
1.5 – Medical examinations and “fit-to-fly” certificates.....	84
1.6 – Strip-searches	84
1.7 – Further training for staff.....	84
1.8 – Luggage.....	84
1.9 – Cash lump sum.....	84
1.10 – Information on the time of execution of the deportation order	85
1.11 – Information on the deportation procedure.....	85
1.12 – Communication throughout the deportation procedure	85
1.13 – Contact with legal counsel.....	85
1.14 – Vulnerable individuals.....	85
1.16 – Mobile phones.....	85
1.17 – Food and drink.....	85
2 – Custody pending deportation	85
2.1 – Initial medical examination	85
2.2 – External contact	86
2.3 – Activities and recreation	86
2.4 – Strip-searches	86
2.5 – Visibility of toilets.....	86
2.6 – Physical restraint.....	86
2.7 – CCTV monitoring.....	86
2.8 – Clothing	87
2.9 – Staff	87
2.10 – Psychological and psychiatric care	87
2.11 – Legal advice.....	87
2.12 – Legal basis.....	87
2.13 – Respectful treatment	87
2.14 – Placement of minors.....	87
2.15 – Weapons in custody	87
2.16 – Admission meeting	87
3 – Customs and Federal and <i>Land</i> police	87
3.1 – Furnishings, fittings and conditions in custody cells.....	87
3.2 – Notification of rights	88
3.3 – Documentation.....	88
3.4 – Strip-searches	88
3.5 – Visibility of custody cells.....	89

3.6 – Visibility of toilets	89
3.7 – Shackling	89
3.8 – Physical restraint	89
3.9 – Size of custody cells	89
3.10 – CCTV monitoring	89
3.11 – Multiple occupancy of custody cells	89
3.12 – Right to medical examination	89
3.12A – Medical supervision during excretion of drug packages	89
3.13 – Respectful treatment	89
3.14 – Independent complaints and investigation bodies	89
3.15 – Confidentiality of conversations	90
3.16 – Weapons in custody	90
4 – Child and youth welfare facilities	90
4.1 – Possibilities for complaint	90
4.2 – Outdoor exercise	90
4.3 – Information on rights	90
4.4 – CCTV monitoring	90
5 – Prisons	90
5.1 – Clothing worn in specially secured cells	90
5.2 – Strip-searches	90
5.3 – Showers	91
5.4 – Visibility of toilets	91
5.5 – Solitary confinement	91
5.6 – Physical restraint	91
5.7 – Cell size	91
5.8 – CCTV monitoring	91
5.9 – Multiple-occupancy of cells without separate toilets	92
5.10 – Use of segregation units	92
5.11 – Respectful treatment	92
5.12 – Peepholes and viewing windows	92
5.13 – Interpretation during medical consultations	92
5.14 – Handling confidential medical information	92
5.15 – Conditions in prison cells	92
6 – Psychiatric clinics	92
6.1 – Segregation	92
6.2 – Clothing for crisis intervention rooms	92
6.3 – Outdoor exercise	92
6.4 – Documentation of coercive measures	92
6.5 – Strip-searches	92
6.6 – Visibility of toilets	93
6.7 – Physical restraint	93

6.8 – Information on rights	93
6.9 – CCTV monitoring	93
6.10 – Multiple-occupancy of patient rooms without separate toilets	93
6.11 – Respectful treatment	93
6.12 – Peepholes and viewing windows	94
6.13 – Confidentiality of conversations	94
7 – Detention facilities of the Federal Armed Forces	94
7.1 – Furnishings, fittings and conditions in detention cells	94
7.2 – Notification of rights.....	94
7.3 – Specially secured detention cells	94
7.4 – Documentation	94
7.5 – Visibility of toilets	95
7.6 – Size of detention cells.....	95
7.7 – Respectful treatment	95
7.8 – Fitness for detention	95

List of abbreviations

CJEU	Court of Justice of the European Union
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
ECHR	European Court of Human Rights
EU	European Union
NPM	National Preventive Mechanism
ODIHR	OSCE Office for Democratic Institutions and Human Rights
OPCAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OSCE	Organisation for Security and Cooperation in Europe
SPT	United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UN	United Nations

I

Systemic problems and an urgent need for action

Ever since it was founded, the National Agency has faced major challenges that impede its work and significantly limit its effectiveness. Germany entered into an obligation under international law more than 16 years ago to establish a functioning national preventive mechanism to prevent torture and inhuman treatment. Yet the structures and financial resources that that commitment demands have still not been put in place.

A – foreseeable – critical financial situation

From the outset, the National Agency's resources have been limited in the extreme. Members are not remunerated; they are merely refunded for their travel costs. They are assisted in their work by a secretariat with only a few employees.¹ Like the delay in meeting proven financial needs and responses to recommendations, this bare minimum of resources demonstrates that the demanding work and the commitment of the members are not properly valued.

Only the great dedication of the members and an approach in 2024 that breached budgetary procedure allowed that work to continue at all. One way in which the Agency's work could be properly valued would be to remunerate the members, in an approach similar to that for lay judges, for example.

The situation worsened even further in 2024: despite repeated warnings that the budget as it stood would not be enough in the face of pay increases and rising travel and accommodation costs, action to rectify the situation was not taken in time. Financial difficulties were compounded by the *Land* of Hesse, the National Agency's landlord, increasing the rent for its office space. The members were faced with a difficult choice: to take considerable financial risks, or to fail to meet in full Germany's obligations under international law. They decided to continue their work – despite the huge uncertainties. The urgently needed funding was not approved until the end of November 2024.

This financial uncertainty is not new. Back in 2018, the members pursued their work although funding had not been secured, and initially covered the costs out of their own pockets to ensure that urgently needed visits to detention facilities could go ahead. The fact that this situation occurred again in 2024 indicates a worrying pattern of systemic problems.

¹ 6 posts: 4.5 full-time equivalent research posts and 1.5 full-time equivalent administration posts.

Insufficient personnel and impact on prevention

Alongside the financial uncertainty, staffing levels also remain far too low. With only ten members, acting in an honorary capacity, it is simply not possible to conduct regular visits to monitor the situation on the ground at the approximately 13,000 facilities in Germany in which people are deprived of their liberty.² Important follow-up visits to ensure that recommendations have actually been implemented are often not possible.

An increase in the budget was agreed for 2025, and a dynamic funding model is to come into effect from 2026. However, these measures will merely secure the status quo; they will not allow fundamental systemic improvements. Germany still lags far behind other European countries.³

Challenges in implementing recommendations

Another key issue is that the National Agency's recommendations are often not fully implemented by the *Länder*. In many cases, informed, evidence-based proposals are not implemented or are even rejected out of hand as unrealistic – even when they have already proved effective in other facilities or are enshrined in law.

Even the response to recommendations relating to clearly inhumane conditions is not always strong enough, which is particularly concerning.

Examples:

- In Bavaria, prisoners continue to be held in “glass cages”,⁴ a practice that raises serious human rights concerns.

- In North Rhine-Westphalia, there are prisoners held in specially secured cells that measure less than five square metres and have no natural light;⁵ this does not meet the minimum standards for humane detention conditions.

- In Baden-Württemberg in 2023, individuals

² Article 19(a) of the OPCAT.

³ Expert opinion from the Research Services of the German Bundestag (*Wissenschaftlicher Dienst des Bundestags*) “*Ausstattung und Kompetenzen der Nationalen Stelle zur Verhütung von Folter in Deutschland im Vergleich zu ähnlichen Einrichtungen in ausgewählten europäischen Staaten, die im Zuge des Fakultativprotokolls zur Anti-Folter-Konvention der Vereinten Nationen (OP-CAT) geschaffen wurden*”, 2020, WD 2 - 3000 - 021/20, p. 16.

⁴ Statement from the Bavarian Ministry of Justice of 11 September 2023 in response to the National Agency's report on its visit to Bernau Prison (second visit); pp. 1-3.

⁵ Statement from the North Rhine-Westphalian Ministry of Justice of 6 February 2023 in response to the National Agency's report on its visit to Werl Prison, p. 3.

in forensic psychiatric clinics still had to relieve themselves using basins⁶ while being monitored by CCTV cameras – despite the fact that the National Agency had already strongly criticised this practice in 2022.⁷

These examples show that minimum human rights standards are not being met across the board in facilities where people are deprived of their liberty.

Augsburg-Gablingen Prison: prevention opportunity not taken

The problems in Augsburg-Gablingen Prison (Bavaria) clearly illustrate the importance of early action.

- Back in 2016, the National Agency found that prisoners in specially secured cells in a Bavarian prison were not being given adequate clothing.⁸ Despite this clear criticism, lasting changes were not made.
- In 2022, the National Agency criticised the failure to provide mattresses in specially secured cells in Bernau Prison (Bavaria).⁹ Instead of improvements being made across all facilities, however, the recommendation was not systematically implemented.

Such cases show that preventive mechanisms that are in place are unable to achieve their intended effect, not least when recommended measures are not taken seriously.

Germany's obligation to strengthen the National Agency

Germany entered into an obligation under international law to ensure an effective mechanism for the prevention of torture and other inhuman treatment. In practice, however, the National Agency with its system of honorary members has yet to be given the tools, resources and support necessary to meet that commitment.

The following measures are urgently needed to address problems with the existing structure:

1. Adequate and appropriate funding and staffing for the National Agency to ensure regular and effective examination of all places of detention within the meaning of Article 19 of the OPCAT.
2. Ensuring that cooperation with and support for the National Agency and its work are firmly established in institutional practice, so that recommendations are not only documented but also consistently and effectively implemented.
3. Closer collaboration between the Federation, the *Länder* and the National Agency on enforcing and ensuring human rights standards in practice.

With the Agency as it is currently structured, with members acting in an honorary capacity, Germany will only be able to meet its international legal obligation in full if State agencies are actively involved in implementing recommendations. This could be ensured by setting up competent bodies with the necessary decision-making powers within the various governments, for example at each state chancellery or parliament. Otherwise, there will have to be a change to a system of full-time members.

The National Agency is an essential tool in the protection of human rights in Germany. If the Agency is to be effective, it needs political support, adequate resources and a clear undertaking that its recommendations will be implemented. Germany cannot afford to fall short of its own human rights standards in this area.

⁶ National Agency report on its visit to Bad Schussenried forensic psychiatric facility (Baden-Württemberg) on 19 October 2023.

⁷ National Agency reports on its visits to Reichenau and Ravensburg forensic psychiatric facilities in 2022.

⁸ See the National Agency's report on its visit to Passau Prison (Bavaria) on 2 March 2016.

⁹ See the National Agency's report on its visit (second visit) to Bernau Prison (Bavaria) on 1 December 2022.

II

Current issues

Despite the difficult circumstances outlined above, the National Agency conducted a large number of visits in 2024 and once again found serious issues. The National Agency's findings illustrate not only the urgent need for action by the competent supervisory authorities, but also the absolute necessity of providing the Agency with the funding and resources detailed above that are essential for the effective exercise of its mandate.

Inhumane conditions

The documentation from Augsburg-Gablingen Prison (**Bavaria**) showed that in some cases prisoners were being held naked in specially secured cells with no natural light for 24 hours a day over a period of days. They were not allowed a mattress and therefore had to sleep directly on the concrete floor. Not only that, but neither blankets nor pillows were provided.

Segregation in prisons

In the special security unit at Tegel Prison (**Berlin**), prisoners – some of whom had mental health issues or disorders – were held in complete isolation for periods of weeks or even months, in some cases in cage-like cells.

One individual at Würzburg Prison (**Bavaria**) was held in a specially secured cell for 29 days. The overall situation was also highly concerning: in the prison's psychiatric unit alone, there were a total of 435 documented cases of female and male prisoners being held in specially secured cells between January 2023 and the National Agency's visit in July 2024.

Prisoners anchored to the floor with metal cuffs

Prisoners at Stralsund and Waldeck prisons (**Mecklenburg-Western Pomerania**) were physically restrained with metal cuffs on a thin mattress on the floor. What is more, even seven years after the Federal Constitutional Court judgment of 24 July 2018,¹⁰ the Mecklenburg-Western Pomerania Prison Act still does not enshrine in law any of the minimum standards under constitutional law.

Serious overcrowding

The **Berlin** forensic psychiatric hospital was so overcrowded that patients sometimes had to sleep on mattresses on the floor because there were not enough beds, and crisis intervention rooms were regularly used for prolonged periods for patients who did not require special security measures. Patients were also housed in other rooms not designed as patient accommodation, a large number of which were not adequately furnished and did not have their own toilets.

Unlawful prolonged physical restraint

In Osnabrück forensic psychiatric facility (**Lower Saxony**), one individual was physically restrained for several days without court authorisation for the measure as required under the minimum standards set out by the Federal Constitutional Court.

Physical restraint in police custody

On visits to police stations in **North Rhine-Westphalia**, the National Agency found that the standard practice for physical restraint was for individuals to be on a mattress on the floor and restrained using metal cuffs. As the minimum standards set out by the Federal Constitutional Court in its judgment of 24 July 2018 cannot be implemented in police custody, the National Agency has been calling on the competent authorities since 2015 to avoid any use of physical restraint on police premises.

Respect for the best interests of children

In a deportation procedure from Berlin/Brandenburg Airport to Chişinău (Republic of Moldova), there were three cases of families with children being separated. In one case, only the father and the 15-year-old daughter were deported, leaving the mother with the two younger children, aged six and five, behind. This was, in the National Agency's view, particularly problematic, as the documentation showed that the children had already been medically certified as suffering from adjustment disorders and anxiety before the procedure.

¹⁰ 2 BvR 309/15.

III

General information about the work of the National Agency

The National Agency for the Prevention of Torture is Germany's designated National Preventive Mechanism (NPM). By establishing the Agency, the Federal Republic of Germany was fulfilling its obligations under international law following from the OPCAT. The National Agency is responsible for places where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence. The following pages provide an overview of the National Agency's special status, as well as background information regarding its structure.

1 – Institutional framework

The objective of preventing torture and abuse is laid down in the OPCAT, which adds a preventive approach to the UN Convention against Torture of 1984. At the start of 2025, the OPCAT had 105 signatory states and had been ratified by 94 states.¹¹

Article 3 of the OPCAT requires that the States Parties set up an NPM. These independent national mechanisms engage in preventive measures and assess whether places of detention ensure humane treatment and detention conditions. To date, 79 States Parties are in compliance with this requirement.¹²

Germany's NPM comprises the Federal Agency for the Prevention of Torture, which is responsible for facilities run at federal level, and the Joint Commission of the *Länder* for the Prevention of Torture, which is responsible for facilities at federal-state level. The Federal Agency and the Joint Commission work together as a National Agency for the Prevention of Torture, and closely coordinate their activities.

Under Article 18 of the OPCAT, the States Parties are obliged to guarantee the functional independence of the preventive mechanisms as well as the independence of their personnel, and to make the necessary financial resources available.

The members of the Federal Agency are appointed by the Federal Ministry of Justice and Consumer Protection in agreement with the Federal Ministry of the Interior and the Federal

Ministry of Defence, while the members of the Joint Commission are appointed by the Conference of Ministers of Justice of the *Länder*.¹³ Members are not subject to supervisory control or legal oversight, and are independent in the exercise of their functions. They act in an honorary capacity. Strict conditions apply for the removal of members before the end of their term in office, as set out in sections 21 and 24 of the German Judiciary Act (*Deutsches Richtergesetz*). The full-time secretariat is based in Wiesbaden and is affiliated with the organisational structure of the Centre for Criminology (*Kriminologische Zentralstelle e.V.*).

2 – Tasks

The principal task of the National Agency is to visit facilities in which people are deprived of their liberty ("places of detention"), to draw attention to problems there, and to make recommendations and suggestions to the authorities for improving the situation of detainees and for preventing torture and other ill-treatment. Under Article 4(i) of the OPCAT, a place of detention is any place under a State Party's jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence.

At the federal level, this definition encompasses all detention facilities operated by the Federal Armed Forces, Federal Police and customs authorities. In addition, the Federal Agency is also responsible for monitoring forced deportations. In 2024, a total of 16,991 persons were deported from Germany by air.¹⁴

The vast majority of facilities fall within the remit of the Joint Commission. These include prisons, *Land* police stations, all courts with holding cells, facilities for custody pending deportation, psychiatric clinics, child and youth welfare facilities with closed units, and homes for people with

¹¹ URL: <https://indicators.ohchr.org/> (accessed 21 February 2025).

¹² URL: <https://www.apt.ch/knowledge-hub/opcat> (accessed 21 February 2025).

¹³ Organisational decree of the Federal Ministry of Justice dated 20 November 2008 (Federal Gazette no. 182, p. 4277); State Treaty on the establishment of a national mechanism of all *Länder* pursuant to Article 3 of the Optional Protocol dated 18 December 2002 to the Convention of the United Nations against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 25 June 2009 (published e.g. in the Land Law Gazette of Baden-Württemberg dated 7 December 2009, p. 681).

¹⁴ *Deutscher Bundestag*, 11 February 2025, *Drucksache* (Document) 20/14946.

disabilities. Furthermore, all residential care and nursing homes where measures depriving people of their liberty are or can be enforced are also classified as places of detention under the above definition.

Over and above these activities, the National Agency is also tasked with issuing statements regarding both existing and draft legislation (Article 19(c) of the OPCAT). In the 2024 reporting year, the National Agency submitted comments on five pieces of draft legislation, participating in domestic legislative processes:¹⁵

3 – Powers

Pursuant to the rules set out in the OPCAT, the Federal Government and the *Länder* grant the National Agency the following rights:

- + Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in Article 4 of the OPCAT, as well as the number of such places and their location;
- + Access to all information concerning the treatment of those persons as well as their conditions of detention;
- + Access to all places of detention and their installations and facilities;
- + The opportunity to conduct private interviews with the persons deprived of their liberty without witnesses, either personally or with an interpreter if deemed necessary, as well as with any other person who the National Agency believes may supply relevant information;
- + The liberty to choose the places it wishes to visit and the persons it wishes to interview;
- + The right to have contact with the UN Subcommittee on Prevention of Torture (SPT), to send it information and to meet with it.

In accordance with Article 21(1) of the OPCAT, persons who communicate information to the National Agency are not to be sanctioned or otherwise prejudiced in any way. The members and employees of the Agency are obligated to maintain confidentiality with regard to information

disclosed to them in the course of their duties. This obligation is to be maintained even beyond their term of office.

4 – Enquiries by individuals

Between 1 January and 31 December 2024, 141 enquiries (initial enquiries) were made to the National Agency by individuals. The enquiries were largely from prisons and forensic psychiatric clinics, across all *Länder*. In the reporting year, the National Agency received many complaints from **Bavaria** and **North Rhine-Westphalia** relating to detention conditions and medical care.

Every now and again, the National Agency also receives complaints from relatives and other individuals who are not being held in facilities where measures involving deprivation of liberty are enforced. As the National Agency does not operate as the office of an ombudsperson, it is not authorised to directly investigate complaints by individuals or to remedy them. However, it may provide the addresses of any relevant contact points or complaints bodies to individuals who send enquiries.

Where an enquiry contains information regarding serious shortcomings at a facility, the National Agency will, with the consent of the individual in question, contact the competent supervisory authorities. If an enquiry provides an indication that a person poses an acute risk to themselves or others, the National Agency will immediately contact the competent supervisory authority.

Tips from individual enquiries are of considerable relevance for the National Agency's work, as they can direct attention to specific problem areas. Concrete information can also have an influence on which facilities are visited.

5 – Torture prevention worldwide

Once again in 2024, dialogue with partner organisations and participation in international events played a significant role in the activities of the National Agency.

5.1 – Network of German-speaking NPMs

Since 2014, the National Agency has been part of the network of German-speaking NPMs

¹⁵ The statements from the National Agency are available on its website (in German): <https://www.nationale-stelle.de/aktuelles/stellungnahmen-zu-gesetzentwurfen.html>.

(Germany, Austria, Switzerland, Luxembourg and Liechtenstein). In the reporting year, it was the turn of the National Agency to organise the annual exchange between German-speaking NPMs, which was held at the Federal Ministry of Justice in Berlin on 14 and 15 November 2024. Together with representatives of the Ombudsman of the Grand Duchy of Luxembourg, the Austrian Ombudsman Board and the Swiss National Commission for the Prevention of Torture, the National Agency explored a range of issues including the challenges presented by major events such as the European Football Championship, and looked at how NPMs can monitor policing in the context of such events effectively. Attendees also discussed the EU Screening Regulation (2024/1356) and the independent monitoring mechanisms to be set up under that Regulation.

5.2 – International dialogue

The NPMs had an opportunity to discuss the question of their independence at a webinar organised by the SPT in November 2024.

The National Agency also attended three events during the European NPM Forum¹⁶ in Strasbourg, which was organised by the Council of Europe and partly funded by the European Union. In March 2024, the focus was on European Court of Human Rights judgments relating to involuntary detention and treatment on mental health grounds. The conference in June 2024 centred on the role of NPMs in uncovering human rights violations in pre-trial detention facilities such as remand detention and police custody. In September 2024, the focus was on best practice for persons deprived of their liberty with substance use disorders. The conference took a close look at the specific challenges and issues in European prisons, and identified the urgent need for further work on (statutory) protective measures.

The regional NPM event in Warsaw (2-3 July 2024) organised by the Office for Democratic Institutions and Human Rights of the Organisation for Security and Cooperation in Europe (ODIHR) discussed the challenges of dealing with radicalised individuals in prisons.

¹⁶ <https://www.coe.int/en/web/implementation/european-npm-forum>.

IV

Prisons

I – Focus: psychiatric care

The National Agency completed its task of visiting all forensic psychiatric facilities in Germany. The Joint Commission then chose a new area to focus on in 2024 and 2025: psychiatric care in German prisons.

During its visits, the National Agency regularly receives reports of the rising number of prisoners with mental health issues¹⁷ and/or disorders.¹⁸ This is reflected in the increasing use – in some cases for prolonged periods – of special security measures such as segregation and physical restraint, which are often taken in response to prisoners' exhibiting mental health issues. Often, too, the increase in cases of mental health problems places a considerable strain on the staff, as many prisons have neither enough qualified personnel nor the right infrastructure to deal appropriately with these challenges.

The National Agency considers ensuring appropriate, professional psychiatric care to be an essential component of humane treatment and fundamental to the protection of physical integrity.¹⁹ It must also be remembered that prisoners have a right to treatment. Section 56(i) of the German Prison Act (*Strafvollzugsgesetz*) states that care shall be taken of the prisoner's physical and mental health.

The competent supervisory authorities are responsible for ensuring comprehensive healthcare provision that meets the specific needs of prisoners. That responsibility includes ensuring access to professional psychiatric support with the aim of reducing suffering, preventing serious illness and avoiding potentially inhuman or degrading treatment.

There are concerns that, despite this obligation, prisoners requiring treatment are not necessarily receiving adequate psychiatric or psychotherapeutic care. Visits in 2025 are to investigate

these concerns more closely with the aim of systematically recording any gaps in the provision of care.

In 2024, visits focused on prison hospitals and prisons with psychiatric units. The National Agency also visited prisons without specialist psychiatric units to allow a more detailed analysis of the differences between those facilities and facilities with such units.

The National Agency visited a total of 20 prison facilities:²⁰

- Four prison hospitals in **Baden-Württemberg, Berlin, Lower Saxony and North Rhine-Westphalia**.²¹
- Kassel I Prison and Central Prison Hospital (**Hesse**) and the infirmary at Brandenburg an der Havel Prison (**Brandenburg**).²²
- Stuttgart Prison and the psychiatric ward in the prison infirmary (**Baden-Württemberg**).
- Three prisons with their own psychiatric units in **Bavaria, Berlin and Schleswig-Holstein**.²³
- Ten prisons without specialist psychiatric units in **Bavaria, Baden-Württemberg, Bremen, Mecklenburg-Western Pomerania, Lower Saxony, Saxony-Anhalt and Thuringia**.²⁴

The visits to Plötzensee (**Berlin**) and Fröndenberg (**North Rhine-Westphalia**) prison hospitals, to Brandenburg an der Havel (**Brandenburg**) and Kassel I (**Hesse**) prisons with prison hospitals, and to Würzburg (**Bavaria**), Augsburg-Gablingen (**Bavaria**),

¹⁷ Mental health issues (*psychische Auffälligkeiten*) is generally a broad term covering unusual behavioural and thought patterns. Mental health issues can indicate that an individual is developing an illness but are not in themselves to be categorised as clinically significant.

¹⁸ Mental disorders, on the other hand, are clearly and diagnostically defined illnesses with specific symptoms, and which cause ongoing suffering and impairment. Cf. *Kapitel V "Psychische und Verhaltensstörungen"*, ICD-10-GM Version 2025, Link: <https://klassifikationen.bfarm.de/icd-10-gm/kode-suche/htmlgm2025/chapter-v.htm>

¹⁹ Article 2(2) sentence 1 of the German Basic Law (*Grundgesetz*).

²⁰ A detailed description of the individual facilities and positive examples, findings and recommendations in each case can be found in the individual visit reports, which are available (in German) on the website of the National Agency for the Prevention of Torture (<https://www.nationale-stelle.de/besuche/laenderkommission/2024.html>).

²¹ Hohenasperg (Baden-Württemberg), Plötzensee (Berlin), Lingen (Lower Saxony) and Fröndenberg (North Rhine-Westphalia) prison hospitals.

²² Given their similar structure and function (responsibility for all prisoners in the *Land*), these facilities are treated as prisons with prison hospitals on the following pages.

²³ Würzburg (Bavaria), Tegel (Berlin) and Neumünster (Schleswig-Holstein) prisons.

²⁴ Augsburg-Gablingen, Munich, Hof (Bavaria), Rottenburg am Neckar (Baden-Württemberg), Bremen (Bremen), Stralsund, Waldeck (Mecklenburg-Western Pomerania), Meppen (Lower Saxony), Burg (Saxony-Anhalt) and Hohenleuben (Thuringia) prisons.

Stuttgart (**Baden-Württemberg**), Tegel (**Berlin**), Burg (**Saxony-Anhalt**) and Neumünster (Schleswig-Holstein) prisons were all repeat/follow-up visits, aimed in part at monitoring progress in implementing previous recommendations.

The following pages set out the findings on psychiatric care at the prison facilities visited in 2024, giving both a general overview of the psychiatric care infrastructure and specific positive and negative findings by the National Agency on its visits.

1.1 – Basic in-patient psychiatric care infrastructure

Before starting its visits focusing on psychiatric care, the National Agency surveyed the competent supervisory authorities in all *Länder* in early 2024 to establish which prisons in each *Land* had specialist in-patient psychiatric units.

The results of the survey revealed both differences and similarities between the *Länder*, which became even clearer in the course of the visits.

Baden-Württemberg, Berlin, Brandenburg, Hesse, North Rhine-Westphalia, Lower Saxony, Rhineland-Palatinate and Saxony each have one prison hospital. Those prison hospitals have psychiatric units in which adult and in some cases²⁵ also young²⁶ male and female prisoners can receive in-patient treatment.²⁷ **Baden-Württemberg, Berlin and Lower Saxony** also run prisons that have their own units for in-patient psychiatric care.

Bremen, Hamburg, Mecklenburg-Western Pomerania, Saarland, Saxony-Anhalt and Thuringia have neither prison hospitals nor prisons with psychiatric units. To allow them to provide in-patient treatment to prisoners with mental health issues and disorders, these *Länder* have cooperation agreements with public hospitals or forensic psychiatric detention facilities

²⁵ No young prisoners are treated in the psychiatric unit at Lingen prison hospital (Lower Saxony); they are treated in the psychiatric unit at Hameln juvenile detention facility (Lower Saxony).

²⁶ The term “young” here covers both juveniles and those young adults who are being held in juvenile detention facilities.

²⁷ The central hospital at Kassel I Prison (Hesse) has a “ward for prisoners with behavioural issues” (*Station für verhaltensauffällige Gefangene*) rather than a psychiatric unit (*psychiatrische Abteilung*) in the statutory meaning of the term; however, that ward mostly houses prisoners with psychiatric illnesses.

and with prison hospitals in other *Länder*.²⁸

Other *Länder*, such as **Bavaria** and **Schleswig-Holstein**, do not have a prison hospital for in-patient treatment, but do have a number of prisons with psychiatric units. Those units offer both in-patient and combined in-patient and outpatient psychiatric treatment for prisoners in the given *Land*.

However, according to initial findings by the National Agency, only some of the prisoners with mental health issues or disorders are treated in prison hospitals or prisons with psychiatric units. In other cases, prisoners receive support within the prison in which they are being held, either from that prison’s psychologists, or – if there are any – from the (external) psychiatrists.²⁹

Visits by the National Agency have also found indications of prisoners with mental health issues or disorders not receiving sufficient or appropriate psychiatric treatment, or in some cases any psychiatric treatment at all.

Below are important structural challenges to consider as regards access to psychiatric care.

1.1.1 – Partnerships and administrative agreements with external facilities

Adequate medical care for prisoners must be ensured at all times. One way to do so is to partner with external facilities.

- + The psychiatric wards at Fröndenberg (**North Rhine-Westphalia**) and Brandenburg an der Havel (**Brandenburg**) prison hospitals and the psychiatric day clinic at Neumünster Prison (**Schleswig-Holstein**) have cooperation agreements with external facilities and providers, which provide most of their psychiatric staff.
- + The average waiting time for a place at Brandenburg an der Havel prison hospital (**Brandenburg**) is between 0 and 10 days, depending on capacity and the prisoner’s symptoms in the given case.

²⁸ For example, Thuringia has a cooperation agreement with Leipzig prison hospital (Saxony) and Bremen has a cooperation agreement with Lingen prison hospital (Lower Saxony).

²⁹ A number of *Länder* also offer the (additional) option of telemedicine psychiatric services.

Most of the prisons visited in 2024 that did not have their own psychiatric unit did not have comparable cooperation agreements. Instead, they were reliant on their prison psychologists, and in some cases external psychiatrists, for the treatment of prisoners with mental health issues or disorders. In cases requiring in-patient treatment, the care policies in these facilities generally involved transfer to the competent prison hospital, to a prison with a psychiatric unit, or, in the case of Stralsund and Waldeck prisons (**Mecklenburg-Western Pomerania**), to a general psychiatric or forensic psychiatric facility.

The National Agency found that implementation of those policies varied widely from prison to prison, and there were serious issues with the transfer time in some cases:

- Stuttgart Prison (**Baden-Württemberg**): the average waiting time for transfer to the psychiatric unit is between eight and twelve weeks.
- Munich Prison (**Bavaria**): the designated psychiatric unit at Straubing Prison is often so full that there is little capacity for prisoners from elsewhere.
- Tegel Prison (**Berlin**): prisoners with mental health issues and psychiatric disorders are held in isolation in the B1 special security unit for weeks or even months on end. **Berlin's** Senate Department for Justice and Consumer Protection told the National Agency that outpatient or in-patient psychiatric treatment at Plötzensee prison hospital, for example, was in principle always possible.³⁰ The Senate Department did not answer the key question of why prisoners with mental health issues nevertheless remained in the special security unit at Tegel Prison for long periods of time, sometimes in inhumane conditions, and were apparently only transferred to suitable in-patient facilities after considerable delays, if indeed they were transferred at all.
- Stralsund and Waldeck prisons (**Mecklenburg-Western Pomerania**): a total of three beds are available in *Land* forensic psychiatric facilities for the in-patient

psychiatric treatment of prisoners. However, those beds are only available when capacity in the busy facilities allows, in other words if the beds are not required for patients in forensic psychiatric detention. It became clear in conversations with staff and medical personnel at the prisons visited that, despite the partnerships that are in place, the beds available at the forensic psychiatric facilities are not meeting actual demand from the two prisons.³¹

- Burg Prison (**Saxony-Anhalt**): capacity at the designated prison hospital, Leipzig (**Saxony**), is limited – there are a total of three beds in the psychiatric ward for prisoners from **Saxony-Anhalt**.
- Hohenleuben Prison (**Thuringia**): the designated prison hospital, Leipzig (**Saxony**), has five beds for psychiatric patients from **Thuringian** prisons. As the prison hospital and the psychiatric ward in particular are often at 100% occupancy, prisoners generally have a long wait for a transfer.

Overall, it should also be noted that nearly all of the prison hospitals visited have waiting lists, although the average waiting times vary widely.

- At Hohenasperg prison hospital (**Baden-Württemberg**), the waiting times vary from a few days to several weeks depending on the gravity of the illness.
- Waiting times for Plötzensee prison hospital (**Berlin**) are generally one to two weeks.
- Waiting times at Brandenburg an der Havel prison hospital (**Brandenburg**) are usually just a few days.
- At Kassel prison hospital (**Hesse**), the average wait for admission to the ward for prisoners with behavioural issues is two weeks.
- Admission in one to two days is sometimes possible at Lingen prison hospital (**Lower Saxony**). In other cases – particularly when the only detention room in the psychiatric unit that has CCTV monitoring is occupied – the waiting time can be several weeks.

³⁰ Statement from Berlin Senate Department for Justice and Consumer Protection in response to the National Agency's report on its visit to Tegel Prison on 28 August 2024.

³¹ In certain critical situations, there is also the option of transferring prisoners to Mecklenburg-Western Pomerania's general psychiatric facilities. However, such transfers involve extensive security measures and are generally only used for periods of a few days.

- The average waiting time for the psychiatric wards at Fröndenberg prison hospital (**North Rhine-Westphalia**) is between one and three months.

On the basis of its visits in 2024, the National Agency concludes that the current capacity for the in-patient psychiatric treatment of prisoners is not sufficient to meet the demand. While some prisons have effective partnerships with external psychiatric facilities, others are severely limited in their options as a result of insufficient capacity and problems transferring prisoners to prison hospitals or prisons with specialised units.

The lack of rapid access to treatment in prison is particularly problematic given that the conditions of detention represent an additional source of stress.³² The situation is compounded by a much higher need for treatment than in the general population: rates of psychotic illnesses and severe depression are two to four times higher in the prison population than in the general population, and rates of antisocial personality disorder are up to ten times higher.³³

Action is urgently needed to address the issues identified, for example increasing existing capacity and building new prisons with psychiatric units, creating additional capacity in prison hospitals, and facilitating partnerships with external psychiatric facilities.

Ensuring adequate psychiatric support and compliance with human rights standards must be a central consideration.

1.1.2 – Access to psychiatric treatment

The State has an obligation to ensure access to adequate healthcare for all prisoners; this includes access to care from qualified psychiatric staff.

Prisoners diagnosed with severe mental disabilities or mental health disorders, for whom staying in prison would mean an exacerbation of their condition, must be transferred to suitable mental health facilities.³⁴

³² Cf. Dignity Manual (2021): Monitoring health in places of detention. An Overview for Health Professionals, p. 180.

³³ See WHO (2022): Addressing the noncommunicable disease (NCD) burden in prisons in the WHO European Region. Interventions and policy options, p. 16.

³⁴ Rule 109 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (General Assembly resolution 70/175, annex, adopted on 17 December 2015, also known as the Nelson Mandela Rules).

Prisoners who are excluded from certain psychiatric treatment options because of specific provisions should be offered equivalent alternative psychiatric care options that meet their individual needs.

Under the care policies at Stuttgart (**Baden-Württemberg**), Tegel (**Berlin**) and Neumünster (**Schleswig-Holstein**) prisons with psychiatric units, and at the medical unit at Munich Prison (**Bavaria**), prisoners will in most cases not be admitted if they pose an acute risk to themselves or others, or are exhibiting acute withdrawal symptoms. In practice, this has meant that the prisoners in question could not be transferred to suitable facilities, but were instead held in segregation in their own prisons, in some cases for months and in inhumane conditions.³⁵

Refusing admission to prison psychiatric units on grounds such as individuals' posing an acute risk to themselves or others, or exhibiting acute withdrawal symptoms, is problematic for a number of reasons. Prisoners in such a grave state often require immediate, specialist treatment, yet the admission criteria prevent these very individuals, who are extremely vulnerable, from accessing the relevant facilities. This is all the more serious as ordinary prisons often lack the necessary staff or infrastructure to provide appropriate treatment and care.

The detention of individuals with mental health issues and/or illnesses in a regular prison – and without access to the necessary (psychiatric) care – because of certain conditions governing their admission to other facilities, can amount to treatment contrary to Article 3 of the European Convention on Human Rights.³⁶

- + A new build with a capacity of 25 is planned at Lübeck Prison to further improve care in **Schleswig-Holstein** for prisoners with serious psychiatric illnesses. The new build is to have a number of specialist units such as an acute care unit for crisis intervention and diagnostics, a sub-acute unit for stabilising patients, and a unit for longer-term treatment.

Unlike the policies mentioned above that often make access to psychiatric treatment difficult for prisoners posing an acute risk to themselves

³⁵ See 1.2.1.1. and 1.2.1.2.

³⁶ ECHR, judgment of 20 January 2009, Sławomir Musiał v. Poland, Application no. 28300/06, § 87; CPT/Inf (2022) 18, paragraph 71.

or others, the planned project is aimed at providing suitable and comprehensive treatment for all prisoners, including these vulnerable groups.

1.2 – Focus area: findings and recommendations

1.2.1 – Segregation

The challenges outlined regarding the transfer of prisoners with mental health issues or disorders to suitable facilities can frequently result in individuals posing an (acute) risk of harm to themselves or others or suffering from withdrawal symptoms being held in specially secured cells, in special security units, or in cells with CCTV monitoring and vandal-proof furniture (for example plain cells (*Schlichthafträume*)).

1.2.1.1 – Solitary confinement

Segregation refers to an individual's complete isolation from all of their fellow inmates.³⁷ Segregation for more than 24 hours constitutes continuous segregation (solitary confinement),³⁸ which may only be imposed if it is absolutely necessary i.e. if no other less severe measure can effectively be employed instead. Alternative, less severe measures available should include appropriate psychiatric care.³⁹

Continuous segregation places an extraordinary strain on the prisoners concerned.⁴⁰ In some cases, prisoners in continuous segregation are only allowed outside for one hour each day and spend the remaining 23 hours confined in cells or segregation units. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) stresses that long periods of segregation can have a damaging effect on the mental and somatic health of the persons concerned and can in certain

circumstances constitute inhuman and degrading treatment.⁴¹

Berlin Higher Regional Court has found that confining an individual to their cell for 23 hours a day can constitute a violation of their human dignity.⁴²

On this point, the National Agency would highlight practices in the prison hospitals at Brandenburg an der Havel (**Brandenburg**)⁴³ and Kassel I (**Hesse**) prisons, the internal medicine unit at Plötzensee prison hospital (**Berlin**), and the regular ward at Fröndenberg prison hospital (**North Rhine-Westphalia**). Prisoners in those facilities spend 23 hours a day locked in their rooms, in some cases for periods lasting several weeks. This means that they are often completely isolated from other inmates. Young prisoners are particularly badly affected as they are usually in single-occupancy rooms.

Periods of segregation are to be kept to a minimum. Measures should be taken to reduce the duration and thus the negative effects of segregation on the mental and physical health of the individuals concerned.

³⁷ Arloth/Krä, *StVollzG Kommentar*, 2021, 5. Auflage, § 88 StVollzG, margin no. 6: The authors draw a distinction between temporary segregation (section 88(2) no. 3 of the German Prison Act) and solitary confinement or continuous segregation (section 89 of the German Prison Act).

³⁸ Section 89(1) of the German Prison Act; Arloth/Krä, *StVollzG Kommentar*, 2021, 5. Auflage, § 89 StVollzG, margin no. 1.

³⁹ Arloth/Krä, *StVollzG Kommentar*, 2021, 5. Auflage, § 89 StVollzG, margin no. 2: "Solitary confinement is only absolutely necessary if other alternative measures cannot be employed; the facility must therefore first take all other available steps to avoid or obviate the need for continuous segregation. Such steps notably include medical and psychiatric measures."

⁴⁰ Cf. 2010/2011 Annual Report of the National Agency; see also Feest/Lesting/Lindemann, *Strafvollzugsgesetze Kommentar*, 8. Auflage, 2021, II § 78 29, p. 684.

⁴¹ CPT/Inf (2022) 18, paragraph 53.

⁴² Berlin Higher Regional Court, judgment of 17 February 2015, file no.: 9 U 129/13, margin no. 38.

⁴³ Prisoners in Brandenburg an der Havel prison and prison hospital's external ward at Brandenburg an der Havel university hospital are even held in their rooms for 24 hours a day as a rule. According to the head of the facility, a doctor can authorise time outdoors on a case-by-case basis and in line with medical decisions on time and place. In its statement of 27 March 2025, Brandenburg's Ministry of Justice and Digitalisation reported that resources such as games and reading material were available, and that the facilities encouraged moderate physical activity by providing prisoners for whom this was appropriate with equipment such resistance bands. The Ministry also reported that at Brandenburg an der Havel prison hospital, doctors regularly assessed whether prisoners could take part in activities such as games afternoons and outdoor exercise, organised by the recreation and education team. According to the Ministry, the facility does not currently have any recreation rooms; it is assessing whether such rooms could be created, but this would be complicated.

There must be close and regular external review of continued segregation if segregation lasts more than 15 consecutive days (prolonged solitary confinement).⁴⁴ The National Agency also strongly recommends ensuring prior scrutiny of such measures by an independent, neutral body (requirement for a judicial decision).⁴⁵

In Munich (Bavaria), Stuttgart (Baden-Württemberg), Tegel (Berlin), Stralsund (Mecklenburg-Western Pomerania), Waldeck (Mecklenburg-Western Pomerania), Burg (Saxony-Anhalt), Hohenleuben (Thuringia) and Kassel I (Hesse) prisons and Fröndenberg prison hospital (North Rhine-Westphalia), prisoners with mental health issues and disorders were segregated for weeks or in some cases even months.⁴⁶

Such long periods of segregation are to be avoided as they are not acceptable from a human rights perspective. To mitigate the negative impact, the individuals concerned should be provided with sufficient opportunities for human contact and for engaging in meaningful activities. Appropriate and adequate supervision for the person concerned must always be ensured.

The situation in B1 special security unit at Tegel Prison (Berlin) was particularly problematic in this regard. The National Agency, staff at the facility, and the Advisory Board for the Berlin Prison System (*Berliner Vollzugsbeirat*)⁴⁷ all found the conditions of detention there to be inhumane.

Prisoners held in the B1 special security unit include individuals with mental health issues.

According to the staff, some of those individuals have serious mental disorders.

The prisoners in question spend, as a rule, 23 hours a day locked in their cells. Two of those cells have metal mesh partitions and are reminiscent of “cages”.⁴⁸ The individuals held there spend their daily hour of outdoor exercise alone and are thus completely isolated from other inmates.⁴⁹ They have very limited opportunities for meaningful activity. This situation is compounded by how long prisoners spend in the unit: 116 days on average in 2023 and 70 in 2024.

In its visit report, in light of these conditions, the National Agency called on the Berlin Senate Department for Justice and Consumer Protection to undertake extensive structural changes and changes in approach at unit B1 in Tegel Prison. Prisoners should not be held in the unit until such time as those changes have been implemented.

In its statement of 30 April 2025, Berlin’s Senate Department for Justice and Consumer Protection informed the National Agency that an extensive package of measures was planned for special security unit B1 at Tegel Prison that included changes in approach and organisational and structural changes. For example, there were plans to introduce a three-stage security approach for prisoners in the unit, under which restrictions would be reduced in line with the level of risk. The Senate Department also stressed that there was to be a focus on facilitating communication and social interaction in the unit – for example with staff and other inmates – in order to address the issue of (in some cases total) isolation.

1.2.1.2 – Specially secured cells

Segregation in a specially secured cell represents a particularly significant infringement of an individual’s rights. The isolating nature of the

⁴⁴ Rule 43(1) of the Nelson Mandela Rules, which prohibits: a) indefinite solitary confinement and b) prolonged solitary confinement, i.e. solitary confinement last more than 15 days; Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, 5 August 2011, A/66/268, paragraph 26: the Special Rapporteur considers this to be the point at which harmful effects can become irreversible.

⁴⁵ Cf. rules for forensic psychiatric detention in North Rhine-Westphalia, where all forms of segregation must be approved by the courts (requirement for a judicial decision) (section 32(3) of the North Rhine-Westphalia Act on Criminal Law-related Committal (Strafbezogenes Unterbringungs-gesetz NRW)).

⁴⁶ The longest instance of segregation found by the National Agency in the period between 1 January 2023 and the time of the Agency’s visit in 2024 was in Munich Prison (Bavaria), and was around one year.

⁴⁷ See point 2 a) in the letter dated 7 August 2023 from the Advisory Board for the Berlin Prison System to the director of Tegel Prison.

⁴⁸ The mesh partitions – according to the prison staff – are to prevent inmates from physically assaulting prison officers when they open and enter the cells.

⁴⁹ Staff at the B1 special security unit told the National Agency that the prisoners there could still talk to other inmates through the windows of their cells and were therefore not held in complete isolation. In the National Agency’s view, such contact is not at all comparable to that with fellow inmates in standard prison detention conditions. What is more, a number of prisoners at Tegel Prison told the delegation that they found the frequency and volume of conversations through windows to be a huge problem because it created a level of background noise that greatly disturbed their sleep.

measure is compounded by minimal furnishings in the cells and often also by CCTV monitoring ordered in addition to segregation, and in some cases by a withdrawal of the inmate's right to exercise outdoors.⁵⁰

The National Agency has therefore repeatedly and strongly recommended ensuring prior scrutiny of such measures by an independent, neutral body (requirement for a judicial decision).

Duration

- + Detention in a specially secured cell was only ordered twelve times at Brandenburg an der Havel Prison (**Brandenburg**) in the period from 1 January 2023 to the time of the National Agency's visit in September 2024. None of those periods of detention lasted longer than two days, and most were over within one day. This would appear to indicate a careful approach to the use of this security measure.

It is a matter of some doubt whether segregation in a specially secured cell for a prolonged period of time can ever be proportionate. Such an approach is certainly at odds with the specified grounds for segregation: the grave state (*"akute[r] Zustand"*)⁵¹ of the individual concerned and the associated risk of self-harm or suicide or violence towards others. Steps must be taken to address the prisoner's state where it remains grave; for example, the prison must seek the assistance of the psychiatric services.

At Stuttgart (**Baden-Württemberg**), Augsburg-Gablingen (**Bavaria**), Munich (**Bavaria**), Tegel (**Berlin**), Bremen, Waldeck (**Mecklenburg-Western Pomerania**) and Burg (**Saxony-Anhalt**) prisons and at Lingen prison hospital (**Lower Saxony**), prisoners were held in specially secured cells for periods of a week or longer, and for up to 24 hours a day.

The longest period of segregation in a specially secured cell recorded by the National Agency was 29 days, at Würzburg Prison (**Bavaria**). This

is extremely concerning, as is the overall frequency of detention in a specially secured cell – there were 435 cases in total for female and male prisoners in the prison's psychiatric unit between the start of 2023 and the National Agency's visit in July 2024; the unit itself has a capacity of just 46.

In its statement of 5 May 2025, the **Bavarian** Ministry of Justice told the National Agency that the high frequency at Würzburg Prison was because the facility had responsibility for psychiatric cases for the north/the whole of **Bavaria**, and prisoners posing an acute risk to themselves or others were often transferred to Würzburg. In such cases, the Ministry argued, detention in a specially secured cell was often the only appropriate means of protecting the individuals in question; compliance with legal requirements was, however, regularly reviewed.

In the National Agency's view, Würzburg Prison's responsibility for psychiatric cases in **Bavaria** justifies neither the unusually frequent use of, nor the length of detention in, specially secured cells. Indeed, the very fact that the unit at Würzburg Prison is a specialist psychiatric unit should mean that alternative therapeutic measures other than prolonged isolation are available to address serious crises. A comparison with Brandenburg an der Havel Prison (**Brandenburg**) or Fröndenberg prison hospital (**North Rhine-Westphalia**) – two facilities with similar responsibilities – shows that a more careful and proportionate use of specially secured cells is possible under comparable conditions.

One prisoner at Plötzensee prison hospital (**Berlin**) was held for a total of 54 days in a crisis intervention room – a room that is almost identical to a specially secured cell in terms of use and security level.

Detention in a specially secured cell is only to be ordered as a last resort, on the basis of clear and precisely defined criteria, and for the shortest possible period of time.

Conditions

Segregation in a specially secured cell for more than just a short period of time is unacceptable if the cell is furnished in a way that does not respect the human dignity of inmates.

⁵⁰ The National Agency has included the crisis intervention rooms at Plötzensee prison hospital (Berlin) under "specially secured cells", as they meet the same security requirements as specially secured cells and are also used to hold prisoners in exceptional crisis situations.

⁵¹ Feest/Lesting/Lindemann, *Strafvollzugsgesetze Kommentar*, 8. Auflage, 2021, II § 78 42, p. 688.

Visibility of toilets

CCTV monitoring should only be used in individual cases where it is essential in order to protect the individuals concerned. In such cases, the CCTV cameras must be fitted in such a way that the toilet area is either not visible on the monitor at all or, alternatively, is pixelated/not recognisable. Only where there is an acute risk of self-harm or suicide might a decision to allow temporarily unrestricted monitoring of a cell potentially be acceptable; such a decision would have to be carefully considered in the individual case.

Constant CCTV monitoring constitutes a significant infringement of constitutionally protected rights,⁵² and observing an individual while they use the toilet is also a serious infringement of their rights of personality.⁵³

- + In line with the statutory requirements in **Berlin**,⁵⁴ **Hesse**,⁵⁵ **Mecklenburg-Western Pomerania**,⁵⁶ **Lower Saxony**,⁵⁷ **Saxony-Anhalt**⁵⁸ and **Thuringia**,⁵⁹ the specially secured cells in prisons in those *Länder* were fitted with CCTV cameras that allowed the toilet area to be pixelated.
- + The toilet area in specially secured cells was also pixelated in Munich (**Bavaria**), Neumünster (**Schleswig-Holstein**) and Brandenburg an der Havel (**Brandenburg**) prisons.

In Stuttgart Prison (**Baden-Württemberg**),

⁵² Federal Constitutional Court, order of 18 March 2015, file no.: 2 BvR 1111/13, margin no. 32.

⁵³ Monitoring an individual while they use the toilet is particularly demeaning. Cf. for example Regensburg Regional Court, order of 20 January 2022, file no.: SR StVK 245/21, margin no. 22: "According to past decisions of the Federal Constitutional Court, particular sensitivity is required on the part of prison officers if they carry out their duties while prisoners are using the toilet, for in such situations there can often be an infringement of the right to privacy protected under Article 2(1) in conjunction with Article 1(1) of the Basic Law."

⁵⁴ Section 23(3) of Berlin's Prison Data Protection Act (JVollzDSG Bln).

⁵⁵ Section 37(4.5) of the Administrative Provisions Relating to the Hesse Prison Acts (*Verwaltungsvorschriften zu den Hessischen Vollzugsgesetzen*)

⁵⁶ Section 25(7) of Mecklenburg-Western Pomerania's Prison Data Protection Act (JVollzDSG M-V).

⁵⁷ Section 81a(2) of the Lower Saxony Prison Act (NJVollzG)

⁵⁸ Section 144(4) of Book 1 of the Prison Code of Saxony-Anhalt (JVollzGB I LSA).

⁵⁹ Section 33(3) of Thuringia's Prison Data Protection Act (ThürJVollzDSG)

in three prisons visited in **Bavaria** (Augsburg-Gablingen, Hof and Würzburg), in Waldeck Prison (**Mecklenburg-Western Pomerania**) and in Fröndenberg prison hospital (**North Rhine-Westphalia**), however, the toilet area was still visible on the surveillance monitors without pixelation.

In its statement in response to the Augsburg-Gablingen Prison visit report, the **Bavarian** Ministry of Justice told the National Agency that measures had been taken as part of CCTV upgrades at a number of **Bavarian** prisons to allow pixelation of the toilet area in specially secured cells containing no dangerous objects, and that an evaluation of whether pixelation was compatible with effective protection of prisoners' health was now underway.

In its statement of 30 April 2025, **Mecklenburg-Western Pomerania's** Ministry of Justice, Equality and Consumer Protection told the National Agency that Waldeck Prison was in the process of assessing options for pixelating the toilet area. Until such time as necessary changes to the technology could be made, the prison was ensuring privacy by covering the toilet area on the monitors.

While **Bavaria** and **Mecklenburg-Western Pomerania** are taking or at least assessing possible practical steps to pixelate the toilet area in specially secured cells, the Ministry of Justice in **North Rhine-Westphalia** continues to take a very different line, firmly rejecting the pixelation of toilet areas in specially secured cells on the grounds of safety and security. Given the picture at national level, the National Agency cannot understand this position. Both the experience of facilities visited that are already using pixelation and the number of *Länder* in which pixelation is required by law show that it is a workable and legally recognised solution.

Pillows, blankets and mattresses

The furnishings in specially secured cells must be such as to respect the dignity of those held there. Each cell should have a mattress, a blanket and a pillow.

Prisoners held in specially secured cells at Stuttgart (**Baden-Württemberg**), Hof (**Bavaria**), Tegel (**Berlin**) and Brandenburg an der Havel (**Brandenburg**) prisons and at Plötzensee

prison hospital (**Berlin**) were not provided with a pillow. At Hohenleuben Prison (**Thuringia**), they were not given a blanket either.

In its statement of 27 March 2025, the **Brandenburg** Ministry of Justice and Digitalisation told the National Agency that Brandenburg an der Havel Prison was assessing the potential purchase of special non-flammable, rip-proof pillows that could be disinfected, and of mattresses with built-in pillows; any recommendations would then be shared with other prisons.

In its statement of 30 April 2025, **Berlin's** Senate Department for Justice and Consumer Protection reported that uniform standards were being developed for furnishings and fittings in specially secured cells, to apply across **Berlin**; the standards were to draw on recommendations from the National Agency for the Prevention of Torture and would include pillows and seating.

The **Thuringian** Ministry of Justice, Migration and Consumer Protection, on the other hand, wrote in its statement of 27 March 2025 that it still did not intend to provide blankets or pillows as standard items in specially secured cells. The Ministry told the National Agency that blankets and pillows were and could only be issued on a case-by-case basis on condition that the individual in question did not pose a risk to themselves or others. This position is at odds with the requirement for humane detention conditions in specially secured cells.

The National Agency found furnishings in specially secured cells to be particularly problematic at Augsburg-Gablingen Prison (**Bavaria**). In a number of cases, the prisoners held there were not given either a pillow and blanket or a mattress. Lying on a concrete floor with no mattress can result in haematomas and other physical complaints.

In its statement of 16 January 2025, the **Bavarian** Ministry of Justice told the National Agency that removing or not providing these basic minimum items, following an assessment of whether this was proportionate in the given case, was sometimes necessary to avert a suicide risk. The Ministry reported that all **Bavarian** prisons had been required since October 2024 to inform the Ministry without delay if basic items were removed or not provided.

Introducing a direct reporting obligation in the event that basic items are not provided is a

sensible and workable measure to ensure greater transparency and oversight.

Nonetheless, removing pillows and mattresses for more than just a short period of time remains a highly problematic measure that would appear disproportionately restrictive. It is also questionable whether such a measure will genuinely and significantly reduce an (acute) risk of self-harm. Alternative solutions such as better therapeutic measures and closer supervision should instead be considered if an individual is at acute risk of suicide.

Clothing

Individuals held in specially secured cells are to be issued with appropriate clothing that you cannot see through.

At Munich, Hof (**Bavaria**) and **Bremen** prisons and in some cases at Plötzensee prison hospital (**Berlin**), prisoners held in specially secured cells were only issued with paper underwear. In a number of cases at Stralsund Prison (**Mecklenburg-Western Pomerania**), the prisoners concerned had to remove all their clothing and were issued only with see-through overalls. This was also the case at Rottenburg Prison (**Baden-Württemberg**); however, the prisoners there were also issued with see-through paper underwear.

Depriving individuals of any clothing when they are being held in a space with continuous CCTV monitoring constitutes a disproportionate infringement of constitutionally protected rights and violates their human dignity.⁶⁰

Practices in this regard at Augsburg-Gablingen Prison (**Bavaria**) are particularly problematic. The prison's records showed that, in at least eight cases, individuals were held in a specially secured cell without any clothes at all, not even paper underwear. The reasons why it was necessary for them to be naked were not recorded in any of those cases. This situation was compounded by the fact that CCTV monitoring had been ordered for all of the prisoners who were being held without clothing, and the cameras covered all areas of the specially secured cell.

⁶⁰ Federal Constitutional Court, order of 18 March 2015, file no.: 2 BvR 1111/13, margin no. 32; ECHR, judgment of 7 July 2011, *Hellig v. Germany*, Application no. 20999/05, §§ 56 f.

Seating

Prisoners should be given the opportunity to sit in a normal position.

Where an individual is held in a room for a period of several hours or days, it is inhumane to force them to stand or sit on the floor.

+ Facilities in **Bavaria** (Augsburg-Gablingen, Hof and Würzburg prisons), **Berlin** (Plötzensee prison hospital), **Brandenburg** (Brandenburg an der Havel Prison), **Lower Saxony** (Lingen prison hospital), **North Rhine-Westphalia** (Fröndenberg prison hospital) and **Schleswig-Holstein** (Neumünster Prison) had seating at normal height for prisoners held in specially secured cells.

Augsburg-Gablingen and Würzburg prisons (**Bavaria**) and **Bremen** Prison did have seating cubes, but there were none in any of the specially secured cells occupied at the time of the National Agency's visits. The records inspected by the National Agency also showed that none of the prisoners held in the specially secured cell at Augsburg-Gablingen Prison had been provided with a seating cube. The National Agency would stress that seating is one of the basic items to be provided in all specially secured cells and may only be removed, temporarily, in specific cases, in which clearly justified grounds must be documented in writing.

The specially secured cells in the facilities visited in **Baden-Württemberg** (Stuttgart and Rottenburg prisons), **Hesse** (Kassel I Prison), **Mecklenburg-Western Pomerania** (Stralsund and Waldeck prisons), **Lower Saxony** (Meppen Prison), **Saxony-Anhalt** (Burg Prison) and **Thuringia** (Hohenleuben Prison) only had a mattress on the floor. This was also the case in Munich (**Bavaria**) and Tegel (**Berlin**) prisons; however, these last two facilities informed the National Agency that seating for the specially secured cells had been ordered.

In its statement of 27 March 2025, the **Thuringian** Ministry of Justice, Migration and Consumer Protection told the National Agency that seating had been successfully piloted in the specially secured cell at Goldlauter Prison, and the plan was now to provide seating in specially secured cells in all prisons in the *Land*.

In its statement of 30 April 2025, **Mecklenburg-Western Pomerania's** Ministry of Justice, Equality and Consumer Protection announced that seating cubes/folding mattresses were to be purchased and provided.

The Ministry of Justice and Consumer Protection in **Saxony-Anhalt** reported in its statement of 2 May 2025 that it had already started testing folding mattresses,⁶¹ which could be used both to lie on and as seating, in late 2023, and that this pilot phase had been a success. Folding mattresses were now to be gradually rolled out for all specially secured cells in **Saxony-Anhalt**.

On 14 November 2024, **Hesse's** Ministry of Justice and for the Rule of Law issued a decree requiring folding mattresses or seating cubes to be provided without delay in all specially secured cells in prisons in **Hesse**.

Access to natural light

All specially secured cells should receive natural light.

If there are no windows or the windows are opaque, it is difficult or impossible to tell what time of day it is. In such cases, prisoners must be able to see a clock, as this can help to reduce the stress of the situation.

According to the CPT, "cells used for solitary confinement should meet the same minimum standards as those applicable to other prisoner accommodation".⁶² Those minimum standards include access to natural light.⁶³

However, this requirement is not always met. Some or all of the specially secured cells at **Bremen**,⁶⁴ Augsburg-Gablingen (**Bavaria**) and Kassel I (**Hesse**) prisons are in the basement. This is particularly hard to understand in the case of Augsburg-Gablingen Prison as the building is new; the issue raises fundamental questions about compliance with modern building standards and humane detention conditions.

⁶¹ The National Agency would point out that although folding mattresses can be used as a cushioned back rest, they still do not provide prisoners with seating at normal height. Folding mattresses should therefore be an additional and not the only seating option in a specially secured cell.

⁶² CPT, Standards – Solitary confinement of prisoners (2011), paragraph 58.

⁶³ Ibid.

⁶⁴ The specially secured cells each had one window, which was made out of glass blocks and therefore let in almost no light.

Bremen's Senator for Justice and the Constitution reported in her statement of 21 March 2025 that efforts were being made to avoid, whenever possible, prolonged periods of detention in the specially secured cells with no natural light. The aim was reportedly to use rooms in the new building where detention was prolonged; clocks had also been fitted in all specially secured cells to help reduce the stress of the situation.

The windows in the specially secured cells in Munich⁶⁵ and Hof (**Bavaria**) prisons and at Lingen prison hospital (**Lower Saxony**) were covered with opaque sheeting that reduced the amount of natural light and made it impossible to see out.

This was also the case at Fröndenberg prison hospital. However, the **North Rhine-Westphalian** Ministry of Justice reported in its statement of 24 January 2025 that, following the National Agency's visit, a section of the sheeting, around 20 cm wide, had been removed to allow natural light into the specially secured cells.

1.2.1.3 Psychiatric care

Where an inmate with mental health issues or a psychiatric disorder is segregated, close psychiatric care and treatment that is specifically adapted to the inmate's problems or illness must be provided.

The most commonly cited reasons for detention in specially secured cells lasting several days were mental health issues (*psychische Auffälligkeiten*), the inmate's posing a risk to themselves and/or others (*Eigen- und/oder Fremdgefährdung*) and suicide risk (*Suizidalität*); multiple reasons often applied in one and the same case.

As regards inmates at risk of suicide, the National Agency would once again point to the concept paper for the suicide prevention room at Leipzig Prison and Prison Hospital (**Saxony**). The stated aim of the concept is to create a positive atmosphere for treating individuals who are suicidal, and to enable them to voice suicidal thoughts without fear; the design of the room is to allow the best possible conditions for monitoring by staff whilst ensuring a non-stressful setting for prisoners at acute risk of suicide.

The National Agency recommends that **all Länder** consider setting up suicide prevention rooms.

Steps must always be taken to address the prisoner's condition where it remains grave; for example, the prison must seek the assistance of the psychiatric services.

The European Court of Human Rights has found that a prisoner with mental health issues does not just need to be examined and diagnosed:⁶⁶ proper treatment and medical supervision must also be provided; mere access to psychologists or psychiatrists without the right treatment for the problem diagnosed is not enough.⁶⁷

Although the prisons do have psychologists, they often have only very limited time and resources for each case because of the large numbers of prisoners who are mentally ill or have mental health problems. Moreover, unlike psychiatrists, psychologists are not authorised to prescribe the courses of medication or other forms of psychiatric treatment that are in many cases needed.

In practice, prisoners are often simply held where they are with no treatment until they can be moved to a prison with a psychiatric unit, a prison hospital, or a partner psychiatric facility. This can take several weeks or even months given the capacity issues (see 1.1.1 above).

What is already a stressful situation for the prisoners in question is further compounded when they are held until their transfer in unsuitable rooms or inhumane conditions. The National Agency found the specially secured cells in Augsburg-Gablingen (**Bavaria**) and **Bremen** prisons and in the B1 special security unit at Tegel Prison (**Berlin**) to be unsuitable for detention lasting several days, or indeed to be inhumane, because of the serious issues indicated.

The National Agency has doubts as to whether the conditions of longer-term detention in a specially secured cell or a comparable space used for segregation – austere surroundings and isolation from all other inmates – allow appropriate treatment for prisoners suffering mental health issues or psychiatric disorders.

Segregated prisoners with mental health issues

⁶⁵ In its statement of 5 May 2025, the Bavarian Ministry of Justice reported that, following the National Agency's recommendation, inmates held in the specially secured cell at Munich Prison could now see a clock at all times.

⁶⁶ See ECHR, judgment of 10 April 2013, *Claes v. Belgium*, Application no. 43418/09.

⁶⁷ Cf. ECHR, judgment of 10 April 2013, *Claes v. Belgium*, Application no. 43418/09, § 95.

or psychiatric disorders receive varying levels of supervision and care that depend on available psychologists and psychiatric personnel at the given prison. The National Agency found that most of the prisons visited in 2024 that did not have a specialist psychiatric unit did not have their own permanent psychiatric staff. Instead, they worked with external psychiatrists who were usually called in at the request of the prison doctors and only worked limited hours in the facility.

The National Agency would stress that adequate psychiatric care for prison inmates – and in particular for individuals who are segregated – must be provided and that as regularly as required.

1.2.2 – Shackling

In order to protect prisoners' right to physical integrity, adjustable textile restraint belts should be used.⁶⁸

Metal cuffs pose a high risk of injury for the individuals concerned.

+ Tegel Prison (**Berlin**) only uses textile restraints. **Bremen** Prison generally uses textile restraints, and only uses metal cuffs on a case-by-case basis in particularly high-risk situations.

Most of the other prisons visited in 2024 always used metal cuffs.

Only Hof (**Bavaria**) and Neumünster (**Schleswig-Holstein**) prisons also used single-use textile restraints in certain situations, for example for medical appointments.

The use of textile restraints should be widened.

1.2.3 – Physical restraint

1.2.3.1 – Frequency and duration of use

Physical restraint is a serious measure and is therefore only to be ordered as a last resort, on the basis of clear and precisely defined criteria, and for the shortest possible period of time.

Hohenasperg prison hospital (**Baden-Württemberg**) has 125 beds but recorded a strikingly high number of instances of physical restraint compared to other facilities. When the National Agency examined the records, it noted with concern that physical restraint had been used a total of 222 times in the period from the beginning of 2023 to the time of the Agency's visit on 9 July 2024.

In its statement of 25 April 2025, the **Baden-Württemberg** Ministry of Justice and Migration simply set out the legal framework and described how the measure was carried out; it did not address the specific reasons why physical restraint was being used so often in practice at Hohenasperg prison hospital.

It is a matter of considerable doubt whether physical restraint lasting several days or even weeks can ever be proportionate.

Instances of physical restraint at Fröndenberg prison hospital (**North Rhine-Westphalia**) were of extremely long duration compared to other prisons visited. Records from the prison hospital showed that there had been six cases of physical restraint lasting longer than 10 days since 1 January 2023, and in three of those cases the prisoner was restrained for more than 15 days. The longest use of physical restraint lasted 20 days and 23 hours. What is more, some of those cases of physical restraint were in the intensive care ward without continuous monitoring by a member of staff in the immediate vicinity.⁶⁹

To minimise the risk of physical harm, a strap-based system should be used for restraint.

At Stralsund Prison (**Mecklenburg-Western Pomerania**), there were eight cases of physical restraint lasting up to 26 hours in the period between 1 January 2023 and the date of the National Agency's visit. The prisoners in question lay on a thin mattress on the floor and were restrained using metal cuffs. This was also the situation at Walddeck Prison.

Cuffing individuals to the floor in itself leaves them feeling helpless and defenceless and can therefore hardly be considered as compliant with

⁶⁸ For example Segufix or Bonowi hand restraint belts.

⁶⁹ See 1.2.3.2 – Minimum requirements under constitutional law.

human rights requirements. The use of metal cuffs increases the risk of injury and is therefore not acceptable.

In its statement of 30 April 2025, **Mecklenburg-Western Pomerania's** Ministry of Justice, Equality and Consumer Protection told the National Agency that Waldeck Prison had since acquired two medical restraint mattresses and reported that prison staff, mostly from the general prison and medical services, had been trained in the use of those mattresses in March 2025.

The National Agency welcomes the fact that Waldeck Prison is now to use alternative mattresses and strap-based systems for restraint. The Agency would, however, remind all those responsible that physical restraint can only be used if all minimum standards under constitutional law are met.

1.2.3.2 – Minimum requirements under constitutional law

Physical restraint may only be used if it does not breach constitutional requirements.

Continuous one-on-one supervision must be carried out by therapeutic or care staff in all cases of physical restraint. A judicial decision is also required if physical restraint is to be used for more than just a short period of time.⁷⁰ After the measure ends, it should be discussed with the individual concerned.⁷¹ The individual should also be informed after the measure of their right to request a court review of the lawfulness of the restraint procedure.⁷²

Despite these constitutional standards, the National Agency was still told on most of its prison visits in 2024 that continuous one-on-one supervision by therapeutic or care staff could in many cases not be guaranteed. Instead, supervision was largely undertaken by the general prison staff, some of whom had received special training in this area.

This issue is reflected in the *Land* law of **North Rhine-Westphalia, Baden-Württemberg, Bavaria, Berlin, Brandenburg, Hesse, Lower**

Saxony, Saxony-Anhalt, Schleswig-Holstein and Thuringia, which is not in line with the minimum constitutional requirement for one-on-one supervision by therapeutic or care staff. The **Mecklenburg-Western Pomerania** Prison Act does not enshrine in law any of the minimum standards under constitutional law.

Land legislation must be adapted in order to meet the requirements of constitutional law.

In its judgment of 24 July 2018, the Federal Constitutional Court ruled that one-on-one supervision should be provided by therapeutic or care staff in the immediate vicinity of the individual restrained because the use of physical restraint can pose particular health risks⁷³ requiring an immediate response from qualified personnel. Therapeutic or care staff can also exert a de-escalating influence and thus reduce the period for which restraint is required.

The risk of injury is the same irrespective of the place in which the measure is used. One reason why, at the very least, the requirement for supervision by therapeutic or care staff must apply to other places of detention – such as prisons – is that the Federal Constitutional Court judgment related to a medical facility, in which the risks described ought to be lower than in a prison.

If prisons are not able to meet the minimum standards set out in the Federal Constitutional Court judgment, they must not use physical restraint.⁷⁴

The National Agency found it particularly problematic that individuals who were being physically restrained – for periods of up to 20 days at a time⁷⁵ – in the intensive care ward at Fröndenberg prison hospital (**North Rhine-Westphalia**) were not continuously monitored by a member of staff in the immediate vicinity. The prison hospital management told the National Agency that medical equipment monitored the individuals' vital signs. Management also cited section 70(7) of the **North Rhine-Westphalia** Prison Act, according to which continuous monitoring using technical devices is sufficient for intensive care patients provided continuous supervision by staff

⁷⁰ Federal Constitutional Court, judgment of 24 July 2018, file no.: 2 BvR 309/15, margin no. 69.

⁷¹ DGPPN (2018): “S3-Leitlinie: Verhinderung von Zwang: Prävention und Therapie aggressiven Verhaltens bei Erwachsenen”.

⁷² Federal Constitutional Court, judgment of 24 July 2018, file no.: 2 BvR 309/15, margin no. 85.

⁷³ Federal Constitutional Court, judgment of 24 July 2018, file no.: 2 BvR 309/15, margin no. 83.

⁷⁴ CPT/Inf (2022) 18, paragraph 91: the CPT recommends abolishing the use of physical restraint in prisons.

⁷⁵ See 1.2.3.1.

in the immediate vicinity is not required to avert risks to health associated with physical restraint.

In its statement of 24 January 2025, the **North Rhine-Westphalian** Ministry of Justice defended the practice by saying that it was only used in Fröndenberg prison hospital, and that this form of monitoring was considered equivalent to one-on-one in-person supervision as required by the Federal Constitutional Court given that vital signs were continuously recorded and there was an alarm function.

Such an interpretation is not in line with the requirements set down by the Federal Constitutional Court: the Federal Constitutional Court ruled that one-on-one supervision is a constitutional requirement in cases of physical restraint.⁷⁶ One-on-one supervision means constant and direct contact between the individual who is being physically restrained and the person monitoring them. The purpose of supervision is not only to prevent physical harm to the individual being restrained and to ensure that that individual is not left alone with the health risks associated with physical restraint; its purpose is also to minimise the psychological strain. The presence of qualified professionals who have been specifically trained in de-escalation and calming techniques can have a significant impact in helping the individual to overcome the crisis and avoiding their being traumatised. This approach to one-on-one supervision is essential given the seriousness of the measure and the associated health risks.

Monitoring using equipment only is not enough, even where that equipment provides continuous recording and has built-in alarms, and it can on no account be used as a substitute for the constant presence of qualified personnel in the immediate vicinity.

1.2.4 – Condition of buildings

To ensure a safe, secure and healthy environment, buildings used to house prisoners must be regularly maintained, modernised and brought into line with the latest standards.

Prisons must be in good structural condition if they are to meet basic safety, security and hygiene standards and provide humane detention

conditions. Buildings that are outdated or in need of renovation can have a negative impact on inmates⁷⁷ and on working conditions for staff.

The National Agency found buildings in need of urgent renovation on its visits to Hohenasperg (**Baden-Württemberg**) and Plötzensee (**Berlin**) prison hospitals, Kassel I Prison (**Hesse**), Hohenleuben Prison (**Thuringia**) and the old wing of **Bremen** Prison.

In her statement of 21 March 2025, **Bremen's** Senator for Justice and the Constitution reported that the progressive renovation of Bremen Prison had been under way for the past 20 years. She told the National Agency that the modernisation of Block II was currently in progress and scheduled to be completed in early 2029, and that Block I was then to be renovated, although the funding for Block I had yet to be secured.

According to **Baden-Württemberg's** Ministry of Justice and Migration in its statement of 25 April 2025, there are plans to renovate Block 4 at Hohenasperg prison hospital. In the long term, however, building work is to be aimed at preparing the site for future use as a social therapy facility. Given the condition of the building and the limited space for extensions, a new prison hospital with a capacity of 205 is, the Ministry writes, also planned at the Stuttgart Prison site.

The National Agency was particularly concerned about the condition of Complex II at Tegel Prison (**Berlin**). The corridors, cells and in some cases also the furniture in the cells were extremely shabby and covered with graffiti. The flooring also showed clear signs of wear.

There is considerable doubt as to whether Complex II is suitable for housing prisoners – criticism already voiced by the National Agency on its visit to Tegel Prison on 6 October 2021.⁷⁸

The position taken by **Berlin's** Senate Department for Justice and Consumer Protection is concerning. After announcing in a statement on 22 April 2022 that the renovation and complete remodel of Complex II was to begin in 2026, the Senate Department then told the National Agency in October 2024 that further major building work could not currently be carried out because

⁷⁶ Federal Constitutional Court, order of 19 March 2019, file no.: 2 BvR 2638/18, margin no. 29.

⁷⁷ Cf. CPT/Inf (2022) 18, <https://rm.coe.int/1680a80c63>, paragraph III.

⁷⁸ <https://www.nationale-stelle.de/besuche/laenderkommission/2021.html>

of savings required under the budget for the *Land* of Berlin: given budgetary pressures and the relative urgency of other building projects, the allocation of funding for the complete renovation of Complex II could not now realistically be expected until 2029 at the earliest.

In its statement in response to the National Agency's report on its visit to Tegel Prison on 28 August 2024, **Berlin's** Senate Department also announced that work was to start in September 2025 on a new build for Complex I. The new build was to provide 216 single-occupancy cells by the end of 2028 and allow prisoners to be moved from Complex II so that the remodel and renovation there could be carried out more efficiently.

The National Agency is extremely concerned about the fact that work on Complex II at Tegel Prison has been postponed once again. As the condition of the building progressively deteriorates, detention conditions will worsen further unless urgently required interim solutions are rapidly implemented to ensure compliance with human rights standards.

1.2.5 – Multiple occupancy

Single occupancy should be the general rule.

Holding multiple prisoners together can place a strain on prisoners and make crises and conflicts more likely, even when the cells are technically large enough.⁷⁹ The lack of privacy can trigger aggression and provoke incidents, and undermine the objective of rehabilitation. It can also make the treatment and recovery of prisoners with mental health disorders more difficult. That is why the law prescribes single-occupancy as the rule.⁸⁰

+ In 2024, the National Agency observed full compliance with the statutory principle of single occupancy at Tegel Prison (**Berlin**) and at Brandenburg an der Havel Prison (**Brandenburg**)

At Stuttgart (**Baden-Württemberg**) and Hohenleuben (**Thuringia**) prisons and Hohenasperg prison hospital (**Baden-Württemberg**), up to four prisoners shared multiple-occupancy cells. The National Agency also sees multiple occupancy at the infirmary at Munich Prison (**Bavaria**) as particularly problematic, with up to six prisoners per room.

In its statement of 25 April 2025, the Ministry of Justice and Migration of **Baden-Württemberg** agreed that multiple occupancy at Hohenasperg prison hospital could lead to conflict, but told the National Agency that there was only very limited capacity for single-occupancy accommodation there. In light of the rising demand for in-patient psychiatric treatment, it was not currently possible to convert multiple-occupancy cells into single-occupancy accommodation, as this would reduce the capacity of the prison hospital and limit psychiatric care across the entire prison estate. In practice, the Ministry reported, the issue was addressed by temporarily using multiple-occupancy rooms for single occupancy in certain cases whenever a given prisoner's medical condition meant that shared accommodation was not suitable. The planned new building was to consist largely of single-occupancy rooms.

In its statement of 5 May 2025, the **Bavarian** Ministry of Justice announced that a new infirmary with a capacity of around 100 was to be built at Munich Prison. Around half of those spaces were to be in single or two-person rooms, with the remaining rooms designed for a maximum of three occupants. However, the Ministry did also refer to the applicable *Land* legislation, under which up to eight prisoners can be held in a multiple-occupancy room.

The National Agency takes an extremely critical view of the possibility of up to eight individuals being held in one cell. Such high occupancy in one cell runs counter to the fundamental principle of rehabilitation and targeted support, and is almost impossible to reconcile with the requirement for humane detention conditions. Triple occupancy in the planned infirmary also raises serious concerns. For prisoners who are ill or suffering from mental health issues in particular, placement in a shared room can seriously affect peace, quiet and privacy, which they need, and thus both put the success of treatment at risk and negatively affect the general atmosphere.

⁷⁹ Cf. Anna Schliehe, Ben Crewe, "Top bunk, bottom bunk: cellsharing in prisons" in *The British Journal of Criminology*, March 2022, Volume 62, Issue 2, pp. 484-500.

⁸⁰ Section 18(1) sentence 1 of the German Act on the execution of prison sentences and measures of reform and prevention involving deprivation of liberty (German Prison Act): "During the night the prisoners shall be lodged alone in their cells." Similar wording can be found in many of the Prison Acts of the *Länder*.

The National Agency would therefore once again stress how important it is to implement the statutory norm⁸¹ of single-occupancy accommodation in practice and not just on paper.

1.2.6 – Multiple occupancy without separate, separately ventilated toilets

Holding multiple prisoners in a single cell without a separate toilet with separate ventilation represents a violation of human dignity.⁸² Whether or not prisoners have agreed to be detained together is irrelevant, as the fundamental right to human dignity is a protected legal interest that cannot simply be waived.⁸³

Where temporary multiple occupancy is unavoidable, the cells must have separate, and separately ventilated, toilets.

A number of multiple-occupancy cells in Würzburg Prison (**Bavaria**) did not have a separate toilet. Such conditions constitute a violation of human dignity, which is protected by Article 1(1) of Germany's Basic Law.⁸⁴

In its statement of 5 May 2025, the **Bavarian** Ministry of Justice told the National Agency that, following the Agency's recommendation, the aforementioned cells were now only to be used for single occupancy.

1.2.7 – Cell size

In order for detention conditions to be humane, a single-occupancy cell must have a floor space of at least 6 m²,⁸⁵ excluding the sanitary facilities. In cases where the sanitary facilities are not partitioned off, approximately one further square metre should be added for that area, giving a total

floor space of at least 7 m². For multiple occupancy, a further 4 m² of floor space must be added to the minimum area for each additional person, excluding the area of the sanitary facilities.

With a total floor space – including the toilet area – of less than 9 m², a number of cells with double occupancy at Rottenburg Prison (**Baden-Württemberg**) fell considerably short of National Agency standards.

1.2.8 – Young prisoners

The accommodation of young prisoners should, as far as possible, protect them from harmful influences and take into account the particular needs of people of their age.

In accordance with the Nelson Mandela Rules, the National Agency recommends keeping young prisoners separate from adults.⁸⁶ For young people under the age of 18, the best interests of the child are also to be a primary consideration.⁸⁷ Part of considering the child's best interests is ensuring that they are separated from adults.⁸⁸

Plötzensee (**Berlin**) and Fröndenberg (**North Rhine-Westphalia**) prison hospitals, Brandenburg an der Havel Prison (**Brandenburg**) and the psychiatric unit at Neumünster Prison (**Schleswig-Holstein**) did not ensure such separation. Young prisoners – including minors – were housed in the same unit as the adult inmates.⁸⁹

The young inmates were consequently locked up for up to 23 hours a day.

Separation from adults is designed to protect the welfare of young prisoners. Locking up young prisoners for 23 hours a day over a prolonged period of time in order to comply with the separation requirement is therefore absolutely not a suitable solution.

On this point, the National Agency would highlight the approach at the psychiatric unit at Hameln juvenile detention facility (**Lower Saxony**).⁹⁰ The unit has a total capacity of 20 and is

⁸¹ Section 20(1) sentence 1 of the Bavarian Prison Act (BayStVollzG).

⁸² Federal Constitutional Court, order of 22 February 2011, file no.: 1 BvR 409/09, margin no. 33.

⁸³ Federal Administrative Court, judgment of 17 October 2000, file no.: 2 WD 12/00; see also Arloth, StVollzG, 3. Aufl., § 18, margin no. 2.

⁸⁴ Cf. Lübke-Wolff (2016) "Die Rechtsprechung des Bundesverfassungsgerichts zum Strafvollzug und Untersuchungshaftvollzug", p. 269; ECHR, judgment of 25 April 2013, *Canali v. France*, Application no. 40119/09; Karlsruhe Higher Regional Court, judgment of 19 July 2005, file no.: 12 U 300/04.

⁸⁵ 6 m² is the absolute minimum requirement. In the National Agency's view, cells that are smaller than this violate Article 1 of the German Basic Law. Any additional legal requirements beyond this minimum standard must, of course, also be observed, and are welcomed.

⁸⁶ Rule 11(d) of the Nelson Mandela Rules (General Assembly resolution 70/175, annex, adopted on 17 December 2015).

⁸⁷ Article 3(1) of the United Nations Convention on the Rights of the Child of 20 November 1989.

⁸⁸ Article 37(c) of the United Nations Convention on the Rights of the Child.

⁸⁹ At Neumünster Prison (Schleswig-Holstein), this was only the case for young prisoners over the age of 18.

⁹⁰ The National Agency last visited Hameln juvenile detention facility on 17 March 2023.

responsible for young prisoners aged between 14 and 24 for whom outpatient treatment is not appropriate because of their mental illness, or who are to be prepared for prison routine after a course of inpatient treatment. A key focus of the unit's treatment policy is the joint organisation of activities. This is designed both to have a therapeutic effect and to provide meaningful occupation and structure. The young inmates can take part in a wide range of activities together with staff – such as sport, board games, music, jigsaws and other activities in group settings.

1.2.9 – Staffing

Each facility must have sufficient, qualified staff in all areas.

The National Agency is aware of the challenges that facilities currently face in the recruitment of qualified psychiatric personnel.

Nonetheless, very limited allotted hours from consultants, as at Munich (**Bavaria**) and Tegel (**Berlin**) prisons, raise serious questions about continuity and the reliability of psychiatric care, above all in cases of acute mental crisis. In those two prisons, specialist psychiatric care is provided exclusively by external consultants – usually at the request of the prison doctors, but the frequency of the visits is decided by the external specialists themselves.

This model can result in a lack of continuity in care, which can affect the outcome of treatment. The frequency of visits may be enough in certain cases for specific prisoners; however, given the size of the prison population – in particular in larger facilities such as Tegel Prison and Munich Prison, each of which have a capacity of more than 800 – it is doubtful whether this model can sustainably ensure adequate psychiatric care. The situation is particularly problematic for inmates with mental health issues who often do not realise or cannot communicate the fact that they need treatment. In such cases, there is a danger that urgently needed therapeutic measures are delayed or not started in time.

To ensure effective care, psychiatrists should be at the facility on a regular basis and be able to provide enough hours. This is the only way to guarantee close, continuous psychiatric care that meets the prisoners' needs.

The majority of the prisons visited also had vacancies for general prison staff. Most of the members of the works councils to whom the National Agency spoke on its visits reported that the general prison staff were overworked because of staff shortages. The National Agency was also repeatedly told about the cancellation of activities and a reduction in out-of-cell time, both a result of a shortage of the necessary security personnel.

2 – Further findings and recommendations for prisons

The findings and recommendations below based on visits to prison facilities in 2024 – irrespective of the focus of this year's visits – are key to ensuring humane treatment and detention conditions.

2.1 – Disciplinary detention

Disciplinary detention is only to be ordered as a last resort, on the basis of clear and precisely defined criteria, and for the shortest possible period of time.⁹¹

In 2024, the National Agency observed disciplinary detention lasting several weeks on its visits to Hof (**Bavaria**), Bremen, Stralsund and Waldeck (**Mecklenburg-Western Pomerania**), Meppen (**Lower Saxony**) and Burg (**Saxony-Anhalt**) prisons. Prisoners in disciplinary detention were generally locked up for 23 hours a day with opportunities for meaningful activity limited to the absolute minimum. The measures lasted up to four weeks.

The CPT considers that, given the potentially very damaging effects of disciplinary detention (*Arrest*) on the mental and/or physical well-being of the prisoners concerned, the maximum period for disciplinary detention as a punishment for adult prisoners should be no more than 14 days for a given offence, and preferably less. The

⁹¹ Hesse (section 55(2) no. 8 of the Hesse Prison Act (HStVollzG)), Hamburg (section 86(1) no. 8 of the Hamburg Prison Act (HmbStVollzG)) and Saxony (section 90(2) no. 8 of the Saxon Prison Act (SächsStVollzG)) set a maximum period of two weeks; in Brandenburg (section 100(3) of the Brandenburg Prison Act (BbgJVollzG)), for example, the law does not provide for disciplinary detention as a disciplinary measure.

CPT has repeatedly recommended reducing the length of this disciplinary measure and if applicable amending the relevant *Land* legislation accordingly.⁹²

The furnishings in disciplinary detention cells must be such as to respect the dignity of those held there.

The disciplinary detention cells in Hof (Bavaria), Tegel (Berlin) and Bremen prisons were fitted with cage-like mesh partitions.

The mattress in the disciplinary detention cell in Complex II at Tegel Prison (Berlin) was made of foam and already had a number of large holes. The bedframe also looked very worn and was covered in graffiti, and the toilet was extremely dirty. In the light of these inhumane detention conditions, the National Agency called in its visit report on Berlin's Senate Department for Justice and Consumer Protection to stop the detention of prisoners in the cell with immediate effect and until such time as extensive improvements had been made.⁹³

As there was no table or chair, prisoners in the disciplinary detention cells inspected by the National Agency sometimes had to sit on the floor or bed to eat.

The National Agency recognises that, for safety and security reasons, it can be necessary in some cases to hold certain prisoners in cells without ordinary furniture. In such cases, however, suitable furniture⁹⁴ must be provided that allows the prisoners in question to eat their meals with dignity; with dignity means that they do not have to sit on the bed⁹⁵ or floor to eat.

Suitable furniture that allows prisoners to eat in a way that respects their human dignity must be provided.

Prisoners in disciplinary detention at Burg Prison (Saxony-Anhalt) had to spend their daily hour of outdoor exercise in a cage-like structure with mesh at the top that was located in the prison courtyard.

It is the view of the National Agency that such a structure is not suitable for this purpose. The Agency urgently called on Saxony-Anhalt's Ministry of Justice and Consumer Protection to cease the use of the "cage" and to dismantle it.⁹⁶

2.2 – Protection of privacy

2.2.1 – Full strip-searches

According to the Federal Constitutional Court, strip-searches involving a visual examination of a person's genital area represent a serious infringement of that individual's general right of personality.⁹⁷ They must not be carried out routinely or in the absence of any specific grounds for suspicion.⁹⁸

A reasoned decision in the specific case must be taken before any search involving the removal of an individual's clothing and a visual inspection of their genital area. Staff must be made aware of this.

If it is indeed necessary that the person concerned undress fully, then the search should be conducted respectfully, for example in two stages with the individual keeping on their clothing above the waist while they are searched below the waist and vice versa.

At almost all of the prisons visited, the National Agency was told that all new prisoners undergo a full strip-search upon arrival, and that strip-searches are also conducted after contact with visitors. Despite the relevant decisions of

⁹² See for example CPT/Inf (2022) 18, paragraph 82.

⁹³ Tegel Prison (Berlin) subsequently informed the National Agency that the disciplinary detention cell in question was no longer used for disciplinary detention; the cell had been altered (the mesh partition and the shabby mattress had been removed) and put to another use.

⁹⁴ The National Agency would once again point to the use of "challenging" furniture, which is strong and durable and has no sharp edges or corners. Armchairs and tables, for example, are available in this design; see for example the report on the visit to Marsberg forensic psychiatric facility on 30 June 2023 (which includes pictures), URL: 20230730_Bericht_MRV_Marsberg.pdf.

⁹⁵ This dirties the bed, which ought to be kept clean; cf. Rule 21 of the Nelson Mandela Rules.

⁹⁶ In its statement of 2 May 2025, the Ministry of Justice and Consumer Protection of Saxony-Anhalt told the National Agency that it intended to examine the aforementioned cage-like structure in the courtyard in close cooperation with the management of Burg Prison before potentially taking further steps.

⁹⁷ Federal Constitutional Court, order of 05 March 2015, file no.: 2 BvR 746/13, margin no. 33; order of 23 September 2020, file no.: 2 BvR 1810/19, margin no. 21.

⁹⁸ Federal Constitutional Court, order of 10 July 2013, file no.: 2 BvR 2815/11, margin no. 16; Federal Constitutional Court, order of 23 September 2020, file no.: 2 BvR 1810/19, margin no. 22. Cf. ECHR, judgment of 22 October 2020, Roth v. Germany, Application nos. 6780/18 and 30776/18, §§ 69, 72 – Violation of Article 3 of the Convention.

the Federal Constitutional Court, the majority of the competent ministries maintained that full strip-searches for all new prisoners were essential.

The Ministry of Justice of **North Rhine-Westphalia**, for example, rejected the use of body searches that only require prisoners to partially undress, on the grounds that it was unrealistic to assume that prisoners would not simply move items to whichever part of their body was still clothed during the course of the search.⁹⁹

Thuringia's Ministry of Justice, Migration and Consumer Protection also told the National Agency in its statement of 27 March 2025 that the Agency's recommendation that searches be carried out in two stages was problematic in both practical and legal terms because it prolonged the violation of the prisoner's fundamental rights and made it possible for the prisoner to hide things. The recommendation was therefore not, the Ministry stated, to be followed in all cases, but rather to be applied where judged appropriate in suitable cases.

The **Bavarian** Ministry of Justice wrote in its statement of 5 May 2025 that full strip-searches were still necessary, on safety and security grounds, in cases in which other types of search – for example with a hand-held detector – were not deemed sufficient. The Ministry took the position that if an individual only partially undressed, they could easily move and hide prohibited items; however, in certain cases, searches could be conducted in two stages to better protect the individual's privacy.

- + Internal facility rules at Stuttgart Prison (**Baden-Württemberg**), **Bremen** Prison, Burg Prison (**Saxony-Anhalt**), Neumünster Prison (**Schleswig-Holstein**) and Brandenburg an der Havel Prison (**Brandenburg**), on the other hand, provided for full strip-searches to be carried out on a case-by-case basis only, and in two stages.
- + The **Berlin** Senate Department for Justice and Consumer Protection also informed the National Agency in its statement of 30 April 2025 that the Agency's recommendation that searches be carried out in stages

⁹⁹ See p. 10 of the statement from the North Rhine-Westphalian Ministry of Justice dated 7 January 2025 in response to the National Agency's report on its visit to Wuppertal-Vohwinkel Prison.

was to be included in the new internal facility rules for Tegel Prison. The Ministry of Justice, Equality and Consumer Protection of **Mecklenburg-Western Pomerania** reported in its statement of 30 April 2025 that Waldeck Prison had changed its strip-search methods to better protect prisoners' privacy following the visit by the National Agency.

Given the numerous positive examples in prisons and in many forensic psychiatric facilities,¹⁰⁰ the National Agency finds it difficult to understand the arguments put forward by the **North Rhine-Westphalian** Ministry of Justice, the **Bavarian** Ministry of Justice and the **Thuringian** Ministry of Justice, Migration and Consumer Protection. None of the facilities that use a two-stage procedure for strip-searches reported an increased security risk or that searches took longer.

2.2.2 – Showers

In order to sufficiently protect the privacy of prisoners in communal showers, at least one shower should be partially partitioned off. Otherwise, prisoners should have the opportunity to take showers individually.

The communal showers in Stuttgart and Rottenburg prisons (**Baden-Württemberg**), Augsburg-Gablingen and Munich prisons (**Bavaria**), Stralsund and Waldeck prisons (**Mecklenburg-Western Pomerania**) and Burg Prison (**Saxony-Anhalt**)¹⁰¹ did not have any partitions. According to the management of those prisons, safety and security considerations were the main reason why there were no partitions. The National Agency was told that open showers made supervision by staff easier and thus helped to prevent physical and sexual assaults by prisoners on other prisoners.

¹⁰⁰ This approach is in some cases enshrined in law for forensic psychiatric detention: Section 70(2) of the Bremen Mental Health Act (BremPsychKG); in North Rhine-Westphalia, a decree issued on 15 August 2023 specified that steps were to be taken to make strip-searches less intrusive, for example a two-stage approach or only requiring individuals to partially undress.

¹⁰¹ In its statement of 2 May 2025, the Saxony-Anhalt Ministry of Justice and Consumer Protection announced its intention to consider retrofitting partitions in communal showers.

+ At Hohenasperg prison hospital (**Baden-Württemberg**), Hof and Würzburg prisons (**Bavaria**), Plötzensee and Tegel prisons (**Berlin**), Brandenburg an der Havel Prison (**Brandenburg**), Kassel I Prison (**Hesse**), Fröndenberg Prison (**North Rhine-Westphalia**), Neumünster Prison (**Schleswig-Holstein**) and Hohenleuben Prison (**Thuringia**), the communal showers either had partitions between each shower or at least some partitioning.

None of those facilities – including those in high security categories – reported a rise in assaults in the showers.

In its statement in response to the National Agency's report on its visit to Munich Prison, the **Bavarian** Ministry of Justice reported that, in response to the National Agency's recommendation, at least one shower in each of the prison's communal showers was to be partitioned off where this had not already been done. In a statement in response to the National Agency's report on its visit to Waldeck Prison, the Ministry of Justice, Equality and Consumer Protection for **Mecklenburg-Western Pomerania** announced that it had ordered the procurement of partial partitions for at least one shower in the communal showers.

Hesse's Ministry of Justice and for the Rule of Law issued a decree on 24 March 2025 requiring all prisons in the *Land* to assess whether shower partitions could be installed in line with safety and security requirements.

2.2.3 – Supervised urine screening

To respect individuals' human dignity, they should be offered an alternative to supervised urine sample provision for drug testing so that they can choose the method they find to be the least intrusive.

Directly observing urine sample provision can constitute a major invasion of privacy for the individuals concerned.

+ During its visits in 2024, the National Agency observed the use of a range of drug screening methods designed to protect the privacy of the individuals concerned. These methods included oral swabs, as at Neumünster (**Schleswig-Holstein**) and Hohenleuben

(**Thuringia**) prisons, the use of markers (**Baden-Württemberg**), and finger-prick blood tests, which the prisoner can choose (**North Rhine-Westphalia**).

Supervised urine screening was used for all drug testing at all prisons visited in **Bavaria**, at **Bremen** Prison, at Lingen prison hospital and Meppen Prison (**Lower Saxony**), at Kassel I Prison (**Hesse**) and at Brandenburg an der Havel Prison (**Brandenburg**). Alternative drug screening procedures were available at the prisons the National Agency visited in **Mecklenburg-Western Pomerania** and at Tegel Prison (**Berlin**); however, the prisoners could not choose the method themselves. Instead, the prison decided on the screening method depending on the given situation and the substance to be detected; supervised urine screening was the most commonly used procedure.

In its statement of 5 May 2025, the **Bavarian** Ministry of Justice told the National Agency that alternative, less intrusive methods were available, and that prisoners would in future be able to choose to have a marker administered as an alternative to being supervised while giving their urine sample.

In its statement of 30 April 2025, **Mecklenburg-Western Pomerania's** Ministry of Justice, Equality and Consumer Protection told the National Agency that saliva tests were already the most commonly used method at Waldeck Prison; however, saliva tests were extremely expensive and the prison had to wait for results from an external laboratory. Urine screening would therefore continue to be used to test new arrivals, as the prison required rapid results in those cases. The Ministry wrote that it had noted with interest and was now considering the alternative suggested by the National Agency, namely the use of markers.

Berlin's Senate Department for Justice and Consumer Protection told the National Agency in a statement of 30 April 2025 that a partner laboratory was currently preparing to introduce dry blood tests. If the procedure proved to be suitable, there would then be an assessment of whether it should be used in the prison system.

In their statements,¹⁰² **Brandenburg's** Ministry of Justice and Digitalisation and **Bremen's**

¹⁰² Statements of 27 March 2025 and 21 March 2025.

Senator for Justice and the Constitution rejected possible alternatives to urine screening. **Brandenburg** cited statutory provisions that did not allow physical interventions such as oral swabs or blood samples. In **Bremen**, alternatives that had been tested were considered unreliable, and the National Agency was told that the law did not provide for prisoners opting for blood samples on a voluntary basis.

Protecting individuals' privacy is extremely important. *Land* law should be amended with this principle in mind and the use of less intrusive screening methods should be enabled.

The aim should be to give prisoners a choice by offering them several options.

3 – Findings from the visit to Augsburg-Gablingen Prison

The most concerning of the National Agency's observations and findings from its visit to Augsburg-Gablingen Prison (**Bavaria**) have been mentioned above. Given the serious allegations the prison is facing – some in connection with the National Agency's visit – the following sections will examine in more detail key points and selected findings.

3.1 – Unannounced visits

A national preventive mechanism can only properly fulfil its preventive role if there are no restrictions on its ability to conduct visits.¹⁰³ Unannounced visits are an essential part of the work of (national) preventive mechanisms.¹⁰⁴

On 9 August 2024, a National Agency

¹⁰³ See *Denkschrift on the Gesetz zu dem Fakultativprotokoll vom 18.12.2002 zu dem Übereinkommen der Vereinten Nationen gegen Folter (...)*, *Deutscher Bundestag, Drucksache 16/8249, Zu Artikel 20, Buchstabe c*.

¹⁰⁴ Cf. SPT, 'Guidelines on National Preventive Mechanisms' (2010), CAT/OP/12/5, paragraph 25: "(...) This includes (...) the right to carry out unannounced visits at all times to all places of deprivation of liberty, in accordance with the provisions of the Optional Protocol"; M. Nowak, M. Birk, G. Monina (Ed.), *The United Nations Convention against Torture. A Commentary*, 2nd edition, Oxford Commentaries on International Law, 2019, pp. 927-928; UN Special Rapporteur on Torture, 2006 Report to the Commission on Human Rights, UN Doc. E/CN.4/2006/6, paragraph. 24.

delegation arrived at Augsburg-Gablingen Prison (**Bavaria**) unannounced with the aim of obtaining a true and genuine picture of conditions at the facility.

Following the visit, the head of the Directorate-General for Prisons at the **Bavarian** Ministry of Justice wrote to the National Agency demanding an end to unannounced visits – a demand that the National Agency firmly rejected. This demand was all the more concerning given that the **Bavarian** Ministry of Justice had been aware of issues at the prison since October 2023.

In its statement of 16 January 2025, the **Bavarian** Ministry of Justice told the National Agency that the position taken by the head of the Directorate-General for Prisons did not reflect the views of **Bavaria's** Minister of Justice; furthermore, a new division had been set up on 6 November 2024 with responsibility for oversight for all areas with implications for fundamental rights, and that division – like the National Agency – conducted unannounced prison visits.

The letter raises further questions: at the time it was written, the Ministry was already aware¹⁰⁵ of clear and detailed accusations of an attempt to mislead the National Agency during its visit in August 2024 – while the delegation waited at reception for the management, mattresses had reportedly been placed in the specially secured cells and prisoners had been issued with paper underwear.

The National Agency asked the Ministry to inform the Agency of its investigation into those accusations following the visit on 9 August 2024.

At the time of going to press, the investigation into the matter by Augsburg Public Prosecution Office is still ongoing. The National Agency submitted all documentation it had received from Augsburg-Gablingen Prison to the Public Prosecution Office.

As regards the accusations that the National Agency was misled, it can merely be noted that although, on the day of the visit, each specially secured cell had a mattress, this did not entirely tally with the documentation available to the National Agency.

¹⁰⁵ Press conference held by the Bavarian Minister of Justice on 31 October 2024.

3.2 – Prevention of human rights violations

The National Agency has been criticising the failure to provide suitable clothing in specially secured cells in **Bavarian** prisons since 2016.¹⁰⁶ The National Agency had also already raised the problem of failure to provide mattresses in specially secured cells in Bernau Prison (**Bavaria**) back in 2022.¹⁰⁷ Had the **Bavarian** Ministry of Justice fully implemented the National Agency's recommendations, another situation in which clothing was inadequate and mattresses were not provided, as in Augsburg-Gablingen Prison, would have been less likely to occur.

Irrespective of this failing, internal oversight bodies and external supervisory authorities must be held to account so that inhumane practices such as those recorded in the documentation provided to the National Agency at Augsburg-Gablingen Prison – in particular locking up individuals naked and without mattresses in a CCTV-monitored specially secured cell – do not go unnoticed and do not happen again. The supervisory authorities must exercise their supervisory powers proactively and effectively. Regular, unannounced inspections are a useful measure, in particular for areas in which heightened security measures are in place, such as specially secured cells. Inspections should not focus solely on looking at official documentation. They should include conversations with the prisoners concerned and with staff to ensure that potential issues are identified at an early stage and effective measures can be taken to address them.

An obligation to comprehensively document all additional security measures, including the removal of clothing and mattresses, is equally important. Not only must such measures be scrutinised within the facility, they must also be regularly checked by the supervisory authorities. Automatic reporting can help ensure that serious cases are immediately recorded and examined by the competent body. The **Bavarian** Ministry of Justice reported in its statement of 16 January 2025 that all prisons in **Bavaria** had been required since 28 October 2024 immediately to report cases in which a basic item was removed from or not provided to prisoners in specially secured cells.

Another key aspect is ongoing training for and work on raising awareness amongst staff. There should be more mandatory training courses for prison officers and other staff on compliance with human rights, on de-escalation techniques and on how to deal with mentally ill inmates and inmates at risk of suicide. The use of stricter measures must not become routine, and that applies in particular in stressful situations.

The National Agency also advocates introducing independent preventive oversight by a neutral body, for example by requiring measures to be approved by a court. In a press release on 7 November 2024, the **Bavarian** Minister of Justice signalled his “sympathy” for such a requirement,¹⁰⁸ a position that he confirmed in his statement of 5 May 2025.

¹⁰⁶ See the National Agency's report on its visit to Passau Prison (**Bavaria**) on 25 April 2016.

¹⁰⁷ See the National Agency's report on its visit (second visit) to Bernau Prison (**Bavaria**) on 5 June 2023.

¹⁰⁸ <https://www.justiz.bayern.de/presse-und-medien/pressemitteilungen/archiv/2024/158.php>

V

**Focus: observation of
police operations**

I – Policing at the 2024 European Football Championship

I.1 – Introduction

- + The **Federal Ministry** of the Interior involved the National Agency in the organisation of the European Football Championship so that it could help ensure that the tournament was organised with the protection and promotion of human rights as a central consideration.

The National Agency was consulted during preparations for the event. The Agency's role – observing and advising on police measures involving the deprivation of liberty – was explicitly included in the Annex to the UEFA EURO 2024 Human Rights Declaration, and the National Agency was also heard as part of a stakeholder consultation during the subsequent “UEFA EURO 2024 & Human Rights” evaluation.

In hindsight, however, it is unfortunate that the National Agency was not brought on board by the **Land police** before the event – for example to inspect places of detention.

To exercise its preventive role, the National Agency needs to be consulted right from the (practical) preparation stage.

The concept paper drafted specifically for the event (“*Polizei und Menschenrechte – Selbstverständnis der Polizeien des Bundes und der Länder*”) was not published until the tournament started and there was therefore a lack of familiarity with the details at the operational level.

In the exercise of its role as observer, the National Agency visited custody facilities in a total of six host cities and found a range of different approaches. Whilst in Gelsenkirchen, Düsseldorf and Dortmund (**North Rhine-Westphalia**) and in Leipzig (**Saxony**), all police custody facilities were outside the stadiums, Frankfurt am Main (**Hesse**) and **Berlin** also had custody facilities inside the stadiums. The National Agency was thus able to gain an overview of the situation.

Problematically, however, the National Agency was only given accreditation for stadiums in which the **Land police** were operating custody facilities (Frankfurt am Main and Berlin) and

was thus unable to observe security work (both searches and the use of coercive measures) by private security firms in the other stadiums. The violent incident at the round of 16 match between Portugal and Slovenia on 1 July 2024, for example, is indicative of the need for observation to include those other stadiums.

Privatising security must not result in lower standards of protection.

A particular focus of the National Agency's visits was multiple-occupancy custody facilities.

16 June 2024 | Gelsenkirchen

The police used both Gelsenkirchen South Police Station¹⁰⁹ and a temporary holding facility for their duties in connection with EURO 2024. Unlike multi-occupancy custody cells in a police station, the temporary holding facility consisted of eight “cages” instead of enclosed rooms, and the officers on duty could observe the individuals inside through the bars at all times. Facilities like this are set up on a temporary basis for major events. Individuals held in the facility were provided with camping mats and blankets. On the day of the match, six people were taken into custody to remove them from the stadium.¹¹⁰ Two further individuals were taken to the temporary holding facility to have their identity checked.¹¹¹

17 June 2024 | Düsseldorf

Alongside 27 single-occupancy custody cells, four observation cells and two multiple-occupancy custody cells, Düsseldorf Police Headquarters also had four cells providing a clear view of the occupant (*Sichtzellen*) for use as temporary holding facilities for law enforcement operations. The station had fifteen single-occupancy custody cells and four observation cells for routine purposes. On the day of the match, six people were taken into custody to remove them from the stadium. Three other individuals were taken into temporary custody on suspicion of having committed an offence.¹¹²

¹⁰⁹ Nine single-occupancy custody cells, five observation cells and one multiple-occupancy custody cell.

¹¹⁰ Section 35(i) no. 3 of the North Rhine-Westphalia Police Act (PolG NRW).

¹¹¹ Section 163b(i) of the German Code of Criminal Procedure (*Strafprozessordnung*).

¹¹² Section 127(i) of the German Code of Criminal Procedure.

18 June 2024 | Dortmund

Alongside the custody facilities at Dortmund Police Headquarters,¹¹³ there were six mobile temporary holding units, each of which could hold 18 people. As in Gelsenkirchen, the temporary holding facilities were “cages”, although thin “walls” (also portable) provided privacy. Facilities like this are set up on a temporary basis for major events. Individuals held in the facility were provided with camping mats and blankets. On the day of the match, two people were taken into custody to prevent a further offence.¹¹⁴ Three other individuals were taken into temporary custody on suspicion of having committed an offence.

23 June 2024 | Frankfurt am Main

The central police custody unit at Frankfurt am Main Police Headquarters has a total of 121 custody cells, including three multiple-occupancy cells. No individuals were taken into custody on match day.

24 June 2024 | Leipzig

The central police custody unit at Leipzig Police Headquarters has 40 single-occupancy custody cells and six multiple-occupancy custody cells. In connection with the UEFA EURO 2024 football match, eight individuals were taken into custody and held until the morning of the following day,¹¹⁵ and one person was arrested following the issue of a warrant for their arrest.¹¹⁶

25 June 2024 | Berlin

The stadium station at the Olympiastadion has five single-occupancy and two multiple-occupancy custody cells. On match day, a total of eight individuals were taken to the stadium station in relation to possible criminal offences. They were processed in the waiting area and did not enter the custody cells.

As well as visiting custody facilities, the National Agency observed various measures including police checks at the border with the Netherlands (Vetschau border crossing) and police identity checks, for example at Leipzig’s main train station. The National Agency also visited Federal Police custody facilities at Gelsenkirchen, Düsseldorf, Dortmund, Leipzig and Berlin main train

stations.¹¹⁷

- + The National Agency was given full access to all police operations in question – border checks, identity checks and deprivation of liberty (police custody). The Agency was also provided with all necessary information.

1.2 – Findings and recommendations

The National Agency did not observe any incidents while monitoring police operations.

- + The police officers demonstrated considerable professionalism. They used effective communication and de-escalation strategies, for example to avoid the need for detention.

The main recommendations¹¹⁸ issued by the National Agency in connection with UEFA EURO 2024 related to multiple-occupancy custody facilities and physical restraint:

1.2.1 – Mobile multiple-occupancy custody facilities (temporary holding facilities)

Temporary holding facilities set up in Gelsenkirchen and Dortmund (**North Rhine-Westphalia**) consisted of “cages” erected in larger spaces. These did not have the basic furnishings and fittings of a standard custody cell. Individuals held there had to stand, or to sit or lie on the floor or on a camping mat.

Such accommodation is, at the most, only suitable for custody lasting just a few hours.

1.2.2 – Size of multiple-occupancy custody cells

The floor space in multiple-occupancy police custody facilities must be at least 3.5 m² per person.

Although the holding cells held only a few, if any, people during the period observed by the National Agency, the Agency did note that the floor space per person that would have been available in the event of full occupancy was significantly below the current minimum threshold.

¹¹³ 21 single-occupancy, 21 observation and three multiple-occupancy custody cells.

¹¹⁴ Section 35(1) no. 2 of the North Rhine-Westphalia Police Act.

¹¹⁵ Section 22(1) of Saxony’s Police Act (SächsPVDG).

¹¹⁶ Section 230(2) of the German Code of Criminal Procedure.

¹¹⁷ Recommendations for the facilities visited are covered in the chapter on the Federal and *Land* Police.

¹¹⁸ Further recommendations are set out in the chapter on the *Land* and Federal Police.

At full capacity, the holding cells at Gelsenkirchen, Düsseldorf and Dortmund police headquarters and the “cages” in the temporary holding facilities in Gelsenkirchen and Dortmund (**North Rhine-Westphalia**) have around 2 m² per person; the holding cells in the custody holding facility at the Olympiastadion (**Berlin**) less than 2 m² per person; and the central police custody facility at Leipzig Police Headquarters (**Saxony**) just 1 m² per person.

Facilities must meet the minimum requirement even at full capacity. In its reports to the competent supervisory authorities, the National Agency recommended changing the maximum occupancy figures accordingly.

The maximum number of people who could be held in a custody cell/“cage” varied from place to place but was in some cases as high as 20. Such high occupancy levels can lead to aggressive behaviour and make conflicts between those held there more likely, and are therefore to be avoided.

1.2.3 – Use of cells without separate toilets for multiple occupancy

In order to ensure humane detention conditions, it is imperative that custody cells accommodating more than one person have a completely separate toilet with separate ventilation.

Each of the multiple-occupancy cells at Gelsenkirchen and at Dortmund police headquarters (**North Rhine-Westphalia**) has a toilet that is only screened by a half-height partition over which you can look. An individual using the toilet can therefore be observed by everyone else in the cell. This is extremely demeaning.

Custody cells that do not comply with the aforementioned minimum requirements should not be used.

At Düsseldorf Police Headquarters, on the other hand, the toilets in the multiple-occupancy custody cells had been removed since the National Agency’s previous visit on 9 June 2021. Individuals held in those cells now have access to a separate toilet.

1.2.4 – Physical restraint

Physical restraint should not be used at all during police custody.

On its visits to Gelsenkirchen, Düsseldorf

and Dortmund police headquarters (**North Rhine-Westphalia**), the National Agency found fittings for cuffing individuals by the hands and feet. Section 37a of **North Rhine-Westphalia’s** Police Act allows detainees to be cuffed by the arms and legs to the fittings installed for this purpose in police custody facilities.

Although there were no instances of physical restraint on the days of the National Agency’s visits, there were metal cuffs attached to the floor-level fittings in two custody cells in Dortmund. The standard practice for physical restraint was for individuals to be on a mattress on the floor.

Cuffing individuals to the floor in itself leaves them feeling helpless and defenceless and can therefore hardly be considered as compliant with human rights requirements. The use of metal cuffs increases the risk of injury and is therefore not acceptable. To minimise the risk of physical harm, a strap-based system should be used for restraint.

Physical restraint constitutes a severe interference with fundamental rights and carries the risk of harm even when used correctly.¹¹⁹ Given that it is not possible to apply the minimum standards set down in the Federal Constitutional Court judgment of 24 July 2018 in police custody – for example because the requisite personnel for ensuring one-on-one supervision by therapeutic or care staff is not available¹²⁰ – physical restraint should not be used in police custody at all. Both the National Agency and the CPT have been calling on the competent authorities since 2015 to avoid any use of physical restraint on police premises.¹²¹

That is why physical restraint is no longer used either by the **Federal Police** or by the *Land* police in **Berlin, Saxony, Baden-Württemberg, Mecklenburg-Western Pomerania, Rhineland-Palatinate, Saxony-Anhalt, Schleswig-Holstein, Thuringia or Saarland**. Individuals who are considered by the police to require physical restraint are transferred to psychiatric clinics.

¹¹⁹ Federal Constitutional Court, judgment of 24 July 2018, file no.: 309/15, margin no. 71.

¹²⁰ One-on-one supervision should be provided by therapeutic or care staff in the immediate vicinity of the individual restrained because the use of physical restraint can pose particular health risks (Federal Constitutional Court, judgment of 24 July 2018, file no. 309/15, margin no. 83) requiring an immediate response from qualified personnel.

¹²¹ Cf. CPT/Inf (2017) 13, paragraph 33; CPT/Inf (2022) 18, paragraph 26.

1.3 – Conclusion

The National Agency observed well-organised police operations, with officers using effective communication and de-escalation strategies to avoid the need for detention.

However, the National Agency did find that in the particular situation of the European Football Championship – in particular in multiple-occupancy custody facilities – not all human rights standards could be upheld at all times; greater efforts should be made in this area at major events in the future. To allow the National Agency to fulfil its preventive role, it must be involved more closely in the practical preparations for such events (detention facilities and conditions of detention).

2 – Deportations

2.1 – Introduction

The National Agency once again focused in particular on deportations. The number of deportations was higher than in previous years (22% increase compared to 2023).

- ➔ 20,084 deportations
- ➔ 16,991 by air
- ➔ 3687 minors
- ➔ 468 escorted by airline security staff

Figure 1: Figures for 2024¹²²

2.1.1 – An independent and effective deportation monitoring system

The National Agency's mandate covers the entire forced return process from the point at which deportees are collected to handover in the country of destination.

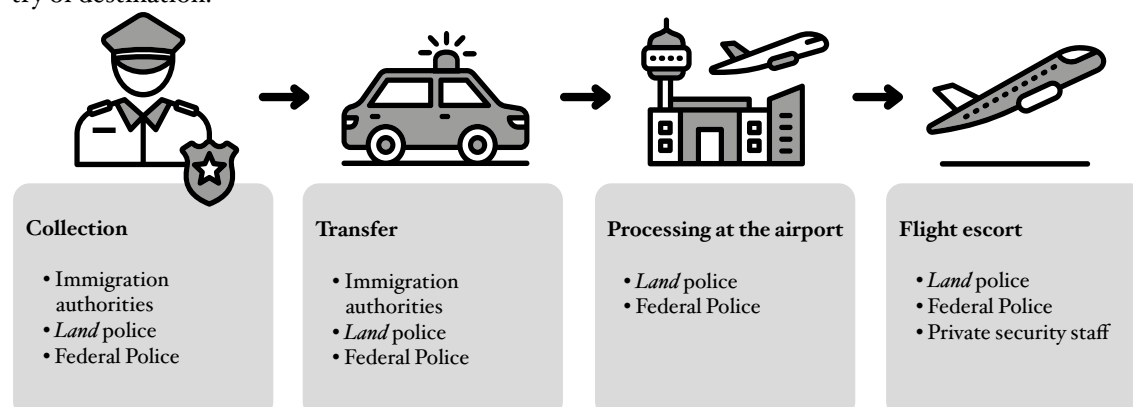


Figure 2: Deportation

To ensure that measures involving deprivation of liberty are proportionate and that deportees are treated humanely, an effective, independent national deportation monitoring system as required under Article 8(6) of the Return Directive must be provided.

However, the National Agency's limited personnel and wide range of duties (visits to all places of detention as defined in the OPCAT) mean that it is only able to observe a small number of procedures. In 2024, the National Agency observed four of the total of 236 charter flights organised by Germany. Those four flights deported 62 of the total of 20,084 individuals deported in 2024, of whom 16,991 were deported by air. In three of the four procedures, the National Agency observed the flight itself and handover in the destination country as well as processing on the ground in Germany.

The limitations on the National Agency's work in this area are all the more problematic given that no other bodies provide independent monitoring of all stages of the deportation process. Although other observation mechanisms operate alongside the National Agency at Frankfurt am Main, Hamburg, Leipzig/Halle and Berlin airports and in North Rhine-Westphalia, the Diakonische Werke and Caritas only monitor processing on the ground at the various airports: they do not observe collection, transfer to the airport or flights. Beyond that, the areas of competence of deportation monitoring bodies are governed by agreements that differ from *Land* to *Land*. There is no standard national legal basis. The National Agency also takes a critical view of the number of authorities involved in drafting the activity reports – for example the *Land* and Federal Police

¹²² The figures are based on Federal Police statistics.

and the foreigners authorities.¹²³ At other airports such as Munich, Hanover and Stuttgart, there are no observation bodies.

Neither the “National Agency for the coordination of the pool of forced-return monitors” (*Nationale Stelle zur Koordinierung des Pools von Rückführungsflugbeobachtern (Monitore)*), based at the Federal Office for Migration and Refugees, nor the various supervisory bodies, can make up for a lack of monitoring by organisations/bodies that are independent of the authorities responsible for implementing returns.

2.1.2 – Effective exercise of the National Agency’s mandate

A rise in 2024 in the number of deportations compared to previous years further exacerbated the problem of insufficient resources faced by the National Agency in the exercise of its mandate.

This problem was compounded by a failure to notify the National Agency of a number of the charter flights, which could not then be independently monitored. Those flights included a deportation from Leipzig/Halle Airport to Afghanistan on 30 August 2024. The Federal Ministry of the Interior had previously, once again, assured the National Agency at their annual exchange on 28 August that the Agency would be notified of all charters. A response from the Federal Ministry of the Interior was not forthcoming until 2 May 2025 after the National Agency had sent two letters to the head of Directorate-General B requesting a statement and relevant documentation. In that response, the Ministry merely stated that the charter had been organised by a “regional partner” and that the Ministry did not have access to the documents requested.

Failing to give the National Agency advance notification of a flight and refusing to provide any relevant information prevents the National Agency from fulfilling its mandate. A complete lack of documentation on a forced return is unacceptable.

¹²³ Cf. CPT/Inf (2024) 14, paragraph 101: “The Forum [*Forum Abschiebungsbeobachtung Berlin/Brandenburg*, Berlin/Brandenburg forced return monitoring forum] only releases now annual activity reports and neither has the mandate to access all relevant documentation nor the resources to monitor the inflight phase. Further, due to the participation of relevant state, immigration and police authorities, it cannot be considered independent.”

As became apparent from Bundestag document 20/14946 of 11 February 2025, there were also two other small aircraft charter flights of which the National Agency had not been informed:¹²⁴ a flight from Berlin to Lebanon on 15 March 2024, and a flight from Frankfurt am Main to Kenya on 15 October 2024.

If the National Agency is to fulfil its mandate, it must be notified in good time of all deportations and be given all necessary information on the deportees.

Another challenge when seeking to provide comprehensive monitoring for all stages of the return process is the wide variety of actors involved in deportation procedures (cf. Figure 2). Deportees are generally picked up by the competent foreigners’ authorities and/or *Land* police and taken to the airport. Generally the preserve of the Federal Police, the processing of individuals at the airport in Bavaria and Baden-Württemberg is also undertaken by the *Land* police on their own. Flight escorts to the point of handover in the destination country are mainly provided by the Federal Police, sometimes with the assistance of officers from the *Land* police. However, in some cases private security personnel from the destination countries or a third country are employed as flight escorts.

The variety of actors involved means a complex system, not all parts of which are monitored. This makes uniform implementation of the National Agency’s recommendations and standards much more difficult.

Procedures such as avoiding collection at night, transferring persons together with their luggage, applying the principle of proportionality to the use of coercive measures, and issuing a cash lump sum should be implemented in the same way throughout Germany in line with the standards set by the National Agency.

In 2024, alongside its annual exchange with the Federal Ministry of the Interior, the National Agency also held a meeting with the President of the Federal Police Headquarters on 15 November to work towards nationwide implementation of its recommendations and to discuss potential areas of disagreement.

¹²⁴ *Deutscher Bundestag*, 11 February 2025, *Drucksache* 20/14946 (p.15).

2.1.3 – Medical assistance for deportees

Medical assistance during forced returns was a focus of the National Agency's work.

This area is key to avoiding health-related incidents (through medical screening) and ensuring that professional medical assistance can be provided wherever required.

Whilst medical professionals generally accompany charter flights, this is not the case where individuals are deported on commercial flights; according to the Federal Ministry of the Interior, no statistics are collected in this area.

On 3 September 2024, the National Agency took part in a workshop organised by the Federal Police. The workshop addressed important practical issues, including the need for clarity on the respective roles and powers of the police and doctors. The question of medical care during forced returns was examined in depth, and participants discussed both forcible treatment and issues such as the forced return of individuals undergoing substitution therapy or otherwise requiring specific medical observation or treatment.

There must be clear rules for all parties involved in a return procedure that are appropriate to such procedures and their particular challenges. As regards the role of medical personnel, expert bodies – such as health ministries and medical associations – should be involved in the development of those rules.

Forcible medical treatment

Medicine is frequently administered by doctors in attendance during return procedures. This generally happens with the consent of the returnee in question. Sometimes, however, a medical measure or medical treatment is carried out forcibly, in other words against the actual or presumed natural will of the individuals concerned. In 2024, the National Agency was made aware of just such a situation in a report from the deportation observation forum *Abschiebungsbeobachtung Hamburg*.¹²⁵

Under Article 8(5) of the Return Directive, the forcible administration of medication is permitted only if it is necessary to ensure flight safety and not if its sole purpose is to facilitate removal. The objective is to avoid "removal at all costs". Under section 4(3) of the Federal Act on the Use

of Coercive Force by Federal Law Enforcement Officers Exercising Public Authority (*Gesetz über den unmittelbaren Zwang bei Ausübung öffentlicher Gewalt durch Vollzugsbeamte des Bundes*), a coercive measure (*Zwangsmaßnahme*) can be taken where and provided it is proportionate.





In response to an enquiry, the Federal Ministry of the Interior stated that medication was administered solely for medical reasons and not to facilitate returns, and that it was always administered by medical personnel. Yet at the same time, the Ministry also said that the Federal Police were not allowed access to medical records.








Forcible medication is always to be avoided where other less severe and equally appropriate measures for ensuring flight safety are available. In most cases, "shackling" (*Fesselung*) or similar, less intrusive police intervention will constitute such an equally appropriate, less severe measure.

The administration of medication must always be recorded so that a review of the appropriate and proportionate nature of the measure is possible. In the case of forcible administration in particular, the reasons for the measure must be clearly and comprehensively documented.

2.2 – Visits

In 2024, the National Agency observed four deportation procedures.

			
Collection	Transfer	Processing at the airport	Flight escort

Date	Procedure
8 January	Collective removal operation Berlin to Chişinău (Moldova) 
20 February	Collective removal operation Frankfurt am Main to Baghdad (Iraq)  
27 February	Collective removal operation Düsseldorf to Cairo (Egypt)  
21 August	Collective removal operation Leipzig/Halle to Enfidha (Tunisia)  

¹²⁵ Cf. *Abschiebungsbeobachtung am Flughafen Hamburg. Jahresbericht 2023*, pp. 16-17 (published 9 April 2024).

Aspects of those procedures rated positively by the National Agency include the following:

- + The facilities provided in the busy family area at Berlin/Brandenburg Airport had a calming and de-escalating effect on the children and their parents. The separate room for families with children in Düsseldorf also made a very positive impression on the delegation. Spaces like this allow families to be shielded as best possible from coercive measures, at least during processing at the airport. In order to ensure that the procedures followed are uniform throughout Germany and in line with the standards of the National Agency, suitable facilities to keep children occupied should be made available.
- + Strip-searches were not used at all during the procedure at Berlin/Brandenburg Airport. At Düsseldorf, Frankfurt am Main and Leipzig/Halle airports, strip-searches were carried out in two stages.
- + Thanks to good communication and the calm approach by officers of the Federal Police, it was possible to completely avoid the direct use of force following handover at the airport for the deportation from Berlin to Chişinău.

The National Agency's recommendations mainly concerned the following areas:

2.2.1 – Collection at night

Collections at night should be avoided, and must never be used when children are being deported.

In 2024 once again, a large number of deportees were collected at night. The documentation revealed that the measure regularly involves children.

Article 3(i) of the United Nations Convention on the Rights of the Child states that the best interests of the child are to be a primary consideration in all actions concerning children. This means that children are to be protected from just such situations.

On this point, the extended powers to enter and search a home at night provided for by the Act to Facilitate Repatriation (*Rückführungsverbesserungsgesetz*) are particularly problematic. Collection at night should be avoided in order

to minimise the strain on deportees, especially those who are vulnerable.

Collection at night constitutes an infringement of deportees' fundamental rights, and one that is all the more serious given that collection and transfer to the airport is in itself extremely stressful for the individuals concerned. For young children in particular, besides causing a severe disruption of their normal sleep pattern, being picked up at night can result in trauma when processing the events experienced.

2.2.2 – Respect for the best interests of children: separation of families

Unaccompanied minors and families with children, including infants and small children, are regularly deported from Germany. In 2024, a total of 3687 minors were deported, including children in particularly vulnerable situations.¹²⁶ During the operation from Berlin/Brandenburg Airport to Chişinău (Republic of Moldova), the National Agency observed the deportation of a total of six minors, including two small children.

Deportations should not separate families.¹²⁷

There were three cases in the deportation procedure observed in which families were separated. In two cases, the father was not transferred to the airport; in another case, the father and the 15-year-old daughter were deported, leaving the mother with the two other children, aged six and five, behind. This was, in the National Agency's view, particularly problematic, as the documentation showed that the children had already been medically certified as suffering from adjustment disorders and anxiety before the procedure. The separation of their families can lead to children suffering long-term disorders.

2.2.3 – Documentation

The "escort sheets" used by the Federal Police are aimed at ensuring that any infringements of

¹²⁶ The National Agency does not have statistics on the total number of deportations involving the separation of families in 2024. As separating families is a decision taken by the *Land* authority responsible for the given return procedure, the Federal Police do not record the figures.

¹²⁷ Cf. resolution adopted by the Rhineland-Palatinate Youth Welfare Committee (*Landesjugendhilfeausschuss Rheinland-Pfalz*) on 10 February 2020, "*Positionspapier zu Abschiebungspraxis von Familien mit minderjährigen Kindern*", <https://lsjv.rlp.de/themen/kinder-jugend-und-familie/landesjugendhilfeausschuss>.

fundamental rights are documented separately and their proportionality can be verified. The escort sheets also document the state of health and circumstances of the deportees, so that there is, for example, a record of whether individuals had particular medical needs or were transferred without any financial means.

All returns should be clearly and comprehensively documented.

When viewing the records for the procedures at Berlin Airport, the National Agency noted that the escort sheets for a number of individuals were not complete: there were multiple cases in which no information was provided under “Medical information” (*Medizinische Aspekte*) or on documents authorising the individuals to cross the border (*Grenzübertrittsdokumente*). This is particularly problematic where – as in the case of one deportee, who was taking part in an opioid substitution programme – no information on the individual’s specific medical needs is provided.

Comprehensive documentation is essential, above all for individuals with specific medical needs, to ensure that those needs can be met before, during and after the return procedure.

Although the escort sheets for the procedure in Düsseldorf were complete and the processes were therefore clearly documented and all coercive measures taken for each individual properly recorded, the reasons given for those measures – such as strip-searches and shackling – were not sufficiently detailed. In six cases at Leipzig/Halle Airport, it was not clear who had conducted the police search. In the National Agency’s view, it is not enough simply to specify “MKÜ” (Mobile Control and Surveillance Unit). The reasons for conducting strip-searches were not set out clearly enough or in sufficient detail either.

Given the extent to which coercive measures infringe fundamental rights, the grounds must be documented clearly and in full so that it is possible to verify whether such measures were necessary and proportionate. The grounds provided should be based on up-to-date information indicating an imminent threat.

The National Agency recommends changing the escort sheets so that detailed reasons must be provided for any coercive measures.

2.2.4 – Strip-searches

It should always be decided on a case-by-case basis whether there are indications of a danger to public security and order that would justify a strip-search. Any such measures must adhere to the principle of proportionality.

Given the extent to which strip-searches infringe fundamental rights, the grounds for strip-searches must be documented clearly and in full so that it is possible to verify whether such measures were necessary and proportionate. The grounds provided should be based on up-to-date information indicating an imminent threat.

In Frankfurt am Main and Berlin, strip-searches were (almost entirely) avoided. At Leipzig/Halle Airport, on the other hand, 19 of the 25 returnees underwent strip-searches that included a visual examination of their genital area. A doctor was involved in the process. In Düsseldorf, all three deportees underwent strip-searches that included a visual examination of their genital area.

The National Agency recognises that, in certain cases, strip-searches may be necessary. For example, a razor blade was found hidden in one individual’s jacket during a strip-search at Leipzig/Halle Airport.

However, it must be kept in mind in those cases that such a measure constitutes a particularly serious infringement of the general right of personality guaranteed by Article 2(1) of the Basic Law and of human dignity. The CPT is also of the view that every strip-search is a very intrusive and potentially degrading measure.¹²⁸

The National Agency takes an extremely critical view of the number of members of staff – in some cases as many as eight – who were present during strip-searches at Düsseldorf Airport. The National Agency also fails to understand the Federal Ministry of the Interior’s argument that de-escalation is a reason for the presence of escort personnel during strip-searches.¹²⁹

Given the particular gravity of measures that expose an individual’s genital area and can therefore be extremely demeaning, every effort must be made to treat the individuals concerned with

¹²⁸ CPT/Inf (2024) 14, paragraph 69.

¹²⁹ Statement from the Federal Ministry of the Interior in response to the National Agency’s observation report on the charter operation to Cairo, Egypt on 27 February 2024.

respect. This means that no more staff than are strictly necessary should be present.

Strip-searches should be carried out as respectfully as possible, for example in two stages with the individual keeping on their clothing above the waist while they are searched below the waist and vice versa.

2.2.5 – Shackling

Proportionality

The use of cuffs, and in particular of body cuffs, is solely a last resort that may only be used if less severe measures are not sufficient.

The records reviewed by the National Agency show that in 2024 as in previous years, a large number of deportees were transferred to the airport in cuffs. Given that coercive measures were in some cases taken for largely preventive reasons, the National Agency once again stresses that restraint should be used no more than is absolutely necessary.

Shackling system

The National Agency once again observed the use of harnesses with metal cuffs for the wrists and in some cases ankles, in some cases used together with plastic cuffs for the feet.

The use of metal handcuffs can result in haematomas and compressed nerves.

Where shackling is absolutely necessary, it is the responsibility of the police to avoid injuring the persons concerned and to protect their right to physical integrity. To safeguard that right, the National Agency would reiterate that any shackling during deportation measures should be carried out using adjustable textile hand restraint belts, which should be available at all times.¹³⁰

The Federal Ministry of the Interior informed the National Agency that a new harness model with textile cuffs had been approved on 8 January 2025 for use by the Federal Police during return procedures as an aid in accordance with the Federal Act on the Use of Coercive Force by Federal Law Enforcement Officers Exercising Public Authority, and was to be introduced in the near future.

¹³⁰ One example is the model used by FRONTEX on deportation flights.

2.2.6 – Medical assistance

Medical assessment of fitness to travel

The medical personnel in attendance at Berlin/Brandenburg Airport reported on the standard procedures for deportation charter operations. It was clear from the report that not all deportees are given a medical examination at the airport.

To avoid incidents, it is important to check before the flight that each deportee is fit to travel at the time of their departure. At the other airports, the National Agency observed that the procedure was for deportees to have consultations with the attending medical staff.

There should be an up-to-date record of fitness to travel for each deportee, and deportees should therefore be examined by a doctor before their deportation.¹³¹

Individuals suffering from addiction

The deportation from Berlin Airport to Moldova included one individual who was suffering from addiction and had been taking part in a substitution programme; he was transferred and deported by the *Land of Hamburg*. When asked, the doctors at the airport were unable to say whether a doctor had been present during the individual's transfer to the airport, or whether, and if so how, further treatment was to be ensured for the individual in the destination country. No information could be provided either on any bodies in the destination country that could help patients receiving substitution therapy.

At the insistence of the doctor in attendance, the Federal Police refused the handover of one individual for the deportation flight from Leipzig/Halle Airport to Tunisia. The individual in question, from the *Land of Hamburg*, had not been given their substitution treatment medication (methadone), and the necessary medication had not been sent with them or after them. As grounds for her decision, the doctor stated that going "cold turkey" would pose a serious risk to the individual's life.

The competent authorities have a duty to ensure that deportees who are receiving a course of

¹³¹ Cf. CPT/Inf (2024) 14, paragraph 52.

treatment have access to the necessary medication both on the day of their deportation and for a sufficient period of time thereafter. The individuals in question should also be told where they can seek help and information in the destination country.

Privacy for medical consultations

In Berlin, a number of medical consultations were held in the handover area – in other words in the presence of various police officers, transfer personnel and baggage inspection staff. Conversations were therefore not private.

At Frankfurt am Main Airport, the deportees were taken behind a screen by medical personnel as part of the handover process, where they were asked about their health and if necessary examined. It was standard practice to ask the flight escort staff to be present during the examination or consultation despite the fact that most of the deportees were calm and there was no indication of any threat.

In Düsseldorf, the doctor and the paramedic examined one individual to check their vital signs. There were five police officers in the room at the time. As the door to the waiting area was also open, anyone looking through the door could watch the examination, and the conversation was clearly audible to everyone in the waiting area. Another deportee had been accompanied by a doctor during their transfer. The medical handover at the airport was conducted in front of the examination room in the presence of several police officers.

Conversations between medical staff and deportees must be private. The same applies to handover briefings by attending doctors.

Police officers should only be present in exceptional cases¹³² and the reasons why their presence is required must be provided.

On this point, the National Agency considers the statement from the Federal Ministry of the Interior of 30 April 2025 to be particularly problematic: according to the Ministry, the presence of flight escort staff and police during consultations between the doctors and returnees, and in some cases during medical treatment, is absolutely necessary on safety and security grounds.

2.2.7 – Cameras in the return area

There were cameras throughout the departures area at Berlin Brandenburg Airport; they are part of the terminal infrastructure. When asked, the Federal Police were not immediately able to tell the National Agency whether the cameras were in operation, and who would potentially have access to the video and to any recordings. Later, the delegation was informed that the cameras had been switched off for the deportation procedure.

Continuous CCTV monitoring during deportation procedures would constitute a significant infringement of constitutionally protected rights.

Cameras in areas of airports that are used for deportations should therefore be taped over or removed for the duration of any such procedures, as is the case at Munich Airport, for example.

2.2.8 – Communication

It must be possible for persons being deported and the accompanying staff to communicate during the entire deportation procedure.

Interpreters once again played an important role in the charter operations observed in 2024, showing understanding and exercising a de-escalating effect on the deportees.

A male interpreter was employed for the charter operation from Leipzig/Halle Airport to Iraq. As there were also women on the flight, it would have been useful to have had a female interpreter as well. In Düsseldorf, on the other hand, the interpreter for a deportation to Egypt was female although all three deportees were men. This meant that the interpreter was not present during the strip-searches. One of the men seemed not to understand very much German, and it was not possible to explain to him what was about to happen – the strip-search, and the fact that he would be restrained.

The National Agency recommends ensuring mixed interpreting teams for collective removal operations, for example so that an interpreter can be on hand during a strip-search if required.

¹³² Cf. CPT/Inf(2024) 14, paragraph 56; CPT/Inf(2019) 14, paragraph 27.

2.2.9 – Lack of means

All deportees must have sufficient financial means to pay for the journey from the airport to their final destination, as well as for meals needed during this journey.

This applies in all cases, including transfers under the Dublin procedure.

The National Agency once again observed cases in which deportees arrived at the airport in Germany without sufficient financial means to pay for onward travel from the airport in the destination country to their final destination, or for meals they would need during that journey. Whilst the required cash lump sums were paid out at the airport by the lead agency in the procedures observed, this was an extremely inefficient solution.

2.2.10 – Firearms in the return area

At Düsseldorf Airport, the officers of the Mobile Control and Surveillance Unit were carrying their service weapons in the departure area. In Düsseldorf, the MKÜ is responsible for securing the departure area and boarding, and is also involved in the strip-searches, which all returnees undergo. Officers of the Federal Police who were responsible for security during processing at the airport in Berlin also wore their service weapons throughout.

In its statement of 30 April 2025, the Federal Ministry of the Interior informed the National Agency that, depending on their role, certain staff employed in charter operations also carried service equipment, including firearms; these were carried in specially secured safety holsters, which had multiple security features to prevent unauthorised access. The Ministry argued that in the light of these precautions and the extensive training in the use of firearms provided to all officers who carried them, it did not consider that the presence of firearms posed an additional risk.

The National Agency recognises that it can be necessary for police at the airport to carry weapons, for example to mitigate external security risks that would disrupt the deportation operation or could present a threat to safety, security or public order at the airport. However, weapons should not be worn when close contact with deportees is possible and the situation can become chaotic, as carrying firearms in such circumstances presents a heightened risk. In the National Agency's view,

this applies in the case of strip-searches; at Düsseldorf Airport, officers wore their weapons while conducting searches.

Officers involved in deportation procedures should as a rule not carry weapons.

At Frankfurt am Main Airport, signs in the departure area stated that, with effect from 1 October 2022, personnel engaged in removal operations were not permitted to carry weapons. With the exception of certain transfer personnel, this rule was systematically followed in the collective removal operation observed.

2.3 – Conclusion

The National Agency has observed a total of 46 deportations since 2013. The Agency has seen a positive trend over the course of its observations and ongoing dialogue with the competent supervisory authorities. The National Agency would like in particular to highlight the professionalism of the Federal Police in situations requiring de-escalation, and officers' empathetic approach to dealing with children.

However, as there are often aspects of deportations that have human rights implications, for example the separation of families and the use of coercive measures (including the forcible administration of medication), effective monitoring is and remains essential. It is therefore key that the National Agency be notified in good time of upcoming deportation operations and that the Agency's standards be followed.

As regards existing problems, the National Agency has observed a change in the approach to certain issues by the Federal Ministry of the Interior. For example, the presence of police officers during medical consultations is now described as "absolutely necessary" across the board; previously, it was presented as the exception to the rule.

The National Agency is concerned about the failure to provide notification of a number of charter operations in the reporting period, which prevented the Agency from exercising its mandate under international law. In the case of the charter to Afghanistan on 30 August 2024, the National Agency was even refused access to basic information. Only much later, namely on 2 May 2025, was the Agency informed that no documentation on the flight in question was available. Should that be true, that is in itself an extremely serious problem.

VI

Other visits

I – Custody pending deportation

In 2024, the National Agency visited the facility for custody pending deportation in Hof (Bavaria) and the facility in Berlin for custody pending deportation of individuals posing a threat to public safety.

Aspects rated positively by the National Agency include the following:

- + In the facility in **Berlin**, the *Land* covers all the costs of telephone calls made by the individuals detained there, including calls to non-EU countries.
- + In the facility in Hof, the house rules are displayed as pictograms on a notice board in each unit.

Recommendations issued by the National Agency mainly concerned the following areas:

1.1 – Differentiation requirement

According to the case law of the Court of Justice of the European Union, custody pending deportation should, as a matter of principle, differ significantly from prison in terms of detention conditions, the restrictions on liberty that are specific to a prison sentence, and security measures.¹³³ The conditions of detention should also be “designed in such a way that the rights guaranteed by the Charter of Fundamental Rights of the European Union and the rights enshrined in Article 16(2) to (5) and Article 17 of [...] [the Return] [D]irective are respected”.¹³⁴ To ensure clear differentiation, a specific legal basis must be established for the enforcement of custody pending deportation (*Abschiebungshaft*) and custody to secure departure (*Ausreisegewahrsam*).

1.1.1 – Legal basis for custody pending deportation

The detention conditions for persons in custody awaiting deportation and custody to secure departure must differ from those of sentenced

prisoners.¹³⁵ Furthermore, any infringement of fundamental rights beyond the mere placement in such a detention facility requires its own legal basis.¹³⁶ Consequently, a specific legal basis must be established for the enforcement of custody pending deportation and custody to secure departure.

In view of Article 16(1) of the Return Directive, which obliges the Member States of the European Union to ensure that, as a rule, custody pending deportation takes place in specialised detention facilities, many *Länder* no longer consider it permissible to enforce custody pending deportation under sections 62 and 62a of the German Residence Act (*Aufenthaltsgesetz*) in prisons by way of administrative assistance, as previously practised.¹³⁷ They have therefore introduced specific legal provisions for the enforcement of custody pending deportation. The sole purpose of custody pending deportation is to ensure that deportation can take place.¹³⁸

Baden-Württemberg, Berlin, Brandenburg, Bremen, Hamburg, Hesse, North Rhine-Westphalia, Saxony and Schleswig-Holstein have all introduced acts on custody pending deportation, and draft legislation has been presented in **Rhineland-Palatinate**¹³⁹ and **Lower Saxony**. **Bavaria**, however, has still not established the relevant a separate legal basis.

Separate legislation for custody pending deportation ensures greater legal certainty and transparency by defining clear requirements governing the rights of those affected and the duties of the public authorities. It also allows the needs of particularly vulnerable people to be specifically

¹³³ CJEU, judgment of 17 July 2014, file no.: C-473/13 and C-514/13; CJEU, judgment of 10 March 2022, file no.: C-519/20, paragraph 54.

¹³⁴ CJEU, judgment of 10 March 2022, file no.: C-519/20, paragraph 57 and 104.

¹³⁵ Article 16(1) of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

¹³⁶ Federal Constitutional Court, judgment of 31 May 2006, file no.: 2 BvR 1673/04.

¹³⁷ Cf. for example, the introduction to the draft Act on the Execution of Custody Pending Deportation in Baden-Württemberg (*Entwurf des Gesetzes über den Vollzug der Abschiebungshaft in Baden-Württemberg*), *Drucksache* 15/764; cf. also the statement of the German Bar Association concerning the Saxon Act on the Execution of Custody Pending Deportation, p. 12 f., and its statement on the Hesse Act on the Execution of Custody Pending Deportation, p. 39 f.

¹³⁸ This is the position of the Federal Constitutional Court: order of 16 May 2007, 2 BvR 2106/05, margin nos. 19 and 21f.

¹³⁹ The National Agency submitted its comments on the draft legislation on 13 September 2024: <https://www.nationalale-stelle.de/aktuelles/stellungnahmen-zu-gesetzentwerfen.html> (in German).

addressed, and promotes measures to prepare returnees as well as possible for their departure.

1.1.2 – Conditions

The conditions in detention that is solely for the purpose of preparing for and ensuring deportation must differ significantly from detention conditions for individuals serving prison sentences. The differentiation requirement is intended to protect the wellbeing of individuals in custody pending deportation.

Germany's highest court has ruled that the constraint imposed on third-country nationals in custody awaiting deportation must be limited to what is strictly necessary in order to ensure efficient removal, and that, as far as possible, their accommodation must not resemble the prison environment in which convicted offenders are held.¹⁴⁰

In light of this requirement, the strikingly frequent use of special security measures and disciplinary measures in the facility for custody pending deportation in Hof (Bavaria) is highly problematic. A total of 77 disciplinary measures were taken between 1 January 2023 and 31 July 2024. These included 33 instances of segregation during leisure time over a period of up to four weeks, and two instances of disciplinary detention lasting five and ten days respectively.

Special security measures were also imposed in a total of 412 cases: 349 cases of continuous observation using technology (CCTV monitoring) and 63 cases of segregation in a specially secured cell.

CCTV monitoring was imposed for periods as long as 44 days.

Subjecting an individual to continuous CCTV monitoring constitutes a serious infringement of their constitutionally protected rights.¹⁴¹

Segregation in a specially secured cell represents a particularly significant infringement of an individual's rights. The isolating nature of the measure is compounded by minimal furnishings in the cells and by CCTV monitoring ordered in addition to segregation, and in some cases by a withdrawal of the individual's right to exercise outdoors.

Segregation in a specially secured cell is only to be ordered as a last resort, and on the basis of clear and precisely defined criteria.

That is why the National Agency strongly recommends ensuring prior scrutiny of such measures by an independent, neutral body (requirement for a judicial decision).

Periods of segregation in a specially secured cell at the facility for custody pending deportation in Hof (Bavaria) lasted up to 16 days.

It is a matter of some doubt whether segregation in a specially secured cell for a prolonged period of time can ever be proportionate. Such an approach is certainly at odds with the specified grounds for segregation: the grave state (*"akute[r] Zustand"*)¹⁴² of the individual concerned and the associated risk of self-harm or suicide or violence towards others. Steps must be taken to address the individual's state where it remains grave; for example, the facility must seek the assistance of the psychiatric services.

Periods of detention in specially secured cells should be kept as short as possible.

1.2 – External contact

Visiting hours at the facility for custody pending deportation in Hof (Bavaria) are weekday mornings from 08:00 to 11:30 a.m. and weekday afternoons from 1:00 to 4:00 p.m. There is no visiting in the late afternoon. Visits at the weekend and on public holidays have to be booked in advance (by no later than 4:00 p.m. on the Wednesday before) and are only possible between 1:15 p.m. and 2:15 p.m.

For visitors coming from a distance, for relatives who are working and for families in particular, the set visiting hours can make visits extremely difficult.

It should be possible for persons required to leave the country to receive visitors without restrictions, especially relatives. The visiting hours should therefore be extended.

The National Agency welcomes the fact that individuals held at the facility for custody pending deportation in Hof (Bavaria) can make international calls to people close to them for free, and, according to the facility's management,

¹⁴⁰ Federal Court of Justice, order of 5 December 2023, file no.: XIII ZB 45/22, juris margin no. 16.

¹⁴¹ Federal Constitutional Court, order of 18 March 2015, file no.: 2 BvR 1111/13, margin no. 32.

¹⁴² Feest/Lesting/Lindemann, *Strafvollzugsgesetze Kommentar*, 8. Auflage, 2021, II § 78 42, p. 688.

those calls are not monitored; however, it is problematic that daily telephone time is limited to a maximum of 30 minutes. What is more, individuals in the facility cannot receive incoming calls (not even calls from a lawyer).

Access to means of communication with lawyers and relatives is absolutely essential for individuals in custody awaiting deportation.

There should be no restrictions on telephone contact with lawyers,

or indeed with family or their home country: it must be possible for contact to be established or maintained as this facilitates the return.

1.3 – Multiple occupancy

Single occupancy should be the general rule.

The multiple-occupancy rooms at the facility for custody pending deportation in Hof (**Bavaria**) are used for as many as three people.

Housing multiple individuals together can place a strain on them and make crises and conflicts more likely, even when the rooms are technically large enough. The lack of privacy can trigger aggressive behaviour and provoke incidents.

1.4 – Full strip-searches

If it is indeed necessary that the person concerned undress fully, then the search should be conducted respectfully, for example in two stages with the individual keeping on their clothing above the waist while they are searched below the waist and vice versa.

At the facility for custody pending deportation in Hof (**Bavaria**), full strip-searches are not carried out in two stages or otherwise in a way that respects the individual's privacy.

As strip-searches represent a serious infringement of an individual's general right of personality, they should be conducted as respectfully as possible.

2 – Federal and *Land* Police

In 2024, the National Agency visited a total of 13 police stations of the Federal and *Land* police. These included the **Berlin City**¹⁴³ police cus-

¹⁴³ This was the second visit; the first was in 2012.

tody facility, Magdeburg district police station (**Saxony-Anhalt**) and Klingenthal **Federal Police** station. In connection with the UEFA EURO, the National Agency also visited the stadium station at the Olympiastadion (**Berlin**); the central police custody unit at Frankfurt am Main Police Headquarters (**Hesse**); Dortmund, Düsseldorf¹⁴⁴ and Gelsenkirchen police headquarters (**North Rhine-Westphalia**); the central police custody unit at Leipzig district police station (**Saxony**), Berlin central train station,¹⁴⁵ Düsseldorf¹⁴⁶ and Leipzig **Federal Police** district stations; and the local **Federal Police** station in Gelsenkirchen. The National Agency's observations of police work in connection with the UEFA Euro 2024 are set out in the chapter on police operations.¹⁴⁷

Aspects rated positively by the National Agency on its visits to the *Land* and Federal Police include the following:

- + Under the order governing strip-searches at **Berlin City** district police station, searches are to be carried out in two stages to protect individuals' privacy as far as possible: from the waist up first, and then from the waist down. Where they have a legitimate interest in a deviation from the rule that strip-searches be carried out by an officer of the same sex, transgender and intersex people also have the right to specify the sex of the officer who is to search them.
- + Düsseldorf Police Headquarters (**North Rhine-Westphalia**) have seating cubes so that individuals taken into custody can sit in a normal position.

Recommendations issued to the stations visited mainly concerned the following areas:

2.1 – Furnishing and fittings in custody cells

2.1.1 – Windows

The custody cells at the Olympiastadion stadium station (**Berlin**); at Berlin central train station; at Dortmund and Düsseldorf **Federal Police** district stations; and at the **Federal Police** local

¹⁴⁴ This was the second visit; the first was on 9 June 2021.

¹⁴⁵ This was the second visit; the first was in 2012.

¹⁴⁶ This was the second visit; the first was on 13 November 2019.

¹⁴⁷ The findings are therefore not including in this chapter.

station in Gelsenkirchen did not have windows.

Every custody cell, even those intended for short-term custody, should have a source of a natural light. Anyone held in a custody cell for longer than 24 hours should have an unobstructed view of the outside.

2.1.2 – Pillows

The furnishings in custody facilities must be such as to respect the dignity of those held there. Each custody cell should have a non-flammable, wipeable mattress, a blanket and a pillow.

Mattresses were not provided to individuals in the **Berlin** City custody facility; they had to sleep on a day bed with a hard wooden surface.

In its report of 14 September 2022, the CPT also once again urgently called for immediate steps to implement the long-standing recommendation that all persons held overnight in police custody be provided with a clean (and, if necessary, washable) mattress and clean blankets.¹⁴⁸

Individuals held at the **Berlin** City custody facility and at Magdeburg district police station (**Saxony-Anhalt**) were not provided with pillows.

The National Agency would like to mention good practice by **Saarland Land** police: pillows are provided to all individuals in custody.

2.1.3 – Seating

Solutions are to be found in custody that enable the individuals held there to sit in a normal position.

Some of the custody cells (“observation cells” with limited furnishings) at Magdeburg district police station (**Saxony-Anhalt**) had no seating at normal seating height.

Where custody lasts several hours, it is inhumane to force individuals to stand or sit on the floor.

In its statement of 10 April 2025, **Saxony-Anhalt’s** Ministry for the Interior and Sport wrote that there would have to be an assessment of whether seating could be added to the observation cells, and that the recommendation could not be implemented rapidly. The Ministry added that checks were carried out at short and regular

intervals and the principle of proportionality applied; individuals were moved to cells with seating as soon as their condition allowed.

In the National Agency’s view, this is problematic as it can take several hours before a move to another cell is possible. The National Agency considers that providing seating during this initial – and usually delicate – stage is important. Temporary or portable seating, for example a seating cube, could be used at least temporarily whilst an assessment of how to change the fittings is conducted.

2.2 – Outdoor exercise

On its visit to the **Berlin** City custody facility, the National Agency was told that the individuals held there did not have access to fresh air, despite the fact that it is not unusual for custody to last 30 hours, and it can last up to 48 hours.

Anyone held in custody for longer than 24 hours should be allowed outside each day.¹⁴⁹

2.3 – Visibility of toilets

The privacy of individuals in custody must be protected. It must be ensured without exception that the individuals concerned cannot be observed when they are using the toilet.

At Klingenthal district **Federal Police** station, the toilet for people in custody has a peephole in the door, through which the entire room can be viewed from the outside.

Being aware that you could be being observed by others at any time can be a major source of stress.¹⁵⁰

2.4 – Shackling

2.4.1 – Materials used

Metal handcuffs are used at the **Berlin** City custody facility and in the custody facilities of the **Federal Police**.

Metal cuffs pose a high risk of injury for the individuals concerned.

In order to protect the right to physical integrity, any shackling in custody should be carried

¹⁴⁸ CPT/Inf (2022) 18, paragraph 24.

¹⁴⁹ Cf. CPT/Inf (2002) 15, paragraph 47.

¹⁵⁰ Federal Court of Justice, judgment of 8 May 1991, file no.: 5 AR Vollz 39/90.

out using adjustable textile hand restraint belts,¹⁵¹ which should be kept on hand at all times.

A positive example is Dresden district police station (**Saxony**): where restraint in custody is absolutely necessary, adjustable textile hand restraints are used.¹⁵²

2.4.2 – Shackling similar to physical restraint (fixierungsähnliche Fesselung)

Tying people to the wall or to other objects violates their human dignity and must be avoided in all situations.

At **Berlin** City custody facility, individuals can be tied – in some cases while shackled – to the day bed in the custody room, which is particularly problematic.

The practice poses a risk of serious harm and should be stopped immediately.

2.5 – CCTV monitoring

2.5.1 – Clearly indicating monitoring

The persons concerned must be made aware in a suitable manner (for example with pictograms) that CCTV monitoring is taking place. The mere fact that the camera is visible is not sufficient. It should be possible for the individual to discern whether the camera is running.

In the custody cells at South Police Station, Gelsenkirchen District (**North Rhine-Westphalia**), Magdeburg district police station (**Saxony-Anhalt**) and Klingental and Leipzig district **Federal Police** stations, it was not clear whether or not the cameras were running.

2.5.2 – Privacy

Klingental **Federal Police** district station has a room with a washbasin for use by people who have been taken into custody. This allows individuals to maintain a basic level of personal hygiene.

However, anyone washing in this room is under full CCTV surveillance.

Continuous CCTV monitoring of a bathroom

is a serious invasion of occupants' privacy and is therefore subject to strict conditions. Pixelation can be used to help protect an individual's privacy, for example.

3 – The Federal Armed Forces

3.1 – Introduction

In 2024, the National Agency visited the detention facility at Gera Barracks. On 13 November 2024, the National Agency also held a meeting with the Federal Armed Forces Territorial Command. The purpose of the meeting was to facilitate the effective and rapid implementation of National Agency standards and to explore potentially divergent positions and perspectives.

- + The National Agency welcomes the fact that the Federal Armed Forces Territorial Command offers regular training courses on areas such as special supervision needs; spiritual welfare; social ties; medical consultations; self-harm risks; and prevention. When the Territorial Command visits sites where disciplinary detention is enforced, staff also have the opportunity, where necessary, to discuss preparing for such measures on a case-by-case basis.

Supporting the staff responsible and giving them the information and skills they need to deal with the specific situation of detention is important, not least because there are not many cases of disciplinary detention and staff therefore have little experience; in 2024, ten individuals were placed in disciplinary detention for an overall total of 91 days. Those responsible for people in disciplinary detention need to have a specific understanding of the rights of persons deprived of their liberty, suicide prevention measures, and de-escalation techniques.

Alongside training and professional development for the relevant staff and the requisite fittings for detention cells, procedures for assessing an individual's fitness for detention were also discussed at the meeting. One way to establish an individual's fitness for detention is a medical examination by the unit doctor. Another way, however, is and remains questioning by the individual's direct disciplinary superior. If the individual

¹⁵¹ For example Segufix or Bonowi restraints.

¹⁵² Report by the National Agency on its visit to Dresden district police station on 11 October 2022.

themselves raises concerns or there are other indications that detention should not be carried out because of their state of health, section 7 of the Federal Armed Forces regulations on the enforcement of detention (*Bundeswehrvollzugsordnung*) requires a medical examination to be conducted.

The National Agency once again strongly recommends that all individuals concerned undergo a medical examination to establish their fitness for detention.

In the National Agency's view, the health of the person to be placed in disciplinary detention and any resulting need for medical treatment can only be determined on the basis of a medical examination for the usual period of disciplinary detention of more than one night.¹⁵³ Such an examination also allows for any signs of psychological or other stress to be identified.

3.2 – Visits

The building at the barracks containing the detention area was being refurbished at the time of the National Agency's visit. The rooms are in future to be used for another purpose.

The National Agency issued a recommendation on the occasion of its visit on fittings and furnishings for disciplinary detention facilities.

Furnishings and fittings of detention cells: windows

The detention cells at Gera Barracks had frosted glass in the windows, reducing the amount of daylight and preventing a clear view of the outside.

A clear distinction must be made between situations in which an individual is still on duty and situations in which this is not the case. A lack of natural light in the detention cell is particularly serious if the individual is spending their days there because they are not carrying out duties.¹⁵⁴ The same applies to detention at the weekend when it is not possible for an individual to engage in shared duties.

Federal Armed Forces detention cells should have natural light and offer a clear view of the outside.

¹⁵³ In 2024, measures lasting up to 16 days were enforced.

¹⁵⁴ According to the Territorial Command, this was the case in around 25% of cases of disciplinary detention in 2024.

No structural changes are needed at Gera Barracks provided the rooms in question are not used for disciplinary detention. However, the National Agency took the opportunity to urge that its recommendation be implemented in all barracks in which disciplinary detention is imposed.

4 – Placement of children and juveniles involving the deprivation of liberty

In 2022, the National Agency focused on the placement of children and young people involving the deprivation of liberty.¹⁵⁵ In 2024, it visited a closed child and youth welfare facility in **Bavaria** that employs measures involving a deprivation of liberty,¹⁵⁶ and a child and youth psychiatric facility,¹⁵⁷ also in **Bavaria**.

The two types of facility are addressed together in this chapter as the National Agency has found that minors in individually adapted (partially) closed child and youth welfare facilities have often previously had experience of child and youth psychiatric units.

The National Agency can, where appropriate, publish general findings relating to entire areas or multiple facilities, as below.

4.1 – Outdoor exercise

At the child and youth welfare facility, the National Agency was told that children and young people held in the closed unit are in some cases only allowed outside for 30 minutes each day; limits on outdoor exercise are imposed after attempts to abscond, for example.

At the child and youth psychiatric facility, the National Agency was told that it was still not possible to give patients a regular, daily opportunity to spend time outside; the only opportunity for outdoor exercise was in an outdoor area some considerable distance away from the wards, which, for safety and security reasons, patients were only allowed to visit when accompanied by

¹⁵⁵ See National Agency 2022 Annual Report, Chapter VI, <https://www.nationale-stelle.de/publikationen.html>.

¹⁵⁶ See information from the working group "Arbeitskreis GU14plus", <https://www.gu14plus.de/> (accessed 27 February 2025).

¹⁵⁷ This was the second visit by the National Agency.

members of staff. The planned new building mentioned when the National Agency first visited the facility in 2022 is to have a roof terrace for access to the outside; however, the prospect of the new build does not make up for the current issues.

In the view of the National Agency, the restrictions outlined above are not acceptable. Even in prisons, every person has to be given the opportunity to exercise outdoors for at least one hour every day.¹⁵⁸ Outdoor exercise has unique health benefits that cannot be replicated by any other measure, and it is crucial to young people's development. Similar facilities have a secure outdoor area or ensure sufficient staff are available for supervision to make outdoor exercise possible.

Every person deprived of their liberty should have the opportunity for at least one hour of outdoor exercise per day. That period should be considerably longer for children and juveniles.

The National Agency also found that that a number of recommendations made following the first visit to the child and youth psychiatric facility in **Bavaria**¹⁵⁹ had not been implemented:

4.2 – Complaints management

At the time of the National Agency's visit, patients in the acute ward were able to lodge complaints about staff involved in their treatment. Complaints could be made either verbally, or in writing using the facility's internal complaints management system.

However, there was no provision for lodging complaints anonymously – such as an ombudsperson telephone hotline like that available for child and youth welfare facilities in **Bavaria**.¹⁶⁰ In similar facilities, complaints boxes are provided in the wards for this purpose.

A channel for lodging complaints anonymously should be created. Moreover, complaints should be recorded centrally and evaluated on a regular basis so that any recurring issues can be identified and necessary counter-measures taken.

¹⁵⁸ Article 66 of the Bavarian Prison Act.

¹⁵⁹ The first visit to the facility was on 9 March 2022.

¹⁶⁰ <https://ombudsstelle-augsburg.de/>

4.3 – Statutory basis for measures involving deprivation of liberty

In a similar approach to that for physical restraint lasting more than 30 minutes, the internal procedure for measures involving deprivation of liberty at the child and youth psychiatric facility visited provided for a judicial review of periods in a time-out room that lasted longer than 30 minutes, and also of shorter but repeated measures.

However, there is no standard statutory basis for the use of measures involving the deprivation of liberty in child and youth psychiatric facilities.¹⁶¹

Section 1631b(2) of the German Civil Code (*Bürgerliches Gesetzbuch*) merely states that approval by the family court is necessary where a child is in a hospital, a home or another institution and mechanical devices, medication or other means are to be used to deprive the child of their liberty for a prolonged period of time or on a regular basis in a manner that is not age-appropriate. The minimum constitutional standards are thus not enshrined in statute.

As regards physical restraint at least, the statutory basis for the interference must be sufficiently specific and satisfy the relevant substantive and procedural requirements in order to protect the fundamental rights of confined persons.¹⁶²

Article 29 of the **Bavarian** Mental Health Act (*Psychisch-Kranken-Hilfe-Gesetz*) requires a judicial decision for physical restraint for more than a short period of time (paragraph 8); however, it only requires one-on-one supervision by staff who have received medical instruction on the performance of such tasks (paragraph 3).

Continuous one-on-one supervision must be carried out by therapeutic or care staff in all cases of physical restraint.

What is more, in a statement in 2022, the¹⁶³ **Bavarian** Ministry of the Environment and

¹⁶¹ Cf. paper by Prof. Holtmann: "Freiheitsentziehende Maßnahmen in der KJP: Rechtliche Grundlagen, Prävention und Anwendung", which was presented as part of a professional development programme in March 2023.

¹⁶² Federal Constitutional Court, judgment of 24 July 2018, file no.: 2 BvR 309/15, margin no. 72.

¹⁶³ Statement of 1 August 2022 in response to the National Agency's report on its visit to the child and youth psychiatric facility on 9 March 2022.

Public Health stressed that there was no statutory basis for Ministerial oversight over the hospitals in **Bavaria**.

To ensure a regular review of the proportionality of severe measures such as physical restraint and isolation, there must be a specific ministry with clearly established supervisory responsibility.

4.4 – Physical restraint

The number of cases of physical restraint in the child and youth psychiatric facility was remarkably high compared to other facilities. When the National Agency examined the records, it noted with concern that physical restraint had been used a total of 536 times in the period from 1 January 2023 to the time of the Agency's visit. In more than 90% of the cases, physical restraint was used for longer than 30 minutes.

Contingency court orders

In the records on physical restraint, the National Agency noted a court order for the placement of a 15-year-old patient for a maximum of one year. The court order authorised the use of seven-point restraint, placing the patient in a time-out room and locking her in her room.

The use of physical restraint is only to be ordered as a last resort, on the basis of clear and precisely defined criteria, and for the shortest possible period of time. Judicial authorisation to use physical restraint should not lead to a departure from the fundamental objective, which is to avoid the use of such a measure as far as possible. With this in mind, the Federal Constitutional Court takes the view “that judicial authorisation to use physical restraint [must] meet a strict standard of proportionality, especially with regard to the length of the measure, and be limited to what is absolutely necessary”.¹⁶⁴ Otherwise, the Court has found, the courts would be able to make blanket decisions that would be applicable beyond the period of acute necessity.

In its information leaflet for individuals in forensic psychiatric detention (“*Hinweise für untergebrachte Personen im Maßregelvollzug*”), the **Bavarian** Centre for Family and Social Affairs states that physical restraint may only be ordered for a limited period of no longer than 24 hours; that period may be extended, but only upon renewed application to the court.

Under no circumstances may a young person in a child and youth psychiatric facility be in a worse position than they would be if they were being held in forensic psychiatric detention.

Judicial authorisations must meet a strict standard of proportionality, including with regard to the length of the measure in question, and be limited to what is absolutely necessary.¹⁶⁵

Court orders permitting the use of special security measures for a disproportionately long period of time, for example to avoid repeated requests to the competent courts, are not acceptable.

In the case in question, the court order itself ruled out another external review of the proportionality of the measure, and explicitly shifted the responsibility to the facility: it specified that staff carrying out the measure had a duty to satisfy themselves that the measure was appropriate both before and whilst it was being carried out.

This approach runs counter to the purpose of the constitutional requirement for a judicial decision, which is to ensure prior scrutiny by an independent, neutral body of every measure involving the deprivation of liberty. Such “contingency court orders” authorise future measures without scrutiny of the specific circumstances in future cases.

Judicial authorisations issued as a precaution for use in unspecified future circumstances are not lawful.

4.5 – Information on rights

Patients being admitted as in-patients to the child and youth psychiatric facility are informed verbally of their rights and obligations. They also receive a copy of the house rules.

+ The house rules are written in child-friendly language.

However, patients are not given a document with detailed information on their rights.

Comprehensive written information on the rights and obligations of an individual in a closed facility is absolutely essential. For children and juveniles, information must be provided in an age-appropriate way. Clear information can help to make young people more independent and can also lead to greater acceptance of restrictive measures.

¹⁶⁴ Federal Constitutional Court, order of 19 March 2019, file no.: 2 BvR 2638/18, margin no. 30.

¹⁶⁵ Federal Constitutional Court, order of 19 March 2019, file no.: 2 BvR 2638/18, margin no. 30.

5 – Forensic psychiatric detention

5.1 – Introduction

Over previous years, the National Agency focused on forensic psychiatry and by 2024 it had reached its objective of visiting all forensic psychiatric detention facilities in Germany.¹⁶⁶

The focus on forensic psychiatric detention in 2021, 2022 and 2023 enabled a comprehensive comparative analysis at a national level, and a thorough and nuanced examination of the differing conditions in the various forensic psychiatric facilities visited.¹⁶⁷ These findings were recorded in a separate chapter in the 2023 Annual Report.

To conclude the focus on this area, the National Agency conducted its outstanding visits to Königsutter and Osnabrück (**Lower Saxony**) and to Hagen (**North Rhine-Westphalia**) forensic psychiatric facilities in 2024. The National Agency also carried out follow-up visits to Berlin's¹⁶⁸ forensic psychiatric hospital and to the forensic psychiatric facilities in **Bremen**¹⁶⁹ and **Cologne (North Rhine-Westphalia)**¹⁷⁰. Those visits were carried out in part in response to a large number of enquiries from individuals in the facility in Berlin, and to assess whether issues previously identified at Bremen and Cologne forensic psychiatric facilities had been addressed.

5.2 – Findings and recommendations

The National Agency rated the following aspects particularly positively on its visits to forensic psychiatric detention facilities in 2024:

- + To give patients greater privacy, there was in most cases no CCTV monitoring of the

crisis intervention rooms.

- + Strip-searches were in most cases carried out in two stages so that only the top or the bottom half of the individual's body was exposed at any one time.

Despite these positive developments, systemic problems still persist. Certain critical situations observed by the National Agency in the preceding three years, which in a number of cases constituted serious violations of human dignity, also occurred in the facilities visited in 2024.

5.2.1 – Occupancy

5.2.1.1 – Overcrowding

As in previous years,¹⁷¹ the National Agency conducted a nationwide survey on occupancy in forensic psychiatric clinics.¹⁷² The data obtained on capacity and occupancy levels clearly showed that occupancy levels were approaching or exceeding full capacity in 15 *Länder*.

The National Agency always recommends taking all necessary measures to address overcrowding.

The visits conducted in 2024 confirmed the survey findings. The National Agency found overcrowding and the problems associated with it in four of the six facilities (**in the four *Länder* visited**).¹⁷³

The practical impact of overcrowding is extremely serious and the situation must be addressed.

The situation at **Berlin's** forensic psychiatric hospital was particularly alarming. At the time of the National Agency's visit in April 2024, the 549-bed hospital had 613 patients and was thus operating at significantly above capacity. This had a number of extremely serious consequences for patients:

- A shortage of beds meant that patients sometimes had to sleep on mattresses on the floor, which is extremely degrading.

¹⁶⁶ Over the years 2021, 2022 and 2023, the National Agency visited a total of 72 facilities – four of which were visited for a second time and one for a third time.

¹⁶⁷ A detailed description of the individual facilities and positive examples, findings, and recommendations in each case can be found in the individual visit reports, which are available (in German) on the website of the National Agency for the Prevention of Torture (<https://www.nationale-stelle.de/besuche/laenderkommission/2023.html>).

¹⁶⁸ This was the third visit; the first was in 2017 and the second in 2021.

¹⁶⁹ This was the fourth visit; the first was in 2017, the second in 2019 and the third in 2022.

¹⁷⁰ This was the second visit; the first was in 2019.

¹⁷¹ The National Agency had already found overcrowding or zero capacity to be a systemic problem in 2021, 2022 and 2023.

¹⁷² Survey of 15 January 2025 of all 16 of the competent ministries on occupancy as at 30 November 2024.

¹⁷³ Berlin, Bremen, Lower Saxony and North Rhine-Westphalia.

- The crisis intervention rooms were used on a regular basis and for prolonged periods of time for patients who were not subject to special security measures. Crisis intervention rooms are sparsely furnished, and their prolonged use can have a negative impact on the mental health of occupants and on treatment outcomes.
- Patients were also housed in other rooms not designed as patient accommodation. Many of those rooms were sparsely furnished and did not have their own toilets. This can cause uncertainty and make patients feel that they are the victims of arbitrary decisions.
- Chronic overcrowding means that decisions are often taken solely on the basis of where a bed is available, and patients' individual needs are not taken into account. Appropriate consideration of individual needs is key to successful treatment and to ensuring a structured and meaningful routine for patients.
- There were up to five patients per room.

In its statement of 11 December 2024, **Berlin's** Senate Department for Higher Education and Research, Health and Long-Term Care wrote that overcrowding at **Berlin's** forensic psychiatric hospital was a major issue because of a significant increase in placement orders in recent years: the facility had to take all individuals placed by the public prosecution offices and the courts.

A number of construction and renovation projects were currently underway to increase forensic psychiatric detention capacity in **Berlin**. The Senate Department added that, as temporary solution to relieve the pressure, individuals could also be sent to Plötzensee Prison Hospital (**Berlin**), but that the latter facility was now also reaching the limits of its capacity.

The National Agency has noted the information from the **Berlin** Senate Department for Higher Education and Research, Health and Long-Term Care; however, the National Agency would point out that the issues resulting from serious overcrowding at the facility have been known for years.¹⁷⁴ It is therefore essential that solutions be found in the short term to improve conditions at the facility and uphold the human dignity of the individuals held there. In the long

term, there must be an awareness of and a response to the physical and mental health impact of overcrowding, as it can have serious consequences. A sustainable solution will only be possible if, alongside an increase in capacity, there are also fundamental changes to meet the needs and ensure the safety and security of patients.

5.2.1.2 – Multiple occupancy

The National Agency considers the principle of single occupancy, which is set out in statute for the prison system,¹⁷⁵ to be indispensable. In cases where double occupancy is unavoidable, steps must be taken to ensure that it in no way hinders treatment, and that the occupants' privacy is protected. Allocating three or more individuals to a room should be avoided.

Placing three or more individuals suffering from mental illness or addiction in one room is problematic, even if the room is large enough. The resulting lack of privacy can trigger aggressive behaviour and provoke incidents. It can lead to conflicts between occupants, besides significantly complicating medical and therapeutic treatment and delaying the treatment's intended outcome.

However, high patient numbers mean that multiple occupancy is nonetheless common. The National Agency observed instances of overcrowding – double occupancy of single patient rooms and three people in twin rooms – and of three or more individuals sharing.

At the forensic psychiatric facilities visited in **Bremen** and in Hagen and Cologne (**North Rhine-Westphalia**), patients were in some cases housed two to a room; there were up to three patients per room at the facilities in Königs-Lutter and Osnabrück (**Lower Saxony**). The situation already mentioned above in which five individuals were housed in one room in the forensic psychiatric hospital in **Berlin** was particularly problematic.

5.2.2 – Staff

The systemic problem of overcrowding at forensic psychiatric facilities is often compounded by low staffing levels.

¹⁷⁴ Report by the National Agency on its visit to the forensic psychiatric hospital on 7 October 2021.

¹⁷⁵ Section 18(1) sentence 1 of the German Prison Act: "During the night the prisoners shall be lodged alone in their cells." Similar wording can be found in many of the Prison Acts of the *Länder*.

Each facility must have sufficient, qualified staff in all areas.

As in previous years, the staffing situation in all four *Länder* visited in 2024 was problematic.

Staffing levels at a number of the forensic psychiatric facilities – together with high occupancy rates – were having a significant impact on the patients' situation. Low staffing levels can, moreover, pose a safety risk both for patients and for staff. Understaffing generally results in the remaining staff being overworked. At the facilities in **Berlin** and **North Rhine-Westphalia** (Cologne), there had been a number of notifications of unsustainable workplace pressure (*Überlastungssanzeigen*) from the staff.

In its statement of 9 December 2024, the Ministry of Labour, Health and Social Affairs of **North Rhine-Westphalia** told the National Agency that new staff had been hired for the forensic psychiatric facility in Cologne, and that organisational measures had been taken to ensure professional care and avoid staff being overworked. Since April 2024, no more notifications of unsustainable workplace pressure had been filed.

5.2.3 – Segregation

5.2.3.1 – Duration

The principle of proportionality requires that any form of isolation only be imposed on the basis of an individual risk assessment and for the shortest possible period.¹⁷⁶

The National Agency is aware that many of the clinics visited face particular challenges. In this regard, the Agency would like to highlight the multidisciplinary approaches being taken and efforts being made to ensure, as far as possible, that patients can benefit from human contact, meaningful activities and outdoor exercise.

Nevertheless, it is a matter of some doubt whether isolation over a period of weeks or months can ever be proportionate.

¹⁷⁶ By way of analogy, reference is made to the United Nations Standard Minimum Rules for the Treatment of Prisoners (General Assembly resolution 70/175, annex, adopted on 17 December 2015, also known as the Nelson Mandela Rules). These rules prohibit isolating prisoners for more than 15 consecutive days for at least 22 hours a day without meaningful human contact (Rule 44).

The National Agency found problematic rates of prolonged segregation. Periods of segregation lasting longer than 15 days were found in five of the six forensic psychiatric facilities visited.¹⁷⁷

Three particularly serious cases were the segregation of two individuals at the forensic psychiatric hospital in **Berlin** for seven years, and the segregation of one individual at **Bremen** forensic psychiatric facility for a period of six years. The individuals in question spent up to 24 hours a day in their rooms. While the person in **Bremen** themselves refused to use their daily hour of outdoor exercise, on a number of occasions those in **Berlin's** forensic psychiatric hospital were not permitted to do so.¹⁷⁸

Insufficient social interaction and a lack of regular activities can have a negative impact on individuals' mental health.

In her statement of 30 December 2024, **Bremen's** Senator for Health, Women and Consumer Protection told the National Agency that in light of repeated aggression and the continuing threat posed by the patient, there was currently no alternative to segregation. Nonetheless, she wrote, all parties were continuing their efforts to improve therapeutic contact and the patient's situation.

In its statement of 11 December 2024, **Berlin's** Senate Department for Higher Education and Research, Health and Long-Term Care wrote that the facility was seeking to create an appropriate placement setting for the patients despite the long period of isolation, for example through accompanied visits. The Senate Department told the National Agency that all measures were subject to regular medical review and treatment efforts were focused on establishing a relationship of mutual trust with the patients in question.

Steps must be taken to ensure structured and regular human contact and sufficient and appropriate support for and if necessary treatment of segregated prisoners. The individuals concerned should also be able to engage in meaningful activities.

¹⁷⁷ Hagen forensic psychiatric facility (North Rhine-Westphalia) was the only facility at which this was not the case.

¹⁷⁸ Section 67(2) of the Berlin Mental Health Act (*Gesetz über Hilfen und Schutzmaßnahmen bei psychischen Krankheiten*) states that it must be possible for patients to spend at least one hour each day outside.

5.2.3.2 – Judicial authorisation

Statutory regulations must not create incentives to choose certain measures that are also restrictive and that are not necessarily less severe.

It is concerning that the legal thresholds for isolation are significantly lower than those for physical restraint. The position of the Federal Constitutional Court is that the effects of isolation “can be of equivalent intensity to those of five-point or seven-point restraints”, given that in the absence of sufficient monitoring, “isolation entails a risk of considerable damage to the health of the person concerned”.¹⁷⁹

Most of the relevant *Land* legislation does not require judicial authorisation either for segregation or for separation from other patients. Under the **Berlin** Mental Health Act, placement in a specially secured room empty of dangerous objects (a crisis intervention room) requires authorisation from the court where it is foreseeable that the measure is going to last longer than 18 hours.¹⁸⁰ However, the requirement for prior authorisation by the competent court does not apply to separation from other patients by segregation in a single room.

The National Agency urges the *Länder* to introduce a requirement for judicial authorisation for all forms of segregation, as is already the case in **North Rhine-Westphalia**.¹⁸¹

5.2.4 – Crisis intervention rooms

The term “crisis intervention room” refers to a room in which patients are placed to avert an acute risk of harm to themselves or others.¹⁸² Placement in crisis intervention rooms constitutes a stricter form of segregation, making it a constant focus of the National Agency’s visits.

The findings and recommendations from the National Agency in this area are as follows:

5.2.4.1 – Furnishings and fittings

To respect the human dignity of the occupants, crisis intervention rooms should have a mattress, a blanket and a pillow. It should be possible for the occupants to sit in a normal position.

+ There has been a positive trend over recent years. The competent authorities and most of the facilities have examined the National Agency’s recommendations and announced their intention to meet the minimum standards for crisis intervention rooms – and purchase the requisite new furniture – in their new builds and renovation and refurbishment projects. The crisis intervention rooms viewed on the 2024 visits to the **Bremen**, **Osnabrück (Lower Saxony)** and **Cologne (North Rhine-Westphalia)** forensic psychiatric facilities had seating, for example.

In contrast, the crisis intervention rooms viewed at **Berlin’s** forensic psychiatric hospital had only a mattress on the floor. There was no seating at normal seating height. Where an individual is held in a room for a period of several hours or days, it is inhumane to force them to stand or sit on the floor. On its visits, the National Agency observed the use of foam seating or challenging furniture, which is strong and durable and has no sharp edges or corners. This is a way of providing a regular seating option even when an individual poses a risk to themselves or others.

There was also a failure to meet other minimum standards for humane detention: the National Agency found cases of inadequate or harsh lighting and windows that could not be covered.

In its statement of 11 December 2024, **Berlin’s** Senate Department for Higher Education and Research, Health and Long-Term Care told the National Agency that the facility was currently assessing whether seating could be provided in its crisis intervention rooms to meet the needs of individuals placed there. The Senate Department wrote that all such measures were subject to regular medical review as to their necessity. However, it rejected the option of allowing occupants to operate the lighting themselves on the grounds of safety concerns regarding the electricity supply and the risk of tampering. The National Agency cannot follow this reasoning as in the majority of

¹⁷⁹ Federal Constitutional Court, judgment of 24 July 2018, file no.: 2 BvR 309/15, margin no. 80.

¹⁸⁰ Section 39(5) sentence 2 of the Berlin Mental Health Act.

¹⁸¹ Section 32(3) of the North Rhine-Westphalia Act on Criminal Law-related Committal.

¹⁸² Different facilities have different names for these rooms. In Berlin, for example, the term is “*Isolationsraum*” (isolation room).

crisis intervention rooms at the forensic psychiatric facilities visited, the occupants were able to operating the lighting themselves. Clearly, therefore, this is feasible.

5.2.4.2 – CCTV monitoring

Camera visibility

The person concerned must be made aware that CCTV monitoring is taking place. The mere fact that the camera is visible is not sufficient. It should be possible for the individual to discern whether the camera is running.

At the facilities visited in **Berlin** and at Osnabrück forensic psychiatric facility (**Lower Saxony**), it was not possible to tell whether or not the cameras were on.

In its statement of 18 November 2024, **Lower Saxony's** Ministry of Social Affairs, Labour, Health and Equality told the National Agency that visible evidence of camera surveillance could worsen the symptoms of certain disorders such as persecutory delusion and paranoia, and it therefore did not completely share the National Agency's view of the situation. However, the Ministry assured the National Agency that it intended to examine the matter and if necessary to take it up again with the facility in Osnabrück.

The National Agency does not entirely follow all of the concerns expressed on this question by the Ministry. The National Agency would once again urge facilities to ensure that individuals have some way of telling whether or not a camera is running.¹⁸³

Visibility of toilets

CCTV cameras must be fitted in such a way that the toilet area is either not visible on the monitor at all or, alternatively, is taped over or pixelated. Only where there is an acute risk of self-harm or suicide might a decision to allow temporarily unrestricted monitoring of a crisis intervention room potentially be acceptable; such a decision would have to be carefully considered in the individual case. The reasons for such a decision must

be clearly documented.

Monitoring patients while they are using the toilet constitutes a serious infringement of their rights of personality.

The **Berlin** forensic psychiatric hospital was the only facility visited in 2024 in which the National Agency observed CCTV monitoring of crisis intervention rooms that included the toilet area and showed the toilet area either in full or with inadequate pixelation on the monitor.

In its statement of 11 December 2024, **Berlin's** Senate Department for Higher Education and Research, Health and Long-Term Care told the National Agency that this was no longer the case in any of the crisis intervention rooms at the hospital.

- + One innovative development is the ban on CCTV monitoring in crisis intervention rooms under section 75(2) of the **Bremen** Mental Health Act. Under this provision, “video surveillance is not permitted in sleeping, recreational or living areas, crisis intervention rooms, bathrooms or toilets.” This prohibition is complemented and reinforced by section 39(3) for “placement in a specially secured room”: during such measures, continuous monitoring by qualified care staff and the necessary degree of medical supervision must be ensured. Optical-electronic surveillance or surveillance by other technological means is prohibited.
- + There is no CCTV monitoring of crisis intervention rooms at Osnabrück forensic psychiatric facility (**Lower Saxony**) either, and the facility has not expressed safety or security concerns or reported any incidents relating to a lack of surveillance.

5.2.5 – Physical restraint

5.2.5.1 – Duration

Physical restraint is a serious measure and is therefore only to be ordered as a last resort, on the basis of clear and precisely defined criteria, and for the shortest possible period of time.

- + Physical restraint is not used at Hagen

¹⁸³ Saarland is planning to introduce legislation requiring cameras in crisis intervention rooms to be visible in the – section 42(4) sentence 3 of the Draft act reforming the Saarland Act on forensic psychiatric detention (*Gesetzesentwurf zur Novellierung des Maßregelvollzugsrechts Saarland*), Drucksache 17 7 1333.

forensic psychiatric facility (**North Rhine-Westphalia**). At Königsutter forensic psychiatric facility (**Lower Saxony**), physical restraint has not been used since 2017.

At all other facilities visited in 2024, there had been instances of physical restraint during the period from 1 January 2023 to the date of the visit.

Physical restraint was used a total of 50 times at the **Berlin** forensic psychiatric hospital between 1 January 2023 and 23 April 2024. This is a concerning and remarkably high rate of physical restraint compared to other facilities.

The duration of one case of physical restraint at the forensic psychiatric facility in Cologne (**North Rhine-Westphalia**) was also problematic. The individual in question was physically restrained for 91.8 hours, which is almost four days.

It is a matter of some doubt whether physical restraint lasting several days can ever be proportionate.

5.2.5.2 – Statutory regulations on physical restraint

Physical restraint may only be used in compliance with the constitutional requirements set out by the Federal Constitutional Court on 24 July 2018.¹⁸⁴ *Land* legislation must be adapted in order to meet the requirements of constitutional law.

In its 2023 Annual Report, the National Agency had criticised **Lower Saxony**¹⁸⁵ for having yet to bring its legislation into line with the Federal Constitutional Court judgment. In 2024, the *Land* started the legislative process to amend the relevant statutory provisions in compliance with

the minimum requirements under constitutional law.

In contrast, the National Agency takes an extremely critical view of the fact that the provisions on physical restraint under **Berlin's** legislation on forensic psychiatric detention still do not comply with the constitutional requirements more than six years after the Federal Constitutional Court judgment. The requirements set down by the Federal Constitutional Court have not yet been fully implemented in **Bavaria** or **Saxony-Anhalt** either: one-on-one supervision by therapeutic or care staff is not yet enshrined in state law.

In late 2024, **Saarland's** Ministry of Justice submitted a draft of an Act reforming the Saarland Act on Forensic Psychiatric Detention to the National Agency for comment. The draft contains a number of amendments in line with the requirements laid down by the Federal Constitutional Court regarding physical restraint.

However, section 27(1) of the draft¹⁸⁶ states that individuals who are being physically restrained should be observed “in a suitable manner” (“**in geeigneter Weise**”) by psychologists or by therapeutic or care staff. Not least in conjunction with the explanatory memorandum regarding section 41(3), this wording would appear to leave open the possibility of using CCTV monitoring on its own.

Physical restraint may only be used provided constitutional requirements are met in full. The individuals concerned must therefore be observed continuously and in person by therapeutic or care staff in direct proximity to them (one-on-one supervision). The National Agency once again issued a statement on this matter on 10 March 2025.

The requirement for a judicial decision is mandatory for physical restraint that is more than just a short-term measure.¹⁸⁷

The records for Osnabrück forensic psychiatric

¹⁸⁴ Federal Constitutional Court, judgment of 24 July 2018, file no.: 2 BvR 309/15.

¹⁸⁵ The Parliament of Lower Saxony adopted an Act Amending the Lower Saxony Act on Forensic Psychiatric Detention (*Gesetz zur Änderung des Niedersächsischen Maßregelvollzugsgesetzes*) on 15 May 2024 (*Drucksache* 19/2843 / *Drucksache* 19/4235) to meet constitutional requirements on physical restraint. The National Agency was involved in the legislative process and welcomes the fact that its recommendations were largely implemented.

¹⁸⁶ Draft act submitted to the Parliament of Saarland, *Drucksache* 17 / 1333 of 8 January 2025.

¹⁸⁷ Federal Constitutional Court, judgment of 24 July 2018, file no.: 2 BvR 309/15, margin no. 69.

facility (**Lower Saxony**) showed that one patient had been physically restrained for a period of six days in 2023 without the facility having sought court authorisation. Physical restraint was thus in this case unlawful.

The director of the Osnabrück facility justified the failure to obtain court authorisation by citing a letting from Osnabrück Local Court dated June 2022, in which the Local Court wrote that it had no jurisdiction for such applications. The Ministry of Justice of **Lower Saxony** confirmed this situation in a statement dated 29 April 2024, and told the National Agency that **Lower Saxony's** Ministry of Social Affairs, Labour, Health and Equality had nonetheless instructed the facility to continue to submit applications for physical restraint, but that the facility had not complied with that instruction.

Finally, in its statement of 18 November 2024, **Lower Saxony's** Ministry of Social Affairs, Labour, Health and Equality told the National Agency that an agreement had been in place since June 2024 between the Osnabrück forensic psychiatric facility and Osnabrück Local Court, under which the use of physical restraint lasting 30 minutes or more had to be reported to the court, initially by telephone and then in writing. The local court provided a form for this purpose. The Ministry added that binding rules on physical restraint and an obligation to notify the Ministry had been introduced by the Act amending the **Lower Saxon** Act on Forensic Psychiatric Detention (*Gesetz zur Änderung des Niedersächsischen Maßregelvollzugsgesetzes*) of 15 May 2024; in the Ministry's view, a legally valid rule had therefore been established.

Despite the legal provisions that have now been put in place, the fact remains that, in 2023, a patient in the facility in **Lower Saxony** was physically restrained for a period of several days without court authorisation. This unlawful measure cannot be undone and raises fundamental questions about respect for basic rights. The subsequent introduction of a mandatory procedure/binding requirements does not alter the fact that the individual in question did not have the protection of the statutory requirement for a judicial decision.

5.2.6 – Shackling

Shackling should not be used in secure areas.

On its visits in 2024, the National Agency found that four facilities in the following *Länder* were using the practice of shackling during outdoor exercise: **Berlin, Bremen, Lower Saxony** (Königslutter) and **North Rhine-Westphalia** (Cologne).

The CPT recommends that the practice be abolished.¹⁸⁸ There can be no justification for routinely shackling individuals being held in a secure setting.¹⁸⁹

Where shackling is absolutely necessary, adjustable textile restraints should be used.¹⁹⁰

Metal cuffs were used in all the facilities visited. Metal cuffs pose a high risk of injury for the individuals concerned as their use can result in haematomas and compressed nerves.

On the recommendation of the National Agency, Hagen forensic psychiatric facility (**North Rhine-Westphalia**) has therefore invested in textile hand restraints and is currently trialling their use.¹⁹¹ Following the National Agency's visit to Königslutter (**Lower Saxony**), **Lower Saxony's** Ministry of Social Affairs, Labour, Health and Equality also informed the National Agency that its recommendation had been noted and that the matter would be discussed, potentially in dialogue with other facilities.¹⁹²

5.2.7 – Night lock-up

Night lock-up always raises concerns when it is ordered for organisational reasons or due to

¹⁸⁸ CPT/Inf (2022) 18, paragraph 146, <https://rm.coe.int/t/1680a80c63> (German page: <https://rm.coe.int/t/1680a80c63> accessed 7 February 2025).

¹⁸⁹ Cf. Federal Constitutional Court, order of 19 January 2023, file no.: 2 BvR 1719/21, margin no. 27, with reference to ECHR, judgment of 20 January 2011, *Kashavelov v. Bulgaria*, Application no. 891/05, §§ 39 f.

¹⁹⁰ For example Segufix or Bonowi restraints.

¹⁹¹ Statement in response to the National Agency's report on its visit to Deerth clinic in Hagen on 3 May 2024.

¹⁹² Statement in response to the National Agency's report on its visit to the AWO-Psychiatriezentrums forensic psychiatric clinic in Königslutter on 26 March 2024.

staff shortages. Measures of this sort should be applied only in individual cases where no alternative is available. The decision to do so, which should be made on a case-by-case basis, must be reasoned and comprehensible.

At one facility visited in **North Rhine-Westphalia** (Cologne) and in **Berlin**, night lock-up was the general practice; patients were, as a rule, unable to leave their rooms between the hours of 10 p.m. and 7 a.m., even in cases of multiple occupancy.

The layout of the building and/or what are often low staffing levels are grounds commonly cited to justify this measure.

The National Agency advises avoiding blanket night lock-up completely whilst safeguarding patient safety as effectively as possible.

- + One possible solution is allowing patients to lock their own rooms and thus prevent other patients from entering. This approach was observed by the National Agency in **North Rhine-Westphalia** (Hagen) in 2024.

5.2.8 – Full strip-searches

According to the Federal Constitutional Court, strip-searches involving a visual examination of a person's genital area represent a serious infringement of that individual's general right of personality.¹⁹³ They must not be carried out routinely or in the absence of any specific grounds for suspicion.¹⁹⁴

A reasoned decision in the specific case must be taken before any search involving the removal of an individual's clothing and a visual inspection of their genital area. Staff must be made aware of this.

The facilities visited in 2024 in **Berlin** and **North Rhine-Westphalia** (Cologne) carried out full strip-searches of all new arrivals.

However, the National Agency found over the

course of its visits that other forensic psychiatric facilities in those same *Länder* only carried out full strip-searches on a case-by-case basis.

If it is indeed necessary that the person concerned undress fully, then the search should be conducted respectfully, for example in two stages with the individual keeping on their clothing above the waist while they are searched below the waist and vice versa.¹⁹⁵

While some facilities considered that the more respectful approach to strip-searches was not feasible, other clinics were already implementing the National Agency recommendation.

- + Individuals being strip-searched at the facility in Hagen (**North Rhine-Westphalia**) are allowed to keep their underpants on.

Following the National Agency's visit to Königslutter, **Lower Saxony's** Ministry of Social Affairs, Labour, Health and Equality announced that strip-searches could in future be carried out in two stages.¹⁹⁶

5.2.9 – Information on the facility

The house rules should be provided in the languages spoken in the clinic and be easy to understand.¹⁹⁷

In closed psychiatric facilities in particular, it is important that patients know and understand the rules and structures of the facility and that there is clarity and transparency on the boundaries that apply. This can have a de-escalating effect and help to prevent crises and conflicts between individuals.

Patients in forensic psychiatric detention often suffer from psychological and/or cognitive impairments and disabilities, and may have difficulty understanding written texts. It is therefore important for them to be able to consult the house rules at any time in language they can understand.

¹⁹³ Federal Constitutional Court, order of 05 March 2015, file no.: 2 BvR 746/13, margin no. 33; Federal Constitutional Court, order of 23 September 2020, file no.: 2 BvR 1810/19, margin no. 21.

¹⁹⁴ Federal Constitutional Court, order of 10 July 2013, file no.: 2 BvR 2815/11, margin no. 16; Federal Constitutional Court, order of 23 September 2020, file no.: 2 BvR 1810/19, margin no. 22. Cf. ECHR, judgment of 22 October 2020, Roth v. Germany, Application nos. 6780/18 and 30776/18, §§ 69, 72 – Violation of Article 3 of the Convention.

¹⁹⁵ Cf. section 70(2) of Bremen's Mental Health Act, which is applicable to forensic psychiatric facilities: "Body searches should only require patients to partially undress at any one time [...]."

¹⁹⁶ Statement in response to the National Agency's report on its visit on 26 March 2024.

¹⁹⁷ See for example the "*Von Patienten für Patienten*" ("By Patients for Patients") information leaflet available at the forensic psychiatric clinic in Münster (North Rhine-Westphalia); report on the National Agency's visit on 17 August 2022.

In five of the facilities visited **across all Länder visited**, the house rules contained extremely technical and legalistic language. Despite changes in the ethnic and cultural make-up of the patient population and the language barriers that have therefore emerged – a large number of patients had only very limited German – the house rules were only available in German.

Following the National Agency's visit to Osnaabrück, **Lower Saxony's** Ministry of Social Affairs, Labour, Health and Equality announced that a decree setting out the relevant requirements had been issued to all forensic psychiatric detention facilities in **Lower Saxony**.¹⁹⁸

5.2.10 – Supervised urine screening

To respect individuals' human dignity, they should be offered an alternative to supervised urine sample provision for drug testing so that they can choose the method they find to be the least intrusive.

In July 2022, the Federal Constitutional Court made it clear that the provision of urine samples under observation "involving the removal of clothing" constitutes "a serious infringement of the subject's general right of personality".¹⁹⁹ The Court went on to note that there were now alternative forms of testing available that were less intrusive and provided similarly accurate results.

+ Hagen forensic psychiatric facility (**North Rhine-Westphalia**) offered a range of drug screening options – saliva tests and the use of markers as well as supervised urine screening.

All other facilities visited in 2024 used supervised urine screening;²⁰⁰ in most cases, this was the only method offered for drug testing.

Following the National Agency's visit, **Bremen's** Senate Department for Health, Women and Consumer Protection informed the National Agency²⁰¹ of its intention to offer patients capillary blood testing as an alternative in future.

In its statement of 9 December 2024, the Ministry of Labour, Health and Social Affairs of **North Rhine-Westphalia** informed the National Agency that the introduction of standardised *Land*-wide rules on alternative drug screening methods was being considered as part of a planned update to guidelines on the treatment of individuals placed in facilities in accordance with section 64 of the German Criminal Code (*Strafgesetzbuch*). **Lower Saxony's** Ministry of Social Affairs, Labour, Health and Equality also announced its intention to consider possible further alternatives for drug testing.²⁰²

5.2.11 – Access to the outdoors

It should be possible to use the courtyard as frequently as possible, provided it is adequately secured to prevent both escapes and the risk of self-harm.

Individuals held in forensic psychiatric detention are generally suffering from long-term mental health problems.²⁰³ Under Article 3(a) of the United Nations Convention on the Rights of Persons with Disabilities (CRPD), the principle of individual autonomy is to be respected. Outdoor exercise has unique health benefits that cannot be replicated by any other measure.²⁰⁴

In **Berlin, Bremen** and **Lower Saxony** (*Königslutter*), the National Agency criticised the fact that the courtyard was closed more often than necessary for no obvious reason, or was not fully accessible, and this despite the fact that the freedom to spend regular time outdoors can be beneficial for both patients and staff.

Following the National Agency's visit, **Bremen's** Senate Department for Health, Women and Consumer Protection informed the National Agency²⁰⁵ that the layout/structural issues were to be reviewed.

¹⁹⁸ Statement in response to the National Agency's report on its visit to the Ameos forensic psychiatry and psychotherapy clinic on 27 February 2024.

¹⁹⁹ Federal Constitutional Court, order of 22 July 2022, file no.: 2 BvR 1630/21, margin no. 27.

²⁰⁰ Berlin, Bremen, Cologne and Königslutter.

²⁰¹ Statement in response to the National Agency's report on its visit to the Bremen forensic psychiatric clinic on 26 July 2024.

²⁰² Statement in response to the National Agency's report on its visit to the Königslutter forensic psychiatry and psychotherapy facility on 19 November 2024.

²⁰³ The United Nations Convention on the Rights of Persons with Disabilities, which was adopted in 2006 and entered into force in 2008, therefore applies.

²⁰⁴ Cf. Arloth/Krä, *StVollzG Kommentar*, 5. Auflage, § 64 StVollzG, margin no. 1.

²⁰⁵ Statement in response to the National Agency's report on its visit to the Bremen forensic psychiatric facility on 26 July 2024.

6 – Fixed border controls

6.1 – Introduction

Since 2023, the National Agency has been visiting border control posts to exercise a preventive role and to develop standards. A key focus of the visits is on vulnerable groups, their protection and their treatment – in particular in cases of refusal of entry,²⁰⁶ removal,²⁰⁷ and asylum applications²⁰⁸ – and on how victims of human trafficking are treated.

The National Agency was only able to carry out six visits between 16 October 2023 and the end of 2024. This relatively small number of visits makes it difficult to provide a comprehensive assessment of border control conditions and to identify systemic problems. At the same time, visits to date have found that measures involving the deprivation of liberty are commonly employed and that particular protection is required above all for vulnerable groups.

Regular independent monitoring is essential to ensuring that such measures are proportionate and that detention conditions are humane.

6.2 – Federal Police practice: border checks

A letter to the National Agency from the Federal Police Headquarters dated 27 February 2024 set out details of Federal Police border control procedures. The information provided was as follows: all travellers wishing to cross the border, irrespective of their nationality, must be carrying a valid passport or passport substitute and if

applicable their residence permit or visa, and produce those documents when requested. Where an individual is suspected of unlawful entry into the federal territory, for example because they do not have the necessary documents, they are detained to allow the matter to be checked and if necessary for the individual to be processed. The individual's identity is checked, the individual is questioned about relevant aspects of their journey, and – where necessary – other measures are taken for identification purposes (for example fingerprinting and photographs).

The key issue for the Federal Police is reportedly an individual's residence status. As soon as the police procedures have been completed, an individual can continue their journey unless measures preventing entry or terminating residence are indicated in the given case. If an individual files a request for protection, they are as a rule referred to the relevant reception centre of the *Land* in question.²⁰⁹ In the interests of child welfare, unaccompanied minors are handed over to the care of the youth welfare office. Families are not separated; as with the processing of unaccompanied minors, families are given priority in order to minimise the time they spend in Federal Police facilities.

6.3 – Visits

On 9 February 2024, a delegation from the National Agency visited two border control posts in/near Görlitz. The National Agency also visited the border controls at the border between Saxony and the Czech Republic on 30 July 2024.

6.3.1 – Görlitz border control post

Ludwigsdorf Federal Police district police station was responsible for the border control post on the motorway (*Bundesautobahn*) BAB-4 at the

²⁰⁶ According to information from the Federal Ministry of the Interior, a total of 45,337 individuals were refused entry in 2024 (Federal Police statistics).

²⁰⁷ According to information from the Federal Government, a total of 2150 individuals were removed from the federal territory in 2024, 1827 of whom were removed by land. A total of 266 minors were removed. Fifty of those minors were accompanied and 216 were unaccompanied. Source: *Deutscher Bundestag, Drucksache* 20/14946.

²⁰⁸ According to information from the Federal Ministry of the Interior, a total of 14,501 asylum requests by individuals found to have entered the federal territory unlawfully were made to the border authorities at the border and within a 30 km radius of the border (Federal Police statistics).

²⁰⁹ The National Agency notes that a change in how requests for protection at the border are dealt with has been observed since the change of government in 2025. However, official information in this area was not yet available at the time of going to press and the National Agency is therefore unable to provide its assessment of any changes. The findings and recommendations below relate to the previous practice, which was not to refuse entry to individuals who had made an asylum request.

border between Saxony and Poland. The post used both the existing infrastructure of old border posts and new portable facilities (portable cabins, heating, lighting and toilets). Individuals were taken to a large building for processing. This had a number of cubicles separated by plastic curtains. The cubicles were, for example, used for strip-searches, identification procedures and questioning. There was a storage room with clothing donations and equipment for infants and small children. A separate space had been created for individuals who were ill. Tents with camp beds had also been erected to deal with periods with high numbers of arrivals.²¹⁰

The National Agency also visited the much smaller border control post at Neißbrücke bridge (state road (*Staatsstraße*) 125) in Görlitz. As the local Federal Police station in Görlitz is within walking distance of the control post, intrusive measures such as strip-searches were carried out at the police station to ensure that individuals' privacy could be respected.

6.3.2 – Border controls at the Saxony-Czech Republic border crossing

Klingenthal district Federal Police station was responsible for border controls at the border crossing between Saxony and the Czech Republic. Unlike at the border control posts visited, there were neither existing buildings nor portable cabins for checks at the border crossing. When asked how individuals' privacy was protected when strip-searches were carried out, the Federal Police responded that strip-searches were conducted at Klingenthal Federal Police station, 35 minutes away.

All there was at the border itself was a police van; four male police officers checked vehicles entering Germany. There were no incidents in connection with border checks at the time of the visit.

The delegation then visited the district police headquarters and was able to inspect the custody facilities and the documentation they requested.

6.4 – Findings and recommendations

This chapter summarises the information gathered by the National Agency on its visits, on the basis of which the Agency has drafted

recommendations on border police work in the context of control posts at internal borders.

6.4.1 – Questioning on reason for travelling to Germany

The principle of non-refoulement would be fiction were the State able to circumvent its application by refusing entry or by refoulement at the border. Officers at the border therefore bear a considerable responsibility: one of their duties is to receive requests for protection.

According to the Federal Police, it is not enough for an individual simply to state that they are requesting protection. First, the Federal Police must question the individual about their specific reasons for entering the country. This is done using a standardised questionnaire and, if applicable, with the assistance of an interpreter. Only after this procedure is completed does the Federal Office for Migration and Refugees then assess whether the request is well-founded, admissible or plausible. That assessment requires an individual evaluation of each application.

Decisions on entry into Germany can have far-reaching consequences for the individuals in question. The relevant criteria must therefore be applied as consistently as possible. Those responsible must be made aware of this and given the necessary training.

Effective protection from potential persecution or other serious harm can only be provided if individuals seeking protection have access to a procedure.

Where individuals have no way of lodging appeals or complaints, moreover, decisions cannot subsequently be reviewed by the courts.

6.4.2 – Provision of information

It cannot be assumed that individuals who are intending to request asylum or protection are fully informed of all their rights and obligations under residence law when they cross an internal border.

Appropriate measures must be in place to ensure that individuals have access to international protection procedures. Most importantly, they must receive, from the first officials with whom they interact at the border, multilingual information sheets setting out their rights and obligations and explaining what is about to happen and what steps they now need to take.

²¹⁰ Despite the comparatively low numbers at the time of the National Agency's visit, this infrastructure is being retained for the event that the numbers rise again in future.

6.4.3 – Access to interpreters at the border

People with the necessary language skills, for example interpreters, must be on hand.

Where an interpreter is required, one is not provided until an individual arrives at the competent district Federal Police station to which they have been taken for further processing. In some cases, however, interpreting is needed at the border itself.

It should be possible to provide access to an interpreter at any time when required. Access could be by telephone or video link and need not necessarily be in person.

If there are indications that organising their own travel will be too much for an individual, the Federal Police, working with the other bodies involved in the process, has a responsibility to ensure that transport to the reception centre is provided. Organising transport should in particular be considered where individuals demonstrate particular vulnerabilities.

6.4.4 – Identifying vulnerable individuals

Special procedural safeguards apply to vulnerable groups.

To ensure that those safeguards are in place, vulnerable individuals need to be identified at an early stage so that they can be treated appropriately, in other words so that the right measures can be taken in accordance with their specific, individual needs.

The National Agency recommends developing standardised processes to ensure that relevant issues are identified. One option could be to produce a multilingual questionnaire.

6.4.5 – Referral to a reception centre

Third-country nationals requesting protection who are identified during controls at internal borders are generally transferred to the competent reception centre for processing under asylum law and, if applicable, for the potential implementation of measures terminating residence. These individuals receive a certificate from the Federal Police indicating the competent reception facility (Anlaufbescheinigung) and are then, as a rule, instructed to make their own way to the nearest reception centre using public transport.

VII

Appendix

I – List of visits in 2024

Visits by the Federal Agency

Date	Details
8 January	Observation of deportation: charter flight from Berlin Airport to Chişinău (Moldova)
9 January	Border control post, Ludwigsdorf Federal Police, motorway
9 January	Border control post, Ludwigsdorf district Federal Police, town centre
20 February	Observation of deportation: charter flight from Frankfurt Airport to Baghdad (Iraq)
27 February	Observation of deportation: charter flight from Düsseldorf Airport to Cairo (Egypt)
28 February	Gera Barracks
16 June	Gelsenkirchen local Federal Police station
17 June	Vetschau border control post (German-Dutch border)
17 June	Düsseldorf district Federal Police station
18 June	Dortmund district Federal Police station
24 June	Leipzig district Federal Police station
25 June	Berlin-Hauptbahnhof Federal Police station
30 July	Ebmath border control post
30 July	Klingenthal district Federal Police station
21 August	Observation of deportation: charter flight from Leipzig Airport to Enfidha (Tunisia)

Visits by the Joint Commission

Date	Details
27 February	Forensic psychiatric facility, Osnabrück
26 March	Forensic psychiatric facility, Königsutter
17 April	Forensic psychiatric facility, Cologne
23 April	Forensic psychiatric facility, Berlin
24 April	Facility for custody pending deportation of individuals posing a threat to public safety, Berlin
3 May	Forensic psychiatric facility, Hagen
16 June	Gelsenkirchen police headquarters during EURO 2024
17 June	Düsseldorf police headquarters during EURO 2024
18 June	Dortmund police headquarters during EURO 2024
23 June	Frankfurt a. M. police headquarters during EURO 2024
24 June	Leipzig district police station during EURO 2024
25 June	Olympiastadion stadium station during EURO 2024
25 June	Hohenasperg prison hospital
2 July	Fröndenberg prison hospital
9 July	Würzburg Prison
17 July	Munich Prison
25 July	Bremen Prison
26 July	Forensic psychiatric facility, Bremen
29 July	Facility for custody pending deportation, Hof
30 July	Stralsund Prison

Date	Details
2 August	Kassel Prison
7 August	Magdeburg district police station
8 August	Burg Prison
9 August	Child and youth psychiatric facility, Bavaria
9 August	Augsburg-Gablingen Prison
28 August	Tegel Prison
28 August	Plötzensee prison hospital
11 September	Brandenburg an der Havel Prison
8 October	Hohenleuben Prison
15 October	Meppen Prison
16 October	Waldeck Prison
24 October	Stuttgart Prison
7 November	Neumünster Prison
13 November	City police custody facility, Berlin
21 November	Hof Prison
26 November	Child and youth welfare facility, Bavaria
4 December	Rottenburg am Neckar Prison
10 December	Lingen Prison

2 – Statements on draft legislation

Date	Details
25 January	Draft act amending legislation including the Lower Saxony Act on Forensic Psychiatric Detention
13 September	Draft act on the execution of custody pending deportation (Rhineland-Palatinate)
21 October	Draft to amend national law in line with the Common European Asylum System reform
25 October	Ministerial draft on criminal law-related committal (Saxony-Anhalt)
11 November	Draft act reforming the Act on Forensic Psychiatric Detention (Saarland)

3 – Members of the Federal Agency

Name	Title	Since	Position
Ralph-Günther Adam	Senior civil servant and prison director (retd)	June 2013	Director
Sabine Thureau	President of the Hesse Land Criminal Police Office (retd)	April 2021	Deputy Director

4 – Members of the Joint Commission

Name	Title	Since	Position
Rainer Dopp	State Secretary (retd)	September 2012	Chair
Petra Heß	Former Member of the German Bundestag	September 2012	Member
Dr Helmut Roos	Senior civil servant (retd)	July 2013	Member
Petra Bertelsmeier	Senior public prosecutor (retd)	January 2019	Member
Dr Werner Päckert	Senior civil servant and prison director (retd)	January 2019	Member
Friedhelm Kirchhoff	Senior civil servant and prison director (retd)	January 2022	Member
Eva Moll-Vogel	Regional Court President (retd)	January 2023	Member
Dr Michael Brune	Psychiatrist and neurologist	May 2023	Member

5 – Secretariat staff

Name	Official title/profession	Position
Dr Sarah Teweleit	Lawyer (LL.M.)	Head
Maximilian Acosta Schultze	International social work specialist (M.A.)	Research associate
Pascal Décarpes	Criminologist (M.A., LL.M.)	Research associate
Aliza Mushtaq	Lawyer (LL.M.)	Research associate
Moritz Reinbach	Migration and political science researcher (M.Sc.)	Research associate
Judith Bene	Travel agent	Secretariat

6 – Activities in the 2024 reporting period

Date	Location	Activity
10 January	Magdeburg	Discussion on suicide prevention in Saxony-Anhalt's prisons
22 January	Wiesbaden	Meeting with Hesse's social care supervisory authority (Office for Care Services and Social Affairs, Amt für Versorgung und Soziales)
1 February	Hanover	Hearing on a draft act amending the Lower Saxony Act on Forensic Psychiatric Detention
27 February	Berlin	Presentation at a conference on the CRPD (" <i>Neuer Schwung für die UN-BRK in Deutschland: Wie weiter nach der Zweiten Staatenprüfung?</i> "), German Institute for Human Rights (DIMR)
6-7 March	Online	Conference on preventive detention
7 March	Online	Meeting with the Ethics and Law committee of the DGPPN (German Association for Psychiatry, Psychotherapy and Psychosomatics)
13 March	Berlin	Expert hearing before the Human Rights Committee of the Bundestag
20 March	Berlin	Reception for non-governmental organisations given by the Human Rights and Economic Cooperation working groups
27 March	Online	CoE Conference, ECtHR judgments concerning involuntary detention and treatment on mental health grounds
3 April	Potsdam	Meeting with the Vice-President of the Federal Police Headquarters

Date	Location	Activity
25 April	Online	Meeting with the SPT
15-17 May	Leipzig	Attendance at the 4th “ <i>Psychiatrie im Justizvollzug</i> ” national conference
4-5 June	Strasbourg	European NPM Forum workshop
2-3 July	Warsaw	ODIHR (Office for Democratic Institutions and Human Rights), event on dealing with radicalised individuals in prison
8 August	Online	“ <i>UEFA EURO 2024 & Menschenrechte</i> ” evaluation, stakeholder meeting
27 August	Berlin	Presentation of the National Agency’s annual report
28 August	Berlin	Meeting with the Federal Ministry of the Interior
2 September	Münster	LWL Expert:innengespräch: Psychiatrie und Recht symposium on psychiatry and the law
3 September	Walsrode	Conference on medical assistance for deportees (Federal Police)
24-25 September	Strasbourg	European NPM Forum Conference
1 October	Berlin	Meeting at the Federal Ministry of the Interior on monitoring mechanisms under the EU Screening Regulation
8 October	Augsburg	Conference of German spiritual advisors in secure psychiatric detention
8-10 November	Stuttgart	<i>Netzwerk Migrationsrecht</i> immigration law network autumn conference
12 November	Online	SPT, Webinar on NPM independence
13 November	Berlin	Meeting with the Federal Armed Forces Territorial Command
14-15 November	Berlin	Meeting of German-speaking NPMs
15 November	Potsdam	Meeting with the President of the Federal Police Headquarters
27-30 November	Berlin	Papers at the DGPPN conference
5-6 December	Darmstadt	Ninth <i>Gefängnis-Medizin-Tage</i> prison healthcare conference

7 – National Agency articles etc. in the reporting year

Menschenwürde und Forensische Psychiatrie. Erkenntnisse aus der Arbeit der Nationalen Stelle zur Verhütung von Folter, Kerbe, Forum für soziale Psychiatrie, 4/2024, pp. 8-9.

Interview with Mr Rainer Dopp, *Die Welt am Abend*, Bayern 2, broadcast on 31 October 2024.

Foltervorwürfe in JVA in Bayern, Kontraste, RBB, broadcast on 21 November 2024.

Psychisch krank im Gefängnis, Deutschlandfunk Kultur, broadcast on 2 December 2024, <https://www.deutschlandfunkkultur.de/psychisch-krank-im-gefaengnis-dlf-kultur-8433a958-100.html>.

VIII

Standards

I – Deportations

1.1 – Time of collection

Collections at night should be avoided, and must be avoided in the case of families with children.

1.2 – Deportation from prison

Individuals who have been serving a prison sentence should not be held in custody pending deportation after that prison sentence is over. Where persons who are required to leave the country are currently serving a prison sentence, every effort should be made to ensure they are deported before the end of their sentence.

It should always be ensured that a deportee has their personal belongings, necessary medication and other important items.

1.3 – Deportation from educational, medical, and care facilities

As a rule, people should not be deported from protected spaces such as hospitals, schools or daycare facilities.

1.4 – Respect for the best interests of children

Families should not be separated as a result of deportation measures. Children should not be shackled. Parents should not be shackled in the presence of their children. If children are deported, there should always be one person who is tasked with ensuring that the child's or children's best interests are respected during the deportation procedure. Suitable facilities to keep children occupied should be available at the airport.

1.5 – Medical examinations and “fit-to-fly” certificates

All deportees must be examined by a doctor shortly before their deportation to establish whether they are fit to fly.

1.6 – Strip-searches

Strip-searches involving a visual examination of a person's genital area represent a serious infringement of that individual's general right of personality.²¹¹ It should therefore be decided on

a case-by-case basis whether there are indications of a danger to public security and order that would justify a strip-search. Any such measures must adhere to the principle of proportionality.²¹²

If a strip-search is carried out, the reasons for this should be documented clearly and in full. Furthermore, the search should be carried out as respectfully as possible, for example in two stages with the individual keeping on their clothing above the waist while they are searched below the waist and vice versa. Staff of the opposite sex to the individual in question must not be present during such searches.

1.7 – Further training for staff

Deportations should be carried out by members of staff who are sufficiently qualified and have received adequate further training. For each deportation, the personnel responsible must have sufficient knowledge of the deportee's background and circumstances and, overall, of the legal and practical parameters.

All relevant personnel (for example transfer personnel from the *Land* police and foreigners' authorities; and private security personnel) should receive regular training in this area.

1.8 – Luggage

Every person awaiting deportation must be given the opportunity to pack personal belongings. Steps must be taken to ensure that the person being deported is dressed appropriately for the procedure and for the country of destination, and that identity documents, necessary medication, provisions for children, and any necessary medical aids (e.g. glasses) are packed. One of the persons carrying out the deportation should make sure that luggage is also packed for children being deported. A supply of basic personal hygiene products and sufficient clothing should be kept at the airport and issued as necessary.

1.9 – Cash lump sum

All deportees must have sufficient financial means to pay for the journey from the airport to their final destination, as well as for meals needed during this journey.

²¹¹ Federal Constitutional Court, order of 05 March 2015, file no.: 2 BvR 746/13, margin no. 33.

²¹² Cologne Administrative Court, judgment of 25 November 2015, file no.: 20 K 2624/14, margin nos. 115 et seqq.

1.10 – Information on the time of execution of the deportation order

For humanitarian reasons, wherever individual cases require – for example if families with children or sick persons are involved – persons required to leave the country should be informed at least a week in advance that their deportation is imminent.²¹³ A corresponding amendment to section 59(1) sentence 8 of the German Residence Act aims to ensure this.

1.11 – Information on the deportation procedure

At the time of collection, persons being deported should be provided with information on the deportation procedure. This should be done immediately, comprehensively, in writing and in a language they understand. The information should include the following details:

- The schedule of the deportation including flight times
- Information on luggage
- Information on rights during the deportation procedure

1.12 – Communication throughout the deportation procedure

It must be possible for persons being deported and the accompanying staff to communicate during the entire deportation procedure. Written information on the individual's rights and the deportation schedule are no substitute for the services of an interpreter where communication difficulties arise. Interpreters may assist via telephone or video conferencing.

To ensure the necessary interpreting services during coercive measures such as strip-searches, the interpreters should be of the same sex as the deportees.

1.13 – Contact with legal counsel

During the deportation procedure, persons awaiting deportation must be allowed to contact legal counsel. Such contact must be made possible at the beginning of the deportation procedure so that any necessary legal measures can be taken in good time. In the event that the person

concerned has so far had no contact with a lawyer, they must be given contact details for emergency legal services.

(Telephone) conversations with legal counsel must be private.

1.14 – Vulnerable individuals

During deportation procedures, special consideration should be given to the needs of and particular care required by vulnerable groups such as children, people with disabilities and the sick.

1.15 – Phone calls with relatives

All persons awaiting deportation should be given the opportunity to contact relatives.

1.16 – Mobile phones

Mobile phones should only be confiscated during a deportation procedure if this is deemed necessary in justified individual cases. If circumstances no longer require the confiscation of mobile phones, they must be returned to their owners. Before a mobile phone is confiscated, the person being deported must be given the opportunity to write down important phone numbers.

1.17 – Food and drink

Sufficient amounts of food and drink must be available throughout the deportation procedure.

2 – Custody pending deportation

2.1 – Initial medical examination

Every person required to leave the country must undergo an initial medical examination upon admission into custody pending deportation or custody to secure departure. It must be ensured that any indications of trauma or mental illness are diagnosed. In the event of communication difficulties, an interpreter should always be called upon to assist in initial medical examinations. For reasons of confidentiality, translations should not be performed by other detainees awaiting deportation. Moreover, if translations are performed by staff members or by other detainees awaiting deportation, there is no guarantee that technical terms and subject matter will be correctly translated into the other language.

²¹³ Cf. CPT/Inf (2019) 14, in particular paragraphs 16–19, <https://rm.coe.int/1680945a2b> (accessed 01 May 2025).

2.2 – External contact

It should be possible for persons required to leave the country to receive visitors without restrictions, especially relatives. In order to establish or maintain contact with their families and home country, and to facilitate their return, they should also be allowed to use mobile phones and have access to the internet.

2.3 – Activities and recreation

It should be possible for persons required to leave the country to make meaningful use of their time. There should be sufficient opportunities to do so every day. These include access to common rooms, prayer rooms and kitchens where detainees can prepare their own meals.

2.4 – Strip-searches

Strip-searches involving a visual examination of a person's genital area represent a serious infringement of that individual's general right of personality. It should therefore be decided on a case-by-case basis whether there are indications of a danger to public security and order that would justify a strip-search. Any such measures must adhere to the principle of proportionality.

If a strip-search is carried out, the reasons for this should be documented in a clear and comprehensible manner. Furthermore, the search should be carried out as respectfully as possible, for example in two stages with the individual keeping on their clothing above the waist while they are searched below the waist and vice versa. Staff of the opposite sex to the individual in question must not be present during such searches.

2.5 – Visibility of toilets

Staff should indicate their presence before entering a cell, especially if the toilet is not partitioned off. The individual in question might be using the toilet and should be given the opportunity to indicate this.

CCTV cameras must be fitted in such a way that the toilet area is either not visible on the monitor at all or is pixelated. Only where there is an acute risk of self-harm or suicide might a decision to allow unrestricted monitoring of a specially secured cell potentially be acceptable; such a decision would have to be carefully considered, reasoned and clearly documented in the individual case. If a toilet area is indeed covered by CCTV

monitoring without pixelation, only persons of the same sex as the individual monitored should carry out the monitoring.

2.6 – Physical restraint

The National Agency defines physical restraint (*Fixierung*) as the act of depriving a person of their freedom to move by binding their arms, legs and in some cases the centre of the body in such a way that they are unable or only marginally able to change their sitting or lying position independently. The Agency requires that the following conditions be met for the use of this measure:

The use of physical restraint is only to be ordered as a last resort, on the basis of clear and precisely defined criteria, and for the shortest possible period of time. To minimise the risk of physical harm, a strap-based system should be used for restraint. Persons who are being physically restrained should be appropriately clothed in order to protect their sense of modesty. They must be checked on regularly by a doctor. They must also be observed continuously and in person by therapeutic or care staff in direct proximity to them (one-on-one supervision). A judicial decision is required if physical restraint is to be used for more than just a short period of time.²¹⁴ After the measure ends, it should be discussed with the individual concerned.²¹⁵ The individual concerned should also be informed after the measure of their right to request a court review of the lawfulness of the restraint procedure.²¹⁶

The reasons for every instance of physical restraint should be documented in writing. That written record should include what less severe measures had already been tried and an explanation of why they failed.

2.7 – CCTV monitoring

CCTV monitoring should only be used in individual cases where this is imperative for the protection of the person concerned. There should be clear and comprehensive documentation of the reasons for the use of CCTV monitoring. In addition, the person concerned must be made aware that monitoring is taking place. The mere

²¹⁴ Federal Constitutional Court, judgment of 24 July 2018, file no.: 2 BvR 309/15, margin no. 69.

²¹⁵ DGPPN (2018): “S3-Leitlinie: Verhinderung von Zwang: Prävention und Therapie aggressiven Verhaltens bei Erwachsenen”.

²¹⁶ Federal Constitutional Court, judgment of 24 July 2018, file no.: 2 BvR 309/15, margin no. 85.

fact that the camera is visible is not sufficient. It should be possible for the individual to discern whether the camera is running.

2.8 – Clothing

As a rule, persons required to leave the country should be allowed to wear their own clothes.

2.9 – Staff

The staff of facilities for the enforcement of custody pending deportation or custody to secure departure should be specifically selected and trained to work in this field.

2.10 – Psychological and psychiatric care

The facility should make sure that a psychologist or psychiatrist is called in where necessary.

2.11 – Legal advice

Persons required to leave the country must be given the opportunity to seek legal advice.

2.12 – Legal basis

The detention conditions for persons in custody awaiting deportation and custody to secure departure must differ from those of sentenced prisoners.²¹⁷ Furthermore, any infringement of fundamental rights beyond the mere placement in such a detention facility requires its own legal basis.²¹⁸ Consequently, a specific legal basis must be established for the enforcement of custody pending deportation and custody to secure departure.

2.13 – Respectful treatment

Detainees awaiting deportation should be treated respectfully. For example, staff members should indicate their presence in a suitable manner before entering a cell, and should speak to detainees using polite forms of address.

2.14 – Placement of minors

Unaccompanied minors should not be placed in facilities for the enforcement of custody pending deportation or custody to secure departure, but in child and youth welfare facilities. If minors are

placed in facilities for custody pending deportation or custody to secure departure together with their parents or legal guardians, it must be ensured that such custody takes account of the child's best interests.

2.15 – Weapons in custody

In facilities for custody pending deportation or custody to secure departure, officers should remove firearms before entering a custody suite.

Due to the significant health risks involved, the use of pepper spray in confined spaces is not a proportionate measure under any circumstances. It should therefore be avoided inside such facilities.⁹²¹⁹

2.16 – Admission meeting

An admission meeting must be held with every newly admitted person, during which they should be informed of the reason for their detention. They should also be informed of their rights.

During these meetings, special attention should be paid to any indications of mental illness. If necessary, a psychologist should be involved.

The staff members responsible for conducting admission meetings must receive specialised training enabling them to recognise signs of trauma or mental illness. In the event of communication difficulties, an interpreter must be called upon to assist in admission meetings.

3 – Customs and Federal and Land police

3.1 – Furnishings, fittings and conditions in custody cells

The conditions in custody cells, including furnishings and fittings, must uphold the human dignity of detainees. Every custody cell should be equipped with a smoke detector, an emergency button, adjustable lighting, a non-flammable, wipeable mattress, a blanket and a pillow. Where a custody cell only has a low bed, it should have additional seating at standard height.

To ensure the protection of persons placed in custody in the event of a fire, all custody cells

²¹⁷ Article 16(1) of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

²¹⁸ Federal Constitutional Court, judgment of 31 May 2006, file no.: 2 BvR 1673/04.

²¹⁹ ECHR, *Tali v. Estonia*, judgment of 13 February 2014, Application no. 66393/10 § 78; CPT/Inf (2008) 33, paragraph 86, <https://rm.coe.int/1680697fb3> (accessed 1 May 2025).

must be fitted with a smoke detector.

In addition, it must be possible for persons deprived of their liberty to call for attention using an emergency button. Proper functioning of the alarm system must be ensured, and checked before each occupancy.

It should be possible to adjust the lighting in custody cells to ensure that persons taken into custody are able to sleep, while at the same time reducing the risk of injury and enabling detainees to find their way about in the dark.

Every custody cell, even those intended for short-term custody, should have a source of a natural light. A suitable room temperature should also be ensured in custody cells.

3.2 – Notification of rights

Every person deprived of their liberty must be informed of their rights, immediately and without exception. To this end, forms containing all the relevant information should be available in various languages. Those forms must at the very least include information about the fact that anyone who is taken into custody has the right to be examined by a doctor, to consult a lawyer, to notify a trusted third party and, where applicable, to inform the consulate of their home country. It should be documented in the police custody record book that the person taken into custody has been informed of their rights so that it is immediately clear to staff members following a shift change-over whenever the relevant information has not been communicated for any specific reason. If a person was not informed of their rights when they were brought into custody, this must be done at a later point in time.

3.3 – Documentation

Custody documentation at police stations and customs offices should be clear and comprehensible. This serves to protect those being held in custody, as well as the staff members responsible.

The following details should be documented:

- The personal details of the individual concerned
- When the deprivation of liberty began
- The staff members responsible for taking the individual into custody and for supervising them during custody
- The individual's state of health

- Whether the individual was informed of their rights
- Whether the individual was informed of the reason for the deprivation of liberty
- Whether a judicial order was obtained
- If a strip-search was conducted, the reasons for this
- The name of the staff member conducting the strip-search
- The times of checks, including the initials of the staff member in question
- The time and type of meals
- The confiscation and subsequent return of personal items
- The time of release
- If it was not possible to inform an individual of their rights when they were brought into custody, it should be documented whether this was done at the latest by the time they were released

Senior officers should check at regular intervals whether the documentation is complete. These checks should be recorded.

3.4 – Strip-searches

Strip-searches involving a visual examination of a person's genital area represent a serious infringement of that individual's general right of personality.²²⁰ It should therefore be decided on a case-by-case basis whether there are indications of a danger to public security and order that would justify a strip-search. Any such measures must adhere to the principle of proportionality.²²¹

If a strip-search is carried out, the reasons for this should be fully documented in a clear and comprehensible manner. Furthermore, the search should be carried out as respectfully as possible, for example in two stages with the individual keeping on their clothing above the waist while they are searched below the waist and vice versa. Staff of the opposite sex to the individual in question must not be present during such searches.

²²⁰ Federal Constitutional Court, order of 05 March 2015, file no.: 2 BvR 746/13, margin no. 33.

²²¹ Cologne Administrative Court, judgment of 25 November 2015, file no.: 20 K 2624/14, margin no. 115 et seqq.

3.5 – Visibility of custody cells

It must not be possible for third parties to see into a custody cell.

3.6 – Visibility of toilets

It must be ensured without exception that persons taken into custody cannot be observed when using the toilet. For example, a screen could be installed to block the view of the toilet area.

CCTV cameras must be fitted in such a way that the toilet area is either not visible on the monitor at all or is pixelated. Unrestricted monitoring of the custody cell should only be permitted in carefully assessed, reasoned and clearly documented individual cases where there is an acute danger of self-harm or suicide. If a toilet area is indeed covered by CCTV monitoring without pixelation, only persons of the same sex as the individual monitored should carry out the monitoring.

3.7 – Shackling

In contrast to physical restraint (*Fixierung*), shackling (*Fesselung*), in the National Agency's usage of the term, is the restriction of movement by tying an individual's arms or legs together or to an object.

Tying people to the wall or to other objects violates their human dignity and must be avoided in all situations.

In order to protect the right to physical integrity, any shackling in custody should be carried out using textile hand restraint belts,²²² which should be kept on hand at all times.

3.8 – Physical restraint

Physical restraint should not be used at all during police custody or customs custody.

3.9 – Size of custody cells

Custody cells must be designed in such a way as to ensure humane detention conditions.

A single-occupancy custody cell must have a floor space of at least 4.5 m². Multiple-occupancy custody cells must have a floor space of at least 3.5 square metres per person.

There must be a distance of at least 2 m between opposite walls, and the ceiling must be considerably higher than 2 m.

²²² For example Segufix hand restraint belts.

3.10 – CCTV monitoring

CCTV monitoring should only be used in police stations and customs offices in individual cases where this is imperative for the protection of the person concerned. There should be clear and comprehensive documentation of the reasons for the use of CCTV monitoring. In addition, the person concerned must be made aware that monitoring is taking place. The mere fact that the camera is visible is not sufficient. It should be possible for the individual to discern whether the camera is running.

3.11 – Multiple occupancy of custody cells

In order to ensure humane detention conditions, it is imperative that custody cells accommodating more than one person have a completely separate toilet with separate ventilation.

3.12 – Right to medical examination

Every person taken into custody has the right to consult a doctor.

3.12A – Medical supervision during excretion of drug packages

Due to the potential risks involved and in order to protect the right to life and physical integrity, a detained person who internally concealed drugs should be under medical supervision before, during and after excretion of the foreign objects.

3.13 – Respectful treatment

Persons being held in detention should be treated respectfully. For example, staff members should indicate their presence in a suitable manner before entering a custody cell, and should speak to detainees using polite forms of address.

3.14 – Independent complaints and investigation bodies

An essential element of preventing abuse by staff members is the detection, prosecution and punishment of misconduct.

Every *Land* should therefore set up independent complaints and investigation bodies.²²³

²²³ See, inter alia, ECHR, *Kummer v. the Czech Republic*, judgment of 25 July 2013, Application no. 32133/11, § 83; *Ermiášova and Pechová v. the Czech Republic*, judgment of 16 February 2012, Application no. 23944/04, § 135.

3.15 – Confidentiality of conversations

Persons in custody must be given the opportunity to have private conversations with their lawyers. Confidentiality should also be ensured for conversations with doctors and relatives.

3.16 – Weapons in custody

Officers should remove firearms before entering a custody suite.

Given the significant health risks involved, the use of pepper spray in confined spaces is not a proportionate measure under any circumstances. It should therefore be avoided inside police stations and customs offices.²²⁴

4 – Child and youth welfare facilities

4.1 – Possibilities for complaint

Children and juveniles must be able to submit complaints to a suitable complaints body. In addition to contact persons within the facility, section 9a of Book 8 of the Social Code provides for the establishment in the *Länder* of offices of ombudspersons, to which young people and families can turn for advice and conflict resolution. The necessary framework for this needs to be created under *Land* law.

Children and juveniles must be able to contact their competent ombudsperson easily and in confidence. The complaints channels and all necessary contact details should be set out in a child-friendly information leaflet or in the facility's house rules, and explained to new arrivals when they are first admitted to the facility.

4.2 – Outdoor exercise

Every person deprived of their liberty should be offered at least one hour of outdoor exercise per day. That period should be considerably longer for children and juveniles.

4.3 – Information on rights

When they are admitted to the facility, children and juveniles must be informed in writing about their rights. This information must be provided

in a manner that is appropriate to their age.

4.4 – CCTV monitoring

CCTV monitoring should only be used in child and youth welfare facilities in individual cases where this is imperative for the protection of the person concerned. Under no circumstances is CCTV monitoring a substitute for the presence of members of staff. There should be clear and comprehensive documentation of the reasons for the use of CCTV monitoring. In addition, the persons concerned must be informed that monitoring is taking place. The mere fact that the camera is visible is not sufficient. It should be possible for the individual to discern whether the camera is running.

5 – Prisons

5.1 – Clothing worn in specially secured cells

Individuals held in specially secured cells are to be issued with appropriate clothing that you cannot see through.

5.2 – Strip-searches

According to the Federal Constitutional Court, strip-searches involving a visual inspection of a person's genital area represent a serious infringement of that individual's general right of personality.²²⁵ Strip-searches must not be conducted as a matter of routine in the absence of concrete suspicions.²²⁶ To satisfy this requirement, general strip-search orders must allow for exceptions if the principle of proportionality so demands. Staff must be made aware that in individual cases it may not be necessary for the prisoner to undress fully.

If a strip-search is carried out, the reasons for this should be documented in a clear and comprehensible manner. If it is indeed necessary that the person concerned undress fully, then the search should be conducted respectfully, for example in two stages with the individual keeping on their clothing above the waist while they are searched below the waist and vice versa. Staff

²²⁴ ECHR, *Tali v. Estonia*, judgment of 13 February 2014, Application no. 66393/10 § 78; CPT/Inf (2008) 33, paragraph 86.

²²⁵ Federal Constitutional Court, order of 5 March 2015, file no.: 2 BvR 746/13, margin no. 33.

²²⁶ Federal Constitutional Court, order of 10 July 2013, file no.: 2 BvR 2815/11, margin no. 16.

of the opposite sex to the individual in question must not be present during such searches.

5.3 – Showers

Persons who have been deprived of their liberty should be given the opportunity to shower alone if they wish to do so. At least one shower should be partitioned off in communal shower rooms.

5.4 – Visibility of toilets

Staff should indicate their presence before entering a cell, especially if the toilet is not partitioned off. The individual in question might be using the toilet and should be given the opportunity to indicate this.

CCTV cameras must be fitted in such a way that the toilet area is either not visible on the monitor at all or is pixelated. Only where there is an acute risk of self-harm or suicide might a decision to allow unrestricted monitoring of a specially secured cell potentially be acceptable; such a decision would have to be carefully considered, reasoned and clearly documented in the individual case. If a toilet area is indeed covered by CCTV monitoring without pixelation, only persons of the same sex as the individual monitored should carry out the monitoring.

5.5 – Solitary confinement

To mitigate the negative impact of solitary confinement on mental and physical health, the individuals concerned should be provided with sufficient opportunities for human contact (e.g. extended visiting times) and to engage in meaningful activities. Those placed in solitary confinement should also be seen regularly by a psychiatrist or psychologist. This should take place in a suitable and confidential environment.

5.6 – Physical restraint

The use of physical restraint²²⁷ is only to be ordered as a last resort, on the basis of clear and precisely defined criteria, and for the shortest possible period of time. To minimise the risk of physical harm, a strap-based system should be used for restraint. Persons who are being physically restrained should be appropriately clothed in order to protect their sense of modesty. They must be checked on regularly by a doctor. They must also be observed continuously and in person

²²⁷ Definition: see VIII 2.6 – Physical restraint.

by therapeutic or care staff in direct proximity to them (one-on-one supervision). A judicial decision is required if physical restraint is to be used for more than just a short period of time.²²⁸ After the measure ends, it should be discussed with the individual concerned.²²⁹ The individual concerned should also be informed after the measure of their right to request a court review of the lawfulness of the restraint procedure.²³⁰

The reasons for every instance of physical restraint should be documented in writing. That written record should include what less severe measures had already been tried and an explanation of why they failed.

5.7 – Cell size

In order for detention conditions to be humane, a single-occupancy cell must have a floor space of at least 6 m²,²³¹ excluding the sanitary facilities. In cases where the sanitary facilities are not partitioned off, approximately one further square metre should be added for that area, giving a total floor space of at least 7 m². For multiple occupancy, a further 4 m² of floor space must be added to the minimum area for each additional person, excluding the area of the sanitary facilities.

5.8 – CCTV monitoring

CCTV monitoring in prisons should only be carried out in individual cases where this is imperative for the protection of the person concerned. Under no circumstances is CCTV monitoring a substitute for the presence of members of staff. There should be clear and comprehensive documentation of the reasons for the use of CCTV monitoring. In addition, the person concerned must be made aware that monitoring is taking place. The mere fact that the camera is visible is not sufficient. It should be possible for the individual to discern whether the camera is running.

²²⁸ Federal Constitutional Court, judgment of 24 July 2018, file no.: 2 BvR 309/15, margin no. 69.

²²⁹ DGPPN (2018): “S3-Leitlinie: Verbinderung von Zwang: Prävention und Therapie aggressiven Verhaltens bei Erwachsenen”.

²³⁰ Federal Constitutional Court, judgment of 24 July 2018, file no.: 2 BvR 309/15, margin no. 85.

²³¹ 6 m² is the absolute minimum requirement. In the National Agency’s view, cells that are smaller than this violate Article 1 of the German Basic Law. Any additional legal requirements beyond this minimum standard must, of course, also be observed, and are welcomed.

5.9 – Multiple-occupancy of cells without separate toilets

According to past decisions of the Federal Constitutional Court,²³² cells accommodating more than one person must have a completely separate toilet with separate ventilation. Multiple occupancy without such a separation constitutes a violation of human dignity.

5.10 – Use of segregation units

In addition to the specially secured cells containing no dangerous objects, facilities may also have segregation units with similar furnishings and fittings. In such cases, the same detention conditions must be applied as for the specially secured cells. Furthermore, comprehensive documentation must be maintained, in line with procedures for specially secured cells.

5.11 – Respectful treatment

Prisoners should be treated respectfully. This includes staff indicating their presence in a suitable manner before entering the prison cell, and speaking to inmates using polite forms of address.

5.12 – Peepholes and viewing windows

Except in the case of observation rooms, peepholes and viewing windows should be covered in order to protect the privacy of detainees.

5.13 – Interpretation during medical consultations

Confidentiality must be ensured for medical consultations, which are subject to medical secrecy. Furthermore, it must be ensured, where necessary, that technical terms and subject matter are adequately translated into the other language. In the event of communication difficulties, an interpreter must be called upon to assist. Translation by fellow inmates or any of the facility's non-medical staff is not appropriate.

5.14 – Handling confidential medical information

In order to ensure medical information is handled confidentially, details concerning infectious diseases, for example, should only be recorded in medical files and not in prisoner files. This

ensures that only medical personnel are made aware of such information, and not general prison staff.

5.15 – Conditions in prison cells

In prisons, inmates should have access to natural, unfiltered light in their cells. Their view outside may not be obstructed by opaque plexiglass panes, for instance.

6 – Psychiatric clinics

6.1 – Segregation

Segregation may only be carried out on the basis of an individual risk assessment, and for the shortest possible period of time. Segregation lasting for more than just a short period requires judicial authorisation.²³³

6.2 – Clothing for crisis intervention rooms

Individuals held in crisis intervention rooms are to be issued with appropriate clothing that you cannot see through.

6.3 – Outdoor exercise

Every person deprived of their liberty should be offered at least one hour of outdoor exercise per day. That period should be considerably longer for children and juveniles.

6.4 – Documentation of coercive measures

All coercive measures should be documented comprehensively, comprehensibly and completely. The reasons for the measures should be documented. This includes documenting which less severe measures have already been tried and an explanation of why they failed.

6.5 – Strip-searches

According to the Federal Constitutional Court, strip-searches involving a visual inspection of a person's genital area represent a serious infringement of that individual's general right of personality.²³⁴ Strip-searches must not be conducted as a matter of routine in the absence of concrete

²³² Federal Constitutional Court, order of 22 February 2011, file no.: 1 BvR 409/09, margin no. 30.

²³³ Under section 32(3) of the North Rhine-Westphalia Act on Criminal Law-related Committal, all forms of segregation in psychiatric facilities in the *Land* require a judicial decision if they last longer than 24 hours.

²³⁴ Federal Constitutional Court, order of 05 March 2015, file no.: 2 BvR 746/13, margin no. 33.

suspicions.²³⁵ To satisfy this requirement, general strip-search orders must allow for exceptions if the principle of proportionality so demands. Staff must be made aware that in individual cases it may not be necessary for the person in question to undress fully.

If a strip-search is carried out, the reasons for this should be documented in a clear and comprehensible manner. If it is indeed necessary that the person concerned undress fully, then the search should be conducted respectfully, for example in two stages with the individual keeping on their clothing above the waist while they are searched below the waist and vice versa. Staff of the opposite sex to the individual in question must not be present during such searches.

6.6 – Visibility of toilets

Staff should indicate their presence before entering a patient room, especially if the toilet is not partitioned off. The patient might be using the toilet and should be given the opportunity to indicate this.

CCTV cameras must be fitted in such a way that the toilet area is either not visible on the monitor at all or is pixelated. Only where there is an acute risk of self-harm or suicide might a decision to allow temporarily unrestricted monitoring of a crisis intervention room potentially be acceptable; any such decision should be carefully considered, reasoned and clearly documented. If a toilet area is indeed covered by CCTV monitoring without pixelation, only persons of the same sex as the individual monitored should carry out the monitoring.

6.7 – Physical restraint

The use of physical restraint²³⁶ is only to be ordered as a last resort, on the basis of clear and precisely defined criteria, and for the shortest possible period of time. Persons who are being physically restrained should be appropriately clothed in order to protect their sense of modesty. They must be checked on regularly by a doctor. The individuals in question must also be observed continuously and in person by therapeutic or care staff who are in direct proximity to them (one-on-one supervision). A judicial decision is required if physical restraint is to be used for more than just

a short period of time.²³⁷ After the measure ends, it should be discussed with the individual concerned.²³⁸ The individual concerned should also be informed after the measure of their right to request a court review of the lawfulness of the restraint procedure.²³⁹

The reasons for every instance of physical restraint should be documented in writing. That written record should include what less severe measures had already been tried and an explanation of why they failed.

6.8 – Information on rights

Patients must receive written information on their rights in the psychiatric facility. Where young people are concerned, this information should be provided in an age-appropriate form.

6.9 – CCTV monitoring

CCTV monitoring of patients in psychiatric facilities should only be used where absolutely necessary in a given case. Under no circumstances is CCTV monitoring a substitute for the presence of members of staff. There should be clear and comprehensive documentation of the reasons for the use of CCTV monitoring. In addition, the person concerned must be made aware that monitoring is taking place. The mere fact that the camera is visible is not sufficient. It should be possible for the individual to discern whether the camera is running.

6.10 – Multiple-occupancy of patient rooms without separate toilets

Rooms accommodating more than one person must have a completely separate toilet with separate ventilation. Multiple occupancy without such a separation constitutes a violation of human dignity.

6.11 – Respectful treatment

Patients should be treated respectfully. For example, staff members should indicate their presence by knocking on the door before entering a room, and should speak to patients using polite forms of address.

²³⁵ Federal Constitutional Court, order of 10 July 2013, file no.: 2 BvR 2815/11, margin no. 16.

²³⁶ Definition: see VIII 2.6 – Physical restraint.

²³⁷ Federal Constitutional Court, judgment of 24 July 2018, file no.: 2 BvR 309/15, margin no. 69.

²³⁸ DGPPN (2018): “S3-Leitlinie: Verbinderung von Zwang: Prävention und Therapie aggressiven Verhaltens bei Erwachsenen”.

²³⁹ Federal Constitutional Court, judgment of 24 July 2018, file no.: 2 BvR 309/15, margin no. 85.

6.12 – Peepholes and viewing windows

Steps must be taken to ensure that third parties cannot see into patient rooms or into observation or crisis intervention rooms.²⁴⁰

6.13 – Confidentiality of conversations

In psychiatric facilities, measures should be introduced to ensure that phone calls can be made confidentially and personal conversations can be conducted in private.

7 – Detention facilities of the Federal Armed Forces

7.1 – Furnishings, fittings and conditions in detention cells

In the detention facilities of the Federal Armed Forces, the conditions in the cells, including furnishings and fittings, must uphold the human dignity of detainees. Every detention cell should be equipped with a smoke detector, an emergency button, adjustable lighting, a non-flammable, wipeable mattress, a blanket and a pillow. In addition, it should have seating at standard height and a table.

To ensure the protection of detainees in the event of a fire, all detention cells must be fitted with a smoke detector.

In addition, it must be possible for persons deprived of their liberty to call for attention using an emergency button. Proper functioning of the alarm system must be ensured, and checked before each occupancy.

It should be possible to adjust the lighting in detention cells to ensure that detainees are able to sleep, while at the same time reducing the risk of injury and enabling them to find their way about in the dark.

In the detention facilities of the Federal Armed Forces, detainees should have access to natural, unfiltered light in their cells. Their view outside may not be obstructed by opaque plexiglass panes, for instance. Furthermore, a suitable room temperature should be ensured in detention cells.

²⁴⁰The term “crisis intervention room” refers to a room in which patients are placed to avert an acute risk of harm to themselves or others.

7.2 – Notification of rights

Every person deprived of their liberty must be informed of their rights, immediately and without exception. To this end, forms containing all the relevant information – at the very least information about the fact that the persons concerned have the right to be examined by a doctor, to consult a lawyer and to notify a trusted third party – must be kept available.

7.3 – Specially secured detention cells

In specially secured cells, there must be no objects that could enable detainees to injure themselves.

In addition, close supervision and medical observation of detainees must be ensured.

Where a person is placed in a specially secured cell and is therefore isolated, it is critical that the medical staff pay particular attention to the person’s health and that regular medical checks are ensured in order to prevent damage to their health. Close supervision must be ensured in order to exert a de-escalating influence on the detainee and to help terminate the measure in a timely manner.

7.4 – Documentation

Documentation should be clear and comprehensible. In order to protect the individuals held in disciplinary detention as well as the soldiers in charge (detention enforcement officers), all information related to the detention must be fully documented.

The following details should be documented:

- The personal details of the individual concerned
- When the deprivation of liberty began
- The soldiers in charge (detention enforcement officers) at the time the individual is taken to the facility
- The fitness for detention of the individual concerned
- The individual’s state of health
- Whether the individual was informed of their rights
- Whether the individual was informed of the reason for the deprivation of liberty
- Whether a judicial order was obtained

- The times of checks, including the initials of the soldiers in charge
- The time and type of meals
- Outdoor exercise
- The daily routine of the individual concerned (whether they leave detention to perform their duties or to engage in purposeful activities)
- The confiscation and subsequent return of personal items
- The time of release

Senior officers should check at regular intervals whether the documentation is complete. These checks should be recorded.

7.5 – Visibility of toilets

The soldiers in charge (detention enforcement officers) should indicate their presence in an appropriate manner before entering a detention cell, especially if the toilet is not partitioned off. The individual in question might be using the toilet and should be given the opportunity to indicate this.

7.6 – Size of detention cells

In order for detention conditions to be humane, a detention cell must have a floor space of at least 6 m², excluding the sanitary facilities. In cases where the sanitary facilities are not partitioned off, approximately one further square metre should be added for that area, giving a total floor space of at least 7 m².

7.7 – Respectful treatment

Persons being held in detention should be treated respectfully. This includes staff indicating their presence in a suitable manner before entering the detention cell, and speaking to detainees using polite forms of address. Should peepholes be deemed necessary in justified individual cases, the soldiers in charge (detention enforcement officers) should make themselves heard before looking through the peephole.

7.8 – Fitness for detention

Whether a person to be detained is actually fit for detention should always be determined on the basis of a medical examination.