



Report

**to the German Government
on the visit to Germany
carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)**

from 25 November 2015 to 7 December 2015

The German Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2017) 14.

Strasbourg, 1 June 2017

CONTENTS

Copy of the letter transmitting the CPT's report.....	4
Executive summary	5
I. INTRODUCTION.....	9
A. Dates of the visit and composition of the delegation	9
B. Context of the visit and establishments visited.....	10
C. Consultations held by the delegation and co-operation encountered.....	11
D. National Preventive Mechanism	14
II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED	15
A. Police establishments	15
1. Preliminary remarks	15
2. Ill-treatment	15
3. Safeguards	19
4. Conditions of detention	23
5. Other issues.....	24
B. Prison establishments	25
1. Preliminary remarks	25
2. Ill-treatment	26
3. Conditions of detention	27
a. material conditions	27
b. regime.....	27
4. Situation of inmates subjected to prolonged solitary confinement.....	28
5. Health care	30
6. Other issues.....	33
a. contact with the outside world	33
b. discipline	35
c. security-related issues	38
d. house rules.....	39

C. Psychiatric establishments	40
1. Preliminary remarks	40
2. Ill-treatment	42
3. Patients' living conditions	44
4. Staff	45
5. Treatment.....	46
6. Means of restraint	49
7. Safeguards	52
a. initial placement and discharge.....	52
b. safeguards during placement.....	55
8. Other issues.....	57
a. disciplinary measures	57
b. security-related issues	58
c. the use of surgical castration in the context of treatment of sex offenders	60

APPENDIX:

List of federal and Länder authorities, organisations and persons

with whom the CPT's delegation held consultations	61
--	-----------

Copy of the letter transmitting the CPT's report

Ms Almut Wittling-Vogel
Ministerialdirigentin
Representative of the Federal
Government for Matters Relating
to Human Rights
Federal Ministry of Justice and
Consumer Protection
D – 11015 Berlin

Strasbourg, 29 August 2016

Dear Ms Wittling-Vogel,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the German Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Germany from 25 November to 7 December 2015. The report was adopted by the CPT at its 90th meeting, held from 4 to 8 July 2016.

The various recommendations, comments and requests for information formulated by the CPT are highlighted in bold in the body of the report. As regards more particularly the CPT's recommendations, having regard to Article 10, paragraph 1, of the Convention, the Committee requests the German authorities to provide within **six months** a response giving a full account of action taken to implement them.

The CPT trusts that it will also be possible for the German authorities to provide, in the above-mentioned response, reactions to the comments and requests for information formulated in this report.

The Committee would ask, in the event of the response being forwarded in German, that it be accompanied by an English or French translation.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours sincerely,

Mykola Gnatovskyy
President of the European Committee for the
Prevention of Torture and Inhuman or
Degrading Treatment or Punishment

EXECUTIVE SUMMARY

The main objective of the CPT's 2015 visit to Germany was to review the measures taken by the relevant authorities to implement recommendations made by the Committee after its previous visits. To this end, the CPT's delegation visited several police establishments, prisons and civil/forensic psychiatric hospitals in different *Länder*. The reception at the establishments visited was in many respects excellent, and all staff met by the delegation made genuine efforts to be helpful and co-operative. However, the work of the delegation was seriously hampered as a result of instructions issued by various *Länder* authorities shortly before the visit, which required the express consent of every individual prisoner or patient to give delegation members access to his/her individual administrative and medical files. The most serious problem was encountered at Uchtspringe Forensic Psychiatric Clinic (Saxony-Anhalt) where the delegation was even denied access to a list of the patients who were being held in the clinic on an involuntary basis. Since this matter could not be resolved, the delegation had no choice but to interrupt its visit to the clinic. The CPT urges all relevant federal and *Länder* authorities to take immediate action to ensure that visiting delegations henceforth have unrestricted access to the administrative and medical files of detained persons.

Police establishments

As during the 2010 visit, the delegation heard no allegations of deliberate physical ill-treatment of detained persons by police officers whilst in police custody, and most of the persons interviewed who were or had recently been in police custody indicated that they had been treated with respect by police officers. However, once again some allegations were received from detained persons – in particular foreign nationals and persons suffering from a mental disorder – that they had been subjected to excessive use of force by police officers at the time of apprehension (such as punches or kicks after the person concerned had been brought under control or unduly tight handcuffing). The CPT stresses the need for the authorities of all *Länder* to remain vigilant and to continue to remind police officers that no more force than is strictly necessary should be used when carrying out an apprehension.

Overall, the delegation gained a positive impression of the implementation in practice of the fundamental safeguards against ill-treatment, notably as regards the rights of notification of custody and access to a doctor. In most of the police establishments visited, information sheets on the rights of detained persons (*Belehrung*) were available in a wide range of foreign languages. That said, the CPT expresses concern about the fact that certain long-standing recommendations regarding fundamental safeguards have still not been implemented. In particular, detained persons are still not entitled to have a lawyer present during police questioning (as opposed to any questioning by a public prosecutor or a judge). The CPT calls upon the federal and all *Länder* authorities to take the necessary measures to ensure that all detained persons (including those who are not able to pay for a lawyer themselves) can effectively benefit, if they so wish, from access to a lawyer throughout their police custody, including during any police questioning. In addition, steps should be taken to ensure that detained juveniles are not subjected to police questioning (or required to sign any statement related to the offence of which they are suspected) without the presence of a lawyer and, ideally, a trusted adult.

As was the case during previous visits, material conditions of detention in all the police establishments visited were, on the whole, adequate for short-term custody. Custody cells were maintained in an appropriate state of repair and cleanliness and usually fitted with a call system. That said, despite the specific recommendation repeatedly made, mattresses were still not provided to persons held in overnight custody at Donauwörth Police Station and in the sobering-up cells at Berlin South-West Police Station and Magdeburg Police Headquarters. The CPT calls upon the police authorities of Bavaria, Berlin and Saxony-Anhalt to remedy this deficiency.

The CPT welcomes the fact that, since the 2010 visit, the use of mechanical restraint (*Fixierung*) in the context of police custody has been abandoned by the police authorities of several *Länder*, including Baden-Württemberg, Berlin, Saarland and Thuringia. The Committee calls upon the police authorities of Lower Saxony, North-Rhine Westphalia, Saxony-Anhalt and all other *Länder* concerned to put an end to this practice without any further delay.

Prisons

As in 2010, the delegation received no allegations – and found no other indications – of physical ill-treatment of prisoners by staff, and inter-prisoner violence did not seem to be a major problem in any of the establishments visited. However, the CPT must express its dismay about the frequency of complaints received from prisoners at Kaisheim Prison regarding instances of rude and disrespectful behaviour and language by several members of the establishment's health-care staff. The Committee recommends that the prison authorities of Bavaria deliver a clear message to all members of the health-care staff at Kaisheim Prison, reminding them that any disrespectful or provocative behaviour towards prisoners is unacceptable and will be dealt with accordingly.

At Celle, Kaisheim and Tonna Prisons, material conditions were generally very good in terms of state of repair, living space, access to natural light, ventilation and equipment. The delegation also gained a generally favourable impression of the regime activities provided at these prisons, but it is a matter of concern that the opportunities for work or vocational training remained very limited for remand prisoners at Kaisheim and Tonna Prisons.

As regards the provision of health care in the establishments visited, the existing facilities were generally of a high standard in terms of infrastructure and equipment. Further, access to medical consultations was generally guaranteed without delay in all the establishments visited. That said, it is a matter of serious concern that, in particular at Kaisheim and Tonna Prisons, the management repeatedly encountered major difficulties in transferring prisoners suffering from severe mental disorders to a hospital setting (either a prison hospital or a psychiatric clinic). Moreover, the delegation observed striking differences between the different prisons visited when it came to the issue of opiate substitution treatment for drug-addicted prisoners. While such treatment was offered to prisoners at Celle and Tonna Prisons, it was as a matter of policy usually not offered to prisoners at Kaisheim Prison, despite the fact that it was generally available in the outside community. In the CPT's view, such a state of affairs is clearly not in compliance with the principle of equivalence of care.

The delegation observed a striking contrast between the prisons visited regarding the arrangements for prisoners' contact with the outside world. It is particularly praiseworthy that, at Celle and Tonna Prisons, prisoners were provided with access to the telephone inside their cells, as part of the multimedia equipment which could be rented by prisoners. However, at Kaisheim Prison, both remand prisoners and sentenced prisoners (including those sentenced to life imprisonment) were – as a general rule – not allowed to make any telephone calls. In the CPT's view, such a state of affairs is unacceptable and incompatible with the European Prison Rules.

The CPT welcomes the fact that, at Celle and Tonna Prisons, sentenced prisoners (and, exceptionally, also remand prisoners) could benefit after one year of imprisonment from unsupervised visits (*Langzeitbesuche*) by spouses (and children) of up to several hours, provided that they met certain criteria and successfully underwent a risk assessment. Regrettably, no such possibility existed at all at Kaisheim Prison.

As regards discipline, the CPT considers the maximum possible period of solitary confinement of four weeks for adult prisoners in various *Länder* prison laws to be excessive. Given the potentially very damaging effects of solitary confinement on the mental and/or physical well-being of the prisoners concerned, this period should be no more than 14 days for a given offence, and preferably lower. Further, the Committee recommends that the disciplinary sanction of solitary confinement be abolished in respect of juveniles, in accordance with the United Nations Standard Minimum Rules on the Treatment of Prisoners (*Nelson Mandela Rules*).

The CPT is pleased to note that the downward trend observed during the 2013 visit regarding the use of mechanical restraint (*Fixierung*) in prisons has continued. As a matter of fact, in most of the prisons visited, hardly any prisoner had been subjected to *Fixierung* in recent years. The CPT encourages the relevant authorities of all *Länder* to abandon the resort to *Fixierung* in prisons.

Psychiatric establishments

The delegation visited St Joseph's Psychiatric Hospital in Berlin-Weißensee (Berlin) and two forensic psychiatric establishments, namely Brandenburg an der Havel Forensic Psychiatric Clinic (Brandenburg) and Wasserburg am Inn Forensic Psychiatric Clinic (Bavaria).

The delegation received no allegations of deliberate physical ill-treatment of patients by staff in any of the psychiatric hospitals visited. That said, the delegation received a number of complaints of verbal abuse, threats and disrespectful behaviour by staff at Brandenburg and Wasserburg Forensic Psychiatric Clinics. Moreover, at Brandenburg Forensic Psychiatric Clinic, the delegation received allegations that some vulnerable patients were repeatedly subjected to physical and verbal abuse, as well as sexual harassment and exploitation. The CPT recommends that the management of Brandenburg and Wasserburg Forensic Psychiatric Clinics exercise continuous vigilance and remind staff that any form of ill-treatment (including verbal abuse and threats) or disrespectful/provocative behaviour towards patients is unacceptable and will be sanctioned accordingly. The Committee also stresses the need for the management of Brandenburg Forensic Psychiatric Clinic to pursue its efforts to address the problem of inter-patient violence and protect all patients from other patients who might cause them harm (including by ensuring adequate staff presence and supervision at all times).

Living conditions were generally of a high standard at St Joseph's Psychiatric Hospital and at Brandenburg and Wasserburg Forensic Psychiatric Clinics. In all three establishments, patients were offered a range of sports and other recreational activities, and patients usually benefited from daily outdoor exercise. However, at Wasserburg Forensic Psychiatric Clinic, the delegation received a number of complaints that, on various occasions, patients had not been granted access to daily outdoor exercise.

Health-care staffing levels appeared to be generally adequate in all the psychiatric establishments visited. Further, the delegation gained a generally favourable impression of the treatment provided to patients. Patients usually had individual treatment plans that appeared to correspond to their needs. In addition to pharmacotherapy, patients were also offered individual psychotherapy and several group therapies, as well as a range of occupational, educational and sports therapies. Notwithstanding that, the Committee encourages the management of the Clinic to re-double their efforts to encourage patients who are currently not enrolled in any therapy to participate in therapeutic activities that are adapted to their specific needs.

At Brandenburg Forensic Psychiatric Clinic, some patients who had committed sexual offences and who had been or were receiving anti-androgen treatment (so-called “chemical castration”) claimed that they had been put under pressure by the treating doctor to accept the treatment and that they had been advised that there would be no relaxation of the regime (*Lockerung*) until they started the treatment (the implicit message being that there would otherwise be no realistic prospect of being released in the foreseeable future). Thus, the CPT has some doubts as to whether all patients concerned were placed in a position to give free and informed consent to anti-androgen treatment. The Committee recalls that, as a matter of principle, anti-androgen treatment should be given on a purely voluntary basis. As should be the case before starting any medical treatment, the free and informed written consent of the patient concerned should be obtained prior to the commencement of anti-androgen treatment, it being understood that consent can be withdrawn at any time; in addition, the patient should be fully informed of all the potential effects and side-effects of the treatment, as well as the consequences of refusal to undergo such treatment.

As regards the use of means of restraint, the CPT expresses serious concern that, in all three psychiatric establishments visited, patients under mechanical restraint (*Fixierung*) were not always subjected to continuous, direct and personal supervision by a member of the health-care staff (*Sitzwache*). The Committee also stresses the need for all establishments visited to establish a specific register to systematically record all instances of recourse to means of restraint and to provide relevant staff with training in the use of restraint techniques and equipment.

Moreover, the CPT formulates a number of specific recommendations regarding the legal safeguards offered to civil and forensic psychiatric patients in the context of involuntary placement and review procedures.

The CPT notes that Bavaria is one of very few *Länder* in Germany where the relevant mental-health legislation provides for the possibility of imposing disciplinary sanctions on forensic psychiatric patients, a possibility which, in the CPT’s experience, does not as a rule exist in other Council of Europe member States. As a matter of principle, the CPT has reservations about the use of disciplinary measures vis-à-vis psychiatric patients. Such measures aim at sanctioning patients’ behaviour, which is often likely to be related to a psychiatric disorder and should be approached from a therapeutic rather than a punitive standpoint.

In its reports on the 2010 and 2013 visits, the CPT expressed its fundamental objections to the use of surgical castration as a means of treatment of sex offenders, since it was a mutilating, irreversible intervention which could not be considered as a medical necessity in this context. In the present report, the Committee welcomes the fact that, according to official data, not one single surgical castration had been carried out in the context of treatment of sex offenders during the period 2013 to 2015, and it encourages all relevant federal and *Länder* authorities to put a definitive end to the use of surgical castration as a means of treatment of sex offenders, including by amending the relevant legal provisions.

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a periodic visit to Germany from 25 November to 7 December 2015. It was the Committee's eighth visit to Germany.¹

2. The visit was carried out by the following members of the CPT:

- Antonius-Maria VAN KALMTHOUT (Head of delegation)
- Per GRANSTRÖM
- Julia KOZMA
- Marzena KSEL
- Ömer MÜSLÜMANOĞLU
- Hans WOLFF.

They were supported by Michael NEURAUTER, Head of Division, and Sebastian RIETZ of the CPT's Secretariat and assisted by:

- Veronica PIMENOFF, psychiatrist, former Head of Department of Helsinki University Psychiatric Hospital, Finland and former member of the Committee (expert)
- Angela Esther DRÖSSER (interpreter)
- Silvia Anna SCHREIBER (interpreter).

¹ The CPT has previously carried out five periodic visits (in 1991, 1996, 2000, 2005 and 2010) and two ad hoc visits (in 1998 and 2013) to Germany. The reports on these visits and the responses of the German authorities are available on the CPT's website: <http://www.cpt.coe.int/en/states/deu.htm>

B. Context of the visit and establishments visited

3. The main objective of the visit was to review the measures taken by the relevant authorities to implement recommendations made by the Committee after its previous visits. To this end, the CPT's delegation visited several police establishments, prisons and civil/forensic psychiatric hospitals in different *Länder*. Particular attention was paid to the situation of detained persons held in solitary confinement for prolonged periods in prisons and to the use of other special security measures (including mechanical restraint – *Fixierung*) in various types of establishment.

4. The delegation visited the following places of deprivation of liberty:

Bavaria

- Donauwörth Police Station (*Polizeiinspektion*)
- Munich Police Headquarters (*Polizeipräsidium, Polizeiinspektion ED 6*)
- Kaisheim Prison
- Wasserburg am Inn Forensic Psychiatric Clinic

Berlin

- Berlin South-West Police Station (*Gewahrsam Südwest*)
- Moabit Prison (targeted visit focusing on interviews with newly-arrived remand prisoners)
- Plötzensee Prison Hospital (targeted visit focusing on special security measures)
- St Joseph Psychiatric Hospital, Berlin-Weißensee

Brandenburg

- Brandenburg an der Havel Forensic Psychiatric Clinic

Lower Saxony

- Hanover-Schützenplatz Police Headquarters (*Polizeikommissariat*)
- Hanover-Mitte Police Station (*Polizeiinspektion*)
- Celle Prison
- Rosdorf Prison (targeted visit to interview persons held in preventive detention)

Saxony-Anhalt

- Magdeburg Police Headquarters (*Polizeidirektion Sachsen-Anhalt Nord*)
- Uchtspringe Forensic Psychiatric Clinic (visit interrupted²)

Thuringia

- Tonna Prison.

² For further details, see paragraph 8.

C. Consultations held by the delegation and co-operation encountered

5. In the course of the visit, the delegation held consultations with Ms Stefanie Hubig, State Secretary of the Federal Ministry of Justice and Consumer Protection, Mr Winfried Bausback, Minister of Justice (Bavaria), Mr Michael Höhenberger, Head of Office of the Ministry of Labour, Social Affairs, Family and Integration (Bavaria), Mr Mario Czaja, Senator for Health and Social Affairs (Berlin), Ms Antje Niewisch-Lennartz, Minister of Justice (Lower Saxony), Ms Angela Kolb, Minister of Justice and Gender Equality (Saxony-Anhalt), Mr Norbert Bischoff, Minister of Labour and Social Affairs (Saxony-Anhalt), Ms Anja Naumann, State Secretary of the Ministry of Labour and Social Affairs (Saxony-Anhalt), and Ms Silke Albin, State Secretary of the Ministry of Migration, Justice and Consumer Protection (Thuringia). The delegation also met senior officials from the Federal Ministry of Justice and Consumer Protection, the Federal Ministry of the Interior and various *Länder* ministries.

Further, the delegation had meetings with Mr Klaus Lange-Lehngut, Head of the Federal Agency for the Prevention of Torture, and Mr Rainer Dopp, Head of the Joint *Länder* Commission for the Prevention of Torture, both forming part of the National Agency for the Prevention of Torture (National Preventive Mechanism established under the Optional Protocol to the United Nations Convention against Torture), as well as with representatives of the Berlin Office of the United Nations High Commissioner for Refugees (UNHCR) and non-governmental organisations active in areas of concern to the CPT.

A list of the federal and *Länder* authorities, organisations and persons met by the delegation is set out in the Appendix to this report.

6. As regards co-operation, the reception at the establishments visited, including those which had not been notified in advance, was in many respects excellent throughout the visit, and all staff met by the delegation made genuine efforts to be helpful and co-operative.

The CPT also wishes to express its appreciation for the assistance provided before and during the visit by its liaison officer, Ms Almut Wittling-Vogel, Representative of the Federal Government for Matters Relating to Human Rights, and her Deputy, Mr Hans-Jörg Behrens, from the Federal Ministry of Justice and Consumer Protection.

7. However, the work of the delegation was seriously hampered as a result of instructions issued by various *Länder* authorities shortly before the visit, which required the express consent of every individual prisoner or patient to give delegation members access to his/her individual administrative and medical files (similar to the difficulties encountered during the CPT's visit in 2010).

8. The most serious problem was encountered at Uchtspringe Forensic Psychiatric Clinic (Saxony-Anhalt) where the delegation was even denied access to a list of the patients who were being held in the clinic on an involuntary basis. Since this matter could not be resolved during the consultations with the management of the clinic and the State Secretary of the Ministry of Labour and Social Affairs of Saxony-Anhalt, who happened to be present, the delegation had no choice but to interrupt its visit to the clinic. This is indeed a most unfortunate and unprecedented situation.

9. After the meeting held at the Federal Ministry of Justice and Consumer Protection at the beginning of the visit, the delegation gained the impression that the issue of access to files for CPT delegations had more or less been settled, following the consultations which had started with the German authorities during the previous visit in 2010. However, when working on the spot it quickly came to light that this was far from being the case. As already mentioned above, in most of the *Länder* visited, the relevant Ministries had issued instructions to allow the delegation to have access to individual administrative and medical files only with the express consent of the prisoners or patients concerned.

At first sight, the scope of the problems which such restrictions create for the CPT might not be obvious to the outside observer. First of all, there is a very practical implication. Especially when visiting larger establishments, it is clear that a CPT delegation is not in a position to interview all inmates. Therefore, it has to select persons for interviews on the basis of various criteria, most of which are only documented in individual administrative and medical files. In other words, in order to work effectively, the delegation has to examine a large number of files before speaking with a certain number of prisoners or patients. In several establishments visited, members of staff approached all inmates with a view to obtaining from them written statements as to whether they agreed to allow the CPT to have access to their administrative and medical files. Whilst acknowledging the efforts made by staff in this regard, it quickly became apparent that such an approach cannot be a viable solution for the CPT, since the delegation encountered considerable delays in obtaining access to certain files.

The difficulties faced by the delegation can also be illustrated by the situation encountered at Tonna Prison where, on the first day of the visit, staff approached all prisoners (approximately 500) asking them whether they agreed to the CPT having access to their personal administrative and medical files. In fact, some 200 prisoners refused to give their consent. During subsequent interviews with some of these prisoners, many of them indicated that they did not want to give their consent because they were not properly informed for what purpose the CPT would use their personal data. A significant number of them also stated that they felt discouraged by the manner in which they had been asked by staff to give their consent.

The CPT must also stress that, on numerous occasions in different establishments, it was quite simply impossible for the delegation to obtain consent, because of insurmountable language barriers, or because of the fact that the person concerned suffered from severe mental disorders and thus was not able to give valid consent, or because the person concerned had been released or transferred to another establishment, or because the person concerned had died. As a result, the delegation was not able, due to lack of consent, to examine the files of persons whose specific situation gave rise to particular concern. For instance, it could not examine details regarding the allegations of excessive use of force and the repeated resort to mechanical restraint (*Fixierung*) in the case of a psychiatric patient who had been subjected to *Fixierung* 50 times for a total of almost 700 hours in the course of a period of one year, because the patient had previously been transferred to another psychiatric establishment (see paragraphs 89 and 104). Moreover, due to lack of consent and language barriers it could not adequately assess the situation of several persons who had been held in solitary confinement (*Einzelhaft*) for prolonged periods (see paragraphs 52 and 53).

10. The CPT has always emphasised the importance of medical confidentiality, and it acknowledges that Germany is at the forefront when it comes to the protection of personal data and, more specifically, of medical data of detained persons. However, as already stressed in the report on the 2010 visit, the prevention of torture and other forms of ill-treatment under an international treaty that Germany has ratified and incorporated into its law must not be subordinated to domestic data protection rules, whether at federal or *Länder* levels.

The CPT is pleased to note that the Federal Ministry of Justice and Consumer Protection and the Federal Data Protection Commissioner (*Bundesbeauftragter für den Datenschutz und die Informationsfreiheit*) concur with its position that the Convention establishing the Committee entitles visiting delegations of the CPT to have unrestricted access to personal administrative and medical files. However, in the context of the visit, various *Länder* authorities and, in particular, *Länder* Data Protection Commissioners expressed diverging views on this matter. It would seem that these different interpretations are at least in part related to linguistic deviations of the German translation of the Convention from the authentic English and French texts. The authentic text of the treaty makes clear that the Committee shall “have regard” to relevant domestic norms, but certainly does not envisage that it shall be bound by them to the detriment of obtaining the information that is necessary for it to carry out its task.

What matters most is that a suitable solution be found on the basis of the principle of co-operation which has always been adhered to by the German authorities. From the consultations which the delegation had with the relevant Ministers in the *Länder* visited, it transpired that the authorities were well aware of the concerns of the CPT and that they supported the position of the Committee that arrangements should be made to make it clear that, in future, delegations have unrestricted access to personal administrative and medical files. For this purpose, various proposals of a legislative nature had been put forward or were being prepared at the time of the visit. The CPT appreciates these initiatives.

At the same time, the CPT wishes to stress that whatever arrangements are eventually made, a solution must be found that allows the Committee to have unrestricted access to personal administrative and medical files of detained persons in all *Länder* and also in all types of places where persons may be deprived of their liberty. In other words, any new legal measures deemed necessary by the German authorities to give effect to the CPT’s right of access to personal administrative and medical records should cover not only prisons and psychiatric establishments but also police establishments, detention centres for foreigners, social welfare institutions and military detention facilities. The delegation was informed that consultations were on-going in various fora at the federal and *Länder* levels regarding this issue, including on the possibility of the relevant federal and *Länder* authorities agreeing upon a shared interpretation of the CPT Convention which recognises the Committee’s right to have unrestricted access to the personal administrative and medical files of detained persons, as had been the case in practice throughout the country prior to the 2010 visit.

The CPT urges all relevant federal and *Länder* authorities to take immediate action to ensure that visiting delegations of the Committee henceforth have unrestricted access to administrative and medical files of detained persons. It wishes to be informed of the specific measures that have been taken in this regard.

D. National Preventive Mechanism

11. During the visit, the CPT was informed that the National Agency for the Prevention of Torture – the German National Preventive Mechanism (NPM) under the Optional Protocol to the United Nations Convention against Torture (OPCAT) – has seen a slight increase both in terms of staff and budget, compared to 2010. It now has ten members working on an honorary basis³ and 5.5 posts for permanent staff in its Secretariat.⁴ The appointment of members with a medical or psychological background has enabled the Joint Commission of the *Länder* to resume carrying out visits to psychiatric establishments and start visits to social care homes. This is a welcome development.

However, the National Agency's annual budget of 540,000 Euros remains at a relatively low level. Thus, the CPT continues to have doubts whether, with such limited financial and staff resources at its disposal, the National Agency will be able to carry out its work effectively, bearing in mind that some 13,000 establishments in Germany fall under its mandate.

The CPT encourages the German authorities to review again the functionalities of the National Agency for the Prevention of Torture and ensure that it will be provided with sufficient resources to effectively carry out its NPM mandate.

³ In June 2013, a social worker was appointed as second member of the Federal Agency for the Prevention of Torture. Similarly, in January 2015, the membership of the Joint Commission of the *Länder* was doubled to eight, when two additional psychologists, one psychiatrist and one police expert were appointed.

⁴ The Secretariat is composed of six research associates and two administrative staff.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

12. In the course of the visit, the delegation visited six police establishments of the *Länder* police services in Bavaria, Berlin, Lower Saxony and Saxony-Anhalt. It also interviewed a number of persons who had recently been held in police custody.

13. The legal framework governing the deprivation of liberty by the police has remained by and large unchanged since the 2010 visit. It is recalled that, as a general rule, criminal suspects as well as persons taken into custody under the relevant police legislation may be detained by the police on their own authority until the end of the day following their apprehension.⁵ Persons may also be detained by the police for the purpose of establishing their identity, in which case a time limit of twelve hours is provided for in the Code of Criminal Procedure (*Strafprozessordnung – StPO*)⁶ and the Law on the Federal Police⁷, and of six to twelve hours in the respective police laws of the *Länder* visited.⁸

According to the Law on the Federal Police and the respective police laws of the *Länder*, persons may be taken into custody for their own protection (e.g. mental disorder) in principle until the end of the following day.⁹ Moreover, persons may be held in police establishments – with judicial authorisation – in “preventive custody” for reasons of public order (e.g. prevention of criminal or administrative offences) for longer periods, ranging from four days to two weeks.¹⁰

Foreign nationals may be detained under aliens legislation (with judicial authorisation) in police establishments,¹¹ pending their removal or transfer to a detention centre for foreigners.

2. Ill-treatment

14. As during the 2010 visit, the delegation heard no allegations of deliberate physical ill-treatment of detained persons by police officers whilst in police custody, and most of the persons interviewed who were or had recently been in police custody indicated that they had been treated with respect by police officers.

However, once again some allegations were received from detained persons – in particular foreign nationals and persons suffering from a mental disorder¹² – that they had been subjected to excessive use of force by police officers at the time of apprehension (such as punches or kicks after the person concerned had been brought under control or unduly tight handcuffing).

⁵ Section 128 of the Code of Criminal Procedure (StPO); see also Article 104 (2) of the German Basic Law (*Grundgesetz*). The police laws of all *Länder* visited contain corresponding provisions.

⁶ Section 163c (2).

⁷ Section 42 (2).

⁸ For instance, six hours in Lower Saxony and twelve hours in Berlin and Saxony-Anhalt.

⁹ In practice, such persons were promptly transferred to a psychiatric establishment.

¹⁰ Four days under the Law on the Federal Police; four days in Berlin, Lower Saxony and Saxony-Anhalt and two weeks in Bavaria.

¹¹ Section 62 and 62b of the Aliens Law (*Aufenthaltsgesetz*).

¹² Prior to their transfer to a psychiatric hospital.

The CPT trusts that the authorities of all *Länder* will remain vigilant and will continue to remind police officers that no more force than is strictly necessary should be used when carrying out an apprehension and that, once apprehended persons have been brought under control, there can be no justification for hitting or punching them.

Further, the Committee would like to be informed of the training which is provided to police officers, both at the federal level and in the various *Länder*, in order to deal in an appropriate manner with persons suffering from a mental disorder.

15. The CPT recalls that an essential component of any strategy to prevent ill-treatment lies in the diligent examination by the competent authorities of all complaints of ill-treatment brought before them and, where appropriate, the imposition of a suitable penalty. In this regard, the Committee has also repeatedly stressed that, in order for the investigation of complaints about police ill-treatment to be fully effective, the procedures involved must be – *and be seen to be* – independent and impartial.¹³

16. By letter dated 13 May 2016, the German authorities informed the Committee that “[i]n cases of suspicion of a criminal offence, criminal investigations are as a general rule carried out under the supervision (*Sachleitungsbefugnis*) of the public prosecutor’s offices. In virtually all the *Länder*, measures are being taken to ensure that the responsibility for carrying out necessary concrete investigative actions is delegated to a police establishment which is different from the one whose staff are under suspicion. Furthermore, in Bavaria, Bremen, Hamburg, Lower Saxony, Saxony and Saxony-Anhalt, a central investigation unit has been created within the relevant Ministry of the Interior or the regional criminal police office (*Landeskriminalamt*) which carries out investigations into complaints against police officers”.¹⁴

17. In the above-mentioned letter, the German authorities provided detailed statistical data regarding the number of complaints about misconduct of police officers (“use of force” and “coercion and abuse of authority”) and the action taken by the relevant judicial authorities during the period 1 January 2011 to 31 December 2015:

A total of nine complaints were lodged against federal police officers, all of which were dismissed. As regards the *Länder* police services, a total of 1,554 complaints were lodged against police officers in Baden-Württemberg; at the same time investigations led to an indictment in 17 cases; Bavaria (2,492 complaints, 11 indictments); Berlin (1,344 complaints, 46 indictments); Brandenburg (431 complaints, five indictments); Bremen (282 complaints, six indictments); Hamburg (1,841 complaints, 23 indictments); Hessen (879 complaints, 21 indictments); Mecklenburg-Western Pomerania (208 complaints, one indictment); Lower Saxony (2,019 complaints, 22 indictments); North-Rhine Westphalia (6,790 complaints, 65 indictments); Rhineland-Palatinate (764 complaints, five indictments); Saarland (138 complaints, two indictments); Saxony (899 complaints, 20 indictments); Saxony-Anhalt (610 complaints, six indictments); Schleswig-Holstein (143 complaints, four indictments); Thuringia (403 complaints, five indictments).

¹³ See also paragraph 16 of the report on the 2010 visit (CPT/Inf (2012) 6).

¹⁴ For further details, see also the 2015 Annual Report of the National Agency for the Prevention of Torture (pages 17 and 18).

From the information provided, it transpires that in the case of one complaint in Saarland, the police officer concerned was sentenced to a conditional prison term of one year and six months and subsequently dismissed from service as a disciplinary sanction. That said, it remains unclear as to what extent the above-mentioned indictments led to a criminal and/or disciplinary sanction of the police officer(s) concerned. **The CPT would like to receive further information in this regard from the relevant authorities of all *Länder*.**

18. The delegation did not consult individual investigation files to examine the action taken by prosecutors, central investigation units or other criminal police offices. Notwithstanding that, on the basis of the relevant case-law of the European Court of Human Rights, the CPT has some doubts as to whether investigations carried out by investigators of the central investigation units – and even more so those carried out by criminal police officers of regional or local police headquarters – against other police officers can be seen to be fully independent and impartial.

In this regard, the Committee would like to draw the German authorities' attention to two judgments of the European Court of Human Rights (*Kummer v. the Czech Republic*¹⁵ and *Eremiášová and Pechová v. the Czech Republic*¹⁶) in which the Court had found a violation of Article 3 of the European Convention of Human Rights in its procedural aspect in cases of alleged police ill-treatment.

In *Kummer v. the Czech Republic*, the Court ruled *inter alia* the following:

“85. Regarding the question of the independence of the Police Inspectorate, the Court notes that it was still a unit of the Ministry of the Interior. Yet, unlike the Supervision Department considered by the Court in *Eremiášová and Pechová*, cited above, the head of the Police Inspectorate was appointed by, and responsible to, the Government and not to the Minister of the Interior. While the Court agrees that this aspect increased the independence of the Police Inspectorate vis-à-vis the police, the Court does not consider that this sole difference can justify reaching a different conclusion from the one reached in the case of *Eremiášová and Pechová*.

86. The Court must also take into account that members of the Police Inspectorate remained police officers who had been called to perform duties in the Ministry of the Interior. This fact alone considerably undermined their independence vis-à-vis the police. In the Court's view, such an arrangement did not present an appearance of independence and did not guarantee public confidence in the State's monopoly on the use of force (see *Eremiášová and Pechová*, cited above, § 154, and *Ramsahai and Others*, cited above, § 325).

87. The Court notes that in this case the investigation by the Police Inspectorate was supervised by the prosecutor. However, while the prosecutor was independent from the police, his merely supervisory role was not sufficient to make the police investigation comply with the requirement of independence (compare with *Ramsahai and Others*, cited above, §§ 342-346, which concerned an investigation under the direct responsibility of the public prosecution service).

88. Accordingly, the Court considers that the investigation in the present case did not comply with the requirements of an effective investigation under Article 3 of the Convention and that there has been a violation of that provision in its procedural aspect as well.”

The CPT would like to receive the German authorities' comments on this matter.

¹⁵ Judgment of 25 July 2013, application no. 32133/11.

¹⁶ Judgment of 16 February 2012, application no. 23944/04.

19. The CPT welcomes the fact that, in 2014, the position of a police commissioner (*Beauftragter für die Landespolizei*) was created in Rhineland-Palatinate for handling complaints (from citizens or other police officers) about misconduct of police officers. The commissioner is appointed by the Parliament and is independent (*weisungsfrei*) when exercising his/her functions. **The Committee encourages the relevant authorities of all other *Länder* to create an independent mechanism to process complaints about police ill-treatment.**

20. Further, the CPT notes with interest that the Federal Police has recently introduced a whistle-blower policy with the creation of an internal “position of trust” (*Vertrauensstelle*) at the level of the Federal Police Headquarters, which is directly subordinated to the President of the Federal Police and which may receive complaints and relevant information from federal police officers. **The Committee encourages the police authorities of all *Länder* to follow this positive example.**

21. In recent years, there have been a number of cases in Germany in which criminal investigations against police officers for the alleged use of excessive force or other claims of ill-treatment reportedly had to be discontinued, due to the fact that the police officers concerned could not be individually identified.

In this regard, the CPT has repeatedly stressed that appropriate safeguards must be in place in order to ensure that police officers wearing masks or other equipment that may hamper their identification can be held accountable for their actions (e.g. by means of a clearly visible number on the uniform).¹⁷ Such a requirement is also likely to have a preventive effect and significantly reduce the risk of excessive use of force and other forms of ill-treatment.

22. By letter of 13 May 2016, the German authorities informed the CPT that the wearing of means of identification was now mandatory for police officers in Berlin, Brandenburg, Hessen, Rhineland-Palatinate, Saxony-Anhalt and Thuringia, subject to certain exceptions (e.g. cases in which the wearing of a means of identification would create a disproportionate danger), and that, in several *Länder* (e.g. Bremen, Hamburg, North-Rhine Westphalia¹⁸ and Schleswig-Holstein), members of closed police units (*geschlossene Einheiten*) were required to wear an identification number; in addition, the introduction of such means of identification for members of closed police units was being considered by the police authorities in Lower Saxony and Thuringia.

The CPT welcomes this positive trend. That said, it is regrettable that the Federal Police as well as the police authorities of several *Länder* – including Baden-Württemberg, Bavaria, Mecklenburg-Western Pomerania, Saxony and Saarland – remain opposed to the introduction of a mandatory means of identification for police officers (including members of closed police units). In the CPT’s view, the argument put forward by the authorities of several *Länder* in the German authorities’ response¹⁹ to the report on the 2010 visit that an obligation to wear means of identification was not compatible with the “protection of the police officers’ general personal rights as well as the legitimate interest they have in protecting themselves and their families” is not convincing. The experience in many European countries (as well as in various German *Länder*) has shown that appropriate solutions can be found without endangering the rights of police officers and their families.

¹⁷ See also paragraph 17 of the report on the 2010 visit (CPT/Inf (2012) 6).

¹⁸ Only officers of the riot police (*Bereitschaftspolizei*).

¹⁹ See page 16 of CPT/Inf (2012) 7.

The Committee urges the Federal Ministry of the Interior as well as the police authorities of Baden-Württemberg, Bavaria, Mecklenburg-Western Pomerania, Saxony and Saarland to re-consider their policy in this regard and take the necessary steps to ensure that police officers wearing masks or other equipment that may hamper their identification are obliged to wear a clearly visible means of identification (e.g. a number on the uniform and/or helmet).

23. The CPT notes with interest that, according to the German authorities' letter of 13 May 2016, the police authorities of Hamburg and Hessen have introduced body cameras (so-called "body cams") for police officers on duty. In several other *Länder*, including Rhineland-Palatinate, Bremen and Saarland, steps were being taken to introduce such cameras in the context of pilot projects and to evaluate their effect before taking a decision on using them on a larger scale. Further, discussions on a possible introduction of body cameras were ongoing in Bavaria, Baden-Württemberg, Berlin and Lower Saxony.

The Committee would like to receive updated information on the use of body cameras by police officers in all *Länder*.

3. Safeguards

24. Overall, the delegation gained a positive impression of the implementation in practice of the fundamental safeguards against ill-treatment, notably as regards the rights of notification of custody and access to a doctor.

In most of the police establishments visited, information sheets on the rights of detained persons (*Belehrung*)²⁰ were available in a wide range of foreign languages.

That said, at Donauwörth Police Station, no information sheets were available, and the police officers on duty appeared to be unaware of the possibility to print out such forms (in different languages) from an online portal. Further, in several *Länder* visited, the delegation received a number of allegations from detained persons that they had not been informed of their rights, that they had only been informed of their rights orally or that they had not been provided with a copy of the relevant information sheet.

Regrettably, the delegation was not in a position to assess the veracity of those allegations, since, in most police establishments visited, the relevant information was only kept in electronic form and data in the database of the *Länder* police service was reportedly no longer accessible once an individual file had been completed by the police officer in charge of the investigation (so-called *Sachbearbeiter*). Existing paper registers often contained only cursory information in this regard.

²⁰ Separate information sheets were available for criminal suspects who had been arrested on the basis of an arrest warrant, for persons who had been provisionally apprehended, for persons who had been apprehended for identification purposes and persons who had been taken into custody on the basis of the relevant police law.

The CPT recommends once again that the federal and all *Länder* authorities take the necessary measures to ensure that:

- all persons deprived of their liberty by police officers – for whatever reason – are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information at the moment of apprehension, to be supplemented at the earliest opportunity (that is, immediately upon the first arrival at a police establishment) by the provision of the relevant information sheet. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights and should always be given a copy of the information sheet. Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case;
- relevant information on the implementation of the fundamental safeguards against ill-treatment (i.e. when the person was informed of his/her rights; when he/she had contacts with and/or visits from close relatives, a lawyer, a doctor or a representative of a consular service) is kept in respect of every police establishment in such a way that it can be retrieved retrospectively (on paper or in electronic form). This will enhance transparency and accountability and facilitate the work of inspection services and monitoring bodies.

25. Further, in several police stations visited, the delegation was informed that whenever a person was deprived of his/her liberty (for whatever reason) and then released without having been placed in a custody cell, no record was kept at all. **The CPT reiterates its recommendation that steps be taken to ensure that a record is made and kept in every police establishment in Germany of every instance of a person being deprived of his/her liberty on the premises of that establishment.**

26. The CPT is concerned by the fact that certain long-standing recommendations regarding fundamental safeguards have still not been implemented.

In particular, it remains the case that juveniles could be subjected to police questioning and requested to sign statements without the benefit of the presence of either a lawyer or a trusted person. Like adults they were also not entitled to have a lawyer present during questioning (see paragraph 28). Such a state of affairs is not acceptable. The argument put forward by the German authorities in their response²¹ to the 2010 visit that “[c]reating an obligation for any persons having parental authority, legal representatives, attorneys or any other trusted persons to be present – which might have to be enforced using coercive means – would result in what is tantamount to a legal incapacitation of the juveniles affected in the criminal proceedings under the laws governing juvenile justice” is far from convincing.

²¹ See page 18 of CPT/Inf (2012) 7.

Whilst acknowledging the existence of certain additional safeguards for juveniles (e.g. mandatory notification of parents and entitlement to have a trusted person present during questioning), the Committee wishes to stress once again that in order to effectively protect this particular age group, the onus should not be placed on the juvenile to request the presence of a lawyer or a trusted person. *Such a presence should be obligatory.*

The CPT once again calls upon the federal and all *Länder* authorities to take steps without delay to ensure that detained juveniles are not subjected to police questioning or required to sign any statement related to the offence of which they are suspected without the presence of a lawyer and, ideally, a trusted adult.

27. Further, despite a specific recommendation repeatedly made in previous visit reports, the criteria set out in the relevant legislation²² to allow the exercise of the right of notification of custody to be delayed in the interests of an ongoing investigation have not been specified and it remains the case that decisions to delay notification may be taken solely by the investigating criminal police officer.

The CPT acknowledges that the right of notification may be subject to certain exceptions designed to protect the legitimate interests of the investigation. However, any such exceptions should be clearly defined and applied for as short a time as possible. As indicated in previous visit reports, the current wording of Section 114b (2) of the StPO is too vague in this respect. Further, appropriate safeguards should be in place (e.g. any delay to be recorded in writing together with the reasons, and to require the express approval of a senior police officer unconnected with the case at hand or a prosecutor). Therefore, **the Committee must recommend once again that the relevant legal provisions be amended so as to reflect these precepts and that the practice in all police establishments be revised accordingly.**

28. As regards the right of access to a lawyer, the great majority of detained persons interviewed by the delegation indicated that they had been offered the possibility to contact a lawyer whilst in police custody (including before the first questioning) and no complaints were received that requests to have a lawyer present during questioning had been denied by police officers.

Notwithstanding that, it is a matter of serious concern that, despite the specific recommendation repeatedly made by the Committee since the first visit in 1991, detained persons are still not entitled to have a lawyer present during police questioning (as opposed to any questioning by a public prosecutor or a judge). Admittedly, detained persons are not obliged to give a statement to a police officer and thus can in principle make the presence of a lawyer a precondition to their agreeing to give a statement (as was highlighted by the German authorities in their response to the 2010 report). However, such legal reasoning may not be obvious for every detained person. It does not come as a surprise that a number of detained persons met by the delegation appeared to be unaware of the possibility of having an “indirect” access to a lawyer during police questioning.

²² Section 114b (2) of the StPO stipulates that a detained person may contact a family member of another trusted person “insofar as the purpose of the investigation is not jeopardised”.

The CPT wishes to stress once again that, given their potential vulnerability, all persons undergoing police questioning should be entitled to benefit from the presence of a lawyer and that they should be expressly informed of this possibility (see also paragraph 24).

In the light of the above, the CPT once again calls upon the federal and all *Länder* authorities to take the necessary measures to ensure that all persons detained by the police can effectively benefit, if they so wish, from access to a lawyer throughout their police custody, including during any police questioning. Save for highly exceptional circumstances when the matter is urgent, whenever a detained person has made a request to have a lawyer present, police officers should delay the questioning of the person concerned for a reasonable time pending the arrival of the lawyer.

29. The CPT also wishes to stress again that the exercise of the right of access to a lawyer can only be considered to be an effective safeguard against ill-treatment if persons in police custody who are not in the position to pay for a lawyer benefit from a fully-fledged system of legal aid. If this is not the case, the right of access to a lawyer will remain, in many cases, purely theoretical.

The Committee notes with concern that, as in 2010, detained persons were often not informed of the existence of emergency legal counselling services²³ (*anwaltschaftliche Notdienste*) which usually provide (at least brief) consultations via the telephone free of charge. Regrettably, the existing information sheets on the rights of detained persons (see paragraph 24) still did not contain any information in this regard, despite the specific recommendation made by the Committee in the report on the 2010 visit.

Moreover, from the information gathered during the visit, it transpired that indigent persons who had been detained by the police were often not in a position to meet a lawyer in a police establishment, let alone benefit from his/her presence during police questioning.

From the explanations given by the German authorities in their response to the report on the 2010 visit²⁴ regarding the existing legal aid system, it transpires that the legal criteria for granting legal aid to persons in police custody are far too restrictive. While the appointment of a lawyer is mandatory in cases where a person has been arrested on the basis of an arrest warrant, a lawyer may be appointed by a court for a suspect taken into police custody (*vorläufig festgenommen*) irrespective of the person's financial situation, at the request of the competent prosecutor, only in cases where the mandatory appointment of a lawyer becomes necessary for subsequent court proceedings under Section 140 (1) and (2) of the StPO (for instance, if the person concerned is suspected of a serious criminal offence). Further, the authorities indicated that “[w]here it can be expected that ex officio defence counsel will be appointed in the very near future, the adjudication by the supreme courts of Germany [...] has stipulated that the police services are to notify any suspects already in their custody that – even if they lack the financial resources required to retain an attorney – they can be given the opportunity to *call*²⁵ an attorney of their confidence, or to *call*²⁵ the lawyers' emergency counselling services”.

²³ Throughout Germany, emergency legal counselling services are organised around the clock by associations/networks of lawyers.

²⁴ See page 16 of CPT/Inf (2012) 7.

²⁵ Emphasis added.

The CPT recommends that the federal and all *Länder* authorities take the necessary steps – including, if necessary, at the legislative level – to ensure that indigent persons can effectively benefit from the presence of a lawyer free of charge throughout their police custody, including during police questioning. To this end, the text of the above-mentioned information sheets should be amended accordingly.

4. Conditions of detention

30. In all the police establishments visited, detained persons were usually held in police custody for only a relatively short period of time. Most of them were transferred from local police stations to a central specialised detention facility (*zentrale Gewahrsamseinrichtung*) within a few hours. Criminal suspects were usually brought before a judge on the day after their apprehension. The total period during which persons were held in police custody varied from a few hours to three days. Although the respective police laws of the *Länder* provide for the possibility of detaining persons for longer periods following judicial approval (see paragraph 13), this seemed to occur only in exceptional cases.

31. As was the case during previous visits, material conditions in all the police establishments visited were, on the whole, adequate for short-term custody. Custody cells were maintained in an appropriate state of repair and cleanliness and usually fitted with a call system.

That said, despite the specific recommendation made by the Committee after all previous periodic visits to Germany, mattresses were still not provided to persons held in overnight custody at Donauwörth Police Station and in the sobering-up cells²⁶ at Berlin South-West Police Station and Magdeburg Police Headquarters. Such a state of affairs is unacceptable.

The CPT once again calls upon the police authorities of Bavaria, Berlin and Saxony-Anhalt, and where appropriate, of other *Länder* to take 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.

32. The CPT notes that arrangements had been made at Hanover-Schützenplatz Police Headquarters (where persons could in principle be held in long-term “preventive” custody for up to ten days) to allow detained persons to take outdoor exercise on a daily basis. Regrettably, no provision for outdoor exercise had been made in any of the other police establishments visited.

The CPT encourages the police authorities of all *Länder* to take steps to ensure that all persons held for 24 hours or more in police custody (and, in particular, those held in prolonged preventive custody) are offered outdoor exercise every day.

²⁶ In sobering-up cells of all the other police establishments visited, washable mattresses were available.

5. Other issues

33. The CPT has repeatedly expressed its misgivings regarding the use of mechanical restraint (*Fixierung*) in the context of police custody. In this regard, the Committee welcomes the fact that, since the 2010 visit, this practice has been abandoned by the police authorities of several *Länder*, including Baden-Württemberg, Berlin, Saarland and Thuringia.²⁷ Instead, highly agitated detained persons were promptly transferred to an appropriate medical facility.

Notwithstanding this positive trend, it is regrettable that, at the time of the 2015 visit, persons were still being subjected to *Fixierung* in police establishments in several other *Länder*, despite the specific recommendation repeatedly made by the Committee to put an end to the resort to *Fixierung* in police establishments throughout Germany. Whilst *Fixierung* was generally used only for short periods of time (under direct and constant supervision by a member of staff – *Sitzwache*) and immediately brought to the attention of a doctor, this measure continued to be frequently used, in particular at Hanover-Schützenplatz Police Headquarters. At Magdeburg Police Headquarters, the delegation was informed about plans to purchase restraint devices for use in the detention facility. Moreover, the CPT is struck by the fact that, according to a report²⁸ by the National Preventive Mechanism on a visit carried out in June 2015 to Cologne Police Headquarters (*Polizeipräsidium*),²⁹ 1,150 persons held in police custody in the establishment had been subjected to *Fixierung* in 2014.

The CPT calls upon the police authorities of Lower Saxony, North-Rhine Westphalia, Saxony-Anhalt and all other *Länder* concerned to put an end to the use of *Fixierung* in police establishments without any further delay.

34. Further, the CPT is concerned by the fact that, at Munich Police Headquarters, persons who were highly agitated or presented a risk of self-harm were on occasion shackled by metal cuffs on their left wrist or ankle to an iron ring fixed to the wall inside a security cell; in some cases, a body belt was applied to the person, the back of which was then attached with handcuffs to that ring.

In contrast, at Magdeburg Police Headquarters, the delegation was informed that agitated and/or violent detained persons who present a risk of self-harm would be handcuffed and manually held by two or three officers until the arrival of a medical doctor at the establishment.

The CPT wishes to stress that, in the event of a person in police custody acting in a highly agitated manner, the use of handcuffs may be justified. However, the person concerned should never be shackled to fixed objects but instead be kept under close supervision in a secure setting and, if necessary, police officers should seek medical assistance and act in accordance with the doctor's instructions.

The Committee recommends that the Federal Police and the police services of all *Länder* take the necessary steps to ensure that these precepts are applied in all police establishments throughout Germany. Further, steps should be taken to remove the metal ring in the security cell of Munich Police Headquarters.

²⁷ By the time of the 2010 visit, the practice of *Fixierung* had been stopped in establishments of the Federal Police and the police service of Saxony.

²⁸ See National Agency for the Prevention of Torture, Joint Commission of the *Länder*, visit report to Bonn, Cologne and Dortmund Police Headquarters, available at: http://www.nationale-stelle.de/fileadmin/dateiablage/Dokumente/Berichte/Besuchsberichte/20150615_-_PP_Bonn_Koeln_Dortmund/20150618_Besuchsbericht_PP_Koeln_Bonn_Dortmund_web.pdf

²⁹ This establishment had previously been visited by the CPT in 2010.

B. Prison establishments

1. Preliminary remarks

35. The delegation carried out full visits to the prisons in Celle (Lower Saxony), Kaisheim (Bavaria) and Tonna (Thuringia). In addition, it paid a brief visit to Rosdorf Prison (Lower Saxony) in order to examine the specific situation of two persons in preventive detention who had been held in solitary confinement for prolonged periods. At Berlin-Moabit Prison, the delegation mainly interviewed remand prisoners and, at Berlin-Plötzensee Prison Hospital, it examined the use of special security measures.

36. *Celle Prison* was opened in 1710 and is one of the oldest prisons in Germany. At the same time, it is the prison with the highest security-level in Lower Saxony and accommodates male adult sentenced prisoners (with a prison term of more than five years and prisoners who have been earmarked for preventive detention) and male adult remand prisoners. In addition, the prison comprises a high-security unit (*Sicherheitsstation* - capacity: ten places) and a socio-therapeutic unit (*Sozialtherapeutische Abteilung* - capacity: ten places). With a total capacity of 222 places,³⁰ at the time of the visit, the prison was accommodating 188 sentenced and 34 remand prisoners (including five in the high-security unit and eight in the socio-therapeutic unit³¹).

Kaisheim Prison is located on the premises of a former monastery in the municipality of Kaisheim, converted in the early 19th century into a correctional labour institution. Since 1851, the establishment has operated as a prison. In the 1960s, the entire premises underwent extensive renovation, and several new buildings were constructed. The prison accommodates both sentenced (including those serving a life sentence) and remand prisoners, and it also comprises a socio-therapeutic unit (capacity: 16 places for sex offenders and 16 for violent offenders). With a total capacity of 640 places (612 for sentenced and 28 for remand prisoners), the prison was accommodating 584 prisoners (including 25 on remand and 32 in the socio-therapeutic unit³²) at the time of the visit.

Tonna Prison, opened in 2002, is the largest prison in Thuringia with a total capacity of 589 places (including an open unit with 48 places for male and 12 places for female inmates). The prison accommodates male adult long-term sentenced prisoners (including those serving a life sentence), as well as male adult remand prisoners. Moreover, it is the only prison in Thuringia which comprises a central admission unit (*zentrale Einweisungsabteilung*) for all male adult sentenced prisoners (who are sentenced to a term of at least 18 months), a socio-therapeutic unit (capacity: 70 places) and a unit for drug-addicted prisoners. At the time of the visit, the prison was accommodating 496 male prisoners (26 on remand; 464 sentenced, including 68 in the socio-therapeutic unit³²) and ten female prisoners (in the open unit).

37. In the *Länder* visited, the legal framework governing the imprisonment of sentenced and remand prisoners is set out in the 2007 Law on the Execution of Sentences of Bavaria (BayStVollzG), the 2011 Law on Remand Detention of Bavaria (BayUVollzG), the 2007 Law on the Execution of Sentences of Lower Saxony (NJVollzG) and the 2014 Law on the Execution of Sentences of Thuringia (ThürJVollzGB).

³⁰ 164 places are designated for sentenced prisoners and 38 for remand prisoners.

³¹ Two inmates in the socio-therapeutic unit were held in preventive detention.

³² One inmate in the socio-therapeutic unit was held in preventive detention.

38. In the report on the 2010 visit, the CPT highlighted the fact that the overall prison population in Germany had decreased from 79,507 to 70,103 between 2000 and 2010. The Committee welcomes the fact that this downward trend continued on a significant scale in recent years. According to the information provided by the German authorities, as at 31 August 2015, a total of 61,906 prisoners (including 11,751 on remand) were being held in prison;³³ moreover, in none of the German *Länder* did the number of prisoners exceed the official capacity of the prison estate.

2. Ill-treatment

39. As was the case during previous visits, the delegation received no allegations – and found no other indications – of physical ill-treatment of prisoners by staff. Further, inter-prisoner violence did not seem to be a major problem in any of the establishments visited.

40. That said, the CPT must express its dismay about the frequency of complaints received from prisoners at Kaisheim Prison regarding instances of rude and disrespectful behaviour and language by several members of the establishment's health-care staff.

The Committee recommends that the prison authorities of Bavaria deliver a clear message to all members of the health-care staff at Kaisheim Prison, reminding them that any disrespectful or provocative behaviour towards prisoners is unacceptable and will be dealt with accordingly. The management of the prison should also demonstrate increased vigilance in this regard.

41. Moreover, in the establishments visited, various staff members interviewed by the delegation appeared to be unaware of how and to whom they should report instances of ill-treatment or other misconduct by other colleagues to the relevant authorities.

The CPT encourages the prison authorities of Bavaria, Lower Saxony and Thuringia, as well as these of all other *Länder*, to introduce a clear reporting line and appropriate whistle-blower protective measures in all prison establishments.

³³ The prison estate of Germany comprised 183 establishments, with an official capacity of 74,519 places.

3. Conditions of detention

a. material conditions

42. At Celle, Kaisheim and Tonna Prisons, material conditions were generally very good in terms of state of repair, living space, access to natural light, ventilation and equipment. This is all the more noteworthy with regard to Celle and Kaisheim Prisons bearing in mind that parts of these prisons had been constructed several hundred years ago.

b. regime

43. The delegation gained a generally favourable impression of the regime activities provided at Celle, Kaisheim and Tonna Prisons. At Celle and Kaisheim Prisons, all *sentenced prisoners* were offered work, including in well-equipped workshops, and had regular access to a range of recreational activities³⁴. At Tonna Prison, some 300 prisoners were employed and some 90 participated in vocational training or educational activities. That said, it is regrettable that, at Tonna, approximately 20% of the sentenced prisoners were not offered any work or training activity.

As regards *remand prisoners*, the CPT welcomes the fact that, in the three establishments visited, they were usually able to spend a considerable amount of time out of their cells every day (including at weekends). However, it is a matter of concern that the opportunities for work or vocational training remained very limited for remand prisoners at Kaisheim and Tonna Prisons.

The CPT encourages the authorities of Bavaria and Thuringia to redouble their efforts to improve the programme of activities for prisoners at Kaisheim and Tonna Prisons, in the light of the above remarks. The aim should be to ensure that all prisoners, including those on remand, are able to spend a reasonable part of the day (i.e. eight hours or more) outside their cells engaged in purposeful activities of a varied nature (work; vocational training; education; sport; recreation/association).

44. All three establishments visited had socio-therapeutic units for sex and violent offenders, in particular, for those prisoners who have been earmarked for preventive detention (*angeordnete oder vorbehaltene Sicherungsverwahrung*).³⁵ All the prisoners concerned were accommodated in communal living quarters (*Wohngruppenvollzug*) and benefited from a wide range of therapeutic activities (*Behandlungsprogramme*), including individual counselling and group therapy (combined with progressive relaxations of the regime (*Lockerungen*)). As a rule, the treatment programme lasted at least two years.

³⁴ In Bavaria, Lower Saxony and Thuringia, sentenced prisoners are under a legal obligation to work or participate in vocational training; those prisoners who, for different reasons, were not able to work or who had reached retirement age received a monthly allowance.

³⁵ According to Section 66c (2) of the Penal Code and the relevant *Länder* laws on the execution of sentences, the prison authorities are under a legal obligation to offer prisoners who are earmarked for preventive detention a “therapy-oriented” regime, with a view to reducing the risk of recidivism and rendering preventive detention as far as possible unnecessary after serving the prison sentence.

The CPT notes with interest that, at Celle Prison, a special “motivation group” had recently been created, with a view to preparing prisoners to taking part in a full socio-therapeutic treatment programme by providing psychological support and occupational activities. At the time of the visit, three prisoners had been selected for this purpose. The delegation was informed by the management that it was planned to enlarge the “motivation group” and develop a more comprehensive motivational programme. **The CPT would like to receive updated information on this matter.**

4. Situation of inmates subjected to prolonged solitary confinement

45. In the course of the visit, the delegation paid particular attention to the situation of inmates who were held in solitary confinement (*Einzelhaft*) for prolonged periods. Following a specific request for information made by the CPT prior to the visit, the delegation was informed that a total of nine prisoners and one inmate in preventive detention had been held in solitary confinement for security reasons for more than one year. The cases with the longest period of solitary confinement by far concerned two persons in Lower Saxony, namely one life-sentenced prisoner (“inmate A”) at Celle Prison, who had been held in solitary confinement for eleven years, and one person held in preventive detention (“inmate B”) at Rosdorf Prison, who had been subjected to solitary confinement for almost 20 years.³⁶

46. At Celle Prison, the delegation interviewed inmate A, examined his administrative and medical files and had consultations with the management and staff. He had been transferred to Celle Prison in September 2015 after having had been “rotated” every year from one prison to another in Lower Saxony (due to repeated absconding from different prisons).

47. Inmate A was accommodated in a single cell in the establishment’s high-security unit (*Sicherheitsstation*), the material conditions of which were of a high standard.

48. Until May 2015, inmate A had been subjected to the high-security regime A, which meant that no contacts whatsoever with other (high-security) prisoners were allowed. Following a decision taken by the sentence planning board (*Vollzugskonferenz*) of the previous prison, his regime had been altered to level B. According to the latter regime, which was also being applied to him at Celle Prison, the prisoner was in principle allowed to associate with one particular prisoner from the same unit every day for one to two hours during outdoor exercise and for two hours in an association room with a kitchenette.

However, in practice, the above-mentioned change of regime had not alleviated the solitary confinement regime, since the second prisoner (a foreign national who did not speak any German) did not wish to have contacts with inmate A. Out-of-cell activities offered to inmate A mainly consisted of individual access to an indoor fitness room (for one to two hours, five days a week) and daily outdoor exercise in a yard adjacent to the high-security unit. Reportedly, the prisoner had been refusing to go out into the open air for about two years. Inside the cell, he could occupy himself with reading books and newspapers, watching television, listening to the radio and using a type writer.

³⁶ The seven other persons were being held in prisons in different *Länder*; most of them had spent between one and two years in solitary confinement.

In accordance with the specific house rules of the high-security unit and a decision taken by the management, the prisoner was subjected to severe security measures. In particular, he was handcuffed during movements outside the high-security unit as well as during dental interventions. In addition, before and after every stay in the outdoor yard (which was adjacent to the unit), he was obliged to change all his clothes (including his underwear) in the presence of two prison officers.

49. In accordance with the relevant legislation, the detention regime and security measures were reviewed by the management and the Ministry of Justice on a three-monthly basis.

50. As regards contacts with the outside world, the prisoner was allowed to make two 15-minute telephone calls per week and to receive visits (under closed conditions) for two hours per month. However, visits had hardly ever been requested by the prisoner.

51. The CPT is aware of the particular security risk (i.e. risk of escape) posed by inmate A, and it appreciates the measures taken by the psychologist and other members of staff to provide regular human contact. In particular, individual conversations (*Entlastungsgespräche*) were organised once a week by the psychologist (for one hour) and once a week by the priest or a social worker (for one hour).

Notwithstanding these measures, it remains a matter of concern that the human contact from which the prisoner could otherwise benefit on all the other days of the week remained very limited in practice. When raising this matter with the management and, subsequently, with the Minister of Justice of Lower Saxony, the delegation urged the prison authorities of Lower Saxony to take additional measures to alleviate the detention regime of the prisoner concerned, for instance by allowing him to have contact with carefully selected prisoners. The management of the prison acknowledged that such measures could be progressively implemented without compromising legitimate security considerations. The delegation was also informed that an expert evaluation carried out by a psychiatrist in March 2015 had concluded that the aim should be to transfer the prisoner in the medium term to an ordinary detention unit or a socio-therapeutic unit. Further, a forensic psychiatrist had recently been commissioned to review his mental state of health and to carry out a risk assessment. **The CPT recommends that the prison authorities of Lower Saxony review the detention regime of inmate A in the light of the above remarks.**

52. The delegation paid a brief visit to the high-security unit of Rosdorf Prison, in order to examine the detention conditions of inmate B, as well as the psychological impact which the solitary confinement regime lasting almost 20 years had had on him.³⁷

Regrettably, inmate B categorically refused to talk to members of the delegation and, due to the lack of consent, the delegation was denied access to the inmate's administrative and medical files by the management and health-care service respectively (see also paragraphs 7 to 10). Consequently, the delegation was not in the position to gain a clear picture of the detention conditions, nor could it assess the extent to which inmate B was provided with human contact.

The CPT requests the authorities of Lower Saxony to provide detailed information on the out-of-cell activities offered to inmate B, as well as on the measures taken to provide him with human contact.

³⁷ Solitary confinement had been imposed on the inmate concerned following a serious incident in a prison in 1996.

53. In the high-security units of Celle and Rosdorf Prisons, the delegation met other inmates who had been held in solitary confinement as a security measure for almost one year. However, due to language barriers, the delegation was not in the position to interview the persons concerned. Moreover, due to lack of consent, it was not able to consult the inmates' administrative and medical files. In this regard, reference is made to the remarks in paragraphs 9 and 10.

5. Health care

54. The delegation examined the medical services at Celle, Kaisheim and Tonna Prisons, while, at Moabit Prison, it focused mainly on medical screening upon admission.

55. The general health-care staff comprised at Celle Prison one full-time doctor and seven full-time nurses, at Kaisheim Prison two full-time doctors and nine full-time nurses and at Tonna Prison one full-time and one part-time (20%) doctor, as well as nine full-time nurses. Moreover, Celle and Tonna Prisons were visited once a week (for at least half a day) by a psychiatrist and a dentist. At Kaisheim Prison, a psychiatrist was employed on a full-time basis (as Head of the socio-therapeutic unit), and a dentist was present in the establishment for one day per week.

In all the establishments visited, nurses were present seven days a week. That said, no nurse was present in any of the establishments at night. This is particularly worrying with regard to Kaisheim Prison which also comprises an in-patient infirmary (with twelve beds). Further, the CPT notes with concern that, at Celle and Kaisheim Prisons, prescribed medicines (including psychotropic drugs) were often distributed by custodial staff (after being prepared by nurses in an individualised form).

The CPT recommends that the prison authorities of Bavaria, Lower Saxony and Thuringia review the nursing staffing levels at Celle, Kaisheim and Tonna Prisons, in order to ensure that:

- **a qualified nurse is present on a 24-hour basis at Kaisheim Prison (including at weekends);**
- **someone competent to provide first aid, preferably with a recognised nursing qualification, is always present at night on the premises of Celle and Tonna Prisons;**
- **medication is no longer distributed to prisoners by prison officers but by health-care staff at Celle and Kaisheim Prisons.**

56. In all the establishments visited, the health-care facilities were generally of a high standard in terms of infrastructure and equipment.

57. As regards medical screening, in all the establishments visited, newly-arrived prisoners were usually examined within 24 hours of admission by a doctor (or a nurse reporting to a doctor). In addition, screening for various transmissible diseases (such as tuberculosis, hepatitis C, HIV, etc.) was usually offered to them.

That said, the quality of the medical screening and the recording of injuries varied significantly from one establishment to another. The delegation gained a very positive impression in this respect of Moabit Prison, where newly-arrived prisoners were promptly seen by a doctor and injuries appeared to be adequately recorded. In contrast, the situation observed at Kaisheim Prison left much to be desired. The initial medical examination of newly-arrived prisoners was far from comprehensive (i.e. no proper physical examination), and injuries were not always recorded. For instance, the delegation found one case in which injuries were visible on the photo taken of a prisoner upon arrival, while they were not recorded at all in the medical file of the prisoner concerned. Further, at Celle and Tonna Prisons, several allegations were received that the medical examination upon admission was limited to asking questions about the state of health of the person concerned. In addition, at Tonna Prison, the delegation observed that in several cases the recording of injuries lacked detail.

In the light of the above, **the CPT recommends once again that the prison authorities of Bavaria, Lower Saxony, Thuringia and all other *Länder* take steps to ensure that the file drawn up after the examination of a prisoner – on admission or during imprisonment – contains:**

- i) a full account of objective medical findings based on a thorough examination (supported by a “body chart” for marking traumatic injuries). It would also be desirable that photographs be taken of the injuries;**
- ii) a full account of statements made by the person concerned which are relevant to the medical examination (including the description of his/her state of health and any allegations of ill-treatment);**
- iii) the doctor’s observations in the light of i) and ii) above, indicating the consistency between any allegations made and the objective medical findings.**

Further, the results of every examination, including the above-mentioned statements and the doctor’s observations, should be made available to the prisoner and his/her lawyer.

58. From consultations with health-care staff, there appeared to be no clear procedures in place in any of the establishments visited in respect of the reporting of detected injuries. In particular, the information gathered during the visit suggests that injuries were not systematically brought to the attention of the management, let alone reported to the competent prosecutor.

The CPT reiterates its recommendation that existing procedures be reviewed in all German prisons to ensure that, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the competent prosecutor, regardless of the wishes of the person concerned.

59. As regards psychiatric care, access to psychiatric consultations was generally guaranteed without delay in all the establishments visited.

That said, it is a matter of serious concern that, in particular at Kaisheim and Tonna Prisons, the management repeatedly encountered major difficulties in transferring prisoners suffering from severe mental disorders to a hospital setting (either a prison hospital or a psychiatric clinic). For instance, at Tonna, the delegation met one prisoner who had repeatedly been placed in a security cell for prolonged periods and occasionally fixated for several days in a state of acute psychosis, because of the refusal of various prison hospitals throughout Germany to admit the person (reportedly, due to lack of beds).

The CPT urges the relevant authorities of Bavaria and Thuringia to review as a matter of urgency the existing arrangements for the hospitalisation of severely mentally-ill prisoners, in the light of the above remarks.

60. In all the establishments visited, the supply of medication was adequate. That said, at Tonna Prison, the delegation observed a very high number of prescriptions of opiate painkillers which did not appear to be justified by the state of health of the prisoners concerned. Unfortunately, the delegation was not able to consult the prison doctor on this matter, since the latter was absent on the days of the visit. At the meeting with the management at the end of the visit to the establishment, the delegation was informed that the management was aware of this phenomenon and that consultations had already taken place on this matter between the Ministry of Justice and the medical service of the prison.

The CPT would like to receive updated information on the measures taken by the relevant authorities regarding this issue.

61. As regards the situation of drug-addicted prisoners, the delegation observed striking differences between the different prisons visited when it came to the issue of opiate substitution treatment. While such treatment was offered to prisoners at Celle and Tonna Prisons, it was as a matter of policy usually not offered to prisoners at Kaisheim Prison, despite the fact that it was generally available in the outside community. In practice, substitution treatment was accessible to prisoners only in the event that they had started a substitution programme prior to imprisonment and that they were not expected to stay in the prison for a long period. The delegation was informed that the same policy was also followed in other prison establishments in Bavaria. In the CPT's view, such a state of affairs is clearly not in compliance with the principle of equivalence of care. In this regard, reference is made to Rule 40.3 of the European Prison Rules which stipulates that prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.³⁸

The CPT recommends that the authorities of Bavaria and, where appropriate, of other *Länder* review their approach regarding the treatment of drug-addicted prisoners in the light of the above remarks.

³⁸ See also the relevant guidelines of Federal Medical Chamber of Germany (<http://www.bundesaerztekammer.de/richtlinien/richtlinien/substitutionstherapie>).

62. In all the prisons visited, the lack of interpreters during medical examinations posed particular problems and numerous complaints were received from foreign prisoners. In this regard, the delegation was informed during the meeting with the Minister of Justice of Bavaria that a pilot project had recently started in two Bavarian prisons to introduce a video interpretation service. This is a welcome development. **The CPT encourages the prison authorities of all other *Länder* to follow this example.**

63. In most German *Länder* (including Bavaria, Lower Saxony and Thuringia), the provision of health care in prisons falls under the exclusive responsibility of the Ministry of Justice and, more specifically, a designated official (*Referent*) within the prison administration who is also responsible for the professional supervision (*Fachaufsicht*) of the health-care services in all prison establishments of the respective *Land*.

In this regard, the CPT wishes to stress that the effectiveness of the professional supervision is likely to be compromised by the fact that the body which carries out the supervision is not functionally, let alone institutionally, independent of the body which is responsible for the organisation of the prison health-care services. The situation appears to be even more problematic in *Länder* (such as Thuringia) where the prison health-care unit of the prison administration has no health-care professional among its staff.

The CPT recommends that the prison authorities of all *Länder* take the necessary steps to ensure that the health-care services of all prison establishments are subjected to external professional supervision, in co-operation with the Ministries of Health, in the light of the above remarks.

6. Other issues

a. contact with the outside world

64. The delegation observed a striking contrast between the prisons visited regarding the arrangements for allowing prisoners to have contact with the outside world.

It is particularly praiseworthy that, at Celle and Tonna Prisons, prisoners were provided with access to the telephone inside their cells, as part of the multimedia equipment³⁹ which could be rented by prisoners.

That said, numerous complaints were received in both prisons about the high costs of telephone calls. The delegation was informed that the prison authorities were well aware of this problem and that measures would be taken to change the telephone provider through a new tender procedure as soon as it was contractually possible. **The CPT would like to receive updated information on this matter.**

65. At Celle Prison, arrangements had also been made to allow sentenced and remand prisoners who were not able to receive visits (due to long distances or health or financial reasons) to make occasional video calls via a Voice-over-the-Internet-Protocol service (usually, for some 30 minutes per call). **The CPT encourages the prison authorities of all other *Länder* to follow this positive practice.**

³⁹ The equipment comprised a radio, a television set, access to certain Internet pages and controlled access to a certain number of approved telephone numbers.

66. The CPT is puzzled by the fact that, in accordance with the relevant legislation of Bavaria,⁴⁰ both remand prisoners and sentenced prisoners (including those sentenced to life imprisonment) at Kaisheim Prison were – as a general rule – not allowed to make any telephone calls.⁴¹ In the CPT's view, such a state of affairs is unacceptable and incompatible with the European Prison Rules.⁴²

The CPT calls upon the authorities of Bavaria to review their policy regarding prisoners' access to the telephone in the light of the preceding remarks and to amend the relevant legislation, in order to ensure that all prisoners (including those on remand) have regular and frequent access to the telephone.

67. The CPT notes that, in practice, in the three prisons visited, prisoners could usually receive more visits than the minimum entitlement⁴³ provided for in the relevant *Länder* laws. At Celle Prison, sentenced prisoners were allowed to receive visits for four hours per month and remand prisoners for two hours per month; both sentenced and remand prisoners were allowed to receive visits for two hours per month at Kaisheim Prison and for three hours per month at Tonna Prison.

That said, the CPT wishes to stress again that all prisoners, whatever their legal status, should be entitled to a visit of at least one hour every week. **The Committee reiterates its recommendation that the prison authorities of all *Länder* take the necessary measures to ensure that this precept is effectively implemented in all prisons.**

68. It is particularly praiseworthy that, at both Celle and Tonna Prisons, sentenced prisoners (and, exceptionally, also remand prisoners) could benefit after one year of imprisonment from unsupervised visits (*Langzeitbesuche*) by spouses (and children) of up to several hours, provided that they met certain criteria and successfully underwent a risk assessment.

Regrettably, no such possibility existed at all at Kaisheim Prison. With a view to safeguarding prisoners' relations with their families, **the CPT encourages the prison authorities of Bavaria and, where appropriate, of other *Länder* to introduce unsupervised visits for prisoners.**

⁴⁰ Section 35 (1) of the BayStVollzG stipulates that sentenced prisoners *may* be allowed to make telephone calls in urgent matters and, according to Section 21 (1) of the BayUVollzG, that remand prisoners may be allowed to make telephone calls with the authorisation of the Director in so far as there are no infrastructural, staff-related and organisational constraints.

⁴¹ On a positive note, it should be added that foreign prisoners who could not receive visits were usually given the opportunity to make a telephone call every two months.

⁴² See Rules 24.1 and 99 and the Commentary on these Rules.

⁴³ In Lower Saxony, sentenced and remand prisoners are entitled to at least one visit of one hour per month, subject to court approval in the case of remand prisoners (Sections 25 (1) and 143 NJVollzG); in Bavaria, sentenced prisoners are entitled to at least one visit of one hour per month (Section 27 (1) BayStVollzG) and remand prisoners to at least two hours per month or, in the event of infrastructural, staff-related or organisational reasons, to at least one visit of one hour per month (Section 15 (1) BayUVollzG); in Thuringia, sentenced prisoners are entitled to visits of at least two hours per month and remand prisoners of at least three hours per month (Section 34 (1) ThürJVollzGB).

69. At Kaisheim Prison, the delegation was informed that remand prisoners had to request authorisation from the competent court for every single visit. In this regard, the CPT considers that remand prisoners should be entitled to receive visits (and make telephone calls) as a matter of principle, rather than these being subject to authorisation by a judge. This precept is also set out in the European Prison Rules.⁴⁴ Any refusal in a given case to permit such contacts should be specifically substantiated by the needs of the investigation and be applied for a specific period of time. If it is considered that there is an ongoing risk of collusion, particular visits (or telephone calls) can always be monitored.

The CPT recommends that the relevant authorities of Bavaria and, where appropriate, of other *Länder*, take steps to ensure that the rules governing remand prisoners' contacts with the outside world are revised, in the light of the preceding remarks.

b. discipline

70. According to the relevant *Länder* prison laws,⁴⁵ the most severe disciplinary sanction which may be imposed on adult prisoners is solitary confinement (*Arrest*) for a period of up to four weeks, while, in the case of juveniles and young adults, solitary confinement may be imposed for up to two weeks.

The delegation observed significant differences among the establishments as regards the frequency and duration of resort to solitary confinement as a disciplinary measure. At Celle and Tonna Prisons, solitary confinement had been imposed only very rarely in recent years and usually only for a short time.⁴⁶ In contrast, at Kaisheim Prison, solitary confinement had been imposed much more frequently and, in a number of cases, for up to four weeks.⁴⁷

The CPT considers the maximum possible period of solitary confinement of four weeks for adult prisoners to be excessive. Given the potentially very damaging effects of solitary confinement on the mental and/or physical well-being of the prisoners concerned, this period should be no more than 14 days for a given offence, and preferably lower.⁴⁸ Further, there should be a prohibition of sequential disciplinary sanctions resulting in an uninterrupted period of solitary confinement in excess of the maximum period.

⁴⁴ See Rules 24.1 and 99 and the Commentary on these Rules.

⁴⁵ Sections 110 and 156 BayStVollzG and Sections 28 and 40 BayUVollzG; Sections 95, 156 and 164 JVollzG; Section 98 ThürJVollzGB.

⁴⁶ At Celle Prison, a total of 66 disciplinary sanctions were imposed in 2014 (with solitary confinement being imposed in five cases, for a maximum duration of one week); in 2015, there were 79 sanctions (with solitary confinement being imposed in ten cases, for a maximum duration of one week). At Tonna Prison, solitary confinement was imposed in eleven out of 281 cases (for a duration of four weeks in four cases) in 2014 and in eleven out of 201 cases in 2015 (including for a duration of three and four weeks in two cases).

⁴⁷ In 2014, 350 disciplinary sanctions were imposed on prisoners, including solitary confinement in 151 cases (in eight cases more than 14 days, the longest duration being 28 days); in 2015, disciplinary sanctions were imposed in 307 cases, including solitary confinement in 137 cases (in seven cases more than 14 days, the longest duration being 21 days).

⁴⁸ See paragraph 56(b) of the 21st General Report on the CPT's activities.

Further, the CPT wishes to stress that any form of isolation may have an even more detrimental effect on the physical and/or mental well-being of juveniles. In this regard, the Committee observes an increasing trend at the international level to promote the abolition of solitary confinement as a disciplinary sanction in respect of juveniles. Particular reference should be made to the United Nations Standard Minimum Rules on the Treatment of Prisoners (*Nelson Mandela Rules*) which have recently been revised by a unanimous resolution of the General Assembly and which explicitly stipulate in Rule 45 (2) that solitary confinement shall not be imposed on juveniles.⁴⁹ The CPT fully endorses this approach.

The Committee recommends that the authorities of Bavaria, Lower Saxony, Thuringia and all other *Länder* concerned take steps to ensure that the above-mentioned precepts are effectively implemented in practice and that the relevant *Länder* laws are amended accordingly.

71. The CPT welcomes the fact that the Law on the Execution of Sentences of Thuringia (ThürJVollzGB) contains no provisions according to which prisoners' contact with the outside world may be curtailed as a disciplinary sanction. That said, it is a matter of serious concern that specific provisions are contained in the relevant legislation of Bavaria (including in respect of juveniles) and Lower Saxony (for adult prisoners only), according to which contacts with the outside world (other than with lawyers and judicial authorities) may be limited to "urgent matters" for a period of up to three months (either as a separate sanction or in conjunction with other sanctions such as solitary confinement).⁵⁰

The CPT wishes to stress once again that disciplinary punishment of prisoners should never involve a total prohibition of family contact and that any restrictions on family contact as a punishment should be imposed only when the offence relates to such contact.⁵¹ Further, as regards juveniles, contacts with the outside world should never be denied as a disciplinary measure; nor should it be limited unless the disciplinary offence relates to such contact.⁵²

The Committee recommends that the authorities of Bavaria, Lower Saxony and all other *Länder* concerned take steps to ensure that the above-mentioned precepts are effectively implemented in practice and that the relevant *Länder* laws are amended accordingly.

72. Moreover, despite the specific recommendation repeatedly made by the Committee, the relevant legal provisions in Bavaria and Lower Saxony still stipulate that prisoners subject to the disciplinary sanction of solitary confinement shall not have access to reading material (i.e. books or newspapers).⁵³ Whilst acknowledging that this restriction was not strictly applied in practice at Celle Prison, **the CPT once again calls upon the authorities of Bavaria, Lower Saxony and of other *Länder* concerned to formally abolish the aforementioned restriction without any further delay.**

⁴⁹ See also Rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly Resolution A/RES/45/113, Annex).

⁵⁰ In Lower Saxony, this type of disciplinary sanction may only be imposed on prisoners if the disciplinary offence was connected with the prisoner's contact with the outside world.

⁵¹ See Rule 60.4 of the European Prison Rules and the Commentary on these Rules; see also Rule 43 (3) of the *Nelson Mandela Rules*.

⁵² See paragraph 127 of the 24th General Report on the CPT's activities.

⁵³ At Kaisheim Prison, a number of prisoners claimed that they were only allowed to read the Bible during their stay in a punishment cell.

73. From the consultation of disciplinary registers and files, as well as from interviews with prisoners and staff, the delegation gained the impression that disciplinary procedures were generally carried out in a satisfactory manner, in accordance with the relevant legislation.

However, in all the establishments visited, prisoners subjected to a disciplinary sanction were not systematically provided with a copy of the disciplinary decision or informed in writing of the possibilities of lodging an appeal.

The CPT recommends that the authorities of Bavaria, Lower Saxony, Thuringia and other *Länder* concerned take steps to ensure that prisoners subjected to a disciplinary sanction receive a copy of the disciplinary decision, informing them about the reasons for the decision and the avenues for lodging an appeal. In this context, prisoners having difficulties in understanding the German language should be provided with the necessary assistance.

74. In Bavaria, Lower Saxony and Thuringia, the relevant legislation stipulates that, prior to the implementation of the disciplinary sanction of solitary confinement, a doctor must be heard, that, during solitary confinement, the prisoner concerned must be subject to medical supervision (*ärztliche Aufsicht*) and that a disciplinary sanction of solitary confinement shall not be implemented or be interrupted if the prisoner's health would otherwise be endangered.

In this regard, the CPT notes with concern that, in particular at Celle and Kaisheim Prisons, prison doctors were required to certify by signature (on the disciplinary decision) whether the prisoner concerned was fit to undergo this type of punishment and that, in the three establishments visited, prisoners subjected to solitary confinement were apparently not systematically visited by a member of the health-care staff on a daily basis.

As regards the former point, the CPT does not contest as such the involvement of doctors in the context of the placement of prisoners in solitary confinement for disciplinary reasons, quite the contrary. However, the Committee wishes to stress once again that medical practitioners in prisons act as the personal doctors of prisoners, and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners. Against this background, the practice of prison doctors certifying that a prisoner is fit to undergo punishment is scarcely likely to promote that relationship. As a matter of principle, medical personnel should never participate in any part of the decision-making process resulting in any type of solitary confinement, except where the measure is applied for medical reasons. On the other hand, health-care staff should be very attentive to the situation of prisoners placed in disciplinary cells (or any other prisoner held under conditions of solitary confinement; see also paragraph 78). The health-care staff should immediately be informed of every such placement and should visit the prisoner without delay after placement and thereafter on a regular basis, at least once per day, and provide him/her with prompt medical assistance and treatment as required. They should report to the prison director whenever a prisoner's health is being put seriously at risk by being held in disciplinary confinement.

The CPT reiterates its recommendation that the prison authorities of Bavaria, Lower Saxony, Thuringia and, where appropriate, of other *Länder* review the role of health-care staff in relation to disciplinary matters in the light of the above remarks, if necessary, by amending the relevant legal provisions. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2) and the comments made by the Committee in its 21st General Report (see paragraphs 62 and 63 of CPT/Inf (2011) 28).

75. Further, the delegation was informed that, in the context of a judicial appeal procedure (*Antrag auf gerichtliche Entscheidung*) against a disciplinary sanction, prisoners could simultaneously submit a request to the court to be exempted from the payment of court fees.

However, in practice such exemption requests were apparently often rejected by the competent courts (including on the grounds that the appeal was considered not to have any prospect of success). Consequently, prisoners whose judicial appeal was unsuccessful were often obliged to pay a court fee. In this regard, the CPT welcomes the fact that, according to the management of Celle Prison, a practice had been established some five years earlier to usually not charge prisoners for such payments. Bearing in mind that there should never be financial obstacles for prisoners to lodge an appeal against disciplinary sanctions, **the CPT encourages the relevant authorities in all other *Länder* to abolish the legal requirement that prisoners pay court fees in the context of such proceedings.**

c. security-related issues

76. All prisons visited had one or two security cells (*besonders gesicherter Haftraum* – BGH) where prisoners were on occasion segregated for security reasons (i.e. risk of self-harm or harm to others), in accordance with the relevant legislation. All security cells had good access to natural light and were well-equipped (including with a foam mattress and a floor-level toilet). In addition, all cells were fitted with a call system and CCTV cameras. The CPT welcomes the fact that, at Celle Prison, the toilet area in the security cells was pixelated on the CCTV monitor screen. Regrettably, this was not the case in the other prisons visited. **Steps should be taken to remedy this shortcoming.**

77. Further, it is matter of serious concern that, despite the specific recommendation repeatedly made by the Committee (since 1996), the laws on the execution of sentences of Bavaria, Berlin, Lower Saxony and Thuringia still contain a provision which allows the management to impose a prohibition on outdoor exercise on prisoners held in security cells (as an additional security measure).

As far as the delegation could ascertain, prisoners held in security cells were frequently denied access to outdoor exercise (sometimes for days on end) in all the prisons visited, with the notable exception of Celle Prison.

The CPT once again calls upon the authorities of all *Länder* concerned to take the necessary steps to ensure that prisoners subjected to segregation are offered at least one hour of outdoor exercise per day and that prohibition of outdoor exercise is abolished from the relevant legislation as a special security measure (in respect of all categories of inmate).

78. Further, as far as the delegation could ascertain, prisoners placed in security cells were not systematically visited by a member of the health-care staff on a daily basis, as would be required under the relevant legal provisions. In this regard, **reference is made to the remarks and recommendation made in paragraph 74.**

79. As regards the use of mechanical restraint (*Fixierung*), the CPT is pleased to note that the downward trend observed during the 2013 visit had continued. As a matter of fact, in most of the prisons visited, hardly any prisoner had been subjected to *Fixierung* in recent years.⁵⁴ It is also noteworthy that, at Celle Prison, the use of *Fixierung* stopped after arrangements had been made to ensure the presence of the psychiatrist once a week instead of once a month as had previously been the case.

The CPT encourages the the relevant authorities of all *Länder* to abandon the resort to *Fixierung* in prisons.

80. As far as Berlin-Plötzensee Prison Hospital is concerned, the practice of *Fixierung* does not call for any particular comments. That said, it is regrettable that, despite the specific recommendation made by the Committee after the previous visit to the hospital in 2013, there was still no central register on the use of *Fixierung* and seclusion (in addition to the recording of such instances in the patient's medical file).

The CPT reiterates its recommendation that steps be taken by the relevant authorities in Berlin and, where appropriate, in other *Länder* to ensure that every instance of *Fixierung* in a prison hospital is recorded in a specific register established for that purpose (for example, the register on special security measures), in addition to the individual's file. The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the person who ordered or approved it, and an account of any injuries sustained by the person or staff. This will greatly facilitate both the management of such cases and oversight into the extent of their occurrence.

d. house rules

81. In the three prisons visited, newly-arrived prisoners were usually given a copy of the establishment's house rules. In this regard, it is praiseworthy that, at Kaisheim Prison, the house rules were also available in many different languages.

Regrettably, this was not the case at Celle and Tonna Prisons. By letter dated 23 February 2016, the Ministry of Justice of Lower Saxony informed the Committee that, in almost all the prisons in Lower Saxony, the existing house rules had been translated into English and that, depending on the needs at local level, they had been translated into Polish, Russian, Arabic, French and Turkish; in some establishments, they had also been translated into Albanian, Romanian, Serbian, Spanish and Chinese. This is a welcome development.

The CPT recommends that the authorities of Thuringia and, where appropriate, of other *Länder* take steps to ensure that the house rules of prisons are translated into relevant foreign languages and made available to newly-arrived prisoners.

⁵⁴ Both at Celle and Kaisheim Prisons, the last time a prisoner had been subjected to *Fixierung* was some three years previously. At Tonna Prison, there had been three cases of *Fixierung* in 2015 (always with continuous direct monitoring by a member of staff – *Sitzwache*).

C. Psychiatric establishments

1. Preliminary remarks

82. The delegation visited St Joseph's Psychiatric Hospital in Berlin-Weißensee (Berlin) and two forensic psychiatric establishments, namely Brandenburg an der Havel Forensic Psychiatric Clinic (Brandenburg) and Wasserburg am Inn Forensic Psychiatric Clinic (Bavaria). As mentioned in paragraph 8, the delegation unfortunately had no choice but to discontinue its visit to Uchtsprunge Forensic Psychiatric Clinic (Saxony-Anhalt), since the issue of access to individual patient files and even the list of patients could not be resolved with the management of the clinic and the authorities of Saxony-Anhalt.

83. The involuntary placement of a civil nature (*Unterbringung*) of patients in a psychiatric hospital falls within the legislative competence of the *Länder* and is regulated by the relevant mental health law of the *Land* concerned, which in the case of Berlin is the 1985 Law on Mentally Ill Persons (*Gesetz für psychisch Kranke – PsychKG*). According to Section 8 (1) of the PsychKG of Berlin, persons may be subjected to involuntary placement in a psychiatric hospital, if and for as long as they suffer from a mental illness and, as a consequence, endanger their health or significant legal interests of third persons and if the danger cannot be averted by any other means. The same provision also specifies that a patient shall not be subjected to involuntary placement for the sole reason that he/she refuses to undergo medical treatment.

Further, a person under guardianship (*Betreuung*) may be committed to a civil psychiatric hospital by his/her guardian (*Betreuer*) under Section 1906 (1) of the Civil Code (*Bürgerliches Gesetzbuch – BGB*), for as long as the placement is necessary in the best interests of the person concerned because there is a risk that, due to his/her mental illness or disability, he/she will commit suicide or self-harm or because a medical examination or treatment necessary for the prevention of severe bodily harm cannot be performed without such placement and he/she lacks the capacity for discernment.⁵⁵ According to Section 1906 (2) of the BGB, the placement decision of the guardian must be validated by the competent guardianship court. The aforementioned provisions apply equally to patients who have not been admitted to a psychiatric hospital on an involuntary basis, in the event that it is intended to deprive them of their liberty regularly or for a prolonged period by means of mechanical devices, medication or other means.⁵⁶

Involuntary placement procedures under both the PsychKG and the BGB are regulated by the relevant provisions⁵⁷ of the (federal) Law on the Procedures in Family Affairs and Non-Contentious Matters⁵⁸ (FamFG).⁵⁹

⁵⁵ In case a person under guardianship constitutes (also) a risk to others, the person concerned may be subjected to an involuntary placement order under the relevant PsychKG.

⁵⁶ Section 1906 (4) of the BGB.

⁵⁷ Sections 312 to 339.

⁵⁸ *Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit.*

⁵⁹ For further details, see paragraphs 113, 115 and 116.

84. The CPT is pleased to note that a new draft mental health law (*Gesetz über Hilfen und Schutzmaßnahmen bei psychischen Krankheiten* – PsychKG) had been prepared by the relevant authorities of Berlin with a view to introducing a comprehensive set of rules regarding the involuntary hospitalisation of both civil and forensic psychiatric patients. The draft text also reinforces various procedural safeguards, notably in the context of forced treatment of patients, and provides for a new independent inspection body (visiting commission). In June 2016, the regional Parliament (*Abgeordnetenhaus*) adopted the draft law in a slightly amended form. The new PsychKG is expected to enter into force in the near future.

85. The legal grounds for involuntary placement in a forensic psychiatric hospital (*Maßregelvollzug*) are set out in Section 63 (for persons who are declared not to be criminally responsible or who have diminished responsibility for the criminal offence they have committed) and Section 64 (compulsory alcohol or drug addiction treatment of persons who have committed a criminal offence in a state of intoxication) of the Criminal Code (*Strafgesetzbuch* – StGB).⁶⁰ Placements under Section 63 may be indefinite,⁶¹ while those under Section 64 may be only ordered for a maximum of two years.⁶²

Further, according to Section 126a of the StPO, persons who are suspected of having committed a criminal offence may be admitted to a psychiatric establishment for public security reasons.⁶³

86. The execution of penal measures of correction and prevention (*Maßregeln der Besserung und Sicherung*) falls within the legislative and administrative competence of the *Länder* and is regulated either by the relevant general mental health law (PsychKG) or a separate law on forensic placement (*Maßregelvollzugsgesetz* – MRVG). Bavaria has a separate MRVG (adopted in 2015), while, in Brandenburg, the 2009 PsychKG contains a specific section on forensic psychiatry.

87. The delegation was informed of existing plans to reform forensic placement and the review procedure under Section 63 of the StGB, with a view to reinforcing the principle of proportionality by strengthening the legal requirements for forensic placements and introducing additional legal safeguards. To this end, the Federal Cabinet submitted a draft law to the German Parliament (*Bundestag*) in January 2016. According to the draft law, placement orders under Section 63 of the StGB shall be limited to serious crimes and the threshold for placements beyond six and ten years respectively shall be further increased,⁶⁴ thus avoiding disproportionate placements and excessively long durations of stay of forensic psychiatric patients. Moreover, procedural safeguards shall be strengthened (see paragraph 118). The draft law was adopted by the *Bundestag* in April 2016 without changes,⁶⁵ it now awaits approval by the Federal Council (*Bundesrat*).

The CPT welcomes this legislative initiative and would like to receive updated information on this matter.

⁶⁰ Placements under Section 63 and 64 of the StGB can be combined with a prison sentence, when the persons concerned have diminished responsibility for the criminal offence they have committed (Section 21 of the StGB).

⁶¹ As regards the review procedures, see paragraphs 117 and 118.

⁶² See Section 67d of the StGB.

⁶³ According to Section 81 of the StPO, criminal suspects may also be admitted to a psychiatric establishment for the purpose of conducting a psychiatric assessment.

⁶⁴ Placements beyond six years may only be continued when there is a threat that the patient concerned might commit a criminal offence which risks harming or actually severely physically or mentally harms the victim; placements beyond ten years may only be continued when there is a threat that the patient concerned might commit a criminal offence which severely physically or mentally harms the victim.

⁶⁵ Under reference no. 18/7244.

88. *St Joseph's Psychiatric Hospital*, located in Berlin-Weißensee, was opened in the late 19th century and is owned and administered by a foundation of the Order of Alexian Brothers (*Alexianer*). The hospital covers a catchment area with a population of almost 400,000 inhabitants and is under a legal obligation to admit a certain percentage of involuntary patients of that area. The hospital has a total capacity of 380 beds (including a neurological department and various psychiatric in- and out-patient services) and comprises six closed wards (three general psychiatric and two geriatric wards as well as one acute crisis ward) of a similar design with a capacity of 132 beds for inpatient care. At the time of the visit, the closed wards were accommodating a total of 154 civil psychiatric patients, of whom 28 were placed involuntarily.⁶⁶ The average duration of stay for involuntary patients was reportedly between two and three weeks.

Brandenburg Forensic Psychiatric Clinic, which is run by a private hospital operator, consists of several historic old buildings that host administration and workshops, as well as two modern three-floored buildings, both of which contain three wards of a similar design (including an admission and a high-security ward) secured by high surrounding walls topped with barbed wire. The clinic accommodates male adult patients under Section 63 of the StGB, as well as under Section 126a of the StPO. With an official capacity of 121 beds, it was holding 94 forensic psychiatric in-patients at the time of the visit, the average duration of stay reportedly being nine to nine-and-a-half years.⁶⁷

Wasserburg Forensic Psychiatric Clinic is operated by a private law non-profit enterprise, which is owned by a corporate association of various municipalities in Upper Bavaria. The clinic comprises a modern complex with six closed wards (including two admission wards) of a similar design which are situated in three double-storey buildings secured by a surrounding brick wall.⁶⁸ It accommodates male adult patients under Sections 63 and 64 of the StGB, as well as under Section 126a of the StPO. At the time of the visit, 134 forensic patients (most of them under Section 63 of the StGB) were being held in the six closed wards, which were operating slightly above their official capacity of 130 beds. On average, patients admitted under Section 63 of the StGB reportedly stayed in the clinic for approximately three years and those under Section 64 between one and one-and-a-half years.

2. Ill-treatment

89. The delegation received no allegations of deliberate physical ill-treatment of patients by staff in any of the psychiatric hospitals visited. In particular at St Joseph's Psychiatric Hospital and Wasserburg Forensic Psychiatric Clinic, most of the interviewed patients spoke positively about the manner in which staff interacted with them.

⁶⁶ Six patients under the PsychKG of Berlin and 22 under Section 1906 (1) of the BGB.

⁶⁷ Some of the patients have been deprived of their liberty for more than 20 years.

⁶⁸ In addition, there was an administrative building and three buildings for forensic psychiatric patients who were accommodated in open or semi-open wards in order to prepare for their discharge. The total capacity of all nine open and closed wards was 343 beds.

That said, at Brandenburg Forensic Psychiatric Clinic, the delegation heard consistent accounts from several patients interviewed separately about repeated instances of excessive use of force by staff vis-à-vis one particular patient who was no longer present at the time of the visit.⁶⁹ Allegedly, the patient concerned had repeatedly been highly agitated. On one occasion, staff allegedly brought him under control and restrained him by striking his face and gagging him with a rag. On another occasion, the same patient was allegedly dragged by force to the seclusion room and restrained by holding him down with a broomstick and gagging him. As a result of these interventions, the patient allegedly sustained injuries to his face. It is of particular concern that the delegation was not allowed to consult the individual file of this patient to verify the serious allegations made (see, in this regard, paragraph 9).

Moreover, the delegation received a number of complaints of verbal abuse, threats and disrespectful behaviour by staff at Brandenburg and Wasserburg Forensic Psychiatric Clinics. At Brandenburg Clinic, patients from different wards claimed that several staff members (both nurses and nursing assistants) would regularly insult and threaten them and other patients. Some patients reported that an atmosphere of intimidation and fear prevailed, notably in ward F2/3 where the high-security ward was situated (see also paragraph 96). At Wasserburg Clinic, patients from different wards alleged that they had been subjected to threats and inappropriate language by some assistant nurses.

The CPT recommends that the management of Brandenburg and Wasserburg Forensic Psychiatric Clinics exercise continuous vigilance and remind staff that any form of ill-treatment (including verbal abuse and threats) or disrespectful/provocative behaviour towards patients is unacceptable and will be sanctioned accordingly.

90. The phenomenon of inter-patient violence did not appear to be a major problem at St Joseph's Psychiatric Hospital and Wasserburg Forensic Psychiatric Clinic. Whenever such incidents occurred, they were documented and staff appeared to intervene promptly and react adequately. In this regard, the delegation was surprised to learn that, at St Joseph's Psychiatric Hospital, even serious instances of physical violence committed by patients against other patients (or staff) were as a matter of policy not brought to the attention of the police or the competent public prosecutor. **The CPT would like to receive the comments of the authorities of Berlin on this matter.**

91. At Brandenburg Forensic Psychiatric Clinic, the delegation received allegations that some vulnerable patients were repeatedly subjected to physical and verbal abuse, as well as sexual harassment and exploitation (one such case was also acknowledged by the medical director). While most instances of inter-patient violence were recorded and seemed to be appropriately dealt with (e.g. relevant incidents were referred to the police/public prosecutor), some patients complained that they felt unsafe and were afraid of other patients; the unsafe environment appeared to be partly related to deficiencies in staff numbers (see paragraph 95).

The CPT trusts that the management at Brandenburg Forensic Psychiatric Clinic will pursue its efforts to address the problem of inter-patient violence and protect all patients from other patients who might cause them harm. This requires not only adequate staff presence and supervision at all times, including at weekends, but also specific arrangements being made for particularly vulnerable patients.

⁶⁹ The patient concerned had been transferred to another establishment.

3. Patients' living conditions

92. Material conditions were generally of a high standard at St Joseph's Psychiatric Hospital and at Brandenburg and Wasserburg Forensic Psychiatric Clinics. The design and furnishings of the wards created a friendly environment. Patients were usually accommodated in single or double rooms, which were in a good state of repair, spacious and well-equipped (including with lockable cupboards/drawers and a sanitary annexe with shower, sink and toilet). Further, in all wards, patients had access to pleasantly decorated dining/communal rooms or spaces.

That said, St Joseph's Psychiatric Hospital in particular was frequently operating above its official capacity, including at the time of the visit, the consequence being that in all the wards several of the double rooms had to be equipped with an additional bed. This appeared to create problems especially for patients with acute psychiatric illness. The delegation was informed of existing plans to make some structural changes with a view to increasing the overall capacity by 31 beds. **The CPT would like to receive updated information on this matter.**

93. Further, in both forensic clinics visited, a number of patients (i.e. those who were subject to a placement order under Section 63 of the StGB) complained about the fact that they had to share a room with another patient for years on end. This was particularly problematic for patients at Brandenburg Forensic Psychiatric Hospital who were locked up in their rooms at night (see paragraph 129). **The CPT encourages the authorities of Bavaria and Brandenburg to strive to accommodate long-term patients in single rooms** (as is the usual practice for sentenced prisoners throughout the country).

94. In all the establishments visited, patients were offered a range of sports and other recreational activities, and patients usually benefited from daily outdoor exercise (if necessary, with assistance from staff). In particular, at St Joseph's Psychiatric Hospital, most patients had unrestricted access to very pleasant secure gardens adjacent to the wards.

However, at Wasserburg Forensic Psychiatric Clinic, the delegation received a number of complaints that, on various occasions, patients had not been granted access to daily outdoor exercise, as required by the relevant legislation,⁷⁰ despite having manifested their wish to go into the open air and despite the fact that each of the three buildings had its own secure garden area. Further, several patients claimed that, during the winter, they were only able to use the terrace but did not have access to the garden area.

The CPT wishes to stress that, as a matter of principle, every patient, unless there are clear medical contraindications, should benefit from the minimum legal entitlement of at least one hour of outdoor exercise every day, and preferably considerably more. While a terrace may provide a suitable outside area where patients could smoke, it cannot be considered as a substitute for daily outdoor exercise. **The CPT recommends that steps be taken at Wasserburg Forensic Psychiatric Clinic to ensure that patients are provided with daily outdoor exercise in the light of the preceding remarks.**

⁷⁰ According to Section 11 of the BayMRVG, all patients are entitled to at least one hour of outdoor exercise per day.

4. Staff

95. Health-care staffing levels appeared to be generally adequate in all the establishments visited.

St Joseph's Psychiatric Hospital employed a total of 67 medical doctors (with an equivalent of 55 full-time posts, including 19 full-time psychiatrists and neurologists), 14 psychologists (eight full-time posts) and 224 nurses (174.5 full-time posts).⁷¹

At *Brandenburg Forensic Psychiatric Clinic*, there were four full-time psychiatrists⁷² and nine psychologists (five full-time posts), as well as 50 nurses, 35 nursing assistants and 29 educators, occupational therapists and social workers (in total 111 full-time posts).

The delegation was informed that the turnover of psychologists was consistently high. In this regard, it is particularly worrying that many patients complained about the frequent cancellation of therapy sessions and the lack of continuity in their therapeutic treatment; several patients claimed that they had already changed therapist seven or eight times and some that they had not had any individual therapy for several months. Further, the CPT is concerned by the fact that, at the time of the visit, some 15% of staff (mainly nursing staff) were on sick leave, including ten who were on long-term sick leave. As a consequence, often, only two or three nurses/nursing assistants were present in a ward, and a number of patients were apparently not able to benefit from the relaxations of the regime (*Lockerungen*) which they had been granted,⁷³ as these had been cancelled due to the lack of staff. For instance, escorted excursions with two staff members to the city of Brandenburg were organised only once instead of three times a month. Given that relaxations of the regime constitute an essential component of the treatment programmes of forensic psychiatric patients, the regular cancellations thereof have an adverse effect on possible progress in the treatment and thus on the possibilities of social reintegration of patients.⁷⁴ Not surprisingly, this state of affairs has created increasing frustration among patients.

Wasserburg Forensic Psychiatric Clinic employed ten psychiatrists (almost all working full-time), 120 nurses (110 full-time posts), 43 nursing assistants (39 full-time posts), 14 psychologists (11.5 full-time posts), as well as 22 social workers, educators and occupational therapists (almost all working full-time).⁷⁵ At the time of the visit, two-and-a-half psychologists' posts were vacant, but the management affirmed to the delegation that the vacant posts would be filled shortly. Generally, the staffing situation appeared to be relatively stable, with a rather low number of absences due to sick leave (approximately 5%), so that there were usually no problems to organise *Lockerungen*.

The CPT recommends that the authorities of Brandenburg redouble their efforts to fill the vacancies for psychologists and nursing staff as quickly as possible, and to take steps to ensure the continuity of the therapeutic treatment at Brandenburg Forensic Psychiatric Clinic.

⁷¹ The staff numbers referred to in this paragraph include all staff working within the different services of the psychiatric hospital, including outpatient care services or day-clinics as well as the neurological department.

⁷² A fifth apprentice forensic psychiatrist was in training at the clinic and another external psychiatrist was temporarily working there until the end of 2015. In addition to the 94 patients placed at the clinic, at the time of the visit, the psychiatrists were also in charge of some 40 patients on probation in the out-patient service who were required to present themselves at the clinic once every two weeks.

⁷³ See Section 39 of the BbgPsychKG.

⁷⁴ See Section 4 (1) of the BbgPsychKG.

⁷⁵ The staff numbers referred to in this paragraph include all staff working within the different services of the forensic psychiatric hospital, including the outpatient care service, as well as the three open and semi-open wards.

96. At Brandenburg Forensic Psychiatric Clinic, the delegation received a number of complaints from patients in Ward F 2/3 that two male staff (one nurse and one nursing assistant) permanently wore blue rubber gloves when carrying out ordinary tasks in contact with patients placed in this ward. This was perceived as disrespectful and stigmatising by the patients concerned.

With a view to safeguarding the development and maintaining of a therapeutic relationship between health-care staff and patients, **it would be desirable for the above-mentioned practice to be discontinued.**

5. Treatment

97. At all three of the psychiatric establishments visited, the delegation gained a generally favourable impression of the treatment provided to patients. Patients usually had individual treatment plans that appeared to correspond to their needs.

Further, in addition to pharmacotherapy, patients were offered individual psychotherapy and several group therapies, as well as a range of occupational, educational and sports therapies (in particular at Brandenburg and Wasserburg Forensic Psychiatric Clinics). Due to the usually short period of stay of civil psychiatric patients at St Joseph's Psychiatric Hospital, the aim was to stabilise their situation by pharmacotherapy and counselling.

That said, as regards Wasserburg Forensic Psychiatric Clinic, it is a matter of concern that, according to staff, individual treatment plans were often drawn up or reviewed by multidisciplinary teams without consulting the patients concerned. Whilst acknowledging that a number of patients (including long-term patients) reportedly refused to follow any therapy, the CPT notes with concern that about one-third of the patients in Ward F4 were not enrolled in any therapy (except pharmacotherapy). The patients concerned usually spent the whole day in the corridor or on the smoking terrace of the ward without any purposeful or therapeutic activity. Further, occupational activities offered to patients in the two admission wards appeared to be insufficient.

The CPT recommends that the management of Wasserburg Forensic Psychiatric Clinic take steps to ensure that patients are involved in the preparation/review of their individual treatment plans and that they are informed of their progress. Further, the Committee encourages the management of the Clinic to re-double their efforts to encourage patients who are currently not enrolled in any therapy to participate in therapeutic activities (individual or group therapies) that are adapted to their specific needs.

98. In both forensic psychiatric clinics visited, relaxations of the regime (*Lockerungen*) formed an integral part of patients' individual treatment plans.⁷⁶ The level of *Lockerungen* was determined in the context of regular assessments of the individual progress made by the patients concerned.

⁷⁶ As regards Wasserburg, see also paragraphs 123 to 126.

99. At Brandenburg Forensic Psychiatric Clinic, the delegation met some patients who had committed sexual offences and who had been or were receiving anti-androgen treatment (so-called “chemical castration”) by means of triptorelin injections at the time of the visit. According to medical staff, this treatment was always based on a treatment plan drawn up after an individual psychiatric and somatic assessment and relevant laboratory tests. Moreover, the patients concerned had to be informed in advance of possible side-effects and they had to give their written consent to the treatment.

That said, the delegation was not able to find any trace of the written consent in the inadequately maintained personal and medical files of the patients concerned (see, in this regard, paragraph 100).

Further, some of the patients receiving anti-androgen treatment claimed that they had been put under pressure by the treating doctor to accept the treatment and that they had been advised that there would be no *Lockerungen* until they started the treatment (the implicit message being that there would otherwise be no realistic prospect of being released in the foreseeable future). Thus, the CPT has some doubts as to whether all patients concerned were placed in a position to give free and informed consent to anti-androgen treatment. The Committee wishes to recall that, as a matter of principle, anti-androgen treatment should be given on a purely voluntary basis. As should be the case before starting any medical treatment, the free and informed written consent of the patient concerned should be obtained prior to the commencement of anti-androgen treatment, it being understood that consent can be withdrawn at any time; in addition, the patient should be fully informed of all the potential effects and side-effects of the treatment, as well as the consequences of refusal to undergo such treatment. No patient should be put under pressure to accept anti-androgen treatment.

The CPT recommends that more attention be paid to ensuring that these precepts are being fully implemented in practice at Brandenburg Forensic Psychiatric Hospital and, where appropriate, in other forensic psychiatric establishments in Germany, taking into account the above remarks. Further, anti-androgen treatment should not be a general condition for the release of sex offenders (or the granting of *Lockerungen*).

100. While medical files were detailed and well maintained at St Joseph’s Psychiatric Hospital and Wasserburg Forensic Psychiatric Clinic, the situation appeared to be quite different at Brandenburg Forensic Psychiatric Clinic, where the delegation gained the impression that medical files were not properly maintained and that the handling of patient files was anything but well-organised. The delegation was informed that, due to the shortage of administrative staff, it was not uncommon for documents to be typed and filed with a delay of some six months. It was also symptomatic that even one of the medical doctors in the clinic failed to find relevant medical information in the voluminous and disorganised file of a particular patient.

The CPT recommends that the authorities of Brandenburg take the necessary steps to ensure that the patients’ medical and administrative files are adequately and maintained in a timely manner at Brandenburg Forensic Psychiatric Clinic. To this end, consideration might be given to the introduction of an electronic records management system and/or increasing administrative staff.

101. At St Joseph's Psychiatric Hospital, somatic care was provided by one general practitioner employed by the hospital and in co-operation with various general hospitals. An appropriate physical medical examination of the patient upon arrival was, as a rule, carried out and recorded in the patient's medical file. However, some patients claimed that they had not been physically examined upon arrival, apparently due to lack of consent or because they had been too agitated for a proper examination. The consultation of a number of medical files revealed that this omission had not been rectified as soon as possible later (i.e. when the patients' compliance had been restored).

Further, it is a matter of concern that, if police officers assisted in transferring a person to the hospital, the initial medical examination of the patient upon admission routinely took place in the presence of those police officers. Although the part of the room used for the physical examination of the patient could be separated from the rest of the room by a curtain, conversations between the doctor and the patient behind the curtain could easily be followed by police officers.

Moreover, it appeared that, for injuries that were recorded upon admission, the explanations of the patient as to the origin of these injuries were not always sought and recorded. Consequently, health-care staff did not generally attempt to give indications as to the consistency between any such explanations that were given and the objective medical findings. It is of particular concern to the CPT that injuries that were recorded upon admission were not systematically reported to the competent prosecutor.

102. It is a well-known fact that involuntary admission to a hospital of an acute psychiatric patient may be a high-risk undertaking in which police officers are frequently involved and coercive measures have to be used; patients are occasionally taken to the hospital hand- and feet-cuffed with a police escort. In the CPT's view, the accurate and timely recording and reporting of any injuries which the patient may display upon admission is an important safeguard against possible ill-treatment and should always be carried out promptly by a doctor. Whenever injuries are recorded which are consistent with allegations of ill-treatment made by a patient (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), the record should be systematically brought to the attention of the competent prosecutor, regardless of the wishes of the patient concerned.

The CPT recommends that the relevant authorities of Berlin and all other *Länder* take the necessary steps to ensure that all newly-arrived patients are examined somatically by a doctor within 24 hours of their admission in all psychiatric establishments in Germany. Further, all medical examinations of newly-admitted patients in psychiatric hospitals should be conducted out of the hearing and – unless the health-care professional concerned requests otherwise in a particular case – out of the sight of non-medical staff.

The Committee also recommends that the relevant authorities of Berlin and all other *Länder* take the necessary steps to ensure that the recommendations made in paragraphs 57 and 58 are effectively implemented in all civil and forensic psychiatric establishments in Germany.

6. Means of restraint

103. In all three psychiatric establishments visited, patients were on occasion subjected to seclusion, mechanical restraint (*Fixierung*) and/or the forcible administration of rapid tranquillisers (chemical restraint) in order to prevent immediate or imminent harm to the patient or others.

In this connection, the relevant mental health laws of Bavaria, Berlin and Brandenburg⁷⁷ provide for a number of legal safeguards. In particular, means of restraint must always be ordered by a doctor in advance or, in the case of an emergency (*Gefahr im Verzug*), must subsequently be approved by a doctor without delay. Restraint orders must be limited in time and they must be discontinued as soon as the conditions for the imposition of the measure no longer exist. In Bavaria, the law additionally stipulates that an individual order to apply *Fixierung* shall not be issued for more than 24 hours and that every resort to *Fixierung* must be approved by the supervisory court⁷⁸ (*Strafvollstreckungskammer*). Further, in Bavaria and Brandenburg, the relevant legislation requires that, in the case of *Fixierung*, a member of the (health-care) staff must always be present (*Sitzwache*).⁷⁹ Moreover, in Berlin and Brandenburg, every resort to means of restraint must be notified to the patient's lawyer.⁸⁰

104. All three establishments visited had issued detailed internal instructions on the use of means of restraint. That said, the delegation was not in a position to obtain a clear picture on how means of restraint were applied in practice. This was mainly due to the fact that a comprehensive restraint register did not exist in any of the establishments. Although various electronic/paper records were kept regarding incidents involving resort to means of restraint and statistical data were compiled on the number of restraint orders, the delegation could not obtain an overview of how often and for how long individual patients were subjected to seclusion and/or mechanical/chemical restraint. At Brandenburg Forensic Psychiatric Clinic, these records were incomplete and, for instance, did not contain all the measures or refer to the time of their beginning and end. The situation was further complicated by the fact that, on a few occasions, the delegation was denied access to the medical files of the patients concerned.⁸¹ By way of example, at Brandenburg Forensic Psychiatric Clinic, the delegation noted with concern that one particular patient had been subjected to *Fixierung* 50 times for a total of almost 700 hours in the course of one year, but it was not possible to establish the longest period during which the patient concerned had been fixated without interruption. **The CPT would like to receive detailed information on the use of *Fixierung* in this case.**

105. In none of the cases, in which the delegation found written traces of instances of *Fixierung* in any of the establishments visited, were patients fixated for more than 24 hours.

⁷⁷ Section 26 of the BayMRVG; Section 21 of the BbgPsychKG; Section 29a of the old PsychKG of Berlin (see also Section 72 of the new PsychKG of Berlin).

⁷⁸ In the event of an emergency, *Fixierung* may start before the court has taken a decision.

⁷⁹ This requirement has, in the meantime, been included in the new PsychKG of Berlin.

⁸⁰ It is noteworthy that the new PsychKG of Berlin contains a similar provision stipulating that a trusted person (next of kin) of the patient concerned must also be informed.

⁸¹ See, in this regard, paragraph 9.

By letter of 15 February 2016, the management of St Joseph's Psychiatric Hospital informed the Committee that, following recent changes to the electronic computer system, statistics about the length and frequency of resort to *Fixierung* were now available. In the course of 2015 the average duration of uninterrupted *Fixierung* of patients had been eleven hours (the longest duration in one case being 36 hours).

106. As regards the recording of means of restraint, the CPT notes with concern that, at Wasserburg Forensic Clinic, instances of chemical restraint were only recorded in the patients' individual medical files.

107. Further, at Brandenburg Forensic Psychiatric Clinic, metal hand- and ankle-cuffs were available on every ward, which, according to staff, were on occasion used for shackling the patient to the bed during the initial phase of *Fixierung* before applying purpose-made straps. In the CPT's view, members of staff should be instructed and properly trained to avoid the use of such devices. Moreover, a few patients interviewed by the delegation claimed that they had been shackled to the bed with metal hand- and ankle-cuffs during the entire period of *Fixierung*. If true, this would be unacceptable.

108. It is also a matter of serious concern that, in all three establishments visited, patients under *Fixierung* were apparently not always subjected to continuous, direct and personal supervision by a member of the health-care staff (*Sitzwache*). In some cases, the patients concerned were monitored only with video surveillance (CCTV) or through a small window from an adjacent nurses' office. Clearly, such practices cannot be considered as a substitute for a *Sitzwache*.

109. Further, at Wasserburg Forensic Psychiatric Clinic, all seclusion rooms were equipped with CCTV cameras which covered the entire room, without guaranteeing a minimum of privacy, for instance by pixelating the image of the toilet area. **Steps should be taken to remedy this shortcoming.**

110. Finally, it is regrettable that, in all three psychiatric establishments visited, patients usually did not benefit from a debriefing with a member of the health-care staff after having been subjected to means of restraint. In the CPT's view, such a debriefing is an occasion for the patient concerned to explain his/her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour. For the doctor, this will provide an opportunity to explain the rationale behind the measure, and thus reduce the psychological stress of the experience, as well as restore the doctor-patient relationship.

111. In the light of the remarks made in paragraphs 103 to 110, **the CPT reiterates its recommendation that steps be taken at St Joseph's Psychiatric Hospital, Brandenburg and Wasserburg Forensic Psychiatric Clinics, as well as in all other psychiatric establishments in Germany, to ensure that:**

- **a specific register, in addition to the records contained in the patient's personal medical file, is established to systematically record all instances of recourse to means of restraint – including chemical restraint – which also shows the length and frequency of individual restraint measures. The entries in the register should include the time at which the measure began and ended; the circumstances of the case; the reasons for resorting to the measure; the name of the doctor who ordered it; staff who participated in the application of the measure; and an account of any injuries sustained by patients or staff. Such information is an indispensable tool for effective management and staff monitoring of these measures and will greatly facilitate the oversight into the extent of their occurrence with a view to possibly reducing the resort to such measures in the future;**
- **relevant staff are trained in the use of restraint techniques and equipment. Such training should not only focus on instructing health-care staff how to apply means of restraint but, equally importantly, it should ensure that they understand the impact the use of restraint may have on a patient and that they know how to care for a restrained patient;**
- **whenever a patient is subjected to *Fixierung*, they always benefit from continuous, direct and personal supervision (*Sitzwache*) of a trained member of staff nearby who maintains the therapeutic alliance and may provide prompt assistance. Such assistance may include escorting the patient to a toilet facility or, in the exceptional case where the measure of restraint cannot be brought to an end after a very short time, helping him/her to drink water and/or consume food;**
- **metal hand- and/or ankle-cuffs are never used for the purpose of *Fixierung*;**
- **a debriefing is offered to patients concerned once restraint measures have been discontinued.**

7. Safeguards

a. initial placement and discharge

112. As indicated in paragraph 83, patients may be subjected to involuntary placement of a civil nature on the basis of either the mental health law of the relevant *Land* or the Civil Code (BGB).

According to the PsychKG of Berlin,⁸² an involuntary placement procedure has to be initiated by the competent district authority (*Bezirksamt*), which is the social psychiatric service (*Sozialpsychiatrischer Dienst*). In the case of an emergency, the district authority itself may issue a placement order which is valid until the end of the following day;⁸³ at the same it must inform the competent district court without delay.

Under Section 1906 (1) BGB, persons under guardianship (*Betreuung*) may be admitted to a closed psychiatric establishment by decision of the guardian. This decision must be approved by the competent guardianship court. In the case of an emergency, the placement may be effected by the guardian prior to the court approval (the latter must then be sought without delay).

113. In the context of involuntary placement procedures under both the PsychKG of Berlin and the BGB, the relevant provisions of the FamFG apply.⁸⁴

The FamFG contains a number of essential safeguards. Notably, the court has to appoint a guardian *ad litem* (*Verfahrenspfleger*), if this is required to protect the interests of the person concerned,⁸⁵ and every person subjected to an involuntary placement procedure must be heard in person by the judge.⁸⁶ Further, an expert opinion by a doctor is always required.⁸⁷ The doctor must have experience in the field of psychiatry and should be a psychiatrist.

The court may also issue a provisional placement order by means of an interim measure (*einstweilige Anordnung*). In this case, the same procedural safeguards apply, as a rule.⁸⁸ In the case of an emergency, a guardian *ad litem* must be appointed, and the person must be heard promptly after the initial placement decision.⁸⁹ A provisional placement order is limited to six weeks, but may be extended by the court to a maximum of three months on the basis of an expert opinion.⁹⁰

According to the FamFG, the patient concerned (as well as his/her family members and/or a designated person of trust) may lodge an appeal against the judicial placement order within one month (in the case of provisional placements, the deadline is two weeks).⁹¹

⁸² Sections 11 and 26 of the old PsychKG and Sections 22 and 23 of the new PsychKG.

⁸³ If such a provisional placement order cannot be obtained in due time, the Police President of Berlin (with the approval of a doctor who may also be the admitting doctor of the psychiatric hospital) or a licensed psychiatric institution can issue a (provisional) placement order. In both cases, the hospital must inform without delay the competent district authority.

⁸⁴ Sections 312 to 339.

⁸⁵ No such appointment is required if the person concerned has a lawyer (see Section 317 of the FamFG).

⁸⁶ The judge must also hear other parties concerned (including family members or a designated person of trust) and the authority which has requested the placement (see Sections 319 and 320 of the FamFG).

⁸⁷ See Section 321 (1) of the FamFG.

⁸⁸ The only exception being that a medical attestation (instead of an expert opinion) is sufficient (see Section 331 of the FamFG).

⁸⁹ See Section 332 of the FamFG.

⁹⁰ See Section 333 (1) of the FamFG.

⁹¹ See Sections 58 *et seq.* and Sections 335-336 of the FamFG. Under certain circumstances, an appeal may also be lodged against the decision of the appeal court (see also Sections 70 *et seq.* of the FamFG).

114. As far as the delegation could ascertain, involuntary placement procedures at St Joseph's Psychiatric Hospital were carried out in accordance with the above-mentioned legal requirements. All patients had been seen in person by the judge on the hospital premises, usually on the day after the patient's admission for placements under the PsychKG, or after a few days for placements under the BGB. In most cases, a guardian *ad litem* had been appointed.

That said, the delegation noted that patients were not systematically required to sign an attestation that they had received a copy of the reasoned court decisions, which were usually contained in the patients' individual files. **The CPT recommends that appropriate steps be taken to remedy this shortcoming.**

115. Further, in accordance with the relevant legislation, court decisions on involuntary placement were usually based exclusively on the opinion provided by a psychiatrist of St Joseph's Psychiatric Hospital. Only if the total period of involuntary placement exceeded four years (which did not occur in practice at Joseph's) would an independent external expert opinion be required by law.⁹²

In the CPT's view, the seeking of an opinion from a second doctor who is independent of the hospital would offer a further, important, safeguard in the context of involuntary placement procedures.

The CPT recommends that the relevant federal authorities and the authorities of Berlin and all other *Länder* take the necessary steps – including at the legislative level – to ensure that the opinion of an external expert in the field of psychiatry, who is independent of the hospital in which the patient is placed, is provided in the context of involuntary placement procedures (outside emergency procedures and provisional placement).

116. As regards discharge, the CPT notes that involuntary placement of a civil nature may, as a rule, not exceed one year and, if the patient concerned manifestly requires long-term psychiatric treatment, two years. Upon expiry of the placement order, a new court decision is required, in the case of which the above-mentioned safeguards apply.

In the case of placements under the BGB, a person under guardianship may be discharged at any time at the request of the guardian, and the court must be informed thereof.

Further, according to the FamFG,⁹³ patients (including those under guardianship) may lodge a request with the court for discharge prior to the expiry of the judicial placement.

That said, it remained somewhat unclear as to whether patients at St Joseph's Psychiatric Hospital were informed about the existence of such a possibility. **The CPT would like to receive further clarification on this point.**

⁹² See Section 329 (2) of the FamFG.

⁹³ Section 48.

117. As regards forensic psychiatric patients, the necessity of continued placement must be reviewed by the competent criminal court *ex officio* once a year in respect of placements under Section 63 of the StGB and every six months in respect of placements under Section 64 of the StGB.⁹⁴ In addition, patients are entitled to request a judicial review of their placement (provided that this right was not used in an abusive manner).

118. At Brandenburg Forensic Psychiatric Clinic, the delegation was unfortunately not in a position to assess the situation, due to the fact that patient's files were not transparent and inadequately maintained. **In this regard, reference is made to the remarks and recommendation made in paragraph 100.**

At Wasserburg Forensic Psychiatric Clinic, the examination of a number of individual patients' files revealed that regular reviews were carried out by the court in a timely manner. During court proceedings, patients were usually heard in person by the judge, and indigent patients were provided free legal aid by an *ex officio* lawyer.

Court decisions were usually taken on the basis of assessments provided by the clinic, without the involvement of an independent expert;⁹⁵ in the case of patients under Section 63 of the StGB, an opinion by an external expert was usually sought every five years (in accordance with the current legislation).⁹⁶

In previous visit reports, the CPT has already stressed that such an interval for the mandatory commissioning of independent expert opinions is too long. That said, the amendments to the criminal legislation, which have recently been adopted by Parliament and await approval by the Federal Council,⁹⁷ will significantly strengthen the procedural safeguards by introducing a legal requirement that an independent expert opinion be sought at least every three years (and, after six years, every two years) and that the experts concerned must have experience in forensic psychiatry and must not have previously established an opinion on the same patient.

The CPT welcomes this development.

⁹⁴ See Section 67e of the StGB.

⁹⁵ Patients could request a second opinion by an independent expert at their own expense.

⁹⁶ See Section 463 (4) of the StPO.

⁹⁷ See paragraph 87.

b. safeguards during placement

119. At all three psychiatric establishments visited, the delegation received a number of allegations from patients that they had not been provided with information on their rights.

At Brandenburg and Wasserburg Forensic Psychiatric Clinics, newly-admitted patients did not receive written information on their rights.⁹⁸ An information brochure, which also contained a copy of the house rules and relevant mental-health legislation, was available on every ward, but patients often appeared to be unaware of its existence. At St Joseph's Psychiatric Hospital, every newly-admitted patient received an information brochure, which however contained no information on the rights of patients.

The CPT recommends that the authorities of Bavaria, Berlin and Brandenburg as well as of all other *Länder* take steps to ensure that all newly-arrived psychiatric patients (and, if applicable, their legal representative) are provided with an information brochure setting out the hospital's routine and patients' rights, including information on legal assistance, review of placement (and the patient's right to challenge this), consent to treatment and complaints procedures. Patients unable to understand this brochure should receive appropriate assistance.

120. At all three establishments, patients could address complaints to an independent outside patients' advocate (*Patientenfürsprecher*). The CPT gained a particularly positive impression on the follow-up of complaints by the patients' advocate at St Joseph's Psychiatric Hospital (e.g. one staff member had been removed from a leading position), whose contact details were visibly displayed in the wards (contrary to the other two establishments). Moreover, at St Joseph's Psychiatric Hospital, patients were also able to lodge complaints with an independent complaints body (*Beschwerde- und Informationsstelle Psychiatrie Berlin*). At Wasserburg Forensic Psychiatric Clinic, written complaints were collected through a letter box and centrally dealt with by the company. Further, psychiatric patients in all three establishments may address complaints to the relevant supervisory authorities and request a judicial decision regarding any measures taken by the administration in the context of their involuntary placement.

That said, in all psychiatric establishments visited, a number of patients interviewed by the delegation appeared to be generally unaware of the existing avenues of complaints. An effective complaints procedure is a basic safeguard against ill-treatment in psychiatric establishments. To this end, **the CPT recommends that the authorities of Bavaria, Berlin and Brandenburg, as well as of all other *Länder*, take steps to ensure that psychiatric patients are systematically informed of existing avenues to lodge complaints.**

⁹⁸ Section 4 (1) of the BayMRVG stipulates that newly-admitted patients shall be informed in writing of their rights and duties and that they shall acknowledge receipt of that information by signature.

121. The CPT has repeatedly stressed the importance it attaches to psychiatric establishments being visited on a regular basis by an independent outside body responsible for the inspection of patients' care. In Brandenburg, the mental-health law provides for annual visits of all forensic psychiatric clinics by an independent external visiting commission (*Besuchskommission*) and which can receive complaints by patients.⁹⁹ While a report is drawn up by the commission after each visit, the delegation was surprised to learn that the final report was apparently not usually made available to the management and staff of Brandenburg Forensic Psychiatric Clinic. **The Committee trusts that the authorities of Brandenburg will remedy this shortcoming.**

122. That said, at the time of the visit, such a body did not yet exist in Bavaria and Berlin. At Wasserburg Forensic Psychiatric Clinic, the delegation was informed that the establishment had not been visited by an independent outside inspection body in recent years.¹⁰⁰ The relevant legislation provides for the establishment of independent external advisory councils for forensic psychiatric clinics (*Maßregelvollzugsbeiräte*) which shall visit the establishments on a regular basis.¹⁰¹ The delegation was informed that the creation process has not yet been finalised and that the advisory councils shall start carrying out visits as from 2016. Moreover, the new supervising authority for forensic psychiatric clinics (*Amt für Maßregelvollzug*) had also started its regular visits to all forensic psychiatric clinics in Bavaria. The old PsychKG of Berlin does not provide for regular inspections by an independent outside body. This lacuna will be remedied with the entry into force of the new PsychKG of Berlin.¹⁰² According to the new provisions, an independent visiting commission shall be constituted that shall carry out annual visits to all psychiatric establishments in Berlin and will also be able to receive patients' complaints. The CPT welcomes these developments in Berlin and Bavaria.

The CPT would like to receive a confirmation that a visiting commission has been created in Berlin and that advisory councils have been established for all forensic psychiatric clinics in Bavaria. Further, the Committee would like to receive further information about the composition, frequency of visits and competences of the advisory councils.

⁹⁹ See Section 49 in conjunction with Section 2a as well as Section 48 in conjunction with Section 32 (2) of the BbgPsychKG.

¹⁰⁰ The clinic was reportedly visited four times a year by a company internal visiting commission and every three years by the local district authority.

¹⁰¹ See Section 51 of the BayMRVG in conjunction with Section 185 (2) and Sections 186 to 188 of the BayStVollzG.

¹⁰² See Section 13.

8. Other issues

a. disciplinary measures

123. The CPT notes that Bavaria is one of very few *Länder* in Germany where the relevant mental-health legislation provides for the possibility of imposing disciplinary sanctions on forensic psychiatric patients,¹⁰³ a possibility which, in the CPT's experience, does not as a rule exist in other Council of Europe member States.

According to Section 22 of the BayMRVG, a forensic psychiatric patient who has culpably violated an obligation set out in or based on the BayMRVG may be subjected to one of the measures set out in an exhaustive list, which includes *inter alia* reprimand, limitation of outdoor exercise to the legal minimum entitlement of one hour per day, withdrawal of radio and television for up to one week, exclusion from group activities for up to one week, and prohibition of work or occupational activities for up to one month (with concomitant forfeiture of allowances).

In this regard, it is noteworthy that the MRVG of Hessen¹⁰⁴ also provides for the possibility of imposing solitary confinement as a disciplinary sanction for up to one week on forensic psychiatric patients, while the most severe disciplinary sanction contained in the MRVG of Saxony-Anhalt¹⁰⁵ is "separate confinement in a patient's room for the whole day whilst guaranteeing the minimum entitlement of outdoor exercise" (i.e. one hour per day) for up to four weeks.

124. Further, at Wasserburg Forensic Psychiatric Clinic, the house rules of several wards (in particular F1 and F3) explicitly refer to the possibility of imposing on patients the measure of suspension of all relaxations of the regime (*Aussetzung aller Lockerungen – AaL*)¹⁰⁶ as a punishment. For instance, the use of a private DVD player may be sanctioned with AaL for four weeks or the non-respect of the rules on night's rest with AaL for one week. Moreover, the house rules of Ward F1 stipulate that patients who have been reprimanded for a second time will automatically be sanctioned with AaL (combined with a prohibition of visits and telephone calls)¹⁰⁷ for two days and that patients who have been reprimanded four times will be subjected to the aforementioned sanction for one week.

Both the management and staff confirmed that, in practice, AaL was the most common disciplinary sanction imposed on patients who had violated the house rules. Further, in a number of files of patients who had been subjected to an AaL, the imposition of the measure was recorded without specifying any reasons.

¹⁰³ Apart from Bavaria, this measure seems to be explicitly provided for only in the MRVG of Hessen and Saxony-Anhalt.

¹⁰⁴ See Section 32.

¹⁰⁵ See Section 21.

¹⁰⁶ Section 16 (2) of the BayMRVG defines *Lockerungen* as (1) the permission to temporarily leave the forensic establishment or the secure perimeter for a certain time of the day, either whilst being escorted by a member of staff (*begleiteter Ausgang*) or without escort (*unbegleiteter Ausgang*) and (2) the regular employment outside the forensic establishment under the supervision of a member of staff (*begleitete Außenbeschäftigung*) or without supervision (*unbegleitete Außenbeschäftigung*). Section 16 (1) stipulates that *Lockerungen* shall be granted as soon as it can be expected that they will facilitate the rehabilitation and social reintegration of the patient, on condition that there are reasons to believe that the person concerned will not abuse them.

¹⁰⁷ According to the legal provisions of the BayMRVG such restrictions may not be imposed as a disciplinary sanction.

125. Moreover, the house rules of ward F1 specify that the non-respect of the rules on the use of the kitchen by one patient would have as a consequence the closure of the kitchen for all patients for up to two weeks. This measure constitutes *de facto* collective punishment which has reportedly also been applied on other wards, notably after cigarettes were found and the perpetrator of the offence could not be identified.

126. As a matter of principle, the CPT has reservations about the use of disciplinary measures vis-à-vis psychiatric patients. Such measures aim at sanctioning patients' behaviour, which is often likely to be related to a psychiatric disorder and should be approached from a therapeutic rather than a punitive standpoint. Clearly, restrictions on patients' contact with the outside world as a punishment, as well as any resort to collective punishment are unacceptable.

Further, the Committee has particularly serious misgivings about the approach followed at Wasserburg, which combines disciplinary sanctions and security measures on the one hand with therapeutic measures on the other, as relaxations of the regime are an essential component of the treatment of forensic psychiatric patients aimed at their social reintegration in society. This is the more problematic, as all of these measures have a different legal basis with explicit conditions and a different procedure. Neither the provisions on disciplinary measures nor those on special security measures mention the possibility of suspension of all relaxations of the regime. Further, Section 20 (2) of the BayMRVG¹⁰⁸ contains an exhaustive list of conditions according to which *Lockerungen* may be revoked. In the CPT's view, it is inappropriate to interpret the aforementioned provision so extensively that it allows a revocation of all *Lockerungen* for a (minor) violation of the house rules.

The CPT recommends that the authorities of Bavaria take steps to ensure that the rules governing *Lockerungen* are reviewed at Wasserburg Forensic Psychiatric Clinic and, where appropriate, in other forensic psychiatric establishments in Bavaria, in the light of the above remarks. Further, the house rules should be revised accordingly.

Further, the Committee encourages the authorities of Bavaria, Hessen and Saxony-Anhalt to totally abolish disciplinary sanctions vis-à-vis (forensic) psychiatric patients.

b. security-related issues

127. Although staff at St Joseph's Psychiatric Hospital were offered regular training on de-escalation techniques and methods of control and restraint of agitated and/or violent patients, the delegation was informed that, on several occasions (i.e. some ten times a year), uniformed police officers had been called upon to assist in restraining agitated patients, whenever health-care staff were not able to control the situation themselves.

The CPT acknowledges that, in exceptional situations (i.e. when weapons or hostage taking are involved), the assistance of the police may be unavoidable. However, in the Committee's view, hospital staff should generally be sufficient in number and able to handle violent situations without recourse to the police, including at night.

¹⁰⁸ According to Section 20 (2), there are three grounds on the basis of which a *Lockerung* may be revoked, namely (1) the emergence or detection of circumstances which would have justified an initial denial of the *Lockerung*, (2) abuse of the *Lockerung* by the patient concerned, or (3) the non-compliance with conditions which have been imposed in connection with the granting of the *Lockerung*.

The Committee recommends that the management of St Joseph’s Psychiatric Hospital ensure that sufficient staff are present at the hospital at all times, including at night, and that they pursue their efforts to provide training on de-escalation and restraint techniques to all members of staff concerned in order to avoid interventions by police officers in the hospital.

128. The CPT notes with concern that Brandenburg Forensic Psychiatric Clinic had a special intervention team consisting of male staff that was equipped with shields, helmets, gloves and handcuffs for the purpose of bringing under control agitated and/or violent patients. **The Committee would like to receive detailed information on the composition and training of the group, its equipment, the number and circumstances of its interventions and any injury sustained at interventions by patients and/or staff in the Clinic.**

129. Contrary to the situation observed at Wasserburg Forensic Psychiatric Clinic, all patients at Brandenburg Forensic Psychiatric Clinic were systematically locked in their rooms during the night between 10 p.m. and 6.30 a.m. (8 a.m. during weekends). The delegation was told by the management that this measure was applied for security reasons, as fewer staff were present during night shifts to deal with any incident that might occur, and that staff would usually perform a visual check of the patients’ rooms at least twice during the night.

In the CPT’s view, the systematic practice of night-time confinement (*Einschluss*) should be avoided, as it may present a risk for the safety of patients accommodated in double (multi-occupancy) rooms and may also cause distress and anxiety among some patients, notably those suffering from psychosis.

The Committee encourages the authorities of Brandenburg to review the staffing levels during night shifts in each ward of Brandenburg Forensic Psychiatric Clinic, with a view to abolishing the practice of night-time confinement of patients.

130. The CPT welcomes the fact that the relevant mental-health legislation applicable at the time of the visit in the *Länder* visited no longer contained a provision allowing the imposition on patients of “prohibition of outdoor exercise” as a special security measure (as opposed to a “limitation” of outdoor exercise). Further, in the three establishments visited, patients placed in a seclusion room were usually offered at least one hour of outdoor exercise per day.

That said, it is highly regrettable that, despite a long-standing recommendation by the CPT,¹⁰⁹ the special security measure of “prohibition of outdoor exercise” has been introduced in the new PsychKG of Berlin.¹¹⁰ The CPT wishes to stress once again that, as a matter of principle, all psychiatric patients whose state of health so permits should be offered at least one hour of outdoor exercise per day. If patients display particularly aggressive/violent behaviour, appropriate arrangements can and should be found to ensure the safety of the patient concerned and others, as well as the establishment’s internal order, while still guaranteeing outdoor exercise (e.g. additional surveillance by staff).

The Committee recommends that the authorities of Berlin and all other *Länder* concerned take the necessary steps to ensure that the aforementioned precepts are effectively implemented in practice in civil and forensic psychiatric establishments.

¹⁰⁹ See, most recently, CPT/Inf (2012) 6, paragraph 133.

¹¹⁰ See Sections 39 (2) and 72 (3) of the new PsychKG of Berlin.

- c. the use of surgical castration in the context of treatment of sex offenders

131. In its reports on the 2010 and 2013 visits,¹¹¹ the CPT expressed its fundamental objections to the use of surgical castration as a means of treatment of sex offenders, since it was a mutilating, irreversible intervention which could not be considered as a medical necessity in this context. Therefore, the Committee recommended that steps be taken by all relevant federal and *Länder* authorities to put a definitive end to its use.

132. By letter of 13 May 2016, the German authorities informed the CPT that, during the period 2013 to 2015, not one single surgical castration had been carried out in the context of treatment of sex offenders.¹¹²

This is a welcome development. **The CPT encourages all relevant federal and *Länder* authorities to put a definitive end to the use of surgical castration as a means of treatment of sex offenders, including by amending the relevant legal provisions.**

¹¹¹ For further details, see CPT/Inf (2012) 6, paragraphs 140 to 145, and CPT/Inf (2014) 23, paragraphs 49 to 51.

¹¹² There had been one application for surgical castration which was subsequently rejected by the expert commission of the relevant medical chamber.

APPENDIX**List of federal and Länder authorities, organisations and persons
with whom the CPT's delegation held consultations****A. Federal authorities****Federal Ministry of Justice and Consumer Protection**

Ms Stefanie HUBIG	State Secretary
Mr Alfred BINDELS	<i>Ministerialdirektor</i> , Head of the Department of Constitutional Law, Administrative Law, International Public Law and European Law
Dr Almut WITTLING-VOGEL	<i>Ministerialdirigentin</i> , Representative of the Federal Government for Matters Relating to Human Rights, liaison officer of the CPT
Dr Hans-Jörg BEHRENS	<i>Ministerialrat</i> , Head of the Unit of Human Rights (<i>Referat IV C1</i>)
Dr Kathrin BRUNOZZI	Judge, <i>Referentin</i> , Unit of Human Rights
Ms Claudia RADZIWILL	<i>Oberamtsrätin</i> , Unit of Human Rights
Mr Jörg WACHSMANN	<i>Oberamtsrat</i> , Unit of Human Rights
Mr Dirk MIROW	<i>Ministerialrat</i> , Head of Division (Criminal Law)

Federal Ministry of the Interior

Ms Ulrike BENDER	<i>Regierungsdirektorin</i> , Unit of European and International Law
------------------	--

B. Länder authorities**Baden-Württemberg**

Mr Justus SCHMID	<i>Leitender Ministerialrat</i> , Prison Administration, Ministry of Justice
Mr Daniel EPPINGER	Judge, Prison Administration, Ministry of Justice

Bavaria

Mr Winfried BAUSBACK	State Minister of Justice
Mr Peter HOLZNER	<i>Ministerialdirigent</i> , Head of the Prison Administration, State Ministry of Justice
Mr Carsten HAFERBECK	<i>Ministerialrat</i> , Prison Administration, State Ministry of Justice

Dr Michael HÖHENBERGER	<i>Ministerialdirektor</i> , Head of Office (<i>Amtschef</i>), State Ministry of Labour, Social Affairs, Family and Integration
Dr Dorothea GAUDERNACK	Head of the Department of Forensic Psychiatry (<i>Amt für Maßregelvollzug</i>), State Ministry of Labour, Social Affairs, Family and Integration
Dr Christine BOLLWEIN	<i>Ministerialdirektorin</i> , Department of Forensic Psychiatry (<i>Maßregelvollzug</i>), State Ministry of Labour, Social Affairs, Family and Integration
Mr Burkard RAPPL	<i>Ministerialdirigent</i> , Head of the Department of Inclusion, Disability and Social Care, State Ministry of Labour, Social Affairs, Family and Integration

Berlin

Mr Mario CZAJA	Senator for Health and Social Affairs
Mr Dirk ROTHENPIELER	<i>Senatsdirigent</i> , Senate Department of Health and Social Affairs
Dr Martin MÖLLHOFF-MYLIUS	<i>Referent</i> for Forensic Psychiatry, Senate Department of Health and Social Affairs
Mr Heinrich BEUSCHER	Former Commissioner for Psychiatry (<i>ehem. Landesbeauftragter für Psychiatrie</i>)
Ms Susanne GERLACH	<i>Leitende Senatsrätin</i> , Prison Administration, Senate Department of Justice and Consumer Protection
Ms Inga PASTER	Judge, Prison Administration, Senate Department of Justice and Consumer Protection

Brandenburg

Mr Thomas BARTA	Head of the Department of Health, Ministry of Labour, Social Affairs, Health, Women and Family
Ms Juliane DEGLOW	<i>Referentin</i> , Unit (<i>Referat</i>) for Forensic Psychiatry (<i>Maßregelvollzug</i>), Ministry of Labour, Social Affairs, Health, Women and Family
Ms Petra BLOCK-WEINERT	<i>Regierungsdirektorin</i> , Prison Administration, Ministry of Justice, European Affairs and Consumer Protection
Dr Knud DIETRICH	<i>Kriminaloberrat</i> , Police Service, Ministry of the Interior
Ms Flora KÖHLER	<i>Referendarin</i> , Ministry of the Interior

Hamburg

Ms Renate FEY	Scientific Director, Prison Administration, Department of Justice
---------------	---

Lower Saxony

Ms Antje NIEWISCH-LENNARTZ

Minister of Justice

Ms Christiane JESSE

Ministerialdirigentin, Head of the Prison Administration, Ministry of Justice

Ms Christine MEYER

Ministerialrätin, Prison Administration, Ministry of Justice**Mecklenburg-Western Pomerania**

Mr Ralf HIMBERT

Regierungsdirektor, Prison Administration, Ministry of Justice**Rhineland-Palatinate**

Ms Ursula DECKER

Ministerialrätin, Prison Administration, Ministry of Justice and Consumer Protection**Saxony**

Mr Jens RICHTER

Regierungsdirektor, State Ministry of Justice**Saxony-Anhalt**

Ms Angela KOLB

Minister of Justice and Gender Equality

Dr Ernst-Peter HARTWIG

Ministerialdirigent, Head of Department, Ministry of Justice and Gender Equality

Mr Lothar MEIERS

Prison Administration, Ministry of Justice and Gender Equality

Mr Norbert BISCHOFF

Minister of Labour and Social Affairs

Ms Anja NAUMANN

State Secretary of the Ministry of Labour and Social Affairs

Dr Gabriele THEREN

Leitende Ministerialrätin, Head of the Department of Social Affairs, Ministry of Labour and Social Affairs

Ms Claudia REICH-BECKER

Head of the Unit of Civil and Forensic Psychiatry, Department of Social Affairs, Ministry of Labour and Social Affairs

Schleswig-Holstein

Mr Detlef BEECK

Prison Administration, Ministry of Justice, Culture and European Affairs

Thuringia

Ms Silke ALBIN	State Secretary of the Ministry of Migration, Justice and Consumer Protection
Ms Eva GEBHARDT	<i>Regierungsrätin</i> , Prison Administration, Ministry of Migration, Justice and Consumer Protection
Mr Jan LEMANSKI	Ministry of Migration, Justice and Consumer Protection

C. National Agency for the Prevention of Torture (National Preventive Mechanism)

Mr Klaus LANGE-LEHNGUT	<i>Leitender Regierungsdirektor a.D.</i> , Head of the Federal Agency for the Prevention of Torture
Mr Rainer DOPP	Former State Secretary, Head of the Joint Commission of the <i>Länder</i>
Ms Jennifer BARTELT	Scientific Associate, Office of the National Agency for the Prevention of Torture

D. Organisations and persons with whom the delegation held consultations

United Nations High-Commissioner for Refugees (UNHCR), Berlin Office

Jesuiten-Flüchtlingsdienst Deutschland

Beschwerde- und Informationsstelle Psychiatrie Berlin

Manie & Depression Selbsthilfevereinigung Berlin-Brandenburg

Frieder Dünkel, Professor of Criminology, University of Greifswald