

## **Response**

### **of the German Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Germany**

**from 25 November to 2 December 2013**

The German Government has requested the publication of this response. The report of the CPT on its November/December 2013 visit to Germany is set out in document CPT/Inf (2014) 23.

Strasbourg, 24 July 2014



Bundesministerium  
der Justiz und  
für Verbraucherschutz

**Observations by the Federal Government on the recommendations, comments and requests for information by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on the occasion of its visit from 25 November to 2 December 2013**

Berlin, 17 June 2014

## Introduction

A delegation of the CPT visited the Federal Republic of Germany in the period between 25 November and 2 December 2013. The main objective of this ad hoc visit was to examine the treatment and conditions of detention of persons held in preventive detention (*Sicherungsverwahrte*). To that end the delegation visited Diez Prison (Rhineland-Palatinate), Frankfurt am Main III Prison for Women (Hesse), Freiburg Prison (Baden-Württemberg) and Hohenasperg Socio-Therapeutic Facility (Baden-Württemberg).

Another objective of the visit was to review the procedures for the imposition of special security measures and, in particular, the use of mechanical restraint (*Fixierung*) and the placement of agitated and/or violent inmates in a specially secured room (*besonders gesicherter Haftraum*) in the aforementioned prisons and during visits to Berlin-Tegel Prison and to Berlin-Plötzensee and Hohenasperg prison hospitals. During its meetings in the Federal Ministry of Justice and for Consumer Protection the delegation also discussed the issue of surgical castration of sex offenders and the action taken by the German authorities since the CPT's visit in 2010.

By letter of 18 March 2014 the CPT forwarded a report drawn up following its visit (CPT/Inf (2014) 23) which contains a number of recommendations, comments and requests for information.

The CPT has requested the German authorities to provide, within three months, a response giving a full account of the action taken to implement the recommendations. Further, the Committee trusted that it would also be possible for the German authorities to provide replies to the comments and requests for information.

The Federal Government hereby submit their observations on this report. As responses are provided to all the issues addressed by the CPT, the Federal Government's observations deal in detail with the individual remarks in the order in which they are addressed in the CPT's Final Report. The recommendations, comments and requests for information have been included above each respective response.

The Federal Government have consented to the publication of the report and observations.

Paragraph 6

... **“The Committee urges all relevant federal and *Länder* authorities to resolve this issue as a matter of priority, in the light of the remarks made by the Committee in paragraphs 6 and 8 of the report on the 2010 visit.”**

At the meeting of the *Länder* Committee on the Prison System held in May 2014 the Federal Ministry of Justice and for Consumer Protection again raised the matter of the CPT’s unrestricted access to the personal and medical files of detained persons. It was proposed that a circular be sent to the *Land* departments of justice informing them that data protection law fulfils the requirements for such unrestricted access. The next step will be to coordinate this procedure with the Federal Government Commissioner for Data Protection.

Paragraph 7

... **“The CPT would like to be informed of the number of sentenced prisoners in Baden-Württemberg and Rhineland-Palatinate who are currently earmarked for preventive detention and of the specific treatment measures which are being provided to them.”**

As at 1 May 2014 a total of 55 sentenced prisoners were earmarked for preventive detention in Baden-Württemberg and one sentence prisoner was conditionally earmarked for preventive detention.

Most of the aforementioned prisoners are being held in Bruchsal Prison, a few are in Hohenasperg Socio-Therapeutic Facility. In consequence of recent decisions issued by the Federal Constitutional Court and revised legislation, a special treatment unit was set up there. The unit is part of a treatment network comprising the Socio-Therapeutic Unit at Offenburg Prison, Hohenasperg Socio-Therapeutic Facility and Freiburg Prison.

The network allows the treatment resources available in these facilities to be optimally coordinated with one another. Whenever a convicted person has been sentenced to a term of imprisonment and earmarked for preventive detention, he is first committed to the Socio-Therapeutic Unit at Offenburg Prison for diagnostic investigation. The Unit, which employs a psychiatrist, experienced psychologists and social workers, draws up a well-founded diagnosis for each prisoner. Based on this Bruchsal Prison then draws up an execution plan and, if necessary, the prisoner is temporarily transferred to Hohenasperg Socio-Therapeutic Facility.

The aim of the overall concept, based on which detainees are housed in residential groups, is to provide sentenced prisoners with staged measures so that they can complete the required social therapy or, in individual cases, adequate low-threshold treatments and no longer need to begin preventive detention but can already leave prison on parole. As well as providing a variety of treatment and therapy measures, great emphasis is placed on occupational therapy, to which end four special workshops were set up.

The treatment unit at Bruchsal Prison has hired eight new members of staff (three in the psychological service, two in the social service, two in the general prison service and an additional occupational trainer). Numerous training courses were held last year to instruct and induct the members of staff in the new unit.

There are currently 24 sentenced prisoners who are (conditionally) earmarked for preventive detention in prisons in Rhineland-Palatinate. Of these, 23 are earmarked for preventive detention and one is conditionally earmarked for preventive detention.

Treatment of sentenced prisoners who are (conditionally) earmarked for preventive detention is based on a comprehensive basic, development and outcome diagnostic. On account of the heterogeneity of this clientele, especially as regards their willingness to undergo treatment, treatment follows a two-stage procedure: The aim in stage 1 is to motivate prisoners, i.e. primarily to stimulate and/or boost their willingness to undergo treatment. Stage 2, which aims to change behaviour, can be regarded as criminal therapy in the narrow sense of the meaning. Where necessary, further attempts are made to motivate prisoners.

The following treatment is currently available during stage 2 of treatment, the actual treatment phase:

#### Individual therapy and counselling

- Individual therapy inside the facility provided by qualified psychologists who are licensed/not licensed to practise medicine

Individual therapies based on cognitive-behavioural, depth psychology, behavioural psychology and trauma psychology approaches and concepts are available.

- Individual therapy outside the facility provided by psychological psychotherapists

The range of therapies available corresponds to those available in the facility, where treatment inside the facility does not show promise.

- Addiction counselling

Various forms of counselling are available for all matters linked to the legal or illegal consumption of addictive drugs. Where necessary, out-patient addiction treatment measures can be found in cases where the prisoner's regime is being progressively relaxed and he is permitted temporary leave (*Lockerungen*).

- Psychiatric treatment

As from 1 June 2014 a consultant in psychiatry and psychotherapy specialising in forensic psychiatry and with an additional qualification in basic addiction treatment will be available to treat those held in the unit for persons in preventive detention and sentenced prisoners who are (conditionally) earmarked for preventive detention (80% full-time contract, Mondays to Thursdays). A consultant in psychiatry was available up until that point.

### Group therapy

(depending on group sizes and treatment concept with sentenced prisoners)

- Treatment programme for sex offenders (according to Bernd Wischka, 2004)

The treatment programme for sex offenders is a highly-structured treatment programme which provides adequate leeway for analysing and working on sexual offences and their background. It comprises approx. 80 sessions over a period of two years.

- Anti-violence training

This training course gives offenders the opportunity to work in groups of six to eight on heightening their awareness for their own violent behaviour and learning responsible alternative, fair behaviour patterns to adopt in conflict situations. The content and impulses are taught in building blocks (modules) which can be flexibly combined.

- Treatment group for violent offenders

This structured, modular treatment programme is used to treat violent offenders.

- Psychoanalytic-interactional group therapy

The psychoanalytic-interactional method was developed for patients suffering from what are known as structural disorders, including narcissistic and borderline personality disorders, pre-

psychotic disorders, some psychosomatic illnesses, and dependency- and addiction-related illnesses. It can often also be used to treat those with dissocial and delinquent behaviour.

- Social training

Social training aims to teach social skills linked to money and debt, making sensible use of leisure-time, work and the world of work, healthy living, housing and accommodation, social relations and law in everyday life.

- Couples seminar

This is geared to prisoners and their partners during the transition between closed and open facilities and the transition from day-release to release on parole. It is aimed at prisoners serving long prison sentences, prisoners who are (conditionally) earmarked for preventive detention and for detainees. Partners are integrated with a view to risk management because they have a stabilising function.

- Motivational addiction group (illegal drugs)

This eight-month programme prepares prisoners and detainees for therapies which follow at a later date. Emphasis is placed on their own experience with addiction and on learning and practising relaxation techniques.

- Addiction information groups (alcohol and drug information groups)

These groups meet for a maximum of eight sessions in which prisoners and detainees are given background information, their awareness is raised for their actual problem, and risks and factors leading to addiction are illuminated.

- AA group (Alcoholics Anonymous, outside the facility)

Social therapy

The Socio-Therapeutic Unit at Diez Prison and Preventive Detention Facility is structured and organised in the form of an open residential group. Living together in a residential group is regarded as an important element of the treatment. That is why it is also necessary to stick to certain group rules which enable prisoners and detainees to live together and engage jointly in therapeutic work. The treatment programme includes weekly individual and group meetings and a weekly residential group meeting during which organisational matters affecting the group are discussed.

The Socio-Therapeutic Unit at Ludwigshafen Prison applies a primarily behavioural-therapy approach to treatment comprising group and individual therapy measures.

The majority of sentenced prisoners who are (conditionally) earmarked for preventive detention are already taking part in the aforementioned treatments.

Internal differentiation and preparation for the open Unit E

Detainees can also be placed in Unit E in Diez Prison and Preventive Detention Facility. They are free to move around inside the unit itself.

Unit E allows detainees to be monitored in a treatment setting which applies a milieu therapeutic approach and provides increasing levels of freedom. After successfully minimising risks, it therefore aims to prepare detainees for the further relaxation of the regime, such as placement in an open unit.

This also implies the possibility of providing an incentive system as required by the Federal Constitutional Court by once more increasing detainees' motivation to undergo treatment. Furthermore, the unit provides an optimal environment in which detainees can practise dealing with criticism and frustration, an important learning goal for sentenced prisoners who are (conditionally) earmarked for preventive detention. The same goes for voicing wishes and complaints in an appropriate manner.

One sentenced prisoner who is earmarked for preventive detention is currently in Unit E.

Treatment Measures (as at: May 2014)

The following treatment measures are available to sentenced prisoners who are (conditionally) earmarked for preventive detention:

- Motivational meetings

	<b>Individual meetings (inside the facility)</b>
Ongoing	<b>2</b> sentenced prisoners



- Individual therapy

	<b>Individual therapy (inside the facility)</b>	<b>Individual therapy (outside the facility)</b>	<b>Individual treatment (psychiatric)</b>
Completed	1 sentenced prisoner	1 sentenced prisoner	
Ongoing	6 sentenced prisoners	2 sentenced prisoners	1 sentenced prisoner
Planned	3 sentenced prisoners		

- Social therapy

	<b>Diez Socio- Therapeutic Unit</b>	<b>Ludwigshafen Socio- Therapeutic Unit</b>
Completed	1 sentenced prisoner	
Ongoing	4 sentenced prisoners	
Planned	7 sentenced prisoners	3 sentenced prisoners

- Groups

	BPS <sup>1)</sup>	AGT <sup>2)</sup>	PiG <sup>3)</sup>	BGG <sup>4)</sup>	Addiction Information Group	Training Group
Completed	3	1				1
Ongoing	2	2	1	1	0	None
Planned	3	3			6	2

1) Treatment programme for sex offenders

2) Anti-violence training

3) Psychoanalytic-interactional group therapy

4) Treatment group for violent offenders

Paragraph 15

... **“The CPT encourages the authorities of Baden-Württemberg to review the existing arrangements for outdoor exercise (*Bewegung im Freien*) and related security measures at Freiburg Prison accordingly.”**

For therapeutic reasons, the Preventive Detention Unit at Freiburg Prison applies a unit concept to the treatment of persons in preventive detention. Accordingly, detainees are held in four different residential groups according to the stage they are at in their treatment and in line with their willingness to undergo treatment. Due to therapy-related and security concerns (fighting the subculture), there are plans only to allow detainees complete freedom of movement within their own residential group.

In contrast, it is intended to extend times and unaccompanied access to outdoor facilities. The necessary structural changes and technical arrangements are currently being examined.

Paragraph 16

... “During the meeting with the Permanent Representative of the Minister of Justice of Baden-Württemberg, the delegation was informed that (medium-term) plans existed to relocate the entire socio-therapeutic institution to Stuttgart-Stammheim. **The CPT would like to receive updated information on this matter.**”

The cramped conditions of placement in the socio-therapeutic institution will be eased when – in line with plans put forward by the *Land* government – the prison hospital which is currently located on the same grounds is relocated elsewhere and the socio-therapeutic institution can move into the premises which become available. However, no time frame has yet been set.

Paragraph 19

... **“The Committee recommends that the relevant authorities of Baden-Württemberg and Rhineland-Palatinate redouble their efforts to further develop individual and group treatment measures which are offered to persons in preventive detention at Freiburg and Diez Prisons and increase the number of specialist staff accordingly.”**

Since the CPT’s visit to Freiburg Prison an additional psychologist and an additional social worker have been added to the staff roster in the unit for persons in preventive detention. The

unit now has the equivalent of 65 full-time staff, allowing it to appropriately fulfil the tasks assigned by statute both in terms of therapy and in terms of individualised treatment (*Betreuung*) and security.

There are currently 45 persons in preventive detention in Rhineland-Palatinate, of whom 40 are in closed and five are in open preventive detention (four on day-release in Diez Prison and one person on day-release in Wittlich Prison).

The staff responsible for the individualised treatment of the 40 persons in closed preventive detention comprise

- 24 general prison staff providing basic treatment who are involved in everyday and leisure activities and offer low-threshold measures;
- Three prison psychologists, partly licensed psychological psychotherapists;
- Two social workers (1.7 posts);
- The head of unit;
- Three external psychotherapists (contracts covering 13 therapy hours per week);
- As from 1 June 2014, a consultant in psychiatry and psychotherapy (specialising in forensic psychiatry, with an additional qualification in basic addiction treatment) will be employed on 80% contract.

External staff are being sought to provide art and music therapy, though so far no-one has been hired.

#### Paragraph 21

... “In the CPT’s view, it goes without saying that, for treatment in a socio-therapeutic institution/department of persons in preventive detention to be effective, the principle of segregation cannot be applied<sup>1</sup> and that certain adjustments may be required as regards the implementation in practice of the *Abstandsgebot*. However, requiring persons in preventive detention to give a blanket waiver regarding most of their rights otherwise provided for by law in order to benefit from a specialised treatment programme appears to be disproportionate. These rights should only be restricted, with the informed consent of the person concerned, insofar as it is strictly necessary for the creation of a therapeutic environment and the effective provision of treatment measures. **The CPT would like to receive the comments of the relevant federal and *Länder* authorities on this matter.**”

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<sup>1</sup> The whole treatment programme is based on the concept that inmates are accommodated in living units and participate in milieu therapy and various other group therapies.

The practical procedure of giving a “blanket waiver” which the CPT criticises is neither required nor explicitly prohibited by requirements made of preventive detention under federal law (esp. section 66c (1) of the Criminal Code (*Strafgesetzbuch*, StGB)). On account of the mandatory requirements imposed by the Federal Constitutional Court, these requirements under federal law are restricted to “key guidelines”, which, by their very nature, cannot include detailed rules on practical implementation.

The authorities in Baden-Württemberg once more examined the question of whether the constitutional requirement of making a differentiation between the execution of a prison sentence and preventive detention (*Abstandsgebot*) was being observed in favour of persons in preventive detention in the socio-therapeutic facility. As a result, persons in preventive detention will only not be given privileged treatment when giving them equal treatment is absolutely essential to the effective provision of treatment and on the grounds of security and order. The requirement of making a differentiation is therefore fully met as regards pay, pocket money and the provision of funding outside of prison. The same applies to privileged visiting rights.

Persons in preventive detention are given detailed information regarding the conditions of placement during the admissions conference, and their consent thereto is documented in writing.

In accordance with Article 11, second sentence, of the Bavarian Act on the Enforcement of Preventive Detention (*Bayerisches Sicherungsverwahrungsvollzugsgesetz*, BaySvVollzG), socio-therapeutic treatment in Bavaria must be provided in a unit responsible for the execution of preventive detention. This statutory requirement, which fulfils the principle that prisoners and persons in preventive detention be held separately (*Trennungsgebot*), is implemented in prison practice. The overwhelming majority of persons in preventive detention who are undergoing socio-therapeutic treatment are detained in the preventive detention facility on the grounds of Straubing Prison which was established on the basis of the special requirements imposed by the Federal Constitutional Court. Persons in preventive detention are both detained and undergo social therapy separately from prisoners in that facility. Only in a very few exceptional cases do persons in preventive detention undergo social therapy together with prisoners in another facility. In these cases the persons in preventive detention are undergoing social therapy, at their own request, in their own institution and not in the preventive detention facility in Straubing and have refused to be transferred to that facility. In those cases, the principle of separation is observed as best as possible given the organisational and structural conditions.

The Socio-Therapeutic Unit at Tegel Prison in Berlin offers a specific range of therapeutic treatments which are based on a relevant concept to both persons in preventive detention and sentenced prisoners. These treatments have a pre-defined setting in order that they fulfil scientific and professional standards and can be documented. An important pillar of this socio-therapeutic concept is that all those taking part are held in residential groups so that their interactions can be monitored, addressed and used in a therapeutic context. To that end those taking part are free to move around the unit. The range of experience created in this way is a key element of the therapeutic work of the Socio-Therapeutic Unit. Interactions between the detainees, which inevitably mean it is not possible to strictly separate persons in preventive detention and sentenced prisoners, are part of the therapeutic work. The same therapeutic setting can, therefore, not be offered if the requirement that persons in preventive detention and sentenced prisoners be held separately is observed, for example by holding them in separate units. The willingness of a person in preventive detention to interact with sentenced prisoners is a prerequisite when examining their suitability for inclusion.

Within the framework of available possibilities, the Socio-Therapeutic Unit for Preventive Detainees guarantees, in accordance with section 10 (4) of the Act on the Enforcement of Preventive Detention of Berlin (*Berliner Sicherungsverwahrungsvollzugsgesetz, SVVollzG Bln*), that the conditions of detention correspond as far as possible to those in preventive detention. Persons in preventive detention are, for example, free to move around the areas earmarked for them in the Socio-Therapeutic Unit. They can furnish their rooms with small items of their own furniture and electrical equipment. However, given the associated structural features, it is not possible to provide rooms which are the same size as those in the facility for persons in preventive detention. Persons in preventive detention are permitted to cook for themselves and to buy the food they require. In addition, they can receive visitors up to the maximum monthly duration as set out in section 27 of the aforementioned Act and, in accordance with section 43 (2) of that Act, they are granted a minimum of four supervised periods of leave for parts of the day (*Ausführungen*) per year, unless other *Lockerungen* have been granted to achieve the objective of enforcement.

In the event (which, based on previous experience, is rather unlikely) that a sufficient number of persons in preventive detention can be treated in the same therapeutic setting in the Socio-Therapeutic Unit, sufficient space would be available to hold them separately from sentenced prisoners in an on-site treatment unit. Furthermore, those who are (conditionally) earmarked for preventive detention are placed in the Socio-Therapeutic Unit sufficiently early so as to ensure that treatment can be completed before they have served their full prison sentence.

Persons in preventive detention who refuse to engage in therapeutic work in the Socio-Therapeutic Unit are supervised by three psychologists in the facility for the enforcement of preventive detention or can, where necessary, undergo therapy outside the facility.

Section 8 (4) of the Brandenburg Prison Act (*Brandenburgisches Justizvollzugsgesetz*, BbgJVollzG) explicitly provides for the individualised and intensive treatment of sentenced persons who are (conditionally) earmarked for preventive detention. Section 25 (4), third sentence, of that Act provides for those who are (conditionally) earmarked for preventive detention being placed in a socio-therapeutic unit at a point in time which leads to the expectation that the socio-therapeutic treatment can already be completed during the execution of a term of imprisonment or youth custody. The Central Diagnostic Department (ZaD) was established in Brandenburg in 2011; the members of staff, who have the relevant scientific qualifications (section 13 (2) of the Brandenburg Prison Act), are responsible for making an initial diagnosis based on scientific findings and to make the necessary recommendations as regards treatment for all sentenced persons who are (conditionally) earmarked for specific measures of reform and prevention.

On a date specified in the treatment recommendations (at the latest after half of the imposed prison sentence has been served) the sentenced person has another meeting in the ZaD so that a treatment conference can be held. The aim of this conference is to clarify whether the previous treatment measures promise success, i.e. whether the person who is threatened with preventive detention can be released before the measure is set to begin. An external expert should take part in the conference.

Applying the aforementioned procedure means offenders in preventive detention have generally completed social therapy. Where preventive detention was nevertheless earmarked on account of the lack of treatment success or the refusal to undergo treatment, detainees are treated in the facility for preventive detainees, which is separate from the prison, in a socio-therapeutic setting geared to their individual needs.

The treatment concept applied in the facility for preventive detainees in Brandenburg meets the standards for effective social therapy developed by the Working Group of Socio-Therapeutic Units in the Prison System (*Arbeitskreis Sozialtherapeutische Anstalten im Justizvollzug e.V.*) and the recommendations it made regarding social therapy and preventive detention.

In exceptional cases, for example where a group setting is recommended in order to plan relapse prevention measures which the unit for preventive detainees cannot provide on account of its being too small, the option is available of taking those taking part to the Socio-Therapeutic Unit only for the relevant group training. The facility for preventive detainees remains responsible for the remainder of their treatment and detention. Therefore, in Brandenburg statutory rights are only restricted to the extent that this is absolutely essential to achieve the objective of treatment.

Persons in preventive detention being treated in the Socio-Therapeutic Unit in Hamburg are not required to give a blanket waiver of most of their statutory rights. However, the Unit does not have sufficient space to provide rooms for persons in preventive detention which are the same size as in the facility for persons in preventive detention. It is also not possible to permit them to move around freely outside of their rooms to the same extent. Persons in preventive detention are able to enjoy the other better conditions as provided for by law in the Socio-Therapeutic Unit.

Those persons in Hesse who are detained – with their consent – in socio-therapeutic facilities or units are not required to give a blanket waiver of most of their statutory rights.

In accordance with section 68 (3), second sentence, read in conjunction with section 11 (2), second sentence, of the Act on the Enforcement of Preventive Detention of Hesse (*Hessisches Sicherungsverwahrungsvollzugsgesetz*, HSVVollzG), the provisions of that Act continue to apply insofar as local conditions or the prison's security concerns do not preclude this. In accordance with section 68 (3), third sentence, of the above Act, the prison authority must take all reasonable measures to enable the provisions set out in that Act to be applied.

This is implemented in the Socio-Therapeutic Unit. Although the rooms are the same size as those of sentenced prisoners, single-occupancy rooms are always available to persons in preventive detention. In particular, they are granted the visiting rights provided for in the Act on the Enforcement of Preventive Detention of Hesse, the minimum of four *Ausführungen* per year, the relevant opportunities to make phone calls, the possibility of receiving parcels, higher wages and additional recognition of work and treatment, more pocket money, the possibility of additional furnishings, the possibility of preparing their own meals etc. Self-occupation is not permitted (for reasons linked to the treatment).

Section 10 (4), first sentence, of the Act on the Enforcement of Preventive Detention of Mecklenburg-Western Pomerania (*Sicherungsverwahrungsvollzugsgesetz Mecklenburg-*

*Vorpommern*, SVVollzG M-V) by way of exception permits the joint placement of persons in preventive detention and prisoners if treatment in accordance with section 66c (1), no. 1 of the Criminal Code requires this. In accordance with section 10 (4), fourth sentence, of the aforementioned Act, the conditions of placement must here too differ from those of prisoners within the framework of available possibilities. The receiving prison must take all organisational measures to ensure the conditions as far as possible equal those in the facility responsible for the execution of preventive detention.

As at 5 May 2014, 15 out of a total of 43 persons in preventive detention were being treated, with their consent, in socio-therapeutic units in Lower Saxony. The aim of supervision and treatment in a socio-therapeutic unit is to achieve the treatment goals set out in section 2 of the Act on the Enforcement of Preventive Detention of Lower Saxony (*Niedersächsisches Sicherungsverwahrungsvollzugsgesetz*, Nds. SVVollzG). Execution of preventive detention in the socio-therapeutic units focuses on therapeutic needs and promotes individual liberty. The local conditions require that persons in preventive detention are held together with sentenced prisoners in a residential group, that they take part in therapeutic and other group measures together with them, and that account be taken of treatment requirements and organisational aspects as well as of security aspects in the socio-therapeutic unit and the prison as a whole.

In accordance with section 13 (2) of the Act on the Enforcement of Preventive Detention of North Rhine-Westphalia (*Sicherungsverwahrungsvollzugsgesetz Nordrhein-Westfalen*, SVVollzG NRW), persons in preventive detention may, by way of exception, be transferred or committed to a prison if treatment in accordance with section 66c (1), no. 1 of the Criminal Code requires this. In particular, this applies to treatment in a socio-therapeutic unit.

In order to optimise the socio-therapeutic treatment of those placed in preventive detention, a socio-therapeutic unit with a total of nine places reserved for persons in preventive detention was established with effect from 1 June 2013 within the unit for preventive detainees at Werl Prison (as at 31 March 2014: six persons in preventive detention). The unit guarantees execution of the measure of reform and prevention and also fully meets the requirements of the *Abstandsgebot*.

In addition, persons in preventive detention are also placed in other socio-therapeutic facilities in North Rhine-Westphalia – together with sentenced prisoners. In particular, these will be persons in preventive detention who have been included in a treatment context in these facilities over many years. There, too, the privileges regulated by law (e.g. more visits, more pay) are granted wherever possible. No blanket waiver of any rights is provided for.



The Socio-Therapeutic Unit at Diez Prison and Preventive Detention Facility (Rhineland-Palatinate) does not require persons in preventive detention to give a blanket waiver of their statutory rights.

Wherever possible the rights accorded the detainees are implemented. Only where communal life would be disrupted or where organisational or structural concerns would preclude this are, in individual cases, other arrangements made, or rather is the detainees' prior consent required.

Overall, the detainees benefit from advantages accorded them under the *Land* Act on Preventive Detention. Their rights are thus only restricted insofar as this is absolutely essential. In any case, a meeting is held with the detainee and his consent is obtained. Where necessary, a court can then review whether the respective measures are lawful. Based on the concept applied in the socio-therapeutic unit, consensual solutions are very intensively sought which are also acceptable to the detainees, also taking account of the principle of separation which applies to them.

One person in preventive detention is currently undergoing treatment in the Socio-Therapeutic Unit at Waldheim Prison in the Free State of Saxony. The *Abstandsgebot* cannot be observed there. Pursuant to section 10 (4) of the Act on the Enforcement of Preventive Detention of Saxony (*Sächsisches Sicherheitsverwahrungsvollzugsgesetz, SächsSVVollzG*), derogations from separate placement are possible by way of exception if treatment in accordance with section 66c (1), no. 1 of the Criminal Code requires placement in the Socio-Therapeutic Unit; separate placement is regulated under section 10 (1) of the aforementioned Act, which entered into force on 1 June 2013. The restriction of the detainee's statutory privileges associated with his placement in the Socio-Therapeutic Unit were explained to him and his consent thereto was obtained. Further, the head of the Socio-Therapeutic Unit at Waldheim Prison endeavours to restrict the preventive detainee's statutory rights as little as possible.

In Saxony-Anhalt socio-therapeutic measures for detainees are as a matter of principle available in facilities in the unit for preventive detainees, which is why detainees do not have to forgo the *Abstandsgebot* (section 12 of the Act on the Enforcement of Preventive Detention of Saxony-Anhalt (*Sicherungsverwahrungsvollzugsgesetz Sachsen-Anhalt, SVVollzG LSA*)).

One person in preventive detention in Schleswig-Holstein is, at his own request, currently undergoing treatment in the Socio-Therapeutic Unit at Lübeck Prison. The *Abstandsgebot*

cannot be observed. Nevertheless, the head of the Socio-Therapeutic Unit at Lübeck Prison endeavours to restrict the detainee's statutory rights as little as possible.

The Interstate Treaty concluded between Hesse and the Free State of Thuringia on the establishment and the joint use of a facility for the enforcement of preventive detention was signed on 20 December 2012. Article 1 of the Treaty sets out that Hesse and the Free State of Thuringia are to establish a facility to be used by both contracting parties for the enforcement of preventive detention and, to that end, to refurbish a group of buildings on the grounds of Schwalmstadt Prison owned by Hesse. Until work on this group of buildings has been completed, rooms on the grounds of Weiterstadt Prison will be made available on the basis of an administrative agreement between Hesse and the Free State of Thuringia. Both the State Treaty and the administrative agreement refer exclusively to the placement of males. Females from Thuringia are placed in Chemnitz Prison (Reichenhain Complex) on the basis of an administrative agreement concluded between the Free States of Saxony and Thuringia. Aside from this cooperation, the Free State of Thuringia holds individual males in preventive detention in the Socio-Therapeutic Unit at Tonna Prison. However, the precondition for this is that treatment in accordance with section 66c (1), no. 1 of the Criminal Code (cf. section 62 (3), first sentence, read in conjunction with section 11 (2), first and second sentence, of the Act on the Enforcement of Preventive Detention of Thuringia (*Thüringer Sicherungsverwahrungsvollzugsgesetz*, ThürSVVollzG)) is necessary and that the detainees have given their consent thereto. The concrete conditions of placement must differ from those of sentenced prisoners as far as existing conditions allow (cf. section 62 (3), second sentence, of the aforementioned Act). That means that the prison authority must take all the necessary organisational measures to ensure that the conditions are as equal to those in the facility for persons in preventive detention as possible.

Before their placement begins persons in preventive detention are instructed in writing about the conditions in the Socio-Therapeutic Unit. When they are admitted they are again informed that on account of the structural and organisational conditions they cannot be accorded all their statutory privileges. This means that they cannot be kept separate from sentenced prisoners and that they take part in group treatment measures together with these prisoners.

Paragraph 23

... “The CPT trusts that the relevant authorities of Baden-Württemberg and Rhineland-Palatinate will take the necessary measures to ensure that:

- *Lockerungen* are progressively developed as an integral part of the individual detention plan with a view to preparing inmates for their release, including by involving inmates in the preparation of the measure and by organising individual feedback with the person concerned;
- *Ausführungen* are arranged for inmates who do not qualify for a *Lockerung* in such a way that they are meaningful and enjoyable (in particular, for those inmates who do not appear to have any chance of being released in the foreseeable future).

Further, the Committee would like to receive updated information on the number of inmates at Diez and Freiburg Prisons who have thus far not benefited from any *Lockerung* and of the number of *Ausführungen* which have been organised for them.”

The assumptions made by the CPT as regards *Lockerungen* and *Ausführungen* in Freiburg Prison are correct. Of the 54 detainees, eight were granted *Lockerungen* over and above *Ausführungen* in May. A total of 167 *Ausführungen* were conducted at Freiburg Prison over the past 12 months.

At total of 40 detainees were being held in the Preventive Detention Unit at Diez Prison and Preventive Detention Facility in Rhineland-Palatinate on 12 May 2014. *Lockerungen* in the form of accompanied stays outside the facility for part of the day (*Ausgang*) are granted to five of the detainees, which is why they no longer have any *Ausführungen*. Currently, 35 detainees are not suited to being granted *Lockerungen*. So far, four detainees could not be motivated to take part in *Ausführungen*.

The remaining 31 detainees were granted a total of 136 *Ausführungen* between 1 June 2013 and 12 May 2014.

Paragraph 24

... “In contrast, at Freiburg Prison, telephones were only available in the corridor of each living unit, and a number of inmates complained about the fact that they were often not

able to make telephone calls without being overheard by fellow-inmates or staff. **Steps should be taken to remedy this shortcoming.**”

Freiburg Prison intends to offer detainees the possibility of having telephone lines in their rooms in the preventive detention unit. The prerequisite is an offer from an external operator which is also financially acceptable for the detainees. This is currently being examined.

#### Paragraph 25

... “Both at Diez and Freiburg Prisons, the delegation was informed that the relevant prison administration was considering the creation of restricted Internet access for persons in preventive detention. **The CPT welcomes this initiative and would like to receive updated information on this matter.**”

It is not possible to provide unrestricted access to the Internet due to the associated security risks. In suitable cases, Freiburg Prison can allow Internet access only in the context of supervised training measures.

Restricted and controlled Internet access both for sentenced prisoners and for those in preventive detention is currently still in the test phase at Diez Prison. This test phase began on 12 May 2014, and an interim evaluation will be carried out from 23 May 2014. Access to the Internet is provided via the elis learning platform (electronic learning in prisons, <http://www.elis-public.de/information/>), which was designed for and is supervised in prisons across Germany by the Institute for Education in the Information Society (IBI) at the Technical University of Berlin. The terminals are provided by the IBI. Currently, 10 such terminals are available (seven for sentenced prisoners and three for persons in preventive detention). The prison will be responsible for allocating the terminals to prisoners and persons in preventive detention. There are currently 10 terminals in the closed prison and six in the unit for preventive detention which can be used for Internet access.

Unmonitored communication is only permitted in certain closed networks (e.g. at the Distance-Learning University of Hagen). A dedicated line to the University of Hagen was established several years ago. The stations are only set up for treatment measures as well as for reintegration and educational purposes. For technical and security-related reasons there are no plans to provide Internet access as a leisure-time activity.

Access to social networks (e.g. Facebook, Twitter) is banned for security reasons.

It is planned that the system will be taken into operation after the end of the test phase in the second half of 2014.

Additional observation by Hesse re paragraph 28:

It is correct that the female in preventive detention has only very rarely taken advantage of the possibility available to her of spending time outside. However, this was not due to the fact that she was “constantly threatened and intimidated” by sentenced prisoners, but was at her own request; the detainee stated that she did not wish to “use the free hour”. At no point in time were there any indications that she had been threatened by other inmates. Whenever the preventive detainee expressed the wish to go outside during her free hour she was permitted to do so. She was generally accompanied by the pastoral worker responsible for her. At no point in time was she in contact with other prisoners during her free hour.

In accordance with section 68 (5) of the Act on the Enforcement of Preventive Detention of Hesse, on application by the preventive detainee, who has been in the preventive detention unit since 7 June 2013, a sentenced prisoner was admitted to the preventive detention unit on 22 July 2013 with her consent. On 24 October 2013 this sentenced prisoner stated that she felt threatened by the preventive detainee and that she was afraid of her. The prisoner was immediately moved elsewhere. Since then the preventive detainee has been alone in the unit once more.

However, at no point in time was the person in preventive detention held in anything resembling solitary confinement; she was visited every day after work both by prison staff and by the pastoral worker, and she was offered meetings on a daily basis. She herself stated over a period of several weeks that she wished to have no contact with other inmates. At her own request all of the treatment offered to her before the incident with the prisoner was then discontinued.

The detainee is currently taking part in treatment measures in the socio-therapeutic unit (group meetings, art therapy, stress management training etc.). The indication for group therapy was examined; however the detainee informed the unit that she did not wish to take part in the measure. She has contact with inmates for several hours each day in the socio-therapeutic unit.

At no point in time since the aforementioned incident did the detainee submit any applications to have another prisoner admitted to her unit.

She merely applied for a prisoner to visit her over the Christmas holidays, which was granted.

As regards the possibility of using the telephone, it should be noted that the person in preventive detention has the entire unit to herself and that she can, thus, largely use the telephone at will without being disturbed.

#### Paragraph 29

... “Notwithstanding this, the woman complained about the fact that, due to the lack of appropriate facilities, she was not able to make telephone calls in private and that outgoing letters were being read by members of staff. **The CPT would like to receive the comments of the authorities of Hessen on this matter.**”

Pursuant to section 36 (1) of the Act on the Enforcement of Preventive Detention of Hesse, persons in preventive detention are permitted to use the telephone via an operator in the facility.

According to the Head of Frankfurt am Main III Prison, the detainee in question was able to use a telephone (which is located on the corridor of the preventive detention unit) at the point in time when the CPT delegation paid its visit. As well as holding this detainee, the unit also provides office space to the responsible social worker.

Since the preventive detainee was and is on her own in the unit, she can generally use the telephone in private. If she feels disturbed when the social worker is in her office, she can use the telephone in private after office hours.

The prison management heard the person in preventive detention in regard to the arguments she put forward. The deputy head of Frankfurt am Main III Prison, Mr Vogt, thereupon gave notice that a telephone cabin had been installed at the detainee's request. In future she will be able to use the telephone in private and without being disturbed.

Pursuant to section 35 (2), first sentence, of the Act on the Enforcement of Preventive Detention of Hesse, the detainee's correspondence – including outgoing mail – may be monitored, apart from in the cases set out in section 33 (3) and (4), insofar as this is necessary for reasons of security and order in the facility or for treatment-related reasons.

The reference to section 33 (3) and (4) of the aforementioned Act clarifies that contact with defence counsel, authorised lawyers, notaries, as well as those persons and offices referred to in section 119 (4), second sentence, of the Code of Criminal Procedure (*Strafprozessordnung*, StPO) may not be monitored.

Paragraph 30

... **“The CPT would like to receive confirmation that a doctor is now present at Diez Prison on a full-time basis.”**

The CPT’s requirement that a prison doctor be in attendance more frequently at Diez Prison and Preventive Detention Facility is in principle regarded as well-founded and necessary.

Since, despite comprehensive efforts but on account of a lack of suitable candidates, it has not been possible to hire a full-time prison doctor, health-care services are being provided in the context of fixed twice-weekly general surgery hours, by taking inmates to see specialists inside and outside the facility, by means of out-patient emergency medical services provided by the Association of Statutory Health Insurance Physicians, as well as, depending on the indication, by transferring inmates to the prison hospital or other hospitals.

Health-care services available to inmates at Diez Prison and Preventive Detention Facility can thus still be described as appropriate, sufficient and efficient.

Paragraph 31

... **“The CPT recommends that appropriate steps be taken by the relevant authorities of Baden-Württemberg to ensure that inmates at Freiburg Prison are able to have access to the establishment’s health-care service on a confidential basis, for example, by means of a message in a sealed envelope.”**

Inmates at Freiburg Prison will in future be informed in writing on the form they use to register with the prison doctor that a request can also be made in a sealed envelope addressed to a prison doctor.

## Paragraph 32

... “At Freiburg Prison, the delegation met one inmate who was suffering from a learning disability and was diagnosed with an acute psychotic disorder and a personality disorder. In recent months, he had repeatedly refused to take prescribed medication and, on several occasions, he had refused to talk to the psychiatrist and also refused to be transferred to the psychiatric ward of the Hohenasperg Prison Hospital. In addition, he had caused several incidents in the prison and had repeatedly been placed in a specially secured room (*besonders gesicherter Haftraum*, BGH). Shortly before the visit, court proceedings had been initiated with a view to transferring him to a psychiatric hospital and providing medical treatment on an involuntary basis.

**The CPT would like to be informed of the outcome of these proceedings and the action subsequently taken in respect of the above-mentioned inmate.”**

As far as the person in preventive detention referred to is concerned, the court has since held that it is not necessary to provide medical treatment on an involuntary basis.

The person in preventive detention is currently in the Psychiatric and Psychotherapeutic Unit at Hohenasperg Prison Hospital. A diagnosis of his mental state of health will be established under clinical conditions. Freiburg Regional Court will then examine whether it is necessary to transfer him from preventive detention to placement in a mental hospital (section 67 (2), first sentence, of the Criminal Code).

## Paragraph 35

...“Both at Freiburg Prison and at Frankfurt Prison III, the delegation observed that, since the entry into force of the new *Länder* laws on preventive detention, not one single person in preventive detention had been subjected to the sanctions of prohibition of movement outside the room or disciplinary *Arrest*.

Notwithstanding this favourable situation, the CPT considers that, given the potentially very damaging effects of such sanctions, the maximum period of disciplinary isolation should be no more than 14 days for a given offence, and preferably lower. Further, there should be a prohibition on sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period. Any offences committed by an inmate which it is felt call for more severe sanctions should be dealt with through the criminal justice system.



**The CPT recommends that steps be taken by the relevant authorities in Baden-Württemberg and Hessen and, where appropriate, in other *Länder* where persons are being held in preventive detention, to ensure that the above-mentioned precepts are effectively implemented in practice.”**

No preventive detention is executed in Bremen or Saarland; where necessary, these two *Länder* have sentenced persons placed in other *Länder*. In some *Länder* (Brandenburg, Rhineland-Palatinate, Saxony) no disciplinary measures are provided for in the context of preventive detention. The Act on the Enforcement of Preventive Detention of Schleswig-Holstein does provide for disciplinary measures, though neither *Arrest* nor “withdrawal of freedom of movement outside the room”. *Arrest* is the strictest measure available in the other *Länder*.

In Baden-Württemberg, section 73 of Book V of the Prison Code (*Buch V Justizvollzugsgesetzbuch*), which entered into force on 1 June 2013, provides for *Arrest* as the most serious disciplinary measure, which is limited to four weeks. Only the head of the prison can impose disciplinary measures, and he will only impose *Arrest* following the most serious of misconduct and under strict observance of the principle of proportionality and the vulnerability to punishment of the person in preventive detention. The person in question is free to have the disciplinary measure reviewed by a court.

In Hesse disciplinary measures can be imposed on persons in preventive detention under the preconditions set out in section 55 (1) of the Act on the Enforcement of Preventive Detention in Hesse.

Like special preventive measures, disciplinary measures must also be available in closed prison facilities for the aforementioned purposes irrespective of whether the person in question is a prisoner or a person in preventive detention. As regards the ability to recognise the wrongfulness of an act and to act accordingly, detainees are generally more similar to prisoners and detainees than those detained under a measure of reform and prevention set out in sections 63 and 64 of the Criminal Code. Thus, disciplinary measures are in principle indispensable.

However, when shaping the rules governing disciplinary measures, particular account was taken of the special situation of persons in preventive detention, in particular by including the option of consensual dispute resolution and dealing with breaches of duty in the context of treatment. Further, a treatment priority was prescribed by law.

*Arrest* for no more than four weeks is a permissible disciplinary measure in Hesse. Pursuant to section 55 (4), fourth sentence, of the Act on the Enforcement of Preventive Placement in Hesse, *Arrest* may be imposed as the strictest disciplinary sanction only on account of serious or repeated misconduct. Other prison laws in Hesse contain identical rules; *Arrest* for no more than two weeks is possible in youth custody.

Only very sparing use is made of the possibility of ordering *Arrest*. Where it is in fact ordered in an individual case, the measure generally does not go beyond one week. Nevertheless, *Arrest* is an indispensable disciplinary measure for reacting appropriately in individual cases and for punishing the most serious or repeated breaches of duty.

On account of the very restrictive use that is made of *Arrest* and the fact that it never goes beyond the temporal limit set, it is now being examined, as recommended by the CPT, whether all prison laws in Hesse should limit *Arrest* to a maximum of two weeks.

However, giving up the possibility of imposing successive disciplinary penalties, especially *Arrest*, is not an option. Decisions on whether to order a disciplinary measure take account of all the circumstances of the individual case. In the case of repeated, serious misconduct, it must be possible, in an individual case, to impose successive periods of *Arrest*.

#### Paragraph 36

... **“The CPT recommends that steps be taken by the relevant authorities in Baden-Württemberg and, where appropriate, in other *Länder* in order to ensure that persons in preventive detention who are facing disciplinary charges receive a copy of the disciplinary decision, informing them about the reasons for the decision and the avenues for lodging an appeal. The inmates should confirm in writing that they have received a copy of the decision.”**

Where disciplinary measures are in fact still provided for (see observations re paragraph 35), it is general practice for decisions to be issued orally and with reasons. Written grounds are made available upon request in some *Länder*.

The statutory requirement in Baden-Württemberg (section 76 (4) of Book V of the Prison Code) obligates the head of a prison or another member of the prison management or the head of the prison unit to issue the disciplinary decision to the person in preventive detention

in person and orally. This ensures that the decision is discussed in detail with the detainee. In practice, a copy of the disciplinary order is issued on request.

Paragraph 37

... **“The CPT reiterates its recommendation that existing regulations and practice concerning the role of prison doctors in relation to disciplinary matters be reviewed in all German *Länder*, in the light of the above remarks. In doing so, regard should be had to the comments made by the CPT in its 21<sup>st</sup> General Report.<sup>2</sup>”**

In line with the European Prison Rules (no. 43.2 and no. 43.3), in order to protect prisoners and detainees against the execution of *Arrest* – insofar as this disciplinary measure is in fact still provided for – a medical report must be obtained on the person in question’s ability to undergo the *Arrest*. The medical service is tasked with commenting on whether there is any risk to the prisoner’s or detainee’s health which precludes the *Arrest* being (further) executed and which measures must be provided to maintain his physical health during execution of the *Arrest*. The medical service (which, based on its expertise, is aware of conditions in the respective facilities) is best placed to carry out this task. This rule has proved its worth in prison practice. The relationship between doctor and patient is not put under strain because it is not the doctor who gives his or her consent to the ordering of the *Arrest* in that capacity, rather the doctor only guarantees that the detainee’s health will be maintained during execution of the measure. In addition, the doctor often has a supportive and stabilising function and including him or her can help stabilise the detainee in such a stressful situation as the execution of *Arrest*.

The CPT’s other recommendations are complied with in practice. It is, for instance, customary for the medical service to be heard before execution of the *Arrest* begins as regards the outcome of the investigation into the detainee’s ability to undergo the *Arrest*, and doctors and/or nursing staff supervise the detainee intensively during execution of the *Arrest*, where possible on a daily basis. Medical care is thus guaranteed to an undiminished degree throughout execution of the disciplinary measure, in some circumstances it can even be more intense.

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<sup>2</sup> See paragraphs 62 and 63 of CPT/Inf (2011) 28.

#### Paragraph 38

... “At Diez and Freiburg Prisons, a number of inmates met by the delegation stated that they had no trust in the internal complaints procedure since complaints addressed to the management would not be processed in an effective manner. Regrettably, the delegation was not in a position to follow up these allegations since neither establishment kept a centralised record of inmates’ complaints.

**The CPT recommends that this shortcoming be remedied at Diez and Freiburg Prisons. Further, the Committee would like to receive the comments of the relevant authorities of Baden-Württemberg and Rhineland-Palatinate on the above-mentioned allegations.”**

Given the lack of specific information, it is not possible to comment on the accusations made by some detainees regarding the fact that complaints are not being dealt with effectively by the prison management at Freiburg Prison. In individual cases the accusations could possibly be rebutted by inspecting the respective individual’s file.

At Diez Prison prisoners or detainees submit their complaints directly to the prison management via the normal channels. There is no centralised, internal complaints register. Any irregularities can only be followed up by consulting the individual’s file, for example if through an oversight a request has not been dealt with but has been filed away. A central complaints register would not make any difference in such cases.

#### Paragraph 39

... “Finally, the CPT welcomes the fact that, at Freiburg Prison, specific house rules for persons in preventive detention had been prepared in the light of the new legal framework and were provided to inmates. At Diez Prison and Frankfurt Prison III, the delegation was informed by the management that such specific house rules were being prepared and would be finalised soon. **The Committee would like to receive copies of these rules once they have been issued.**”

All the forms used in the unit for preventive detainees in Hesse have now been revised. House rules are being drawn up and will be completed by the end of June 2014. A copy will then be forwarded to the Committee.

Special house rules for the unit for preventive detainees are being drawn up in Diez Prison and Preventive Detention Facility. They have been approved by the supervisory authority and are enclosed herewith (cf. Annex).

#### Paragraph 40

... “In this regard, it is highly regrettable that, despite the specific recommendation repeatedly made by the Committee for almost two decades, the special security measure of “prohibition of outdoor exercise” has not only been maintained in the federal Law on the Execution of Sentences (which is still applicable in certain *Länder*), but has also been introduced in the newly-adopted regional laws governing preventive detention and the execution of sentences (including vis-à-vis juveniles).<sup>3</sup>

As far as the delegation could ascertain, this specific security measure has not been applied in recent times in any of the establishments visited (see, however, paragraph 48). Notwithstanding that, **the CPT once again calls upon the relevant federal and all *Länder* authorities to take the necessary steps to ensure that prohibition of outdoor exercise is abolished from the relevant legislation as a special security measure (in respect of all categories of inmate).**”

The Federation and *Länder* meet regularly to discuss the human rights standards set by the Council of Europe and the United Nations in the prison system. The *Länder* are kept up to date about international developments in the context of these meetings.

In Baden-Württemberg withdrawing outdoor activities (*Aufenthalt im Freien*) is generally only considered as an accompanying feature of placement in a specially secured room containing no dangerous objects. However, the measure can also be a necessary security measure in other cases, for instance where there is a danger of attacks against accompanying members of staff, which is why it should be retained as a measure of last resort.

In Berlin, the withdrawal or restriction of outdoor activities is ordered as a special security measure when a prisoner needs to be temporarily placed in a specially secured room to prevent an acute danger to life or serious damage to health on the part of the prisoner himself or a considerable danger to the health of other people. This special security measure is indispensable in prison practice only in this context and thus needs to be regulated by law. Placement in a specially secured room is subject to strict conditions and is often executed only

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<sup>3</sup> According to the relevant legal provisions, a doctor must be regularly consulted during the implementation of such a measure.

for a very limited period of time of a few hours. However, it is also not possible to rule out cases in which prisoners are an acute danger to themselves or others for more than 24 hours and it cannot be justified under such circumstances to allow them to take outdoor exercise for an hour in isolation.

Section 83 (2), no. 4 of the Act on the Enforcement of Preventive Detention of Brandenburg merely provides for the restriction of movement outside of a detainee's room. Especially taking account of section 70 (2) of that Act, which permits detainees to spend at least one hour a day outside, complete withdrawal is not permissible.

Section 90 (2), no. 4 of the aforementioned Act also only provides for the restriction of outdoor activities in order to largely satisfy the requirements set out in no. 27.1 of the European Prison Rules. Complete withdrawal is likewise not permissible in the context of the execution of a prison sentence or of youth custody and in pre-trial detention.

The Act on the Enforcement of Preventive Detention of Bremen and the Federal Prison Act (*Bundes-Strafvollzugsgesetz, StVollG*), which is still applicable in Bremen, still contains “the withdrawal or the restriction of outdoor activities” as a special security measure.

In practice, this type of security measure is only ordered in prisons in Bremen in conjunction with placement in a specially secured room or in conjunction with *Fesselung*. However, the need to issue such orders arises only in those (rare) cases in which, on account of his conduct, the prisoner's physical integrity or human dignity cannot be guaranteed whilst being led outside. In most cases both placement in a specially secured room and *Fixierung* only last a few hours, which means that the free hour can still be taken on the same day.

In Hamburg the withdrawal or restriction of outdoor activities is only ordered where the detainee needs to be placed in a specially secured room. Since these measures are ordered where there is an acute danger of self-harm and in rare cases in which the detainee causes harm to others, granting outdoor activities is linked to a high risk that the prevention of the threat intended by the placement will be undermined. A detainee is generally placed in a specially secured room for a very limited period of time (of a few hours) and this measure is ordered only very rarely. The withdrawal or restriction of outdoor activities is still regarded as a necessary measure and can, therefore, not be deleted from prison legislation.

The withdrawal or the restriction of outdoor activities is a permissible special security measure pursuant to section 50 (2), no. 4 of the Act on the Enforcement of Preventive Detention in

## Hesse.

In the view of the Hesse authorities the measure is indispensable in order to be able to react to certain situations, such as a special risk of escape. Outdoor activities are a source of manifold risks and disturbances within the meaning of section 50 (1) and (3) of the aforementioned Act.

Further, the withdrawal of outdoor activities is inevitably linked to placement in a specially secured room containing no dangerous objects.

Pursuant to section 50 (1) of the above-mentioned Act, placement in a specially secured room presupposes that the prisoner's conduct or his mental state means there is an increased risk of escape, of violent acts against people or property, of suicide or self-harm.

Placement in a specially secured room is mainly ordered where there is an increased risk of violent acts against people and of suicide or self-harm. As soon as the heightened risk has subsided, the order of placement in a specially secured room must be immediately cancelled. The order is thus generally made for a short period of time.

Section 78 (2), no. 4 of the Prison Act of Mecklenburg-Western Pomerania and section 83 (2), no. 4 of the Act on the Enforcement of Preventive Detention of Mecklenburg-Western Pomerania only provide for the restriction of outdoor activities as a special security measure. Complete withdrawal is therefore no longer permissible by law.

The situation is different in the law on youth custody (section 70 (2), no. 4) and in the law on pre-trial detention (section 49 (2), no. 4). The *Land* government intends to table amendments in the *Land* parliament in what is known as an "article law" and thus to adapt and harmonise the law on youth custody (*Jugendstrafvollzugsgesetz*, JStVollG) and the law on pre-trial detention (*Untersuchungshaftsvollzugsgesetz*, UVollzG) to those laws enacted at a later point in time (the Prison Act and the Act on the Enforcement of Preventive Detention of Mecklenburg-Western Pomerania).

In accordance with section 81 (1) of the Prison Act of Lower Saxony (*Niedersächsisches Justizvollzugsgesetz*, NJVollzG), the withdrawal or the restriction of outdoor activities is permissible as a special security measure during the execution of a prison sentence. Special security measures may be ordered when the prisoner's conduct or his or her mental state indicate that there is an increased risk of escape or a risk of violent acts against people or property, or of suicide or self-harm. In a few individual cases where each period of time spent

outside leads to an incalculable risk or the full *Fesselung* and leading out of the detainee means the entire procedure is not compatible with the prisoner's dignity, the period of outdoor activities must be restricted for a short time. Experience gained in Lower Saxony shows that these individual cases generally involve prisoners who have psychological symptoms such as disturbed consciousness, delirious or catatonic states, and who urgently require treatment to deal with the acute symptoms of illness. The withdrawal of outdoor activities can also be indispensable during the short phase between the diagnosis being made and the beginning of treatment. Account of this opinion is taken in the execution of preventive placement by means of section 64 of the above-mentioned Act. If the person in preventive detention's freedom of movement has been restricted to such an extent on account of a prison order that he or she is not able to spend time outdoors, he or she is granted at least one hour outside for reasons of preventive healthcare, weather permitting. This does not apply in cases where the detainee is placed in a specially secured room (section 86 (2) no. 5 of the aforementioned Act) if spending time outdoors would jeopardise the objective of the measure.

Outdoor activities are in practice rarely withdrawn as a special security measure in North Rhine-Westphalia and the measure is in particular considered where there is a fear that the detainee will assault prison staff during outdoor activities. The measure is, however, still indispensable on the grounds of proportionality, also in order to prevent placement in a specially secured room containing no dangerous objects.

In Rhineland-Palatinate *Land* legislation in regard to the execution of preventive detention and of a prison sentence, youth custody and pre-trial detention provides for the possibility of ordering the withdrawal or restriction of outdoor activities as a special security measure (section 83 (2), no. 4 of the *Land* Act on the Enforcement of Preventive Detention, section 88 (2), no. 4 of the *Land* Prison Act).

The withdrawal of outdoor activities may only be ordered if the restriction of outdoor activities, a more lenient measure, will not suffice. Strict preconditions are attached to the complete withdrawal of outdoor activities (section 83 (1) and (3) of the *Land* Act on the Enforcement of Preventive Detention, section 88 (1) and (3) of the *Land* Prison Act; in the case of those in youth custody and young pre-trial detainees the corresponding order is only permissible for the reasons set out in section 88 (1) of the *Land* Prison Act). The withdrawal of outdoor activities is typically linked to placement in a specially secured room containing no dangerous objects (section 83 (2) no. 5 of the *Land* Act on the Enforcement of Preventive Detention, section 88 (2), no. 5 of the *Land* Prison Act).



When the relevant *Land* legislation was adopted in Saxony the withdrawal of outdoor activities as a special security measure was dropped in the context of the execution of a criminal sentence, youth custody and pre-trial detention, as well as during the execution of preventive detention. Where there is a considerable risk, the less invasive measure of restricting outdoor activities, for example in the form of spending time outdoors in isolation, is permitted as a special security measure.

The (Federal) Prison Act is (still) applicable in Saxony-Anhalt and thus, where the relevant preconditions are met, the special security measure of withdrawal or restriction of outdoor activities.

By their very nature all security measures are preventative in nature and thus differ from disciplinary measures. This also applies to the withdrawal or restriction of outdoor activities. Therefore, section 88 (2), no. 4 of the Prison Act does not generally affect the withdrawal of outdoor activities as such, but only spending time outside with other prisoners.

The relevant laws in Schleswig-Holstein include “the withdrawal or the restriction of outdoor activities” as a special security measure, but not the “prohibition of outdoor exercise”.

Special security measures are often ordered for only a few minutes or hours. That is why detainees are generally still guaranteed time outdoors on a daily basis. Where the threat is so great that the security measure needs to be ordered for more than one day, it is still possible to organise the taking of a free hour in isolation in such a manner as to guarantee the dignity of the prisoner and his security, the detainee will be granted a free hour.

The draft of the Prison Act of Schleswig-Holstein and the other relevant *Land* laws provide that the prison doctor must be regularly heard whilst a prisoner’s daily outdoor time has been withdrawn or the prisoner is kept separate from the others for more than 24 hours. This, amongst other things, does justice to the special significance of the free hour.

Section 50 (2), no. 4 of the Act on the Enforcement of Preventive Detention of Thuringia and section 89 (2), no. 4 of the Prison Code of Thuringia (*Thüringer Justizvollzugsgesetzbuch*, ThürJVollzGB) permit Thuringia to both restrict and order the withdrawal of outdoor activities as a special security measure. The provisions correspond to section 88 (2), no. 4 of the Prison Act in terms of their content.

Even though spending time outside serves the health of persons in preventive detention (cf. section 23 (3) of the Act on the Enforcement of Preventive Detention of Thuringia) and of prisoners (cf. section 76 (2) of the Prison Code of Thuringia), both its restriction and complete withdrawal is an indispensable measure, since spending time outside can be a source of manifold risks and disturbances. The complete withdrawal of outdoor activities is typically linked to placement in a specially secured room containing no dangerous objects.

The complete withdrawal of outdoor activities is, for example, also a possible option where there is a risk of attacks against members of staff accompanying detainees. For reasons of proportionality, such a measure may, however, only be ordered where less severe measures such a restriction in the form of taking a free hour in isolation would not suffice.

Paragraph 42

... **“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 the 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.

Further, **the Committee encourages the relevant authorities of all *Länder* to abandon the resort to *Fixierung* in prisons.”**

Plötzensee Prison in Berlin is currently working on introducing a special register in its prison hospital in which additional special security measures, such as *Fixierung*, will be recorded separately to an individual’s file. The register will also include basic information, in particular the duration of the measure (beginning and end), the name of the person who ordered it, and the type and extent of the *Fixierung*.

Each case of *Fixierung* executed in Hohenasperg Prison Hospital (Baden-Württemberg) is documented as recommended by the Committee.

The Committee's recommendations are being implemented in Brandenburg. In response to the Committee's report of 6 July 2001 prisons in Brandenburg were instructed to document cases of *Fixierung* in a separate register, and always to the extent set out by the Committee. *Fixierung* is, incidentally, only carried out using cloth bandages and only on the recommendation of a doctor or psychologist. Where *Fixierung* is carried out the prisoner is kept under constant and direct supervision by a member of staff (*Sitzwache*).

In Bremen cases of *Fixierung* are recorded in a separate register and can therefore be evaluated without too much additional effort.

Cases of *Fixierung* are also documented in Hamburg. In addition, facilities must notify the supervisory authority within 24 hours of each case of *Fixierung*.

Cases of *Fixierung* are documented in detail in Hesse. The ordering and execution of *Fixierung*, including the involvement of the medical or psychological service, are documented.

Generally speaking, *Fixierung* lasts only a few hours. All cases of *Fixierung* must be notified to the supervisory authority by submission of a written report. Where the *Fixierung* is ordered for more than three days, the supervisory authority must be notified immediately.

In Mecklenburg-Vorpommern each individual case of *Fixierung* in the prison hospital unit or in a specially secured room has to be recorded both in the individual's file and in a book created especially for this purpose.

In Lower Saxony each case of *Fixierung* is recorded (beginning and end of the measure, circumstances of the individual case, name of the authorising person) and, since 2 March 2012, is first reported by telephone and then in writing to the Ministry of Justice of Lower Saxony.

In prisons in North Rhine-Westphalia the reasons for the *Fixierung* and other circumstances (date and time of the order and its cancellation, name and official title of the ordering member of staff etc.) are documented in writing on the relevant form. The information is documented in line with the requirements of no. 55 of the Rules of Prison Procedure (*Vollzugsgeschäftsordnung*, VGO) in a separate book (Register of Special Security Measures).

In Rhineland-Palatinate cases of *Fixierung* are recorded in the individual's file as well as in the Register of Special Security Measures.

There are plans to incorporate this Register into the new electronic information system.

In Saxony the nature, occasion for and duration of the *Fixierung*, which can in any case only be carried out in the prison hospital's psychiatric ward, is recorded into a separate book. Medical staff document the prisoner's health in the individual's medical file. Only soft bandages are used. In addition, the prisoner is kept under constant and direct supervision by a member of staff (*Sitzwache*).

Saxony-Anhalt ensures constant and direct supervision of the person affected as well as detailed documentation.

The CPT's references to this matter are therefore taken seriously and will be given due consideration in the course of the procedure to adopt a *Land* prison law.

Each prison in Schleswig-Holstein keeps such a register.

In addition to existing statutory requirements the Ministry of Justice of Thuringia has determined the following in this context by way of issuing an order:

1. When placing a prisoner in a specially secured room it must be ensured that in addition to being kept under video surveillance the prisoner is visited in person by a member of the prison staff in the specially secured room at intervals of no more than 30 minutes.
2. Where, in addition, *Fesselung* has been ordered of the prisoner in the specially secured room, constant and direct supervision by a member of staff (*Sitzwache*) must be guaranteed. Only bandages may be used for the prisoner's *Fixierung*.
3. The list of supervised persons must include details regarding all measures taken/determinations made (esp. intake of food, drink, medications, conversations, any abnormalities).
4. In the case of behavioural abnormalities on the part of the prisoner (e.g. withdrawal symptoms), he must immediately be taken to see a doctor, if necessary a doctor outside the facility.
5. While monitoring any behavioural abnormalities observed during placement in a specially secured room, the observer's superior must be immediately informed, outside of regular office hours the inspection service.
6. The inspection service must be notified immediately outside of regular office hours when a prisoner is placed in a specially secured room or of any additional *Fesselung* which is ordered.

7. In the case of *Fesselung* lasting more than three hours, the head of the prison or, in his absence, his deputy and a deputy of the law enforcement unit, outside of his office hours the on-call service at the Ministry of Justice of Thuringia, must be notified by telephone. In addition, a comprehensive report must be submitted regarding the prisoner's *Fesselung* at the latest by 12 noon on the next working day. In particular, the report must detail the following:

- Reasons for the measure being ordered,
- Description of previously unsuccessful measures,
- Description of the reasons why a less severe measure was not sufficient,
- Duration of the *Fesselung* thus far, and
- Information regarding whether the medical and/or psychological service has been notified/was present.

Further, the name of the person affected, their date of birth, the date of the order, the date of the cancellation, the grounds for the order, and the concrete security measure are recorded in a special program in the enforcing office.

#### Paragraph 43

... **“The CPT would like to receive confirmation that metal handcuffs (and leather belts) are no longer used for the purpose of *Fixierung* at Berlin-Tegel Prison.”**

Tegel Prison has discontinued the use of broad metal handcuffs and leather belts for the purpose of *Fixierung*. In future, only authorised cloth belts will be used. The requisite training of prison staff regarding the correct and gentle use of these methods will begin in summer 2014 and will likely be completed by the autumn.

#### Paragraph 44

... **“The CPT recommends that the relevant authorities of Baden-Württemberg review the arrangements for the use of *Fixierung* at the Hohenasperg Prison Hospital, in the light of the above remarks.”**

It will not be possible to ease the cramped conditions in the so-called “surveillance room” in the prison hospital, combined with the occasional placement of two patients in the room, until the new prison hospital has been built.

#### Paragraph 45

... “That said, in one of the two BGH at the Berlin-Plötzensee Prison Hospital, the delegation found metal rings anchored to the floor. Although there were no indications that these rings had recently been used for restraining agitated patients, **the CPT recommends that they be removed.**”

The metal rings which are anchored to the floor of that one specially secured room are not in use. They are not needed for cases of *Fixierung* using the authorised cloth belts. The metal rings will be removed in the course of the planned refurbishment of this room in the hospital prison in Berlin in line with the Committee’s recommendations.

#### Paragraph 46

... “In all the establishments visited, placements in a BGH were generally well-documented, in accordance with the relevant legal provisions.

That said, at Freiburg Prison, placement orders were usually issued by the Director only orally. **Steps should be taken by the relevant authorities of Baden-Württemberg to remedy this shortcoming.**”

The order for placement in a specially secured room is generally made where there is an “imminent danger”, in which case it is naturally not possible to issue a written order before the measure is executed.

#### Paragraph 48

... **“The CPT calls upon the authorities of all *Länder* to take the necessary steps to ensure that inmates placed in a specially secured room (BGH) for 24 hours or more are as a rule offered at least one hour of outdoor exercise per day.”**

Please refer first to the observations re paragraph 40. In addition:

Whenever a prisoner in Brandenburg needs to be placed in a specially secured room, it is examined at appropriate intervals whether it is necessary for the placement to continue. That includes an examination in the individual case of whether the prisoner may spend time outdoors. It may under certain circumstances be necessary to restrict time spent outdoors if,

based on the prisoner's conduct or on account of his mental state, there is an increased risk of violent acts against people or property, of suicide or self-harm.

Pursuant to section 70 (2) of the Act on the Enforcement of Preventive Detention of Mecklenburg-Western Pomerania, detainees are allowed to spend at least one hour per day outdoors. Section 83 (2), no. 4 of the above Act does not permit the complete withdrawal of outdoor activities when ordering special security measures. However, it is possible that the minimum amount of time (1 hour) which the Committee requires prisoners to spend outdoors will be restricted and thus fallen short of in special exceptional cases. Prisons in Mecklenburg-Western Pomerania have been asked not to restrict the amount of time detainees spend outdoors to such an extent that the mere restriction is equal to complete withdrawal.

In North Rhine-Westphalia, placement in specially secured rooms containing no dangerous objects is in particular carried out where there is a risk of violent acts against people or self-harm, with due consideration being given to the principle of proportionality. Where the placement lasts longer than 24 hours, no free hour is granted if the risk still exists. Nevertheless, persons in preventive detention are supervised by medical and, if necessary, psychological staff at short intervals in order to avoid detrimental impacts to their health.

In Rhineland-Palatinate, placement in a specially secured room containing no dangerous objects is regulated in section 88 (2), no. 5 of the *Land* Prison Act and section 83 (2), no. 5 of the *Land* Act on the Enforcement of Preventive Detention.

Where placement in a specially secured room containing no dangerous objects is planned, it will always be examined whether the conditions for the withdrawal of outdoor activities under section 88 (2), no. 4 of the *Land* Prison Act or section 83 (2), no. 4 of the *Land* Act on the Enforcement of Preventive Detention are met. As soon as prisoners or detainees are permitted to spend time outdoors, placement in a specially secured room can no longer be considered. Only those prisoners and detainees are placed in specially secured rooms who have a specific or acute tendency to attempt suicide or commit self-harm, or who have committed serious violent acts, especially against fellow inmates, detainees or members of staff.

Where there is a considerable risk of harm to others, it is not conceivable how the prisoner could be able to spend time outdoors in such a way that this time could be organised as securely as placement in a specially secured room. Members of staff would be at particular risk when dressing and re-dressing or leading out the prisoners or detainees. In addition, considerable security measures would have to be applied when taking the person affected

outside, which would be witnessed by the other prisoners and detainees and could lead to conflicts escalating.

Placement in a specially secured room is applied only rarely where there is an acute risk of self-harm, especially of suicide.

In such cases the prisoner/detainee is more likely to be monitored in accordance with section 88 (2), no.2 of the *Land Prison Act* or section 83 (2), no. 2 of the *Land Act on the Enforcement of Preventive Detention*.

Placement in a specially secured room is in any case limited to the absolutely essential minimum amount of time.

In the Free State of Saxony prisoners and detainees placed in a specially secured room are able to spend at least one hour outdoors per day in line with the statutory provisions of the Youth Custody Act (*Jugendstrafvollzugsgesetz, JSt-VollzG*), the Prison Act (*Strafvollzugsgesetz, StVollzG*), the Act on Enforcement of Pre-trial Detention (*Untersuchungshaftsvollzugsgesetz, UHaftVollzG*) and the Act on the Enforcement of Preventive Detention (*Sicherungsverwahrungsvollzugsgesetz, SVVollzG*) of the Free State of Saxony, insofar as the prisoner's or detainee's physical and mental state permit this.

The right of each prisoner to spend one hour outdoors is already fully guaranteed in correctional facilities in Saxony-Anhalt.

#### Paragraph 51

... "Whilst acknowledging that the resort to surgical castration in the context of treatment of sex offenders has drastically diminished in recent years throughout Germany, **the CPT reiterates its recommendation that steps be taken by all relevant federal and *Länder* authorities to put a definitive end to its use and to amend the relevant legal provisions accordingly.**"

The Federal Government would like to emphasise once again that voluntary castration is not a penalty but primarily serves to prevent, treat or reduce those of the person in question's serious illnesses, mental disorders or conditions which are linked to an abnormal sex drive. As already explained (cf. the Observations by the Federal Government on the recommendations, comments and requests for information by the European Committee for the Prevention of Torture



and Inhuman or Degrading Treatment or Punishment (CPT) on the occasion of its visit from 25 November to 7 December 2010, p. 65 et seqq.), it is only permissible where very strict preconditions are fulfilled, in particular the person concerned consents thereto; this consent must also be confirmed by an expert. In addition, as already explained, it is now applied only in rare exceptional cases.

The following example from Brandenburg illustrates these strict conditions, as well as the possible positive effects of voluntary castration:

After undergoing many years of socio-therapeutic, psychotherapeutic and medical treatment, an offender in Brandenburg who was earmarked for preventive detention and who had been assessed as a serial rapist with the highest risk of recidivism (so-called high-risk offender) by several experts, applied to the relevant office of experts at Brandenburg Medical Association for surgical castration (pursuant to the Castration Act (*Kastrationsgesetz*, KastrG)). Following an examination by the specialist doctor, the application was granted.

The detainee filed the application on account of the serious side-effects caused by the anti-androgen medications he had been taking for a long time and because he was afraid there was a risk that he might stop taking the medications after his release and would then re-offend. He was given psychotherapeutic support by an external specialist before, during and after the medical treatment.

In September 2012 the detainee was released from the Socio-Therapeutic Unit after six years of treatment (1.7 years of which as a preventive detainee). He had been assessed by an expert and, based on that, by the chamber responsible for the execution of sentences, as no longer posing a danger and thus as dischargeable. To date, he has not re-offended. He has reported negative side-effects in the form of a depressive state and physical symptoms on account of the low testosterone level, but these do not impair his quality of life on a permanent basis. The released prisoner has a flat, a job and a new relationship.

This case raises the question of whether banning voluntary castration would not destroy the only opportunity a high-risk offender has of ever being released.

Nevertheless, the Federal Government will continue to examine whether the statutory provisions should be amended against the backdrop of current developments.



# **A N N E X**



*Anstaltsleiterverfügung*

***Hausordnung der Justizvollzugs- und Sicherungsverwahrungsanstalt Diez für die Abteilung Sicherungsverwahrung***

Sie befinden sich in der Sicherungsverwahrung der Justizvollzugs- und Sicherungsverwahrungsanstalt Diez.

Grundlage der Hausordnung bildet das Landessicherungsverwahrungsvollzugsgesetz (LSVVollzG).

Die Abteilung Sicherungsverwahrung ist so weit als möglich freiheitsorientiert ausgerichtet. Mit dieser Verantwortung umzugehen erfordert von jedem Einzelnen sich an Regeln zu halten, die für eine funktionierende Gemeinschaft notwendig sind. Beschränkungen sind insbesondere möglich, soweit diese zur Aufrechterhaltung der Sicherheit oder zur Abwendung einer schwerwiegenden Störung der Ordnung der Anstalt erforderlich sind oder soweit ein schädlicher Einfluss auf andere Untergebrachte zu befürchten ist.

Gegenseitige Rücksichtnahme, ein gewaltfreier und respektvoller Umgang miteinander, die Berücksichtigung der Belange anderer und ein angemessenes Verhältnis zwischen legitimen eigenen Interessen und dem Gemeinwohl sind maßgeblich für das zwischenmenschliche Klima innerhalb des Komplexes und ein geordnetes Miteinander.

Diese Hausordnung und die damit verbundenen Regeln sollen ein geordnetes Miteinander ermöglichen und so zur Erreichung des Zieles der Maßregel beitragen.

Machen Sie sich daher mit den Bestimmungen dieser Hausordnung vertraut und verhalten Sie sich entsprechend.

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<b>1. Geltungsbereich</b>	<ul style="list-style-type: none"><li>• Diese Hausordnung gilt für den Bereich der <b>Abteilung Sicherungsverwahrung</b> der JVA Diez.</li><li>• Bei Verlassen des Bereiches gelten die dort bestehenden Regeln und Vorschriften.</li></ul>
<b>2. Tagesablauf und Verhaltensregeln</b>	<ul style="list-style-type: none"><li>• Der <b>Tagesablauf</b> ergibt sich aus den entsprechenden Aushängen auf den Stationen (Anlage 1).</li><li>• <b>Anweisungen</b> der Bediensteten ist grundsätzlich Folge zu leisten, auch wenn Sie sich dadurch beschwert fühlen.</li><li>• <b>Rauchen</b> im Gebäude außerhalb der Zimmer ist untersagt. Zuwiderhandlungen stellen Ordnungswidrigkeiten dar und werden entsprechend verfolgt.</li><li>• Der Besitz, der Genuss oder die Herstellung von <b>Alkohol</b>, auch von sogenanntem alkoholfreiem Bier und Wein und anderen berauschenden Mitteln, ist untersagt.</li><li>• Achten sie auf einen <b>pfleghchen Umgang</b> mit allen Gemeinschaftseinrichtungen undgeräten (zum Beispiel in den Waschräumen, Etagenküchen, Gruppenräumen, Telefonräumen, Fitnessraum), die nach Benutzung auch sauber zu hinterlassen sind.</li><li>• Zu den im Tagesablaufplan für die unterschiedlichen Tage festgelegten Zeiten haben Sie sich zur <b>Feststellung der Vollzähligkeit</b> beim Stationsdienst zu melden.</li><li>• <b>Nachtruhe</b> ist ab 22.00 Uhr.</li></ul>
<b>3. Haftung für Schä-</b>	<ul style="list-style-type: none"><li>• Für Schäden, die durch mangelnde Sorgfalt</li></ul>

<p><b>den</b></p>	<p>im Umgang mit anstaltseigenen Gegenständen verursacht wurden, sind Sie grundsätzlich <b>schadensersatzpflichtig</b>.</p>
<p><b>4. Aufenthalt im Freien</b></p>	<ul style="list-style-type: none"> <li>• Aufenthalt im Freien ist zu den im Tagesablaufplan für die unterschiedlichen Tage festgelegten Zeiten möglich.</li> <li>• Es dürfen keinerlei Gegenstände durch Sie im Freigelände deponiert werden.</li> <li>• Sport- und Freizeiteinrichtungen und -geräte sind pfleglich zu behandeln.</li> </ul>
<p><b>5. Zusammenleben auf den Wohngruppen</b></p>	<ul style="list-style-type: none"> <li>• Sie werden in der Regel in einer <b>Wohngruppe</b> (WG 1 - 6) untergebracht.</li> <li>• Außerhalb der Nachtverschlusszeiten können Sie sich frei auf den Wohngruppen und in den <b>Gemeinschaftsräumen</b> bewegen.</li> <li>• Das geordnete <b>Zusammenleben</b> erfordert gegenseitige Rücksichtnahme und einen gewaltfreien und respektvollen Umgang miteinander.</li> <li>• Probleme sollten im Rahmen der regelmäßigen <b>Wohngruppensitzungen</b> thematisiert werden.</li> <li>• <b>Einvernehmliche Streitbelegungen</b> sind anzustreben und sowohl von Untergebrachten als auch von Bediensteten zu fördern.</li> <li>• Außerhalb des Zimmers ist angemessene <b>Bekleidung</b> zu tragen.</li> <li>• Die eigene <b>Kleidung ist regelmäßig zu reinigen</b>; dabei ist auf einen sparsamen Umgang mit den zur Verfügung gestellten Reinigungsutensilien zu achten.</li> <li>• Die Untergebrachten haben die notwendigen <b>Anordnungen zum Gesundheitsschutz</b></li> </ul>



	<p><b>und zur Hygiene</b> zu befolgen.</p> <ul style="list-style-type: none"><li>• Zu einem geordneten Zusammenleben gehört auch regelmäßige <b>Körperhygiene</b> (tägliches Duschen, Zähneputzen, Wechseln der Wäsche und Ähnliches).</li></ul>
<b>6. Arbeit</b>	<ul style="list-style-type: none"><li>• Wenn Sie eine Beschäftigung aufnehmen, haben Sie sich an die jeweils geltenden Regeln und Bestimmungen zu halten (Sicherheits- und Unfallverhütungsvorschriften, Arbeitskleidung).</li><li>• Eine aufgenommene Beschäftigung darf nicht zur Unzeit niedergelegt werden. Versuchen Sie einvernehmliche Lösungen zu finden.</li></ul>
<b>7. Besuch</b>	<ul style="list-style-type: none"><li>• Ihnen stehen in der Regel <b>10 Stunden Besuch monatlich</b> zu. Die maximale Besuchszeit pro Besuch beträgt 5 Stunden.</li><li>• Die Besuchszeit kann stundenweise (nur volle Stunden) auf mehrere Tage im Monat verteilt werden. Eine Besuchszeit von unter einer Stunde zählt als volle Stunde. Nicht ausgeschöpfte Besuchszeiten können nicht in den Folgemonat übertragen werden. Der Besuch muss innerhalb der Besuchszeit begonnen und beendet werden.</li><li>• Jeder Besuch bedarf der vorherigen Genehmigung. Besuchstermine müssen Sie selbst mit der Abteilungsdienstleitung der Abteilung Sicherungsverwahrung vereinbaren.</li><li>• Sie dürfen beim Besuch Privatkleidung tragen.</li><li>• Es kann jeweils nur ein Untergebrachter besucht werden.</li></ul>

	<ul style="list-style-type: none"> <li>• Der Besuch darf abgebrochen werden, wenn Besucherinnen/Besucher oder der Untergebrachte insbesondere gegen die Sicherheit und/oder Ordnung der Anstalt verstoßen. Dies gilt auch bei getroffenen Anordnungen.</li> <li>• Folgende Besuchsformen werden angeboten:             <ol style="list-style-type: none"> <li>a. Besuch an Tischen mit offener Tischordnung ohne Beaufsichtigung</li> <li>b. Besuch an Tischen mit offener Tischordnung mit Beaufsichtigung (optische Überwachung), auch durch technische Hilfsmittel</li> <li>c. Optisch überwachter Besuch an mit Ordnungsscheibe</li> <li>d. Optisch überwachter Besuch an Tischen mit Trennvorrichtung</li> <li>e. Akustische Überwachung des Besuchs</li> <li>f. Langzeitbesuch.</li> </ol> <p>Die Besuche zu a., b., e und f. finden ausschließlich im Gebäude der Sicherungsverwahrung statt. Die Besuche zu c. und d. finden ausschließlich in der Hauptanstalt statt. Die erstmalige Entscheidung zu a. und b. wird nach Beratung in der Vollzugskonferenz beschlossen. Die erstmalige Entscheidung zu f. ist der Anstaltsleitung nach vorheriger Beratung in der Vollzugskonferenz vorbehalten.</p> </li> <li>• Weitere Informationen zur Besuchsabwicklung entnehmen Sie der Anlage 2.</li> </ul>
<p><b>8. Telefonate</b></p>	<ul style="list-style-type: none"> <li>• Telefonate sind in den Telefonräumen der Wohnbereiche über das Telefonsystem</li> </ul>

	<p>SAGI zu den im Tagesablaufplan angegebenen Zeiten möglich. Sie werden über die in den Wohngruppen eingerichteten Telefone geführt.</p> <ul style="list-style-type: none"> <li>• Telefonnummern können als Dauer- oder Einzelgenehmigung beantragt werden. Die Anzahl der Telefonnummern ist nicht begrenzt. Es ist nicht möglich, 0800-Nummern anzuwählen.</li> <li>• Informationen über Kontoeinrichtung und Benutzung der SAGI-Anlage entnehmen Sie der Anlage 3.</li> <li>• Das Einbringen, die Nutzung sowie die Weitergabe von Handys ist untersagt.</li> </ul>
<p><b>9. Schriftwechsel</b></p>	<ul style="list-style-type: none"> <li>• <b>Hauspost</b> an Insassen der Strafhaftabteilungen sowie der Abteilung des offenen Vollzuges ist nicht zugelassen.</li> <li>• <b>Kosten</b> des Briefverkehrs haben Sie selbst zu tragen.</li> <li>• Eingehende, unzureichend frankierte Post wird nur angenommen, wenn die Kosten vom Empfänger übernommen werden.</li> <li>• Die Kontrolle und Überwachung des Schriftwechsels richtet sich nach den gesetzlichen Bestimmungen.</li> </ul>
<p><b>10. Pakete</b></p>	<ul style="list-style-type: none"> <li>• Pakete dürfen gemäß § 38 LSVVollzG nach vorheriger Genehmigung empfangen werden.</li> <li>• Nicht genehmigte Pakete können zu Lasten des Empfängers zurückgesandt werden.</li> <li>• Weitere Informationen zu Paketempfang: entnehmen Sie der Anlage 4.</li> </ul>
<p><b>11. Besitz und Ge-</b></p>	<ul style="list-style-type: none"> <li>• Das <b>Einbringen von Gegenständen</b> bedarf</li> </ul>

<p><b>Genehmigung von Gegenständen</b></p>	<p>gemäß § 51 LSVVollzG der vorherigen Genehmigung.</p> <ul style="list-style-type: none"> <li>• Die <b>Weitergabe von Gegenständen</b> an Mituntergebrachte sowie an Gefangene ist ohne vorherige Zustimmung untersagt.</li> <li>• Der <b>Verbleib von Gegenständen</b>, die nicht in Ihrem Zimmer verbleiben sollen oder dürfen, richtet sich nach § 54 LSVVollzG.</li> </ul>
<p><b>12. Zimmer</b></p>	<ul style="list-style-type: none"> <li>• Das <b>Zimmerinventar</b> ist schonend und pfleglich zu behandeln.</li> <li>• Die Pantry-Küche inklusive der Elektrogeräte darf nicht verändert werden. Die übrige Möblierung darf nach eigenen Wünschen gestellt werden, soweit die <b>Übersichtlichkeit des Zimmers</b> gewahrt bleibt.</li> <li>• Die übrige <b>Gestaltung</b> des Zimmers kann unter den vorgenannten Voraussetzungen ebenfalls individuell erfolgen.</li> <li>• <b>Sauberkeit und Hygiene</b> der Zimmer einschließlich der Küche und des Nassbereiches sind von Ihnen eigenverantwortlich zu gewährleisten. Hierzu gehört unter anderem auch regelmäßiges Lüften und Grundreinigung mindestens einmal wöchentlich.</li> <li>• <b>Abfälle</b> sind getrennt (siehe Anlage 5) in die zur Verfügung gestellten Behältnisse zu entsorgen und müssen im Abfallraum des Wohnbereiches abgegeben werden. Weitere Informationen entnehmen Sie der Anlage 5.</li> </ul>
<p><b>13. Verpflegung und Einkauf</b></p>	<ul style="list-style-type: none"> <li>• Gemäß § 58 LSVVollzG haben Sie die Möglichkeit, sich selbst zu verpflegen oder an der Anstaltskost teilzunehmen.</li> <li>• <b>Selbstverpflegung</b> muss rechtzeitig bean-</li> </ul>

	<p>trägt werden.</p> <ul style="list-style-type: none"><li>• Die <b>Kosten der Selbstverpflegung</b> haben Sie selbst zu tragen; die Anstalt gewährt einen Zuschuss oder stellt Lebensmittel zur Verfügung.</li><li>• <b>Einkaufsmöglichkeit</b> beim Anstaltskaufmann im Verkaufsraum besteht wöchentlich an 2 Tagen.</li><li>• Im <b>Verkaufsraum</b> dürfen sich maximal zwei Untergebrachte gleichzeitig aufhalten. Jeder Diebstahl wird zur Anzeige gebracht.</li><li>• Waren, die der Anstaltskaufmann nicht im üblichen <b>Sortiment</b> führt, müssen vorher schriftlich beantragt und genehmigt werden. Dies gilt insbesondere für Frischfleischverkauf, Elektroartikel usw.</li><li>• Nahrungs-, Genuss- und Körperpflegemittel können gemäß § 58 Abs. 4 LSVVollzG nur vom <b>Haus- oder Taschengeld</b> eingekauft werden. Für Untergebrachte, die über freies Eigengeld (nach § 61 Abs. 2 LSVVollzG) verfügen und keine hinreichende Vergütung nach dem LSVVollzG erhalten, wird aus dem freien Eigengeld ein angemessenes monatliches Hausgeld festgesetzt (§ 64 Abs. 3 LSVVollzG). Der angemessene Betrag orientiert sich am Taschengeldsatz. Ein Betrag über dem Taschengeldsatz kann festgesetzt werden, sofern ein nachvollziehbarer höherer Bedarf besteht. Dieser ist schriftlich bis zum 20. des Vormonats geltend zu machen.</li></ul>
<b>14. Freizeit</b>	<ul style="list-style-type: none"><li>• <b>Freizeit</b> ist nach der Tageseinteilung der Anstalt der Zeitraum, der nicht Arbeits- oder</li></ul>

	<p>Ruhezeit ist.</p> <ul style="list-style-type: none"><li>• Die Teilnahme an den im Bereich der Sicherungsverwahrung angebotenen <b>Sport- und Freizeitgruppen</b> ist grundsätzlich freiwillig und steht jedem Untergebrachten offen, sofern nicht im Einzelfall eine abweichende Entscheidung getroffen wurde.</li><li>• Die Teilnahme an Sport- und Freizeitgruppen im Strafhafbereich sowie an Angeboten von externen Gruppenleitern/Gruppenleiterinnen ist nach vorheriger Genehmigung möglich.</li><li>• Auf der Abteilung SV-C IV steht Ihnen eine <b>Mediathek</b>, die zu bestimmten Zeiten (siehe Aushänge) geöffnet ist, zur Verfügung.</li></ul>
<p><b>15. Gesundheitsfürsorge</b></p>	<ul style="list-style-type: none"><li>• Die Gesundheitsfürsorge der Untergebrachten erfolgt durch den Medizinischen Dienst der JVA Diez.</li><li>• <b>Krankmeldungen</b> erfolgen beim zuständigen Stationsbediensteten; in Notfällen kann dies auch durch Betätigten der Hausnotrufanlage erfolgen.</li><li>• Im Bereich der Sicherungsverwahrung wird wöchentlich eine regelmäßige <b>Arztsprechstunde</b> angeboten, zu der Sie sich spätestens am Vortag zu melden haben; außerhalb dieser Zeiten (in Notfällen, bei regelmäßig wiederkehrenden Behandlungsterminen) erfolgt die medizinische Versorgung im Strafhafbereich. Die <b>Zahnarztsprechstunde</b> erfolgt ebenfalls nur dort.</li><li>• Art und Umfang der medizinischen Leistungen sowie die Kostenbeteiligung der Untergebrachten richten sich nach den Bestim-</li></ul>

	<p>mungen der §§ 67 - 70 LSVVollzG.</p> <ul style="list-style-type: none"><li>• Es wird erwartet, dass Sie eigenverantwortlich durch <b>gesunde Lebensführung</b> auf Ihr gesundheitliches Wohlergehen achten. Auch die Einnahme verordneter <b>Medikamente</b> und deren Abholung beim Stationsdienst erfolgt <b>eigenverantwortlich</b>. Notwendige Anordnungen zum Gesundheitsschutz und zur Hygiene haben Sie zu befolgen.</li><li>• Die Weitergabe von Medikamenten an Mituntergebrachte, aber auch an Gefangene ist strengstens verboten.</li><li>• Insbesondere das <b>Tätowieren und Piercen</b> ist aus gesundheitlichen Gründen untersagt.</li></ul>
<b>16. Seelsorge</b>	<ul style="list-style-type: none"><li>• Die Teilnahme an <b>Gottesdiensten</b> in der Anstaltskirche ist nach vorheriger Genehmigung möglich.</li><li>• Die katholische und evangelische Anstaltsseelsorge bemühen sich auch, ausreichende Angebote im Bereich der Sicherungsverwahrung zur Verfügung zu stellen. Auch Angebote für andere Religions- und Glaubensgemeinschaften kommen in Betracht.</li></ul>
<b>17. Anregungen und Beschwerden</b>	<ul style="list-style-type: none"><li>• Mit Anregungen, Wünschen und Beschwerden können Sie sich an die Anstaltsleitung wenden. Ein persönliches Gespräch kann jederzeit - nach Möglichkeit unter Angabe des Grundes - bei den zuständigen Bediensteten oder der Anstaltsleitung beantragt werden.</li><li>• Gespräche mit einem Vertreter oder einer Vertreterin der Aufsichtsbehörde müssen Sie schriftlich beantragen.</li></ul>

## Hausordnung für die Sicherungsverwahrung der JVA Diez

	<ul style="list-style-type: none"><li>• Auch besteht die Möglichkeit, sich mit schriftlichen Eingaben an den Anstaltsbeirat zu wenden. Dazu stehen im Treppenhaus Briefkästen zur Verfügung.</li></ul>
<b>18. Interessenvertretung</b>	<ul style="list-style-type: none"><li>• In regelmäßigen Abständen wird nach der geltenden Wahlordnung eine Interessenvertretung der Untergebrachten gewählt.</li><li>• Die Interessenvertretung kann in Angelegenheiten von gemeinsamem Interesse Vorschläge und Anregungen an die Anstaltsleitung herantragen.</li></ul>
<b>19. Verhalten in besonderen Situationen</b>	<ul style="list-style-type: none"><li>• In besonderen Situationen (z. B. Notfälle, Brandfälle) ist unbedingt Ruhe bewahren.</li><li>• Den Anweisungen des Personals zu folgen.</li><li>• In <b>Brandfällen</b> ist unverzüglich der Brand zu melden, die Fenster zu schließen und gegebenenfalls ein Löschversuch zu unternehmen.</li></ul>

Der Leiter der Justizvollzugs-  
und Sicherungsverwahrungsanstalt  
Diez, den

gez.

I.V.

Birgit Berning