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0 SUMMARY (T0)

With the help of the national survey on substance-related addiction problems in prison, the proportion of prisoners and detained persons with substance-related addiction problems could be quantified for the first time in a large part of the prison system. A quota of 64,5% of all inmates which were incarcerated at the reporting date was reached. Data from 12 of the 16 *Laender* could be included in the analysis. A substance-related addiction problem (dependency and abuse) was recorded at the time of entering incarceration among 44% of the 41,896 inmates recorded on the reference date of 31 March 2018. Dependency was recorded among 27% of detainees and harmful use (abuse) of psychotropic substances, including alcohol, among 17%. As of the reference date of 31 March 2018, a total of 6,551 people (12.9% of all inmates) were in a prison facility due to BtMG violations. 12% (352) of imprisoned women and 5.1% (181) of imprisoned adolescents were serving sentences due to offences in breach of the BtMG. Those numbers can´t be equated tho the number of persons, who actually suffer from addiction. Persons imprisoned for BtMG offences as a proportion of all inmates has been generally falling since 2008, both among adults as well as among adolescents and young adults. However, that proportion has risen slightly from 2017 levels, both for youth and adult offences (Table 2). From 2009 to 2018, the total number of all inmates increased by 17.7% whilst the number of inmates serving sentences due to BtMG offences decreased by 29.4% (Destatis, 2019).

The legislative administration of the penal system in Germany was passed to the *Laender* in 2006. Since then, a separate prison act (Strafvollzugsgesetz, StVollzG) has been issued for each *Land*. The absence of binding, nationwide guidelines in the area of drug-related health care in detention facilities also leads to differences in the type and availability of treatment services in the *Laender*. The laws in ten *Laender* (Berlin, Brandenburg, Bremen, Mecklenburg-Western Pomerania, Rhineland-Palatinate, Saarland, Saxony, Saxony-Anhalt, Schleswig-Holstein and Thuringia) are based on a template for a uniform prison act. Nevertheless, the original German Prison Act has not been completely replaced and is still in force for certain aspects of the law. This includes garnishment protection, court remedies as well as the legislative authority for the enforcement of imprisonment for contempt of court, preventive detention and coercive detention for non-compliance with court orders or non-payment of fines (Körner et al., 2019).

There is a general obligation under the prison acts of the individual *Laender* to care for the physical and mental health of prisoners. In addition to this, prisoners have a "right to medical treatment, where it is necessary to diagnose or cure a disease, prevent it from deteriorating or alleviate its symptoms". In the StVollzG and in the *Laender* prison acts, there are no special stipulations regarding drugs, substitution or addiction. The principle of equivalence forms the basis of medical care.

On World Drug Day 2017, the German Centre for Addiction Issues (Deutsche Hauptstelle für Suchtfragen e.V., DHS) called for improved medical treatment for imprisoned drug users. In view of the frequently accompanying psychological and physical problems of addicts in

prison, there needs to be nationwide access to substitution programmes and a reduction of health risks should be promoted through syringe exchange programmes. Currently the only syringe exchange programme is in the women's prison in Berlin. According to the DHS, a right to appropriate medical treatment and healthcare should be recognised and support in the transition as well as a linking of addiction support and offender support services should be guaranteed. Additionally, the DHS calls for the participation of inmates suffering from addiction in internal prison services (school, training, exercise) which require special privileges and which addicts are partially excluded from.

In order to reduce the number of fatal overdoses amongst opioid users following their release from prison, in August 2016 the German Aids Service Organisation (Deutsche Aidshilfe, DAH), in collaboration with Fixpunkt e.V., launched a naloxone dispensing pilot project in which prisoners with current or past opioid use, as well as prisoners currently in substitution, were to be offered training on the effects of drugs and first aid in the form of information sessions (Dettmer und Knorr, 2016). However, this project could not yet be implemented and will not be pursued for the time being.

The Statistical Report on Substance Abuse Treatment in Germany (Deutsche Suchthilfestatistik, DSHS) has been producing a collection of tables for external outpatient counselling in prisons since 2008. From the 2018 reporting cycle onwards, external and internal counselling and treatment services in prison will be presented together in a series of tables. The data is therefore no longer comparable with that of previous years.

1 NATIONAL PROFILE (T1)

1.1 Organisation (T1.1)

1.1.1 Prison services (T1.1.1)

According to the provisions of the German Prison Rules of Procedure (Vollzugsgeschäftsordnung, VGO, No. 73), a monthly report must be produced by the correctional institutions, containing information about inmates incarcerated at the end of the reporting month as well as on admissions and releases during the reporting month. The German Federal Statistical Office (Deutsche Statistische Bundesamt, Destatis) prepares overviews for Germany from those reports, which are aggregated to produce results on a *Land* basis, for three selected calendar months (March, August and November) and publishes them on the internet. Data on inmates according to the type and duration of imprisonment is included, as well as age group and gender. In addition, the type and frequency of previous convictions as well as nationality are stated in the reports. The overviews cover the correctional facilities of the *Laender*. Secure psychiatric facilities and youth detention facilities are not included.

According to the annual Destatis report, there were 50,957 inmates in preventive custody or serving time in correctional institutions (without pretrial detention) on 31 March 2018. 5.8% (2,931) of those were women and 31.9% (16,267) were persons without German citizenship. 70.5% (35,938) were single, 15.4% (7,862) married, 1.3% (669) widowed and 12.7% (6,488) divorced. 15.4% (7,868) of inmates were in an open prison. 0.4% (180) of those imprisoned under general criminal law were between 18 and 21 years old, 23.8% (12,141) were between 21 and 30, 34.2% (17,402) were between 30 and 40 and 33.3% (16,967) were aged 40 and over.

65% (33,149) of inmates in prison or preventive custody were serving a sentence of up to 2 years, 30.2% (15,448) had a sentence of over 2 and up to 15 years and 3.5% of inmates (1,794) were serving a life sentence (Destatis, 2019).

An overview of the number of correctional institutions, their capacity and actual population as of 30 November of each year is shown in Table 1. According to that data, there were 179 organisationally independent institutions in Germany in 2018 with a total capacity of around 74,386 inmates and which, at 63,643 inmates, were at 86% capacity at the time of the survey (Destatis, 2019).

Table 1 Number of institutions and capacity as at the reference date of 30 November

Year	Number of institutions				
	Total	Open prison	Total capacity	Population	Population[1]
2003	205	22	78,753	79,153	101%
2004	202	21	79,209	79,452	100%
2005	199	20	79,687	78,664	99%
2006	195	19	79,960	76,629	96%
2007	195	19	80,708	72,656	90%
2008	193	18	79,713	72,259	91%
2009	194	17	78,921	70,817	90%
2010	188	16	77,944	69,385	89%
2011	186	15	78,529	68,099	87%
2012	186	15	77,498	65,902	85%
2013	185	14	76,556	62,632	82%
2014	184	13	75,793	61,872	82%
2015	183	13	73,916	61,737	84%
2016	182	14	73,627	62,865	85%
2017	180	13	73,603	64,351	87%
2018	179	13	74,386	63,643	86 %

1) Population as % of total capacity

(Destatis, 2019)

In spite of the reduced number of correctional facilities in recent years, the situation regarding the available capacity has improved, remaining below 90% on average since 2010. Nevertheless, care should be taken when evaluating the data, as the capacity situation is presented without distinguishing between type of prison. In Rhineland-Palatinate, for example, there are serious differences in the capacity situation in closed and open male prisons (98.8% capacity and 34.4% capacity respectively).

Whereas at the beginning of the 2000s, prisons were still operating beyond their capacity, there is, despite a reduction in the total number of prisons available, a maximum capacity utilisation of 76-95% in most *Laender* today. Compared to 2017, capacity utilisation has risen in Brandenburg (from 81% to 87%), Mecklenburg-Vorpommern (75% to 80%), Saxony-Anhalt (80% to 82%), Schleswig-Holstein (83% to 84%) and Thuringia (81% to 82%). Overall, capacity utilisation has decreased in ten *Laender* in comparison to last year, while there has been no change in Bavaria. Nevertheless, there remain significant differences in capacity utilisation between types of prison in these *Laender* also.

1.2 Drug use and related problems among prisoners (T1.2)

1.2.1 Prevalence of drug use (T1.2.1)

With the help of the national survey on substance-related addiction problems in prison, the proportion of prisoners and detained persons with substance-related addiction problems could be quantified for the first time in a large part of the prison system. In order to be able to illustrate important information on substance-related addiction problems, two data collection studies were set up which were designed to complement one another. One involved annual data collection on a reference date basis while the other collected data through the year to investigate trends.

For the reference date survey, the number of substance-abusing and substance-dependent inmates was recorded by respective main substance. The basis for the data collection is the result of an assessment of individual addition problems at the time an inmate is admitted to prison. The evaluation of use at the point of admission is thus made based on the “international classification of psychological disorders” (ICD-10). In addition, the number of inmates in substitution treatment on the reference date is recorded. For the trend data collection, the number of medically led detoxifications is recorded along with the number of releases into inpatient or outpatient withdrawal treatment in the scope of suspension of imprisonment (as per Sec. 35 BtMG) and suspension of the remainder of the prison term (as per Sec. 57 StGB and Sec. 88 JGG).The data collection includes all open and closed facilities. In addition, the data collection is conducted from all correctional institutions which carry out custodial and juvenile sentences, pre-trial detention or preventive custody. It is generally conceivable that an evaluation of substance use could not be carried out for all inmates on the reference date. This possible in particular for admissions on or around the reference date. This would likely mean admissions immediately before or on the reference date itself. Such cases are excluded from the evaluation, as the specialist meeting to determine any dependence or abuse of illegal substances has not yet taken place or the results of the use assessment have not yet been gathered or documented.

Data from 12 of the 16 *Laender* was able to be included in the analysis. Of that data, it was reported that 64.9% of male inmates were reached and 59.2% of female inmates. A substance-related addiction problem (dependency or abuse) was recorded at the time of arrest among 44% of the 41,896 inmates included in the data collection on 31 March 2018. Dependency was recorded among 27% of detainees and harmful use (abuse) of psychotropic substances, including alcohol, among 17%.

At the time of entering detention, 39% of female and 44% of male detainees in the 12 participating *Laender* exhibited an addiction problem. An addiction problem within the meaning of this data collection included dependence (F1x.2) as defined by ICD-10 as well as substance abuse (F1x.1). It should be particularly stressed at this point that a large heterogeneity can be seen among the participating *Laender*: While, in some *Laender*, a quarter of male inmates have an addiction problem and in other *Laender* it is two thirds, the difference among women was even starker: among female inmates, the proportion with

addiction issues varied between 11% and 57% (Länderübergreifende Arbeitsgruppe „Stoffgebundene Suchtproblematik“, 2019).

Significantly fewer inmates were housed in open prisons on the reference date than in closed prisons. More than three quarters of inmates in open prisons had no addiction problems on admission, whereas in closed prisons the proportion was around a half. Thus, almost one in two inmates in closed prisons has an addiction problem.

Multiple substance use predominates both among substance-dependent male inmates (32%) and substance-dependent female inmates (44%). The next most commonly mentioned substances were alcohol and opioids, although to differing degrees. Dependence on one of the substances classed as opioids was recorded for 34% of women and 19% of men.

As far as the main substance used is concerned, differences between men and women are also found among the prisoners considered to be substance abusers. 38% of male inmates use cannabinoids as a main substance, while the proportion of female inmates using cannabinoids as a main substance is around 23%. Slightly more women (24%) than men (18%) exhibit abusive multiple substance use. Regarding substance abuse, it is also the case that more women (14%) than men (4%) favour an opioid class substance as a main substance. Women also used other stimulants more frequently than men (11% and 7% respectively) (Länderübergreifende Arbeitsgruppe „Stoffgebundene Suchtproblematik“, 2019). Overall, a strong differentiation was made in the national data collection on substance-related addiction problems in prison between the different types of detention, the age groups and genders of inmates. More detailed information can be found in the report on the data collection itself.

In addition to the national data collection on substance-related addiction problems in prison, one can still also use the number of people detained due to violations of the BtMG as an approximate value for the number of inmates using drugs. This estimate is imprecise, however, since it also counts people who, although they have violated the law in connection with drugs, do not consume any illicit substances themselves, as can be the case, for example, with some dealers. On the other side, a large proportion of drug users are not taken into account because, for example, persons who have been sentenced for economic compulsive crimes are listed in the statistics under other categories and not under violations of the BtMG. The figure ascertained in this way thus merely represents an approximation.

As of the reference date of 31 March 2018, a total of 6,551 people (12.9% of all inmates) were in a prison facility due to BtMG violations. 12% (352) of imprisoned women and 5.1% (181) of imprisoned adolescents were serving sentences due to offences in breach of the BtMG. As stated above however, it is not clear to what extent persons sentenced under the BtMG also actually have drug-related problems themselves. Inmates imprisoned for BtMG offences as a proportion of all inmates has been generally falling since 2008, both among adults as well as among adolescents and young adults overall. The proportion has slightly increased in both groups compared to 2017 (Table 2). From 2009 to 2018, the total number

of all inmates increased by 17.7% whilst the number of inmates serving sentences due to BtMG offences decreased by 29.4% (Destatis, 2019).

Table 2 Imprisoned persons and narcotics offences

		Prisoners and persons in preventive custody			Custodial sentences f. adults		Juvenile punishments		Preventive custody
		Total	Males	Females	Males	Females	Males	Females	
2009	Inmates N	61,878	58,566	3,312	51,971	3,072	6,107	237	491
	BtMG N	9,283	8,737	546	8,421	521	314	25	2
	BtMG %	15.0	14.9	16.5	16.2	17.0	5.1	10.5	0.4
2010	BtMG %	14.6	14.5	16.2	15.8	16.7	5.0	10.2	0.2
2011	BtMG %	14.7	14.7	15.4	16.0	15.8	4.6	10.7	0.2
2012	BtMG %	14.0	13.9	15.9	15.2	16.5	3.6	7.5	0.2
2013	BtMG %	13.4	13.3	14.9	14.5	15.3	3.4	7.6	0.0
2014	BtMG %	13.1	13.0	14.3	14.2	14.9	3.2	4.4	0.2
2015	BtMG %	13.0	13.0	13.4	14.1	13.8	3.4	4.3	0.4
2016	BtMG %	12,6	12,6	12,2	13,6	12,6	3,9	3,5	0,2
2017	BtMG %	12.6	12.6	12.8	13.4	13.3	4.6	2.8	0.2
2018	Inmates N	50,957	48,026	2,931	43,905	2,785	3,557	144	566
	BtMG N	6,551	6,199	352	6,016	346	181	6	2
	BtMG %	12.9	12.9	12.0	13.7	12.4	5.1	4.2	0.4

Note: "BtMG N": Number of persons imprisoned due to offences in breach of the BtMG, "BtMG%": Proportion of persons imprisoned due to offences in breach of the BtMG.
(Destatis, 2019)

1.2.2 Drug related problems among the prison population (T1.2.2)

No additional information is available on this.

1.2.3 Drug supply (T1.2.3)

Members of *Laender* parliaments often ask questions about substances found or on drug dealing in prisons. The answers to such questions are then published in the official journals.1

A qualitative study on the perceptions of people with first hand experience and experts from the judicial system and law enforcement on the illicit drug market in German correctional institutions examined the stated motivations for drug trafficking in prison as well as how it is

[1] The parliamentary questions from the *Land* of Berlin can be accessed here, for example: https://www.berlin.de/justizvollzug/aktuelles/parlamentarische-anfragen/suche/ [accessed: 23 Aug. 2018].

carried out in German prisons. From that study it is clear that drug trafficking in prison has similarities to drug trafficking outside prison: both have a self-organised, small market, which serves mainly to finance personal use. At the same time, however, a proportion of the market is very hierarchically structured and has the primary objective of maximising profits. The most commonly stated motives of profit and own use have already been mentioned here. It is clear that the various motivations which can underlie drug trafficking in prison are very diverse. For example, it was observed among female respondents in particular that their own dependence was not stated as the motivation, but that of their partner. In order to ensure the partner's supply in prison, a frequently stated practice is vaginal or anal insertion of packaged drugs in order to smuggle them into the respective prison. Especially in the interviews with the experts, it was not only the inmates' partners who were detected as possible smugglers: in some cases, it was stated that prison officials, lawyers and other external and internal staff were involved. There are also indications of gender-specific differences in the supply of drugs: according to respondents, there are fewer organised structures for drug dealing in women's prisons. Instead, drugs which are already available are shared, leading to temporary friendships. The desire to use is stated as the underlying motive. The frequently mentioned motivations for supplying and dealing drugs in mens' prisons of power and profit play a subordinate role here. (Meier und Bögelein, 2017)

In the area of new psychoactive substances (NPS) it is now known that smuggling predominantly takes place using paper, over which NPS have been drizzled and then dried (Patzak, 2018).

1.3 Drug-related health responses in prisons (T1.3)

Irrespective of statutory regulations, several key measures are described below that are already undertaken in many correctional institutions:

The medically supervised care/detoxification of intoxicated inmates and the treatment of addiction-related illnesses is performed by the medical departments of the respective prisons or on an inpatient basis in separate prison hospitals.

Existing substitution treatments are, where needed, continued in the correctional institutions by addiction professionals and where applicable supported by psychosocial care.

Where needed, substitution treatments are introduced in prisons, where applicable supported by psychosocial care.

Prior to release from prison, inmates receiving substitution treatment are referred to a substitution doctor, who continues the substitution treatment following their release.

In many German correctional institutions, various addiction support bodies are active in providing counselling and support for inmates with addiction problems and in preparing the transition to external inpatient and outpatient addiction withdrawal treatments. Some *Laender* have their own addiction counsellors in the correctional institutions.

In some German correctional institutions groups are offered, by way of preparation for external inpatient and outpatient addiction withdrawal treatments.

In some German correctional institutions, separate areas have been set up for inmates who already have a desire to achieve abstinence or to encourage such a desire. This is then accompanied by abstinence monitoring programmes using urine or saliva testing.

In some German correctional institutions, measures for abstinence monitoring (urine or saliva testing) are carried out in order to be able to assess inmates' drug use.

In some German correctional institutions, education and prevention measures are provided for drug-using inmates, in particular on the topic of infection protection (Senatsverwaltung für Justiz Verbraucherschutz und Antidiskriminierung, 2019).

1.3.1 National policy or strategy (T1.3.1)

Legal framework conditions

Since 2006, all German *Laender* have gradually introduced their own prison acts. These regulate "the execution of custodial sentences in correctional institutions and measures of rehabilitation and prevention involving imprisonment" (Sec. 1 StVollzG). Since the reform of the federal system which was passed by the German Bundestag on 30 June 2006 and came into force on 1 September 2006, legislative power has been devolved from the Federal Government to the *Laender*. The StVollzG has gradually been replaced in parts by the respective *Laender* prison acts and administrative regulations (Sec. 125a German Constitution (Grundgesetz, GG)). As described above, the StVollzG continues to apply for special types of imprisonment. All German *Laender* now have their own prison acts. The *Laender* laws are, however, largely based on the national StVollzG and mostly differ only in terms of individual details. For example, the type and scope of the provision of services in the area of health care in the *Laender* are based on the German Code of Social Law, Volume 5, (Sozialgesetzbuch V, SGB V). Additional information on the legal basis and on implementation can also be found in the 2018 Legal Framework workbook under “1.2 Implementation of legislative framework” (Sipp et al., 2018).

Health care for inmates is governed by a different section depending on the *Land* prison act. This is described below using the example of the Bavarian StVollzG. As a general rule, there is an obligation to care for the physical and mental health of prisoners (Sec. 58 Bavarian Prison Act, BayStVollzG). In addition to this, prisoners have a "right to medical treatment, where it is necessary to diagnose or cure a disease, prevent it from deteriorating or alleviate its symptoms". This means, amongst other things, treatment by a doctor and the supply of pharmaceuticals, dressings, medicines and medical aids (Sec. 60 BayStVollzG). The provisions of SGB V apply in respect of the type and scope of services (Sec. 61 BayStVollzG). There are no special remarks in the individual prison acts regarding drugs, substitution or addiction. Inmates' medical care is paid for by the ministries of justice of the *Laender*. In the case of work related accidents, the statutory health insurance provider or the respective *Land* accident insurance scheme assumes the costs (Bundesministerium der Justiz, 2009).

Although the *Laender* laws differ from the StVollzG or from each other, there are nevertheless subtle differences. The Hessian Prison Act stipulates a right on the part of inmates to psychological or psychotherapeutic treatment or care (Sec. 26 (2) Hessian Prison Act, Hessisches Strafvollzugsgesetz, HStVollzG). In addition, in Lower Saxony, Berlin, Hesse and Baden-Württemberg, preventive measures are explicitly mentioned. In Lower Saxony, prisoners' right to vaccinations is codified in law (Sec. 57 (1) Lower Saxony Prison Act, Niedersächsisches Justizvollzugsgesetz, NJVollzG). In Hesse and Baden-Württemberg, the need to educate inmates about a healthy lifestyle is also set down in law (Sec. 23 (1) HStVollzG and Sec. 32 (1) Prison Code for Baden-Württemberg, JVollzGB IV). The prison acts of Hesse and Baden-Wuerttemberg state in addition that it is possible to use checks to combat abuse of addictive substances (Sec. 4 HStVollzG and Sec. 64 JVollzGB III).

In the area of the treatment of addicted offenders under Sec. 64 StGB, various changes have been made through the amendment of the right to accommodation in a psychiatric hospital. The amended legal situation has led to the fact that it is possible, under a so-called half-sentencing rule, to be released, as a result of treatment, earlier than would be stipulated at the start of a normal prison sentence, into a withdrawal facility, such that increasingly addicted offenders are housed in accommodation as per Sec. 64 StGB (Muysers, 2019).

A study with the aim of evaluating secure psychiatric treatment measures from 2010-2014 in the Swabia area came to the conclusion that such treatment makes an important contribution to the rehabilitation and risk minimisation of mentally ill offenders. For the study, 130 patients were interviewed on social reintegration, substance use and delinquency straight after their release from a secure psychiatric facility, and one year later. 67% of addiction patients, i.e. people who were housed in secure psychiatric facilities under Sec. 64 StGB, were in work one year after release, 57% were abstinent and 83% had not reoffended. 4% (n=2) were using regularly one year after release, 18% (n=10) remained abstinent following one single relapse, 7% (n=4) used infrequently, 11% (n=6) were undergoing substitution treatment, and the forensic aftercare was not able to assess the current substance use for a further 4% (n=2). Half (55%; n=12) of all those who had relapsed (n=16) or were undergoing substitution therapy (n=6) reported contacting the forensic outpatient aftercare when they needed help with a relapse. 9 patients (17%) re-offended in the year between the first and second surveys. The subsequent offences were dealing/trafficking offences (n=4), breaches of the BtMG (n=2), breaches of conditions (n=2) and one assault. Two of the 9 subsequent offences were found to be violations of the BtMG. It should be pointed out however that the subsequent offences were without exception located in more minor offence categories than the respective first offence (Dudeck et al., 2018).

In a comprehensive analysis by the associations of addiction professionals for 2009, it was shown that for a large number of rehabilitation patients in addiction treatment who have been released from prison (39% alcohol and 77% drugs), no health insurance was in place at the beginning of the treatment and that this could only be obtained in some cases after several weeks (Drogen- und Suchtrat, 2013). To solve this problem, clarification is needed as early and as unbureaucratically as possible as to which institution is responsible in terms of the

point in the process, the geographical area and the specialist competence (job centres, health insurance providers). That can only be achieved if respective requests or applications are made prior to the end of the prison sentence. In preparing for outpatient or inpatient rehabilitation measures, the assumption of costs by the pension insurance funds, by the health insurance which is suspended during imprisonment, or by the job centre must always be clarified. No rehabilitation measures can be offered without this clarifiation. Preparations must be made for re-entry into the health insurance system as an essential task of transition management and the health insurance providers are urged to issue a resumption confirmation and thus ensure a seamless passage to medical care for people released from prison.

Other interventions in the criminal justice system

There is the possibility at all levels of criminal proceedings, to cease proceedings under certain conditions. In many cases, a few hours of community service is the first response of authorities in dealing with problem behaviour in connection with drugs. In order to reduce drug crime as well as economic compulsive crime, many cities have created the legal possibility of issuing banning orders or dispersal orders to drug addicts for particular locations in order to counteract the emergence of open drug scenes.

At public prosecutor level, there is the possibility under the German Youth Courts Law (Jugendgerichtsgesetz, JGG, Sec. 45 and Sec. 47) to refrain from prosecuting crimes committed by adolescents and young adults, who can fall under criminal law relating to young offenders, or to discontinue proceedings. In these cases, instead of prosecution, sanctions are frequently applied, such as participation in the "Early Intervention in First-Offence Drug Consumers – FreD" (Frühintervention bei erstauffälligen Drogenkonsumenten, see also 1.3.1). This is usually the case with respect to BtMG offences where they involve only small quantities of illicit drugs.

Under adult criminal law there is also the possibility of discontinuing or refraining from prosecution or bringing of action by the public prosecutor. The corresponding provisions are set out in Sec. 153 - 154a German Code of Criminal Procedure (Strafprozessordnung, StPO).

The BtMG allows the cessation of proceedings in cases involving minor guilt as well as a lack of public interest in prosecution (Sec. 31a BtMG). This mainly concerns offences in connection with personal consumption, in particular when they occur for the first time and no third parties are involved. The application of these rules is quite different from region to region, as shown by a study carried out by Schäfer and Paoli (2006). As far as the prosecution of consumption-related offences involving cannabis is concerned, there has been a trend towards increasing changes in the definition of threshold values for determining the "small quantity" by the *Laender*, in line with the requirements issued by the German Federal Constitutional Court (Bundesverfassungsgericht, BVerfG). Most recently, Thuringia raised the threshold to 10g. Most other *Laender* thresholds remain at 6g, with Berlin already

traditionally at 15g. Further details can be found in the Legal Framework workbook, section 1.1.2.

In nearly all *Laender*, local prevention projects - such as the widespread FreD programme - are used as a way of avoiding a court case or prison. The programme is aimed at 14 to 18-year-olds but also at young adults up to 25 years old who have come to the attention of law enforcement due to illicit drug use for the first time (for a more detailed description of the FreD programme, see Dammer et al., 2018).

Alternatives to prison sentences

Under Sec. 63 and Sec. 64 StGB, it is possible under certain circumstances to place mentally ill or addicted offenders under a hospital treatment order in secure psychiatric units.

Moreover, it is possible to defer the execution of a prison sentence of two years or less following pronouncement of the sentence if the drug addict verifiably undergoes external outpatient or inpatient addiction withdrawal treatment ("treatment not punishment", Sec. 35 BtMG).

The study, funded by the German Federal Ministry of Health (Bundesministerium für Gesundheit, BMG), entitled "Medical rehabilitation of drug addicts under Sec. 35 BtMG, ("treatment not punishment"): effectiveness and trends" was conducted up to April 2013 in the *Laender* Hamburg, Schleswig-Holstein and North Rhine-Westphalia. The results of the study show that the housing of drug addicted criminals in a withdrawal facility as per Sec. 64 StGB, i.e. secure psychiatric unit, increased enormously from 2001 to 2011. It also became clear that after the end of a term of rehabilitation measure, drug addicts were increasingly being handed over to the probation service under Sec. 35, Sec. 36 BtMG and the remaining sentence was thus commuted to probation. A proper completion of the treatment was achieved by 50% of the Sec. 35 BtMG group, thus this group was more successful than the group without this condition, of which 43% completed the treatment normally. A more detailed presentation of the study can be found in the REITOX Report 2013.

1.3.2 Structure of drug-related prison health responses (T1.3.2)

Resolution 37/194 of the General Assembly of the United Nations (Office of the United Nations High Commissioner for Human Rights, 1982) stated that health-care personnel in prisons have a duty to support prisoners in maintaining their physical and mental health and, if inmates become ill, to treat them under the same quality standards as afforded to those who are not imprisoned or detained. In dealing with prisons and detained persons, the Council of Europe recommends, under the heading, "Equivalence of care", that health policy in prisons be in line with national health policy and that it be integrated into it. Furthermore, conditions in prison which violate the human rights of inmates cannot be justified by a lack of resources. The principle of equivalence, essential to the prison acts, ensures this is the case in all *Laender*. One example would be the cost-intensive therapies involved in the treatment of hepatitis-C, which is a typical concomitant disease among drug addicts and which is possible in all *Laender*.

In Germany, the prison acts regulate what medical services prisoners are entitled to and refer, with regard to type and scope, to SGB V (Meier, 2009). Under these provisions, prisoners are, in certain circumstances, not entitled to the entire spectrum of health services which statutory health insurance providers (gesetzliche Krankenversicherung, GKV) are obligated to provide. Restriction of care is, for example, possible where a prison term is too short or where there are safety concerns (Lesting, 2018).

In 2011 a male, long-term heroin addict born in 1955 applied for substitution treatment during his imprisonment in a Bavarian prison as well as, in the alternative, an assessment of the medical necessity of substitution by a doctor specialised in addiction disorders. The prison denied the request on the grounds that there was no medical necessity for the substitution and also that this was not a suitable method for rehabilitating the prisoner. In 2012, the Regional Court of Augsburg agreed with this reasoning and added that no assessment by an addiction expert was necessary. At the appeal stage, the Appeal Court of Munich also rejected the prisoner's request. The Federal Constitutional Court dismissed the man's appeal in 2013 without stating reasons (Decision No. 2 BvR 2263/12). Following his release from prison in 2014, the man was prescribed substitution treatment by his doctor. The European Court of Human Rights concluded in its judgment of 1 September 2016 (with reference to the principle of equivalence) that the line taken by the prison and courts was a breach of Article 3 of the European Convention on Human Rights (ECHR). The court did not rule on whether the inmate should have received opioid substitution therapy. However, the prison and in particular the courts involved should have consulted an independent doctor with expertise in addiction treatment, in order to have the state of the man's health assessed. Due to the actions of the prison and courts, the patient had to suffer physically and psychologically. However, the judges in Strasbourg rejected the man's request for compensation (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), 2010).

On World Drug Day 2017 the DHS called for improved medical treatment of imprisoned drug users (Deutsche Hauptstelle für Suchtfragen (DHS), 2016). The DHS called for, in view of the frequently concomitant psychological and physical problems of addicts in prison, nationwide access to substitution programmes to be ensured and a reduction of health risks to be promoted through syringe exchange programmes. The DHS also argued that a right to appropriate medical treatment and healthcare should be recognised and support in the transition as well as in connecting to addiction support and offender support services should be guaranteed. Additionally, the DHS calls for the participation of inmates suffering from addiction in internal prison services (school, training, exercise) which require special privileges and which addicts are often excluded from.

1.3.3 Opioid substitution treatment clients in prison (T1.3.4)

In 2010, the first expert discussion on "Administering heroin in prison – new challenges and opportunities for the penal system" took place, organised by the DAH. Staff from the ministries of health and justice, AIDS services and prison doctors took part. The catalyst for

the meeting was that outside of prisons, administration was to pass over to regular health care, hence allowing the administration of diamorphine in detention facilities was discussed. The meeting of experts came to the conclusion that the required conditions for this would be to expand substitution treatment on site within correctional institutions as well as sufficient political backing (Deutsche AIDS-Hilfe e.V., 2010a). Additionally, attitudes of staff towards drug users in prison would have to be addressed and reflected upon to a greater extent. Since 2011, on site substitution with diamorphine has been possible within correctional facilities in the *Land* Baden-Württemberg.

In addition, the DAH assumes that the introduction of a depot injection for opioid addicts' substitution therapy in the spring of 2019 could also be of great benefit for inmates. This substance can be injected under the skin once a week or month depending on dosage, and the active substance is then continuously released. This could, on the one side, reduce the required investment of time and personnel in the prison as well as the risk of misuse (Deutsche AIDS-Hilfe Deutsche AIDS-Hilfe e.V., 2019). More information on depot injections for substitution treatment can be found in the 2019 Treatment workbook (Tönsmeise et al., 2019).

In a study by the Robert Koch Institute carried out between 2012 and 2014, the research group investigated, among other things, differences in opioid substitution treatments among inmates in Germany (Robert Koch-Institut (RKI), 2018). Eleven participating *Laender* (Bavaria, Berlin, Bremen, Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, Saarland, Saxony, Saxony-Anhalt, Schleswig-Holstein and Thuringia) provided data. During the study period (January 2012 to March 2013), all 97 participating prisons and prison hospitals, which at that point in time housed 34,191 inmates, were supplied with medication for OST by three pharmacies. Of the prisons included in the study, 58% were supplied with medication for OST. The overall OST treatment prevalence recorded in this study was 2.18%. The study also stated, however, that injecting drug use, of which most is opioid use, is present in 22-30% of inmates. This would mean that only around 10% of those inmates were receiving substitution treatment. In contrast, the national survey on substance-related addiction problems in prison came to different findings. In that survey, outlined in 1.2.1 above, data was also collected regarding substitution treatment in prison. Among other things, the number of prisoners undergoing substitution treatment on the reference date was recorded. In addition, a substitution rate was calculated in order to be able to make more specific statements on the proportion of prisoners undergoing substitution therapy. The number of prisoners who were found to have a dependence on addictive substances in the opioid substance class or who had a dependence involving multiple substance use was used as a reference value. Since the multiple substance use category also included people who possibly do not use any substance corresponding to the substitution guidelines, this approach leads in certain circumstances to an underestimation of the actual substitution rate (Länderübergreifende Arbeitsgruppe „Stoffgebundene Suchtproblematik", 2019).

On the reference date of 31 March 2018 there were a total of 6,013 inmates (5,530 male and 483 female) in prison in the 12 *Laender* that could be taken into account in the data analysis,

who fulfilled the criteria of substance dependence on admission to prison and used either opioids or multiple substances as the main substance. At the reference date, 1,440 inmates (1,181 male and 259 female) were undergoing substitution. This corresponds to an overall substitution rate of 23.9%. Thus the difference between male inmates eligible for substitution therapy, and female inmates for whom this is the case, is considerable: among male prisoners, the substitution rate on the reference date 31 March 2018 was 21.4%, among all those who were theoretically eligible for substitution therapy. 53.6% of the female prisoners for whom an opioid dependence or a dependence with multiple substance use was established - thus a significantly greater proportion - were receiving substitution treatment (Länderübergreifende Arbeitsgruppe „Stoffgebundene Suchtproblematik“, 2019).

The RKI study mentioned above refers in this context to the large range of treatment prevalence rates, between 0% in Saarland and 7.9% in Bremen, which suggests that substitution is implemented very differently between the *Laender*. There is also a similar picture in the national survey on substance-related addiction problems in prison, whereby it is not apparent which *Laender* are referred to in each case. In particular, the northern *Laender* have high OST rates according to the RKI study, underlining their more liberal policy aimed at harm reduction. In Saarland, Bavaria and the eastern *Laender*, in contrast, only a few prisons are supplied with OST resources. The lacking or low treatment prevalence rates in Saarland and Bavaria points to an exclusive use of withdrawal treatment instead of substitution and a policy oriented strongly towards abstinence in those prisons (Schmidt et al., 2018). More detailed information on the study can be found in section 1.2.5 "Further aspects of inpatient drug treatment provision" in the Treatment workbook. The framework conditions of OST in Germany are also described in greater detail in the same workbook under section 1.4 "Treatment modalities" (see Bartsch et al., 2018).

In general the Guidelines of the German Medical Association are mandatory for every substitutions treatment. In addition there can be treatment recommendations. In North Rhine-Westphalia, medical treatment recommendations for substitution in prison, which at that time was still rarely carried out, were published for the first time in 2010. A revised version was published in 2018. The three cornerstones of the corresponding implementation strategy are uniform treatment recommendations, the training of prison doctors and the monitoring of treatment in prison. The medical treatment recommendations have thus verifiably contributed to increasing markedly the number of inmates in North Rhine-Westphalia undergoing substitution in prison. In connection with the obligatory addiction medicine training for prison doctors, in North Rhine-Westphalia the proportion of inmates with opiate dependency in substitution therapy was successfully significantly, increased within a decade, from around 3% in 2008 to nearly 40% in 2017 (Neunecker, 2019)

Since detailed information is only possible to publish for some *Laender*, and parts of it are relatively outdated, it is not possible to make any firm statements regarding either the current situation or trends in availability of, and conditions surrounding, the provision of OST in German correctional institutions. With help from the national complete survey on ICD-10 diagnoses in German correctional institutions however, this data should be able to be presented in the future.

1.3.4 Availability and provision of drug-related health responses in prisons (T1.3.3)

Table 3 Drug-related interventions in German prisons

Type of intervention	Specific intervention	YES/NO (Is there a formal possibility for this?)	Number of prisons in which the intervention is actually undertaken	Comments or specifications of the intervention indicated
Assessment of drug use and concomitant problems upon admission to detention		Yes	No information	No information
Counselling on drug-related problems		Yes	No information	No information
	Individual counselling	Yes	No information	No information
	Group counselling / discussions	Yes	No information	No information
Inpatient treatment		Yes	No information	No information
	Abstinence department	Yes	No information	No information
	Therapeutic community / inpatient treatment	Yes	No information	No information
Pharmacologically supervised treatment		Yes	No information	No information
	Detoxification	Yes	No information	No information
	Continuation of OST in detention	Yes	No information	No information

	Initiation of OST after imprisonment	Yes	No information	No information
	Continuation of OST after release	Yes	No information	No information
	Other pharmacological treatments	Yes	No information	No information
Preparation for release		Yes	No information	No information
	Reference to external service provider on release	Yes	No information	No information
	Social reintegration measures	Yes	No information	No information
	Prevention of overdoses after release (e.g. training, counselling)	Yes	No information	No information
	Naloxone dispensing	Yes	No information	No information
Interventions in infectious diseases		Yes	No information	No information
	HIV testing	Yes	No information	No information
	HBV testing	Yes	No information	No information
	HCV testing	Yes	No information	No information
	Hepatitis B vaccination	Yes	No information	No information
	Hepatitis C treatment with interferon	Yes	No information	No information
	Hepatitis C treatment with DAA	Yes	No information	No information n
	ART therapy for HIV			

Consumption utensils dispensing		Yes	1	No information
Provision of condoms		Yes	No information	No information

(Expert opinion)

In a systematic review by Hedrich et al. (2012) an overview was published on the efficacy of opioid maintenance treatment (OMT) in prison. The results show that the advantages of OMT in prison are comparable with those in OST outside prison. OMT represents an opportunity to motivate problem opioid users to submit themselves to treatment, to reduce illegal opioid use and risk behaviour in prison and possibly also to minimise the number of overdoses following release from prison. If there is a link to a treatment programme close to the community, OMT in prison also facilitates the continuity of treatment and helps with the achievement of long-term, positive effects.

The series of tables produced by the DSHS since 2008 for external outpatient counselling in prisons was changed, from the reporting year 2017 onwards, to a collective series of tables for both external and internal counselling and treatment services in prison. Due to the changes to the German core data set (Kerndatensatz, KDS), this data was not included in the last year's report. The data has thus now been re-included for the reporting year 2018 but it cannot be fully compared with previous years.

As this series of tables only covers 12 facilities for the reporting year 2018 (2017:14 facilities) and it cannot be ruled out that individual results are only available for one or two facilities or are heavily influenced by them, these figures must be interpreted extremely cautiously. This is also because no information whatsoever is available on the selection mechanisms for participation, nor can any conclusions be drawn regarding the representativeness of the participating prisons. Furthermore, the series of tables for 2018 does not contain any date for female inmates. The average age of men with illegal drug problems who made use of support in 2018 was 32.0 years old (2017: 31.5 years old).

Table 4 Outpatient treatment of drug problems in prisons (men)

Primary diagnosis	N	%	Persons treated for the first time
Opioids	212	17.89%	0.0%
Cocaine	112	9.45%	56.25%
Stimulants	356	30.04%	44.66%
Hypnotics/sedatives	8	0.68%	12.5%
Hallucinogens	0	0.0%	--
Cannabinoids	371	31.31%	21.83%
Multiple/other substances	126	10.63%	0.0%
Total	1,185		31.98%

(Braun et al., 2019a, Braun et al., 2019b)

Inmates with a primary diagnosis of cannabinoids was the group which most utilised the opportunity for intramural treatment, at 31%, closely following by those with the primary diagnosis stimulants (30%). The distribution of substances among those who had never sought treatment prior to their prison stay is different from those who have previously had experience with the addiction support system. Among those treated for the first time, the main diagnosis of cocaine was the highest proportion, at 56.25%.

Prevention, treatment and dealing with infectious diseases

Detailed information on prevention, treatment and dealing with infectious diseases in prisons can be found in the Selected Issue Chapter 11 of the REITOX Report 2011 (Pfeiffer-Gerschel et al., 2011). In addition, the Robert Koch Institute also dealt with this topic in its bulletin “Large differences in TB, HIV and HCV treatment and opioid substitution therapy among inmates in Germany”, published in 2018 (Robert Koch-Institut (RKI), 2018).

Prevention of overdoses after release from prison

The HIV/AIDS strategy which was presented by UNAIDS in 2015, established that prisons represent a setting that requires special health promotion measures. In particular, the transition from incarceration to life on the outside carries a special risk of overdosing (UNAIDS, 2015).

In its new guidelines on the implementing substitution-based treatment, the German Medical Association (Bundesärztekammer, BÄK) states that when transitioning from outpatient substitution treatment to a hospital setting, rehabilitation measure, imprisonment or another form of inpatient accommodation and vice versa, the continuity of treatment should be ensured by the institution taking on the patient. In addition, for inmates with an expected high risk of relapse or mortality following release from prison, it is certainly possible to introduce OST for opioid dependent inmates not currently using prior to their release (Bundesärztekammer (BAK), 2017).

In order to reduce fatal overdoses amongst opioid users following their release from prison, in August 2016 the DAH, in collaboration with Fixpunkt e.V., initiated a naloxone dispensing pilot project in which prisoners with a current or past opioid use, as well as prisoners currently in substitution, were to be offered training on the effects of drugs and first aid in the form of information sessions (Dettmer und Knorr, 2016). However, this project could not yet be implemented and will not be pursued for the time being.

Reintegration of drug users after release from prison

The legal framework stipulates that inmates must be provided with support at release (e.g. Sec. 79 BayStVollzG in conjunction with Sec. 17 BayStVollzG), the objective of which is to assist with reintegration into society after release from prison. In order to achieve this aim, prison services have to cooperate across departments (e.g. Sec. 175 BayStVollzG).

Moreover, social welfare providers should work together with groups which have shared goals as well as other bodies involved, with the aim of mutually complementing each others' work (Sec. 68 (3) SGB XII and Sec. 16 (2) SGB II). Corresponding strategies and measures are developed and implemented under the term transition management. On the one side, attempts are made to place those being released, both in prison and after release, as smoothly as possible into training, employment or occupational activity; on the other side, efforts are made to tackle problems associated with the incarceration and the past criminal careers. The main task of transition management is to improve the situation of the clients by offering them counselling and care but also opportunities to obtain qualifications and be placed on training courses and in jobs. Although, from a historic viewpoint, efforts in this vein date back many years to the introduction of "assistance for offenders" over 150 years ago and to the introduction of the probation service in the 1950s, there is still a great need for improvement in the discussion and implementation of transition management, whereby the preparation for release has already been brought more strongly into focus in the *Laender* prison acts.

It is currently a challenge for addiction support services to be able to offer people at risk of addiction or people suffering from dependence an adequate service upon release from prison. For this reason, the Professional Association on Drugs and Addiction (Fachverband Drogen und Suchthilfe e.V., fdr) issued a recommendation on transition management which contained, amongst other things, the following elements (Fachverband Drogen- und Suchthilfe e.V., 2013):

- Improvement of the addiction medicine care situation, including substitution treatment in prison and drug emergency training sessions,
- Participation in work and training opportunities within prison also for inmates suffering from addiction,
- Step by step support during transition and in connecting to addiction support and offender support services, e. g. placement in assisted living, outpatient clinics etc., and

- Provision of outpatient rehabilitation during imprisonment, beginning around 6 months prior to release, in a treatment centre outside prison and continued after release.

Since these calls were made in 2013, it appears that the situation is beginning to show improvements in various areas. Firstly, the situation regarding medical care for addiction has been optimised and participation in internal prison measures, privileges, and accommodation in open prison, among other things, have markedly improved, specifically for inmates receiving substitution. In addition, it is possible to receive outpatient treatment through suspending enforcement of punishment as per Sec. 35 BtMG or by implementing treatment in the scope of special privileges. A further condition is the placement of substituting patients in external follow-on substitution treatment (Abraham, 2018).

1.3.5 Additional information (T1.3.5)

The “Health in prison initiative” (2019) published a benchmark paper, in which six proposals were made for the improvement of inmates’ health. Above all the inequalities in the medical care of dependent inmates, in particular the drug-dependent inmates, and disproportionately high mortality rates following release are discussed. The following strategies to improve the health situation of drug-dependent people in prison were therefore proposed:

- Health disadvantages for inmates - the equivalence principle must be supported
- Great harm through non-treatment on many levels - treatment and rehabilitation success in prison should be increased
- Avoiding fatalities following release is possible - survival should be ensured with the help of transition management
- People with a drug dependency are on the fringes of society - stigmatisation should be reduced
- Specialist help for critically ill people is of great importance - to this end, qualification and improvement of networking is essential
- Openness is essential for improvements in the health care of inmates - transparency must be created

1.4 Quality assurance of drug-related health prison responses (T1.4)

Further information on quality assurance and standards for drug-related services in prison can be found under “1.2 Organisation and functioning of best practice promotion” in the Best Practice workbook (Deutsche Beobachtungsstelle für Drogen und Deutsche Beobachtungsstelle für Drogen und Drogensucht (DBDD), 2019).

1.4.1 Treatment quality assurance standards, guidelines and targets (T1.4.1)

In Germany there are numerous institutions whose work covers the quality assurance of health care outside prisons, such as the associations of SHI-accredited doctors (Kassenärztlichen Vereinigungen, KV), the statutory health insurance providers (gesetzliche

Krankenversicherung, GKV) and the medical associations. In Germany, the responsibility for monitoring health care in prisons, and thus for ensuring the quality of drug-related services, lies with the ministries of justice. The German prison system maintains its own healthcare system, comparable with the health care system for the police or the army (Stöver, 2006). This means that healthcare provided to patients within these systems differs from that provided to the general population. For example, inmates do not have the ability to choose their doctor freely.

Due to the special structure of prisons, supervision of medical services within German correctional institutions is regulated differently than it is outside them. In this respect, the director of the facility is not entitled to issue medical related instructions to the facility doctor (Keppler et al., 2010). The doctor is subject to professional supervision, however, which can be regulated as follows:

- The specialist in the ministry (expert medical advisor) in charge of supervision is a doctor.
- The specialist in charge of supervision in the ministry is not a doctor, but for example a lawyer or psychologist. In the case of technical medical questions, this person obtains specialist knowledge from medical experts who are not part of the ministry of justice, for example staff at the Ministry of Health or external doctors who are not affiliated with any public institution.
- Supervision is not the responsibility of any one specialist advisor (staff member of the Ministry of Justice), rather it is the responsibility of external doctors, for example experienced facility doctors from another *Land*, doctors from the Ministry of Health or retired doctors.

The CPT (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment) and the national Commission for the prevention of torture function as external consultant. The European Treaty on this issue stipulates that facilities in prison be visited on a regular basis (European Commission, 2002). The last visit of the CPT to Germany took place between 25 November and 7 December 2015, in the course of which 16 facilities were visited. Statements made in the CPT report in connection with "healthcare" are only based on three facilities, however, and thus cannot be viewed as being representative. The main criticism was that there was not always a sufficient number of qualified care staff available and that medicinal drugs were not dispensed by medically trained personnel but by prison guards. In addition it was pointed out that dealing with mentally ill persons, i.e. including addicts, was frequently seen as problematic. Transfer to prison hospital is evidently often refused due to a lack of beds. In addition, the varying levels of access to substitution treatment across the different institutions was criticised. According to the CPT, this is not in line with the principle of equivalence of care (Europäischer Ausschuss zur Verhütung von Folter und unmenschlicher oder erniedrigender Behandlung oder Strafe, 2017).

In North Rhine-Westphalia, the monitoring of medical activities is regulated by the technical supervision of the supervisory authorities (Husmann, 2010) as laid down in the "Recommendations for Treatment by Doctors Providing Medical Treatment for Opioid

Dependency in Prison". It issues orders if the limits of conscientious medical discretion are exceeded or incorrectly exercised. Orders issued by the technical supervisory body are restricted to specific individual cases.

Imprisonment continues to carry the risk that substitution treatment which has already been commenced prior to entering a penal institution will not be continued (Deutsche AIDS-Hilfe e. V., 2018, Stöver, 2010). Guidelines and rules could help counteract uncertainty and ignorance on the part of prison health care personnel. In order to provide prison doctors with greater certainty, the framework conditions, e. g. treatment strategies, accompanying psychosocial therapy or criteria for discontinuation, should be clearly described. These must especially take the specific conditions in prison into account. At an international level, there are, amongst other things, the declaration on "Prison Health as part of Public Health" (World Health Organization (WHO), 2003), adopted by the WHO European region in 2003 as well as the treatment recommendations, "Opioid Substitution Treatment in Custodial Settings" (Kastelic et al., 2008).

In the medical treatment recommendations regarding medicinal treatment for opioid dependence in prison in North Rhine-Westphalia (2010) the positive effect of substitution treatment in prison is stressed, with regard to both the progression of opioid dependence and to the achievement of the correctional objective. Hence, one stated objective is "to increase the number of substitution treatments in prisons significantly". According to the recommendations for treatment, the objectives are:

- the prevention of deaths as a result of reduced tolerance in prison and following release from prison,
- the reduction of illegal and subculture activities,
- the improvement of physical and mental health and
- permanent abstinence.

Similar to the situation outside prison, the patient has to sign a treatment agreement prior to starting treatment, in which the rules are laid out. Among other things, that document sets out in writing when the treatment will be discontinued (for example in the event of repeated problem concomitant use, drug dealing/trafficking or violence in connection with the OST) and that discontinuation does not necessarily mean permanent exclusion from OST. The decision to cease treatment is made by the medical service; there are no set conditions with respect to recommencement. In North Rhine-Westphalia the general rule is that patients who are already receiving substitution treatment when entering prison will continue to be treated, while the length of the sentence must not have any influence on the indication for treatment. It is recommended that a place for continued substitution should be secured in cases of substitute treatment on remand and prison sentences of less than two years. A place for further treatment should be secured, at the latest, at the time of release from prison.

Substitution in prisons has, since 2002, been regulated in an administrative code issued by the Baden-Württemberg Ministry of Justice. It contains clear statements on the general

objectives of OST as well as requirements regarding indication, exclusion, admittance, implementation, documentation and termination of substitution treatment. In addition, substitution with diamorphine has also been possible since the revised and amended version of the administrative code came into force on 15 July 2011 (Justizministerium Baden-Württemberg, 2011).

The basis for substitution treatment in prison in Lower Saxony is a 2003 decree[2] (Deutscher Bundestag, 2016)

In addition, according to the principle of equivalence, the guidelines issued by the German Medical Association (Bundesaertzekammer, BÄK) on the substitution-assisted treatment of opioid addicts, revised in 2017, also apply within prisons (Bundesärztekammer (BAK), 2017). The guidelines apply to all doctors who perform this treatment. Under the guidelines, it must be ensured, when patients move to hospital treatment, rehabilitation, imprisonment or another form of inpatient care, that the treatment is provided on a continuous basis. Moreover, substitution treatment can also be initiated in individual cases, where warranted, in accordance with ICD 10 F11.21 (opioid dependency, in remission, but in a protected environment – such as a hospital, therapeutic community or prison). Where other psychotropic substances are also being used, the underlying cause thereof, such as inadequate dosage or choice of substitution drug or a co-morbid mental or somatic illness, should first be determined and if possible remedied. If this concomitant use jeopardises the substitution treatment, withdrawal of the additional psychotropic substance must be initiated.

Training of prison guards

Compared to other occupations, prison guards are confronted to a much greater degree with people who use drugs. Hence, that profession is predestined for special training on dealing with, and risk awareness in connection with, drug users. The ministries of justice have reacted to this with corresponding programmes of education and further training.

The handbook "Harm reduction in prisons" ("Schadensminimierung im Justizvollzug"), issued by the Scientific Institute of the German Medical Association (Wissenschaftliches Institut der Aerzte Deutschlands, WIAD) and the result of a project funded by the European Commission, serves to provide further training to staff working in prisons (Wiegand et al., 2011). The handbook provides information on how the negative impacts of certain types of behaviour can be reduced, such as the transmission of infectious diseases during injecting (i.v.) drug use through the sharing of syringes or needles. These concepts play a role above all in correctional institutions, as those places are concerned with the preservation of the human rights of prisoners, the protection of public health and not least the proven cost effectiveness of preventive measures compared to the costs of treatment, for example after an infection has been contracted. The handbook provides information on the topic of

[2] Medical and paramedical guidelines and rules in the Lower Saxony prison system; here: Medikamentöse Substitution bei opioidabhängigen Gefangenen, Decree of 1 April 2013 – 4558 – 303.2.13.

infectious diseases and their different routes of transmission as well as on drug use and related risk behaviour. The intention is, among other things, that prison guards are sensitised to the special challenges of drug consumption. Moreover, attitudes and understanding of prison guards surrounding drug use and drug users should be explored.

Baden-Württemberg reported that in 2010, 17 facilities provided advice and counselling for staff in the penal system (Reber, 2011). In addition, training of this target group in how to deal with drug-related emergencies was carried out in several Berlin prisons (Deutsche AIDS-Hilfe e.V.). In that training, both appropriate behaviour in the event of drug-related emergencies as well as special risks, such as the use of drugs following abstinence, are addressed. The administration of naloxone, an opioid antagonist, also plays a role in this context. In addition, the topic of addiction plays an important role in the basic training for the general prison service, for example in Berlin. Other *Laender* also devote time to this topic in the course of their training.

2 TRENDS (T2)

Above all, the increase in use of new psychoactive substances in German correctional institutions presents new challenges to the prison system as a whole (Patzak, 2019).

3 NEW DEVELOPMENTS (T3)

3.1 New developments in drug-related issues in prisons (T3.1)

NPS project in Wittlich prison

In 2016, a project was introduced in Wittlich prison in Rhineland-Palatinate to identify drug use, specifically in the area of NPS, the use of which is not detectable in rapid tests. The idea was for prison staff to report inmates who guards believe, based on the inmate's behaviour, have possibly taken drugs. Following an assessment by specially trained personnel, if NPS use is suspected a urine test is carried out for various NPS and repressive, preventive and counselling measures are taken. In addition to this project, Wittlich prison now has a drug scanner, more specifically an ion mobility spectrometer (IMS). Thanks to a cooperation between the Rhineland-Palatinate State Office of Criminal Investigation (Landeskriminalamt Rheinland-Pfalz, LKA RLP), the IMS is able to detect common NPS on a large number of different carriers. Both positive (generation of an alarm) and negative (no generation of an alarm) narcotic drugs, NPS or medication tested evidence have been analysed. Results to date: around 90% of IMS results generated in Wittlich prison and the Rhineland-Pfalz State Office of Criminal Investigation are in accordance with the verification procedure (GC-MS) (Patzak und Metternich, 2019). In 2018, as a result of that project, fourteen prisoners tested positive for drug use, following the suspicions of trained personnel. An analysis of the urine samples was able to identify three different NPS, of which FUB-AMB was detected most frequently (nine times). In addition, carriers bearing NPS were detected in six cases (e.g. paper strips). In addition, regular urine or saliva tests continued to be performed, for the purposes of monitoring abstinence or proving drug use (Patzak, 2019).

Data collection on ICD-10 diagnoses in German detention facilities

As a result of a lack of information or information which is of little meaningful value on the proportion of inmates suffering from addiction and other questions on the problem of addiction in German detention facilities, representatives at the 115th Conference of the *Laender* prison committee initiated a nationwide collection of data, the aim of which was retrospectively to diagnose and record inmates from all 16 *Laender* on the basis of ICD-10 for their drug use (in total 64,397 prisoners, as at reference date 31 March 2016) and from that point forward to do so on an ongoing basis. The second data collection was conducted on 31 March 2017. The majority of prisoners was included in the data collection in most *Laender*, although total coverage could not be achieved. Accordingly, the *Land* representatives decided, at the 125th Conference of the *Laender* prison committee in May 2017, to perform the data collection for a further two years in all *Laender*, to take into account the problems which had so far arisen in the implementation and where possible to remedy them. The data from satisfactory Germany-wide snapshot and continuous data collections have as yet not been delivered due to validation problems in the data collection carried out so far (Abraham, 2017). The reference date collection of data in 2018 has already been carried out with a higher quantity and quality, so a publication of the data was decided from the Committee of the Penal System in September 2019.

Naloxone training in facilities in Bavarian prisons

In May 2019, the first Germany-wide pilot project for naloxone training in prison was carried out with the support of the Federal Ministry of Justice. 4 women from Stadelheim prison (women's section), who were about to be released, took part. A naloxone kit was placed in their possession at the end of the training, which will be handed over to them on their release. More training sessions are planned (Condrobs Condrobs e.V., 2019). Further information on the pilot project and its content can be found in the Harms & Harm Reduction workbook (Dammer, 2019).

The parole process and reintegration of addicted offenders

The Regional Council of Westfalen-Lippe (Landschaftsverband Westfalen-Lippe, LWL) carried out a study on the efficacy of treatment of addicted offenders in secure psychiatric facilities, in order to draw conclusions on reoffending and addictive substance use after release from detention (Dimmek et al., 2010). In a retrospective catamnesis, 160 patients were surveyed three years after their release from secure psychiatric facilities. The sample studied showed significant biographical risk characteristics, such as first use at an early age (43% used cannabis before they were 16 years old), a lack of school leaving certificate or occupational qualifications (35% and 63%) and violence in the family setting (40%). The main reasons for being sent to a secure psychiatric facility amongst addicted patients were robbery (37.7%) and violations of the BtMG (32.1%). 42.4% of offenders reoffended within the period studied, mainly with property or road traffic offences or violations of the BtMG (Bundesministerium der Justiz, 2009).

4 ADDITIONAL INFORMATION (T4)

4.1 Additional sources of information (T4.1)

Full survey on substance use in Wittlich prison

In the scope of a study, data was collected, on the basis of self reporting, on the use of psychoactive substances by inmates of the Wittlich men's prison in Rhineland-Pfalz. Based on all inmates, the proportion of those reached was 41.45% (n=193). The survey was divided into four relevant topics: the use of alcohol and tobacco, illicit drugs, risk behaviour and knowledge of support services and the consequences of substance use in prison.

64.2% (n=124) of respondents reported having used an illegal substance at least once in their life, prior to entering Wittlich prison. In contrast, the lifetime prevalence of using an illicit drug in the general male population in 2015 was 32.5% (Piontek et al., 2016a), and thus only around half the level. The age range of inmates was not recorded however. 14% (n=27) of all inmates surveyed and thus 71.1% of those who reported having already used drugs in Wittlich prison, reported that they had used cannabis at least once whilst at Wittlich. Inmates' lifetime prevalence of cannabis was at 52.3% (n=101). This is thus markedly higher than the lifetime prevalence of men in the general population in Germany (31.8%) (Piontek et al., 2016b). Overall, cannabis is the most frequently consumed illegal substance both in Wittlich prison and extramural settings. Heroin and amphetamine (3.1%, n=6) were in third place for illegal substances used in prison. This corresponds to 15.8% of all those who reported having used drugs in Wittlich prison. Inmates' lifetime prevalence for heroin was recorded at 13% (n=25), which is significantly higher than the lifetime prevalence of men in the general population, which is 1.7% for heroin and other opioids (Piontek et al., 2016a). For amphetamine, inmates' lifetime prevalence is 38.3% (n=74) and thus 9.3 times higher than men in the general population, where the lifetime prevalence is recorded at 4.1%(Piontek et al., 2016a). 2.6% (n=5) of inmates reported having used ecstasy in Wittlich prison, for cocaine the number was 2.1% (n=4). Only 0.5%, i.e. only one inmate, reported having used LSD in Wittlich prison while the use of methamphetamine and mushrooms during imprisonment at Wittlich was reported by no inmate at all.

Overall, 24.4% (n=47) of respondents reported having used NPS at least once in their life prior to incarceration at Wittlich prison. 9.3% (n=18) reported having also used NPS at Wittlich prison. Of the inmates using NPS, four were on remand, 14 were serving a prison sentence. Overall, only three inmates used NPS for the first time at Wittlich prison, the others confirmed having already used NPS in an extramural setting (Schneider, 2019).

4.2 Further aspects (T.4.2)

No additional sources of information are available on this.

5 SOURCES AND METHODOLOGY (T5)

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5.2 Methodology (T5.2)

Prison statistics of the German Federal Statistical Office (Destatis)

The statistical report covers all inmates of penal institutions involved in the enforcing of prison sentences, juvenile sentences and preventive custody (institutional level) as well as prisoners and people in preventative custody, annually on the reference date of 31 March. The statistical report on the penal system is a full census; for this reason no sampling approach has been used.

The statistical report was introduced in the early 1960s, with comprehensive results available for the former territory of Germany from 1965, and for Germany as a whole from 1992. The preparation and publishing of the statistics is carried out annually. Since 1965, the Federal Statistical Office has published the results in a comparable format.

Generally, the findings in the statistical report on the penal system are of a good to very good quality. Firstly, the information for the statistical report is obtained from data which has been collected for administrative and monitoring purposes. Secondly, the statistics data in the *Laender* is subject to automatic auditing routines; the statistics are extensively internally checked for plausibility and compared against external data. Any inconsistencies in the data are clarified through enquiries from the *Laender* statistics offices to the reporting units. Nevertheless, individual missing or false information in the statistics data cannot be ruled out.

The survey characteristics and guidelines as well as the processes for preparing the data are uniform across all *Laender*. It is therefore possible to compare data across regions. All findings on the reference date from the statistical report on the penal system contain an inherent methodological distortion: inmates handed short sentences are underrepresented compared to long-term prisoners. The shorter the custodial or juvenile sentence is, the lower the probability of the person being included in the annual census, carried out only once a year. This factor has an influence on the results in that in most cases the structural data (e.g. age group, type of offence, number of previous convictions) can be different for short-term prisoners than for long-term inmates.

Statistical Report on Substance Abuse Treatment in Germany (Deutsche Suchthilfestatistik, DSHS)

The DSHS is a national documentation and monitoring system in the area of addiction support in Germany. As a documentation system, the DSHS has the task of collating, archiving and analysing all data which is recorded in all of the institutions which participate in the DSHS with respect to the core results, of highlighting important changes in the area of addiction support as well as in the treated population or the treatment itself and of making the data available to the public in an appropriate format.[3]

The DSHS German core data set (Kerndatensatz, KDS) provides the basis for the uniform documentation in outpatient and inpatient facilities, in which persons with substance related disorders as well as non substance-related forms of addiction in Germany are counselled, cared for and treated.

By default, a facility-related missing quota (= proportion of missing information within the overall information in the respective table) of 33% or less is required for all tables with single-choice questions in order for them to be included in the overall evaluation. Facilities with a missing quota of more than 33% in such a table are therefore not taken into account when the data is collated in order to prevent the overall data quality being disproportionally impacted by a few facilities with a high missing quota. Although this inevitably leads to a reduction of the facility sample (N) for the respective table, this can be accepted in the interpretation of the results due to the higher validity of the included data.

[3] www.suchthilfestatistik.de/ [accessed: 18 Oct. 2019].

6 TABLES