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Prison

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0 Summary (T0)

The legal administration of the penal system in Germany was placed in the hands of the *Laender* in 2006. Since then, some individual *Laender* have had their own prison laws. The general German Prison Act (Strafvollzugsgesetz, StVollzG) still applies in the remaining *Laender*. Not least because of this legislative situation, there is no national system in Germany for regular data collection on health in prisons. Instead there are mainly regional studies, however these can only be compared with one another to a very limited extent due to a lack of interlinking between the statistics and a non-uniform method of collecting and classifying data. Only a few direct links between the available data can be created; sequencing or comparative analyses are almost impossible. The absence of binding nationwide guidelines in the area of drug-related health care in detention also leads to differences in the type and availability of therapy services in the *Laender*.

As of 31 March 2015, there were a total of 6,820 persons (13.0% of all inmates) serving time in detention institutions as a result of violations against the German Narcotic Drugs Act (Betäubungsmittelgesetz, BtMG). The number of inmates convicted for BtMG offences as a percentage of all inmates has fallen since 2008 both for adults as well as for adolescents and young adults. From 2006 (total: 64,512; BtMG: 9,579) to 2015, the total number of all inmates increased by 18.8% whilst the number of inmates serving sentences due to BtMG offences decreased by 28.8%.

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 is 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 (Destatis) produces overviews for Germany from those aggregated reports on *Land* results for three chosen calendar months (March, August and November) and publishes them on the internet. The overviews cover the correctional facilities of the *Laender*. Secure psychiatric facilities as well as youth detention facilities are not included.

On 31 March 2015, according to the annual report of Destatis, 52,412 people were in preventive custody or serving time in correctional institutions. 5.9% (3,105) of these were women and 25.3% (13,273) were non-German nationals. 69.05% (36,171) were single, 15.8% (8,258) married, 1.3% (690) widowed and 13.91% (7,293) divorced. 16.1% (8,459) of inmates were in an open prison. 0.3% (174) of those imprisoned under general criminal law were between 18 and 21 years old, 25.7% (13,446) were between 21 and 29, 50.7% (26,594) were between 30 and 49 and 13.9% (7,272) were aged 50 and over.

58.6% (30,699) of inmates in prison or preventive custody were serving a sentence of up to 2 years, 28.4% (14,904) had a sentence of between 2 and 15 years and 3.6% of inmates (1,883) were serving a life sentence (Destatis 2016).

An overview of the number of correctional institutions, their capacity and actual population as of 30 November in each year in the individual *Laender* is shown in Table 1. According to that data, there were 183 organisationally independent institutions in Germany with a total capacity of around 73,916 inmates who, with 61,737 inmates, were at 84% capacity at the time of the survey (Destatis 2016).

Table 1 Number of institutions and capacity as at 30 November

Year	Number of institutions		Total capacity	Population	Population in% ¹⁾
	Total	Open prison			
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	77,490	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

1) Population as% of total capacity

Destatis 2016.

One development of note in recent years is the reduced number of correctional facilities which has been accompanied, nevertheless, by an improved situation regarding the percentage of places available. Whereas at the turn of the century prisons were operating over capacity, in most *Laender* today there is a maximum utilisation of 70-90% (with the exception of Bavaria at 92%), in spite of a reducing total number of available prisons.

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

1.2.1 Prevalence of drug use (T1.2.1)

As the percentage of addicts and users of illicit drugs in German correctional institutions cannot be precisely quantified, the number of persons incarcerated as a result of violations of the BtMG is frequently used as an approximation. This estimate is relatively imprecise, however. Firstly, it counts people who, although they have violated the law in connection with drugs, may not have used any illicit substances themselves, as can be the case, for example, with some dealers. Secondly, a large proportion of drug users are not taken into account because, for example, persons who are sentenced for economic compulsive crimes are listed in the statistics under categories other than violations against the BtMG.

As of 31 March 2015, there were a total of 6,820 persons (13.0% of all inmates) serving time in prison institutions as a result of violations against the BtMG. 13.4% (416) of imprisoned women and 3.4% (150) of imprisoned adolescents were serving sentences due to offences against the BtMG. The proportion of all inmates imprisoned for BtMG offences has been

falling since 2008 both among adults as well as among adolescents and young adults (Table 2). From 2006 (total: 64,512; BtMG: 9,579) to 2016, the total number of all inmates increased by 18.8% whilst the number of inmates serving sentences due to BtMG offences decreased by 28.8% (Destatis 2016).

Table 2 Imprisoned persons and narcotics offences

		Prisoners and persons in preventive custody			Custodial sentences for adults		Juvenile punishments		Preventive custody
		Total	Males	Females	Males	Females	Males	Females	
2015	Inmates N	52,412	49,307	3,105	44,521	2,965	4,258	139	529
	BtMG N	6,820	6,404	416	6,258	410	144	6	2
	BtMG%	13,0	13,0	13,4	14,1	13,8	3,4	4,3	0,4
2014	BtMG%	13,1	13,0	14,3	14,2	14,9	3,2	4,4	0,2
2013	BtMG%	13,4	13,3	14,9	14,5	15,3	3,4	7,6	0,0
2012	BtMG%	14,0	13,9	15,9	15,2	16,5	3,6	7,5	0,2
2011	BtMG%	14,7	14,7	15,4	16,0	15,8	4,6	10,7	0,2
2010	BtMG%	14,6	14,5	16,2	15,8	16,7	5,0	10,2	0,2
2009	BtMG%	15,0	14,9	16,5	16,2	17,0	5,1	10,5	0,4
2008	BtMG%	15,3	15,1	18,2	16,3	18,9	6,7	9,8	0,7
2007	BtMG%	14,9	14,8	17,4	16,2	15,0	6,2	8,9	0,2
2006	Inmates N	64,512	61,250	3,262	54,170	2,972	6,705	290	375
	BtMG N	9,579	8,986	593	8,530	560	456	33	0
	BtMG%	14,8	14,7	18,2	15,7	18,8	6,8	11,4	0,0

Note: "BtMG N": Number of persons imprisoned due to offences against the BtMG, "BtMG%": Proportion of persons imprisoned due to offences against the BtMG

Destatis 2016.

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

No additional information is available on this.

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

1.3.1 National policy or strategy (T1.3.1)

Legal framework conditions

The German Prison Act (Strafvollzugsgesetz, StVollzG) from 1976 still applies in some of the German *Laender*. It regulates "the execution of custodial sentences in correctional institutions and measures of rehabilitation and prevention involving imprisonment" (Sec. 1

StVollzG). Since the reform of federalism, 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 is being replaced, in stages, by the respective *Laender* prison laws and administrative regulations (Sec. 125a German Constitution, GG), which in part cite the StVollzG. Some of the German *Laender* now have their own prison laws, whilst others have, in a working group of representatives of justice administration, presented a draft of a uniform prison act for the adult penal system, which has since been passed by some *Laender*. At the time of the publication of the report, the StVollzG was still in force in three *Laender* (Berlin, Saxony-Anhalt and Schleswig-Holstein). Still, the *Laender* laws are largely based on the nationally applicable StVollzG and usually only differ in terms of individual details. The type and scope of the provision of services in the area of health care are based, for example, on the German Code of Social Law, Volume 5, (SGB V) in all German *Laender* which have their own prison laws.

The seventh title of the StVollzG lays down regulations governing health care for prisoners. Generally speaking, there is an obligation to care for the physical and mental health of prisoners (Sec. 56 StVollzG). In addition to this, prisoners are "entitled to health treatment provided 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. 58 StVollzG). The provisions of SGB V apply in respect of the type and scope of health services (Sec. 61 StVollzG). No individual remarks are made in the StVollzG regarding drugs, substitution or addiction. Medical care of inmates 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 *Laender's* respective accident insurance scheme assumes the costs (BMJ 2009).

Although the *Laender* laws scarcely differ from the StVollzG or from each other, there are nevertheless subtle differences. The Hessian prison law stipulates a right on the part of inmates to psychological or psychotherapeutic treatment or care (Sec. 26, (2) HStVollzG). In addition, in Lower Saxony, Hesse and Baden-Württemberg preventive measures are also explicitly mentioned: in Lower Saxony, the right of prisoners to vaccinations (Sec. 57 (1) Lower Saxony Prison Act) is codified in law. In Hesse and Baden-Württemberg the need to educate inmates about healthy living habits is also codified (Sec. 23 (1) HStVollzG and Sec. 32 (1) JVollzGB). The codes of Hesse and Baden-Wuerttemberg furthermore state that it is possible to exercise controls to combat abuse of addictive substances (Sec. 4 HStVollzG and Sec. 64 JVollzGB).

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, the temporal, local and specialist competence of the respective institutions (job centres, health insurance providers) must be clarified at the earliest possible opportunity and as unbureaucratically as possible. That can

usually only be achieved if respective requests or applications are made prior to the end of the prison sentence. Through the social service of the prison, a clarification of the likely place of residence post release of the affected person should be obtained in good time (around 3 months) prior to the release date, by interviewing the person. The local job centre thus found to be closest to the prospective place of residence can then evaluate the capacity for employment as per Sec. 8 SGB II, prior to the inmate's release from prison, in order to avoid delays in the clarification of social law issues in connection with the start of rehabilitation measures.

Other interventions in the criminal justice system

There are possibilities at all levels of the criminal justice system, to cease proceedings under certain conditions. Often, a few hours of community service is the first response of authorities in dealing with problem behaviour in connection with drugs. To curb drug crime as well as economic compulsive crime, many cities have created the legal possibility of banning or dispersing drug users from certain places in order to prevent the formation of open drug scenes.

At public prosecution level, it is possible to refrain from prosecution of crimes committed by adolescents and young adults, who fall under criminal law relating to young offenders, or to discontinue proceedings in respect of the German Youth Courts Law (Jugendgerichtsgesetz, JGG, Sec. 45 and Sec. 47). This is mostly applied in cases involving only small amounts of cannabis.

In nearly all *Laender*, local prevention projects, such as the widespread programme "Early Intervention with Drug Users Coming to the Attention of Law Enforcement for the First Time – FreD" are used as a way of avoiding criminal proceedings. The programme is aimed at 14 to 18 year olds but also young adults up to 25 years old who have come to the attention of the police for the first time due to their use of illicit drugs (for more information on the FreD programme, see also the Workbook Prevention).

Alternatives to prison sentences

According to Sec. 63 and Sec. 64 of the German Criminal Code (Strafgesetzbuch, StGB), it is possible under certain circumstances to place mentally ill or addicted offenders under a hospital treatment order in secure psychiatric units.

The BtMG allows the suspension of proceedings in cases involving minor guilt as well as a lack of public interest in prosecution (Sec. 31a BtMG). This applies mainly to consumption-related offences, in particular when they occur for the first time and third parties are not involved. These regulations are subject to different regional application as shown by a study carried out by Schäfer and Paoli (2006). With regard to the prosecution of consumption-related offences involving cannabis, there has recently been a move towards standardising the definitions of threshold values for "small amounts" by the *Laender*, in line with the requirements issued by the German Federal Constitutional Court. Further details can be found in the Legal Framework workbook, section 1.1.2.

Moreover, it is possible to defer a prison sentence of up to two years in order to provide the drug addict with the chance to undergo treatment ("treatment not punishment", Sec. 35 BtMG).

The study, funded by the German Federal Ministry of Health, 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 under Sec. 64 StGB increased enormously from 2001 to 2011. It also became clear that after the end of a rehabilitation measure, drug addicts were increasingly subject to probation as per Sec. 35, Sec. 36 BtMG. A regular completion of the therapy 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 therapy normally. A 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) states 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 and 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 is in line with national health policy and that it be integrated into it. Furthermore, requirements in prison which violate the human rights of inmates cannot be justified by a lack of resources (CPT 2010).

In Germany, the respective prison acts regulate what medical services prisoners are entitled to and refer, with regard to type and scope, to the German Code of Social Law (SGB V) (Meier 2009). Under these provisions, prisoners are not entitled to the entire spectrum of health services which statutory health insurance providers (GKV) are obligated to provide.

In 2011, a prisoner born in 1955 with a long-standing heroin addiction made a request to the prison authorities for opioid substitution treatment (OST). Alternatively, he requested that the question of whether such treatment was necessary be examined by a drug addiction specialist. Prison authorities dismissed his application, arguing that OST was not a medically necessary treatment and would not help his rehabilitation. In 2012, the Augsburg Regional Court dismissed the applicant's appeal, endorsing the prison authorities' reasoning and adding that it was not necessary to obtain the opinion of a drug addiction expert. The Munich Court of Appeal also dismissed the man's appeal as ill-founded. The Federal Constitutional Court declined to consider the applicant's constitutional complaint without giving reasons (file no. 2 BvR 2263/12). After his release in 2014, the man received an OST prescription from his physician. In a judgment from the 1st of September 2016, the European Court of Human Rights ruled that the prison authorities' and court proceedings were in violation of Article 3 of

the European Convention on Human Rights, also citing the equivalence of care principle¹. The Court did not rule on whether or not the inmate should have received OST. But prison authorities and especially the involved courts would have had an obligation to consult an independent doctor with specialist expertise on addiction treatment to assess the inmate's medical condition. Their failure to fulfill this obligation led to physical and psychological suffering of the patient. However, the Court dismissed the remainder of the applicant's claim for just satisfaction.

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

In a systematic review by Hedrich et al. (2012) an overview was provided on the effectiveness of maintained substitution treatments (opioid maintenance treatment, OMT) in the prison setting. Results show that the benefits of OMT in the prison setting are comparable to those in the general population. OMT represents a possibility to motivate problem opioid users to submit themselves to treatment in order to reduce illegal opioid use and high risk behaviour in prison and possibly also to minimise the number of overdoses after release from prison. If there is a connection with a treatment programme which is close to the community, OMT in prison also facilitates the continuity of treatment and helps with the achievement of long-term, positive effects.

The Statistical Report on Substance Abuse Treatment in Germany (DSHS) has included a series of tables on external outpatient counselling in prisons since 2008 (Braun et al. 2016). As this series of tables only comprises 19 facilities for the reporting year 2015 (2014: 17 facilities) and it cannot be ruled out that individual results are only available for one or two facilities or 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. The average age of men with illicit drug problems who made use of outpatient support in prison in 2015 was 32.1 (2014: 30.4), while the average age for women was 30.4 (2014: 32.7). It is particularly noteworthy that 81.1% (2014: 81.6%) of women serving sentences in prison who underwent treatment as a result of illicit drug problems were treated for a primary opioid problem, while this percentage among men was only 23.8% (2014: 21.6%; N=307).

¹ The judgment can be found online: <http://hudoc.echr.coe.int/eng?i=001-165758> [accessed: 30.09.2016].

Table 3 Outpatient treatment of drug problems in prisons

Main diagnosis	Males		Females		Total	
	N	%	N	%	N	%
Opioids	310	23.8	99	81.1	409	28.7
Cocaine	139	10.7	9	7.4	148	10.4
Stimulants	466	35.8	8	6.6	474	33.3
Hypnotics/sedatives	13	1.0			13	0.9
Hallucinogens	6	0.5			6	0.4
Cannabinoids	363	27.9	5	4.1	368	25.9
Multiple/other Substances	4	0.3	1	0.8	5	0.4
Total	1,301	100.0	122	100.0	1,423	100.0

Braun et al. 2016.

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.

Prevention of overdose risk upon release from prison

In its action plan on the implementation of the HIV/AIDS strategy, the Federal Government established that prisons represent a setting that requires specific health promotion measures to be undertaken. In particular, the transition from incarceration to life on the outside carries a special risk of overdose.

Given the high mortality risk of injecting drug use (IDU) by way of overdose after release from prison, the guidelines of the German Medical Association (BÄK) on opioid substitution therapy – (OST) (BÄK 2010) also explicitly allow an OST to be commenced even in the case of persons who are currently abstinent.

The German AIDS Service Organisation (Deutsche AIDS-Hilfe e.V., DAH) started, in collaboration with Fixpunkt e.V., a Naloxon distribution pilot project, in which prisoners that are currently using, have used opioids in the past, or those currently in substitution treatment, can be given a special training in the field of first aid and information on the effects of substances. Those who have completed the training can receive an emergency set containing naloxone, upon release from prison. The recruiting of volunteer participants will run until the end of 2017. In May 2018 a concluding report will be drawn up, which will resume the experiences of participants as well as employees involved in the project (Dettmer & Knorr 2016).

Reintegration of drug users after release from prison

The legal framework stipulates that the inmate be provided with support at release (Sec. 74 StVollzG in conjunction with Sec. 15 StVollzG), the objective of which is to assist with

reintegration into society after release from prison. In order to reach this goal, prison services should cooperate across departments (Sec. 154 StVollzG).

Moreover, providers of social welfare should work together with groups which have shared goals as well as other organisations 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 hand, an attempt is made to bring those being released as smoothly as possible into training, occupation or work; on the other hand, efforts are made to tackle problems linked with incarceration and 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 for professional qualifications and training as well as job placement. Although from a historic viewpoint there have been corresponding efforts dating back over 150 years with the introduction of "assistance for offenders" and 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.

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 Sucht e.V., fdr) issued a recommendation on transition management which contained, amongst other things, the following elements (fdr 2013):

- Improvement of the addiction medicine care situation, including substitution treatment in prison and drug emergency training sessions
- Participation also for inmates suffering from addiction within internal prison services in work and work-qualification
- Step by step support in transition and networking with services of the addiction support system and offender support, e. g. help entering assisted living, outpatient clinics etc.
- Provision of outpatient rehabilitation during imprisonment, beginning around 6 months prior to release, in a treatment centre outside prison and continued after release.

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

According to the WHO indicator registry (BMJ 2009) the following types of drug treatment were available in all correctional institutions in 2008: Medication-assisted short term detoxification (14 *Laender*), short term detoxification without medication (7 *Laender*), abstinence-based treatment with psychosocial counselling (11 *Laender*), antagonist treatment (4 *Laender*) and substitution treatment (9 *Laender*). Only in 6 *Laender* was psychosocial counselling performed in addition in every case. According to the report, medication-assisted short term detoxification is offered by nearly all *Laender* and long term substitution treatment by just over half of the *Laender*. According to the results of a study by Schulte and colleagues (2009), substitution treatment is possible in only 75% of the detention facilities examined (n = 31).

In 2010, the German AIDS Service Organisation (Deutsche AIDS-Hilfe e.V., DAH) organised the first expert discussion on "Prescribing heroin in prison – new challenges and opportunities for the penal system". Staff from the ministries of health and justice, AIDS services and prison doctors took part. The trigger for the meeting was that outside of prisons, prescription should take place as part of regular health care, therefore allowing the administration of diamorphine in prison was discussed. The meeting of experts came to the conclusion that the required preconditions for this would be the broadening of intramural substitution treatment as well as sufficient political backing. Additionally, attitudes of staff towards drug users in prison would have to be addressed and reflected upon to a greater extent. Since 2011, Baden-Württemberg has offered intramural substitution with diamorphine in detention facilities.

Since detailed information, much of it relatively outdated, is only available from individual *Laender*, it is not possible to make any definite statements regarding either the current situation or trends in the availability and conditions surrounding the execution of OST in German correctional institutions.

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

1.4.1 Treatment quality assurance standards, guidelines and targets (T1.4)

In Germany there are numerous institutions which address the quality assurance of extramural health care, such as the associations of SHI-accredited doctors (Kassenärztlichen Vereinigungen, KV), the statutory health insurance providers (GKV) and the medical associations. The control of health care in prison, and thus also for ensuring the quality of drug-related services, is the domain of the ministries of justice in Germany. The German prison system maintains its own health care system, comparable with the health care system for the police or army (Stöver 2006). This means there are certain differences in health care for patients within these systems, in contrast 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 in German correctional institutions is regulated differently than it is in extramural care. Thus, 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 technical supervision, however, which may be regulated as follows:

- The specialist in charge of supervision in the ministry (medical director) 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 makes use of know-how possessed by 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 charge of any one specialist (staff member of the Ministry of Justice), rather external doctors, for example experienced facility doctors from another *Land*, doctors from the Ministry of Health or retired doctors.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) acts as an external expert. The European Treaty on this stipulates that prison facilities be visited on a regular basis (European Commission 2002). The last visit but one by the CPT in Germany took place between 20 November and 2 December 2005 (CPT 2006), in the course of which 17 facilities were visited. Statements made in the CPT report in connection with "healthcare" are only based on three facilities, however. The main criticism was that there was an insufficient number of general practitioners available to prisoners. In the opinion of the CPT, there should be one full time general practitioner available for every 300 inmates. In addition, the CPT was of the opinion that psychiatric care and care for drug-dependent inmates was inadequate. A further criticism was that not every detention facility offered every new inmate information on healthcare or on the prevention of infectious diseases (for example with the aid of an information brochure).

In North Rhine-Westphalia, the control of medical activities is governed by the technical agencies of the supervisory authorities (North Rhine-Westphalia Ministry of Justice & Westphalia-Lippe and North Rhine Medical Associations 2010), laid down in the "Recommendations for Treatment by Doctors Providing Medical Therapy for Opioid Dependency in Prison". It issues orders if the limits of conscientious discretion by physicians are exceeded or incorrectly exercised. Orders issued by supervisory authorities are limited to specific individual cases.

Guidelines

Imprisonment continues to involve the risk that substitution treatment commenced before entering a penal institution will not be continued (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" (WHO 2003), adopted by the WHO European region as well as the treatment recommendations, "Opioid Substitution Treatment in Custodial Settings" (Kastelic et al. 2008). However a few German bodies of rules also exist.

In the doctors' recommendations on treatment and medicinal therapy for opioid dependence in prison in North Rhine-Westphalia (Justizministerium NRW & Ärztekammern Westfalen-Lippe und Nordrhein 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 law enforcement objectives. Thus, the stated objective is to "significantly raise the number of substitution treatments in prisons". 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 down. Among other things, it is set out in writing when the treatment will be discontinued (for example in the event of repeated problematic concomitant use, drug dealing/trafficking or violence in connection with OST) and that discontinuation does not necessarily mean permanent exclusion from OST. The decision to terminate treatment is made by the medical service; there are no fixed conditions with respect to recommencement. Generally speaking, in North Rhine-Westphalia patients who are already receiving substitution 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 guaranteed in the event of substitute treatment on remand and prison sentences of less than two years. A place for further treatment should be assured, at the latest, on release from prison.

An administrative regulation issued by the Baden-Wuerttemberg Ministry of Justice has stipulated substitution in prisons since 2002. It contains clear statements regarding the general aims of OST as well as requirements regarding indication, exclusion, admittance, execution, documentation and termination of substitution treatment. In addition, substitution with diamorphine has also been possible since the revised and amended version of the administrative regulation came into force on 15 July 2011 (Justizministerium Baden-Württemberg 2011).

The foundation for substitution treatment in prison in Lower Saxony is a decree from 2003 which for the most part is based on provisions in the BtMG and the Guidelines on the Evaluation of Doctors' Examination and Treatment Methods (BUB-Richtlinien). The decree sets out the preconditions and stipulates how substitution is to be performed. As with all treatments by doctors, the doctor providing treatment is responsible for the indication for substitution and establishes by means of an individual examination whether the substitution treatment is warranted and whether the intended purpose can be achieved in any other way. Substitution is provided based on the principle of equivalence in line with the stipulations of SGB V and the respective guidelines.

According to the principle of equivalence, the guidelines issued by the German Medical Association (Bundesaerztekammer, BÄK) on the substitution-assisted treatment of opiate addicts, revised in 2010, also apply within prisons (BÄK 2010). 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 other form of inpatient care that the treatment is provided on a continuous basis. Furthermore, substitution treatment can also be initiated in individual cases, where warranted, in accordance with ICD 10 F11.21 (opiate

dependency, abstinent at present, but in a protected environment – such as a hospital, therapeutic community or prison). In the event of consumption of additional psychotropic substances, the cause thereof, such as inadequate dosage or selection of substitution drug or a co-morbid psychological 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 to be initiated.

Training of prison guards

In comparison to other occupational groups, prison guards are confronted with persons who use drugs to a greater extent. That is why this profession is predestined to receive special training on dealing with and risk awareness in connection with drug users. The ministries of justice have reacted to this by initiating relevant programmes of education and further training.

A manual entitled "Harm reduction in prisons" ("Schadensminimierung im Justizvollzug"), which is issued by the Scientific Institute of the German Medical Association (Wissenschaftliches Institut der Aerzte Deutschlands, WIAD) and which was the result of a project funded by the European Commission, serves to provide further training of staff working in prisons (Wiegand et al. 2011). The manual provides suggestions on how the negative impact of certain types of behaviour can be reduced such as the transmission of infectious diseases in the case of injecting (i.v.) drug use through sharing syringes or needles. These concepts play a role primarily in correctional institutions, as this involves the preservation of human rights of prisoners, protection of public health and not least the proven cost effectiveness of preventive measures compared to the costs of treatment, for example after people have become infected. The manual provides information on infectious diseases and the different routes of transmission as well as drug use and related risk behaviour. Among other things, prison guards should be sensitised to the special challenges of drug consumption. Moreover, the attitudes and understanding of prison guards towards drug use and drug users should be explored.

Baden-Württemberg reported that in 2010, 17 facilities provided counselling for staff in the penal system (Reber 2011). In addition, training in how to cope with drug-related emergencies was carried out in some Berlin prisons (DAH 2010). In that training, both appropriate behaviour in the event of drug-related emergencies as well as particular risks such as use of drugs following abstinence, are addressed. The prescription of naloxone, an opiate antagonist, plays a role.

2 New developments (T3)

No further information is currently available on new developments. The current situation has been reported above.

3 Additional information (T4)

3.1 Additional sources of information (T4.1)

No additional sources of information are available on this.

3.2 Further aspects (T.4.2)

No additional sources of information are available on this.

4 Notes and queries (T5)

4.1 NPS use and associated problems in prison

No representative surveys are currently available on this. A PharMon survey on NPS in addiction counselling programs in 2 correctional institutions reported 51 people who had used NPS in prison (Piontek et al. 2016). The predominant reasons for using were curiosity (N = 13) and intoxication (N = 10). In addition, availability (N = 7), price (N = 6), legality and lack of detectability (N = 5 for both) were stated. The most common substances were spice and herb mixtures. Based on the lack of sample sizes of the addiction counselling programmes and the low level of participation by the correctional institutions, these results should however not be regarded as representative, rather merely serve as information that NPS use does exist in prison. Representative studies are urgently required.

5 Sources and methodology (T6)

5.1 Sources (T6.1)

Individual sources are listed under point 6 (Bibliography).

5.2 Methodology (T6.2)

The methodology of the individually listed publications is described in detail in the respective publications.

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