



# **Structures and concepts for the resettlement of (“high risk”-) prisoners in Germany**

**Report to the workshop of the Justice  
Cooperation Network (JCN) “European  
treatment and transition  
management of high risk offenders”,**

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# Prison Acts of the Federal States (Länder) (as of 22/10/2013)

\* combined law (one Act regulating all areas)

Federal State	entry into force	Contents
Baden-Württemberg	01.01.2010	Prison Act*, JuvPA* , Pre-Trial* , PrevDet
Bavaria	01.01.2008	Prison Act*, JuvPA* , Pre-Trial*
Berlin (G 10)	-	JuvPA , Pre-Trial
Brandenburg (G 10)	01.06.2013	Prison Act*, JuvPA* , Pre-Trial*
Bremen (G 10)	-	JuvPA , Pre-Trial
Hamburg	01.09.2009	Prison Act, JuvPA , Pre-Trial
Hesse	01.11.2010	Prison Act, JuvPA , Pre-Trial
Lower Saxony	01.01.2008	Prison Act*, JuvPA* , Pre-Trial*
Mecklenburg-West. Pomerania (G 10)	01.06.2013	Prison Act, JuvPA , Pre-Trial
North-Rhine Westphalia	-	JuvPA , Pre-Trial
Rhineland-Palatinate (G 10)	01.06.2013	Prison Act*, JuvPA* , Pre-Trial*
Saarland (G 10)	01.06.2013	Prison Act, JuvPA , Pre-Trial
Saxony (G 10)	01.06.2013	Prison Act, JuvPA , Pre-Trial
Saxony-Anhalt (G 10)	-	JuvPA , Pre-Trial
Schleswig-Holstein (G 10)	-	JuvPA , Pre-Trial
Thuringia (G 10)	-	JuvPA , Pre-Trial

## Acts for the Execution of Preventive Detention of the Federal States (Länder)

<b>Federal State</b>	<b>entry into force</b>	<b>Contents</b>
Baden-Württemberg	01.06.2013	Execution of Preventive Detention
Bavaria	01.06.2013	Execution of Preventive Detention
Berlin	01.06.2013	Execution of Preventive Detention
Brandenburg	01.06.2013	Execution of Preventive Detention
Bremen	01.06.2013	Execution of Preventive Detention
Hamburg	01.06.2013	Execution of Preventive Detention
Hesse	01.06.2013	Execution of Preventive Detention
Lower Saxony	01.06.2013	Execution of Preventive Detention
Mecklenburg-West. Pomerania	01.06.2013	Execution of Preventive Detention
North-Rhine Westphalia	01.06.2013	Execution of Preventive Detention
Rhineland-Palatinate	01.06.2013	Execution of Preventive Detention
Saarland	01.06.2013	Execution of Preventive Detention
Saxony	01.06.2013	Execution of Preventive Detention
Saxony-Anhalt	01.06.2013	Execution of Preventive Detention
Schleswig-Holstein	01.06.2013	Execution of Preventive Detention
Thuringia	01.06.2013	Execution of Preventive Detention

## Binding structures for the cooperation between Prison Services and institutions outside prison

Federal State	Prison Acts	Preventive Detention Acts
Baden-Württemberg	-	-
Bavaria	-	-
Berlin	-	+
Brandenburg	+	+
Bremen	-	+
Hamburg	+	+
Hesse	+	+
Lower Saxony	-	+
Mecklenburg-West. Pomerania	+	+
North-Rhine Westphalia	-	-
Rhineland-Palatinate	+	+
Saarland	+	+
Saxony	+	+
Saxony-Anhalt	-	-
Schleswig-Holstein	-	+
Thuringia	-	+

## Binding structures for the Probation Services (to collaborate with the Prison Services)

Federal State	Prison Acts	Preventive Detention Acts
Baden-Württemberg	-	-
Bavaria	-	-
Berlin	-	+
Brandenburg	+	+
Bremen	-	+
Hamburg	+	-
Hesse	+	+
Lower Saxony	-	-
Mecklenburg-West. Pomerania	-	-
North-Rhine Westphalia	-	-
Rhineland-Palatinate	+	-
Saarland	+	-
Saxony	+	-
Saxony-Anhalt	-	-
Schleswig-Holstein	-	-
Thuringia	-	+

## Aftercare (assistance after release by the Prison Service)

Federal States	Prison Acts	Preventive Detention Acts
Baden-Württemberg	Only in case of Social Therapy	+
Bavaria	+	+
Berlin	Only in case of Social Therapy	+
Brandenburg	+	+
Bremen	Only in case of Social Therapy	+
Hamburg	+	+
Hesse	Only in case of Social Therapy	+
Lower Saxony	Only in case of Social Therapy	+
Mecklenburg-West. Pomerania	+	+
North-Rhine Westphalia	Only in case of Social Therapy	+
Rhineland-Palatinate	+	+
Saarland	+	+
Saxony	+	+
Saxony-Anhalt	Only in case of Social Therapy	+
Schleswig-Holstein	Only in case of Social Therapy	+
Thuringia	Only in case of Social Therapy	+



## Voluntary return to or stay in prison

Federal State	Prison Acts	Preventive Detention Acts
Baden-Württemberg	Only in case of Social Therapy	+
Bavaria	Only in case of Social Therapy	+
Berlin	Only in case of Social Therapy	+
Brandenburg	+	+
Bremen	Only in case of Social Therapy	+
Hamburg	Only in case of Social Therapy	+
Hesse	Only in case of Social Therapy	+
Lower Saxony	Only in case of Social Therapy	+
Mecklenburg-West. Pomerania	+	+
North-Rhine Westphalia	Only in case of Social Therapy	+
Rhineland-Palatinate	+	+
Saarland	+	+
Saxony	+	+
Saxony-Anhalt	Only in case of Social Therapy	+
Schleswig-Holstein	Only in case of Social Therapy	+
Thuringia	Only in case of Social Therapy	+

## Discretion of the Prison Service concerning the relaxation of imprisonment (day and long-term leaves for the preparation for release)

<b>Federal State</b>	<b>Prison Acts</b>	<b>Preventive Detention Acts</b>
Baden-Württemberg	„should“	„are granted“
Bavaria	„should“	„are granted“
Berlin	„should“	„are granted“
Brandenburg	„have to be granted“	„have to be granted“
Bremen	„should“	„are granted“
Hamburg	„should“	„are granted“
Hesse	„should“	„are granted“
Lower Saxony	„should“	„have to be granted“
Mecklenburg-West. Pomerania	„have to be granted“	„have to be granted“
North-Rhine Westphalia	„should“	„are granted“
Rhineland-Palatinate	„have to be granted“	„have to be granted“
Saarland	„should“	„have to be granted“
Saxony	„have to be granted“	„should be granted“
Saxony-Anhalt	„should“	„are granted“
Schleswig-Holstein	„should“	„have to be granted“
Thuringia	„should“	„werden gewährt“

## Scale of discretion of the Prison Service concerning the relaxation of imprisonment (day and long-term leaves for the preparation for release)

Federal States	Prison Acts	Preventive Detention Acts
Baden-Württemberg	“should be granted”, except further offences expected	“are granted”, except further serious offences demand an exception
Bavaria	“should be granted”, except further offences expected	„are granted“, except (any) further offences demand an exception
Berlin	“should be granted”, except further offences expected	“are granted”, except further serious offences demand an exception
Brandenburg	“have to be granted”, except further serious offences to be expected (high probability)	“has to be granted”, if they can be justified
Bremen	“should be granted”, except further offences expected	“are granted”, except further serious offences demand an exception“
Hamburg	“should be granted”, if they can be justified	“are granted”, except further serious offences demand an exception
Hesse	“should be granted”, except further offences expected	“are granted”, except further serious offences demand an exception
Lower Saxony	“should be granted”, except further offences expected	“are granted”, except further serious offences demand an exception

Federal States	Prison Acts	Preventive Detention Acts
Mecklenburg-Western Pomerania	“have to be granted”, except further serious offences to be expected (high probability)	“have to be granted”, if they „can be justified“
North-Rhine Westphalia	“should be granted”, except further offences expected	“are granted”, except further serious offences demand an exception
Rhineland-Palatinate	“have to be granted”, except further serious offences to be expected (high probability)	“has to be granted”, if they „can be justified“
Saarland	“should be granted”, except further serious offences to be expected (high probability)	“have to be granted”, if they „can be justified“
Saxony	“have to be granted”, except further serious offences to be expected (high probability)	“should be granted”, if they „can be justified“
Saxony-Anhalt	“should be granted”, except further offences expected	“are granted”, except further serious offences demand an exception
Schleswig-Holstein	“should be granted”, except further offences expected	“have to be granted”, except further serious offences demand an exception
Thuringia	“should be granted”, except further offences expected	“are granted”, except further serious offences demand an exception

## Special long term prison leave (up to 6 months)

Land	Prison Acts	Preventive Detention Acts
Baden-Württemberg	Only in case of Social Therapy	+
Bavaria	Only in case of Social Therapy	+
Berlin	Only in case of Social Therapy	+
Brandenburg	+	+
Bremen	Only in case of Social Therapy	+
Hamburg	Only in case of Social Therapy	+
Hesse	+	+
Lower Saxony	Only in case of Social Therapy	+
Mecklenburg-West. Pomerania	+	+
North-Rhine Westphalia	Only in case of Social Therapy	+
Rhineland-Palatinate	+	+
Saarland	+	+
Saxony	+	+
Saxony-Anhalt	Only in case of Social Therapy	+
Schleswig-Holstein	Only in case of Social Therapy	+
Thuringia	Only in case of Social Therapy	+

# Transfer to open prisons/special release institutions outside prison

Land	Prison Acts	Preventive Detention Acts
Baden-Württemberg	“should be transferred”/ -	“can be transferred”/ -
Bavaria	“should be transferred”/ -	“can be transferred”/ -
Berlin	“should be transferred”/ -	“shall be transferred”/ +
Brandenburg	“have to be transferred”/ +	“shall be transferred”/ +
Bremen	“should be transferred”/ -	“shall be transferred”/ +
Hamburg	“should be transferred”/ -	“can be transferred”/ -
Hesse	“should be transferred”/ -	“can be transferred”/ -
Lower Saxony	“shall not be transferred if”/-	“can be transferred”/ -
Mecklenburg-West. Pomerania	“should be transferred”/ +	“shall be transferred”/ +
North-Rhine Westphalia	“should be transferred”/ -	“can be transferred”/ -
Rhineland-Palatinate	“should be transferred”/ +	“shall be transferred”/ +
Saarland	“should be transferred”/ +	“shall be transferred”/ +
Saxony	“should be transferred”/ +	“shall be transferred”/ +
Saxony-Anhalt	“should be transferred”/ -	“can be transferred”/ -
Schleswig-Holstein	“should be transferred”/ -	“shall be transferred”/ +
Thuringia	“should be transferred”/ -	“can be transferred”/ -



# Supervision of conduct

**Purpose:** Supervision and assistance in the process of re-integration into the community

**Target group:** Offenders with a suspected high risk of reoffending (Prisoners serving full time; prisoners assessed as high risk (court order); inmates released from preventive detention, psychiatric and alcohol treatment measures)

**Agencies:** State office for supervision of conduct, Probation service, Forensic clinic, Police, ect.

**Measures:** Directives concerning whereabouts, contact to other people, report to authorities, consumption of alcohol, ect.



# Recent developments

## (reform laws of 2007 and 2010)

- **Decision of the European Court for Human Rights (*M. v Germany*)**
- **Increase in the number of cases of supervision of conduct (*see table*)**
- **New measures:**
  - **Increased number of directives, whose non-compliance is defined as a criminal offence (e.g. abstinence from alcohol or drugs, duty to report changes of residence or working place)**
  - **Increased punishment for non-compliance with directives (up to 3 instead of 1 year of imprisonment)**
  - **Electronic supervision as a new directive**
  - **Indefinite (up to life-long) supervision of conduct**
  - **Permanent surveillance by the police**
- **State concepts for supervision**



## Quantitative development

Federal State	2008	2009	2010	2011	2012	Increase
North-Rhine Westphalia	4.622	5.132	5.905	6.427	6.830	+ 47,8%
Bavaria	6.496	6.732	7.100	7.362	7.623	+ 17,3%
Baden-Württemberg	1.665	2.060	2.358	2.499	2.612	+ <b>56,8%</b>
Lower Saxony	1.656	2.001	2.233	2.462	2.588	+ <b>56,3%</b>
Hesse	1.177	1.271	1.367	1.592	1.772	+ 50,6%
Saxony	1.184	1.315	1.454	1.580	1.649	+ 39,3%
Rhineland-Palatinate	1.271	1.318	1.474	1.635	1.731	+ 36,2%
Berlin	2.164	2.306	2.289	2.360	2.561	+ 18,3%
Schleswig-Holstein	572	576	637	656	706	+ 23,4%
Brandenburg	513	545	596	611	630	+ 22,8%
Saxony-Anhalt	1.045	1.118	1.189	1.249	1.249	+ 19,5%
Thuringia	550	608	637	637	969	+ <b>76,2%</b>
Hamburg	769	808	808	808	829	+ 7,8%
Mecklenburg-West. Pomerania	520	608	608	608	818	+ <b>57,3%</b>
Saarland	369	369	369	369	477	+ 29,3%
Bremen	245	276	294	310	337	+ 37,6%
<b>Total</b>	<b>24.818</b>	<b>27.093</b>	<b>29.495</b>	<b>31.488</b>	<b>33.381</b>	+ <b>34,5%</b>

**56 %** Inmates released from preventive detention, psychiatric and alcohol treatment measures  
**44 %** Prisoners (released after serving full time or assessed as dangerous)



# State concepts for supervision

- **Administrative regulations on the cooperation between the institutions involved in the supervision (control)**
- **Aimed at an increase of the quantity and efficiency of control; no additional supportive measure**
- **The concepts do not transfer any additional legal power to the institutions involved**
- **Centralised body attached at the respective State Office of Criminal Investigation responsible for the collection of information and coordination of preventive measure by the police**



# **New developments below the level of law**

- 1. Special programmes and projects concerning „transition management“, especially: Programmes supporting prisoners to find a job after their release to prepare a promising structure for the life outside prison, e.g. B5.**
- 2. Change in organisational structures, especially: the same department of the Ministry of Justice is responsible for both Prison Social Services and Probation Services. Promising: better collaboration, e.g. InStar**
- 3. Contracts between prisons and probation services or other services to structure tasks and responsibilities concerning the release of prisoners.**



# Thank you for your attention!

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