

Country Report: Germany

The QCEA questionnaire was sent to all the Länder¹ as well as to the Federal Government. Full responses were received from Baden-Württemberg, Niedersachsen, Nordrhein-Westfalen and Sachsen. Information was also received from seven other Länder; Bayern, Bremen, Hamburg, Hessen, Rheinland-Pfalz, Sachsen-Anhalt and Thüringen. Information returned from the Länder has been used for this country report and other research studies and websites have also been used.

1. Introduction

For the last thirty years the Federation had the legislative competence for the prison service. It primarily exercised this competence by creating the Prison Act (Strafvollzugsgesetz), which entered into force in 1977. The individual Federal Länder were only responsible for implementing the statutory provisions and for all associated administrative tasks. In September 2006, the constitutional order was changed and legislative competence was passed to the Länder. This means that there is now no central prison authority in Germany, and that the sixteen individual Federal Länder legislate and operate the prison service on their own. Although the Federal Prison Act is still in effect, the Länder can draft their own Prison Acts at any time. This means that there are sixteen independent prison systems in Germany with potentially sixteen different Prison Acts. So far, none of the Länder has drafted their own prison act.²

According to the International Centre for Prison Studies, in March 2006 there were 78,581 people imprisoned in Germany and the prison population rate was ninety-five per 100,000 of the national population (based on an estimated national population of 82.5 million). Prisoners awaiting trial accounted for 18.6 per cent of the total prison population, women prisoners accounted for 5.2 per cent and foreign nationals accounted for 28.2 per cent. In 2005, there were 203 penal institutions of which twenty were open institutions. Occupancy level in the prison system was at ninety-eight per cent in March 2006.³

2. Women prisoners in Germany

The German administration appears to be well aware of the problems of imprisoning women. 'Deprivation of liberty is a particular burden on women because they are excluded more rigorously from their social milieu, are abandoned by their partners more frequently, and suffer more because of the separation from their children'.⁴ Thus, one of the principles of imprisonment is to imprison prisoners as close to their homes as possible. However, in the information sent to us by the Federal Government it states: 'since female prisoners are accommodated predominantly in central institutions in view of their small numbers, their families have to travel long distances and bear the costs incurred. Also, arranging relaxation of prison conditions and leave is much harder to organise for female prisoners because of the distances involved.'⁵

¹ Germany is a Federal Republic, made up of sixteen states known as Länder (singular: Land).

² Personal correspondence with the Prison and Probation Service, the Federal Ministry of Justice, December 2006

³ *International Centre for Prison Studies*, World Prison Brief, Prison Brief for Germany [online], accessed 3 April 2007, available at <http://www.prisonstudies.org/>

⁴ Commentary accompanying returned QCEA questionnaire

⁵ *ibid.*

The Federal Government is also aware of the differences between men and women in how they react to imprisonment. 'Whereas in institutions for men a prisoner will, for example, wreck his cell in a fit of anger or despair to let off steam, women tend to turn their aggression towards themselves. So there are many more instances of self-inflicted injuries involving women' and 'physical aggression and anti-social behaviour [of women] are an exception, whilst resignation and disorientation predominate.' Also, 'a lot of women experience the confinement of imprisonment, the regimented daily routine, lock-up and controls as personal mistrust'.⁶ The government recommends avoiding custodial measures as far as possible due to 'the low degree of social harmfulness and danger' that women present.

Germany, like some other countries in northern Europe, operates under a principle of normalisation. 'The object of imprisonment is to enable prisoners to lead a life of social responsibility without committing criminal offences. This means that life in penal institutions shall be approximated as far as possible to general living conditions outside [and] that detrimental effects of imprisonment shall be counteracted', writes the Federal Government. This should govern all aspects of imprisonment including contact with families.

Prisons

Only six of the Länder have single-sex women's prisons whereas other Länder have women's units attached to men's prisons. Many prisons holding women have mother and baby units but juveniles and women with young children in Bremen have to be sent to another Land.

Prisoners should have individual cells but can lawfully be held together if being accommodated in an individual cell endangers the prisoner. The criteria covering prison accommodation are covered in §§ 18, 201 Nr. 3 StVollzG (Strafvollzugsgesetz).

Crimes

According to a study by the University of Greifswald, which surveyed 116 women prisoners in five German prisons, the top four crimes for which women are imprisoned are property offences (thirty-six per cent), drug offences (28.8 per cent), robbery (14.4 per cent) and homicide (nine per cent).⁷

3. Women awaiting trial

Pre-trial detention appears to be used less for women than for men. Four per cent of people judged in court were previously awaiting trial (former West Germany & Berlin), for women only the figure is 1.7 per cent. The length of detention while awaiting trial is also lower for women than for men.⁸

4. Contact with the outside world

The law guarantees prisoners one visit per month. Extra visits are organised for mothers in prison, which last for one hour. Family days are also arranged.

⁶ *ibid.*

⁷ Dünkel, F., C. Kestermann & J. Zolondek, *Internationale Studie zum Frauenstrafvollzug, Bestandsaufnahme, Bedarfsanalyse und 'best practice'*, (Department of Criminology: University of Greifswald, 2005), p. 23.

⁸ Jorg-Martin Jehle, *Criminal Justice in Germany Facts and Figures*, Fourth Ed. (Berlin: Federal Ministry of Justice, 2005), pp. 21-22.

Prisoners who are not at risk of absconding or committing new crimes are granted leave and relaxation of certain conditions to help prepare them for reintegration. Prisoners have twenty-one days of leave per year and extra leave may be granted for special reasons including family events. Prisoners from the open prison in Freistaat Thüringen can go out to visit family at weekends.

The administration in Bayern states that they are keen to support social contacts and family ties. Marriage guidance and family counselling are available and NGOs are brought in to support prisoners. Prisoners are given home leave and the prison tries to be sensitive to family needs during visits. Bayern reports that thirty-one per cent of adult female prisoners are married, compared to twenty-five per cent of men; and twenty-seven per cent of female prisoners are divorced, compared to twenty per cent of men.⁹

A prisoner in Bremen who filled out our questionnaire described visiting rooms as 'unattractive/ depressing'.

5. Motherhood in prison

The study by the University of Greifswald found that 67.8 per cent of the 116 women prisoners they surveyed were mothers.¹⁰

Pregnancy and birth

Pregnant women get additional fruit and dairy produce in their diet.

Babies in prison

There are mother and baby units in eight of the Länder where children can live with their mothers until the age of three. Open prisons in some Länder accommodate children up to the age of six (the age at which children start school). Guidelines are the responsibility of the Länder, not the Federal Government. Specialist staff are available to train women in child care. There are a number of special provisions which allow mothers to leave the prison with their children.

It is unusual for women awaiting trial to be accommodated with their child in a mother and baby unit. In such cases, approval from the judge and the Guardianship Court is required.

In Hessen, a mother and baby unit was set up in 1975 for eight mothers and twenty children. In 1998, a second unit was built so that there is now one open regime and one closed regime mother and baby unit.¹¹ In Bayern, there is a mother and baby unit for ten women and children can stay until they are four years of age. In Bayern, women prisoners who are over six months pregnant are sent to Aichach, which has a mother and baby unit with places for ten women.

⁹ Information sent to QCEA from Bayern

¹⁰ Dünkel *et al.*, *Internationale Studie zum Frauenstrafvollzug, Bestandsaufnahme, Bedarfsanalyse und 'best practice'*, p. 7.

¹¹ Information sent to QCEA from Hessen

Children on the outside

The study by the University of Greifswald found that 37.3 per cent of the children who were separated from their mothers were cared for by their father, and 32.2 per cent were cared for by grandparents. Only 5.1 per cent were in state care.¹²

It is also possible for mothers to get work-release from prison in order to look after their household and children.

6. Health

The government writes that psychosomatic symptoms are more common amongst women prisoners than male prisoners e.g. skin diseases, headaches and stomach problems. In Bremen, basic health care is offered in prison and a dentist comes in to treat the prisoners. Women go out to see specialists.¹³ In Freistaat Thüringen, women go to the medical department of another prison where men are also treated. Doctors are brought in from the outside, e.g. for gynaecology. Prisoners can be taken to external facilities if necessary.

Our prisoner questionnaire respondent from Bremen did not think that she received good medical treatment while in prison.

Dotzauer estimates that 50-75 per cent of women in prison at Aichach prison (Bayern) had been sexually abused prior to imprisonment.¹⁴ The German government writes 'many women have experienced violence before being imprisoned and are therefore sensitive and aggressive in their reaction to every form of coercion.'¹⁵

Mental health

Mentally ill offenders in Germany are subject to certain legal regulations. Offenders who are not criminally responsible (i.e. they are considered not guilty on the grounds of diminished responsibility) and are not considered dangerous are hospitalised in general clinical psychiatric institutions. Offenders deemed likely to commit further offences who are also considered to have at least diminished responsibility are sent to special secure forensic psychiatric hospitals 'regardless of the therapeutic prognosis'. 5,118 prisoners were held in such institutions on 31 March 2003. All other mentally ill offenders, such as those suffering from schizophrenia (who are held criminally responsible despite their illness), may be sentenced to prison.

There is no empirical base for determining whether prisoners in Germany have an increase in mental disorders attributable to inadequate 'de-hospitalisation programmes'. Indeed, research dealing with the treatment needs of prisoners 'seems to be in its infancy'. 'Where treatment needs are investigated by research, a large number prove to be unmet.' Konrad recommends screening for mental ill health on admission to prison, pointing out that although prisoners are required to undergo a medical examination on entering prison this does not include screening for mental health problems.¹⁶

¹² Dünkel *et al.*, *Internationale Studie zum Frauenstrafvollzug, Bestandsaufnahme, Bedarfsanalyse und 'best practice'*, p. 22.

¹³ Information sent to QCEA from Bremen

¹⁴ *ibid.*

¹⁵ Commentary accompanying returned QCEA questionnaire (from the Federal Government)

¹⁶ Konrad, N., 'Managing the Mentally Ill in the Prisons of Berlin', *International Journal of Prisoner Health* 1, no. 1 (March 2005), pp. 39-42.

A survey by the University of Greifswald found that, out of the 116 women prisoners in five German prisons that they surveyed, 30.3 per cent experienced heightened symptoms of depression and 22.2 per cent experienced high symptoms of depression.¹⁷ 58.3 per cent of women reported suffering from sleep problems.¹⁸ There were no suicide attempts in the five prisons that were surveyed.¹⁹

With regard to women, Konrad writes that: 'while the percentage of women has a slight preponderance in the general psychiatric and criminally responsible populations, the 1:30 female: male ratio found in hospitalised mentally ill offenders approximately corresponds to the ratio for prisoners in the penal system.' Women prisoners who require hospitalisation usually have therapy outside prison.²⁰

In short, 'compared with psychiatric care outside prison, the principle of equivalence fails as a fundamental guide in many places.' This has possible implications with regard to re-offending rates; it was found that in a 'quasi-experimental' study that recidivism of offenders who had received twenty therapeutic sessions was 35.9 per cent compared with 47.7 per cent of an untreated control group in a regular prison.²¹

Substance addiction

The number of female drug addicts fluctuates between thirty-five and seventy per cent of the total number of women in prison compared to that of between ten and forty per cent for male prisoners.²² The study by the University of Greifswald found that 5.7 per cent of women prisoners they surveyed need help for alcohol problems but only 0.9 per cent of women receive such help. In addition, 24.6 per cent of the women prisoners they surveyed are receiving help for a drug problem but 34.8 per cent are in need of such help.²³ Many of these women are long-term drug addicts who do not believe they are capable of staying free of drugs.

In Germany there is drug rehabilitation both within prisons and in external institutions. Not all women's prisons offer drug substitution although the majority of men's prisons do. Women in prison are more likely to take up the offer of drug rehabilitation than when they are free as it is an escape from prison. However, there are few drug rehabilitation places on courses that are tailored to the needs of women with prison experience.

In Bremen, forty-six per cent of female prisoners are addicted to drugs. Treatment includes: counselling, health education, substitution, psycho-social treatment, medical treatment, and referral to external rehabilitation for women in the open section.²⁴

Prisoners with drug or alcohol problems will not be put in open prisons, according to the administration in Freistaat Thüringen.²⁵

Needle exchange programmes were started in three prisons in 1996, including a women's prison. After a two-year pilot phase needle exchange programmes were expanded to four other

¹⁷ Dünkel *et al.*, *Internationale Studie zum Frauenstrafvollzug, Bestandsaufnahme, Bedarfsanalyse und 'best practice'*, p. 30.

¹⁸ *ibid.*, p. 32.

¹⁹ *ibid.*, p. 38.

²⁰ Konrad, 'Managing the Mentally Ill in the Prisons of Berlin', pp. 44-45.

²¹ *ibid.*

²² Commentary accompanying returned QCEA questionnaire (from the Federal Government)

²³ Dünkel *et al.*, *Internationale Studie zum Frauenstrafvollzug, Bestandsaufnahme, Bedarfsanalyse und 'best practice'*, p. 27.

²⁴ Information sent to QCEA from Bremen

²⁵ *QCEA questionnaire*

prisons. However, over the last two years, six of these programmes have been cancelled 'despite the encouraging results of scientific evaluation, and positive practical experiences of the prisons'. This was due to the 'increasing attack from German political leaders, elected to office on a zero-tolerance to drugs platform, and who have used the issue of prison needle exchange programmes to advance their political interests.' Lichtenberg women's prison still has a syringe dispensing machine.²⁶

7. Education, work and training

Education

Participation is voluntary. Long-distance learning is mostly taken up by prisoners serving long sentences.

In Rheinland-Pfalz prisoners get grants for education. Basic school education is offered in the juveniles' units, adult men can be moved here to take up this education but there are no places available for women. There are 200 places available in the women's unit for vocational and further education. Subjects are: construction, metalwork, electronics, book-binding, housekeeping, woodwork, car mechanics, soldering, technical draughtsmanship, machine-tool mechanic, and training to become a locksmith, cobbler or carpenter. Modern apprenticeships are offered as well as distance learning, literacy courses and German for foreigners.

In Bremen education opportunities depend on whether women are eligible for the open unit. If so, women can go out to take classes. Inside, the prison offers basic education, special education for people with learning difficulties, literacy and IT training.²⁷ Co-education was stopped in Bremen following cases of sexual harassment.²⁸

In Freistaat Thüringen there are accredited courses in landscape gardening and floristry and 'all women tend to participate in this'. Prisoners are paid to take courses (about ten per cent of the minimum wage).²⁹ In Bayern training includes bakery, hairdressing, and tailoring.

Work

Work is considered to be part of the rehabilitation process although unemployment in prisons is at fifty per cent. Sentenced prisoners are required to work, but prisoners awaiting trial are not. In Rheinland-Pfalz mothers on maternity leave and women over sixty-five are not required to work. All prisoners are only required to do work which they are physically able to do.³⁰ Prisoners work the same hours as other public sector workers.

Work release is possible in order to hold down a job or undertake vocational training and there is work available within prisons. It is also possible to have an individual work contract in Rheinland-Pfalz.

Women are at a disadvantage to men because it is harder to offer a good range of vocational training courses in institutions for women. If there is a men's prison nearby, co-educational

²⁶ Lines, R., R. Jörgens, G. Betterdige, and H. Stover, 'Taking action to reduce injecting drug-related harms in prisons: The evidence of effectiveness of prison needle exchange in six countries', *International Journal of Prisoner Health* 1, no. 1 (March 2005), p. 53.

²⁷ Information sent to QCEA from Bremen

²⁸ *Prisons de femmes en Europe*, Observations Allemagne [on-line], accessed 3 April 2007, available at <http://prisons.de.femmes.free.fr/allemande.html>

²⁹ Information sent to QCEA from Freistaat Thüringen

³⁰ QCEA questionnaire

training will be arranged, but the government believes it is preferable if women can go out to take training courses as this is more in accordance with the normalisation of prison life and the aim of rehabilitation.

Prisoners only get part of their wages. Three sevenths are given to them in prison and the rest is kept for release.

In Bayern, most of the work is situated in Aichach prison so that in other prisons work is limited to prison maintenance work or contracted work that is easy to put together such as electronics, packing and sewing.

In Rheinland-Pfalz, if prisoners are in work they get a maximum of six days per year paid leave which they can choose to have as home leave or as a sentence reduction.

Other activities

Leisure activities, such as crafts, discussion groups and sports, are offered by both the prison and external groups. The government sees this as 'an opportunity to train for the sensible use of one's leisure time after release'.³¹ This view was corroborated by Rheinland-Pfalz, describing leisure activities in their questionnaire as 'part of reintegration' and social training. Activities include problem-centred group discussion, group activities with and without guidance, hobby groups and sport.³²

8. Minority groups

Juveniles

Rates of juvenile crime are high in Germany although juvenile crime tends to involve less serious offences such as petty theft. One tenth of juvenile offenders are female.³³

Foreign nationals

In 2003, foreign nationals comprised 25.7 per cent of the female prison population in Bremen, and thirty-three per cent in Bayern.³⁴

9. Security and punishment

Disciplinary sanctions include a restriction of spare time, a restriction on relations with the outside world, prohibition on receiving visits for up to three months, cutting wages, disallowing days out and being held in an isolation cell for up to four weeks. Disallowing the daily walk is no longer a punishment.

Konrad writes that the more behaviourally disturbed prisoners are treated as a disciplinary problem instead of individuals with mental health needs. Some are placed in disciplinary segregation rather than receiving psychiatric care.³⁵

³¹ Commentary accompanying returned QCEA questionnaire (from the Federal Government)

³² Information sent to QCEA from Rheinland

³³ Jehle, *Criminal Justice in Germany Facts and Figures*, pp. 15 and 38.

³⁴ Information sent to QCEA from Bremen and Bayern

10. Staff and management

Male staff are employed in contact positions with women in some institutions in order that prison conditions reflect life outside. A German prisoner who was being held in a women's unit in a male prison wrote that there were no female staff on duty at night. Male staff should not be in sole charge of women's accommodation at night. Despite the apparently well thought through policy of normalising prison conditions, this contravenes international standards.

11. Additional information

Resettlement and recidivism

Of the 116 women prisoners in German prisons surveyed by the University of Greifswald, 40.2 per cent had been in prison before.³⁶

In some big cities there are centres run by welfare associations which give women counselling, advice and assistance with housing etc. This may begin in prison and continue on release. There is a need to expand existing facilities.

³⁵ Konrad, 'Managing the Mentally Ill in the Prisons of Berlin', p. 45.

³⁶ Dünkel *et al.*, *Internationale Studie zum Frauenstrafvollzug, Bestandsaufnahme, Bedarfsanalyse und 'best practice'*, p. 7.