

COUNTRY REPORT

IMMIGRATION DETENTION IN GERMANY: FROM OPEN ARMS TO PUBLIC BACKLASH

AUGUST 2020

 GLOBAL **DETENTION** PROJECT



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THE GLOBAL DETENTION PROJECT MISSION

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

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Front cover images: Residents of the initial reception facility on the Suhler Friedberg stand behind the locked entrance gate on 14 March 2020 © Frankphoto.de

This report is also available online at www.globaldetentionproject.org

CONTENTS

Glossary	5
Key Findings	6
1. Introduction	7
2. Laws, Policies, Practices	10
2.1 Key norms	10
2.2 Covid-19 response	11
2.3 Grounds for administrative migration-related detention	14
2.4 Criminalisation	15
2.5 Asylum seekers	16
2.6 Children	18
2.7 Other vulnerable groups	20
2.8 Length of detention	21
2.9 Procedural standards	22
2.10 Non-custodial measures (“alternatives to detention”)	24
2.11 Detaining authorities and institutions	25
2.12 Regulation of detention conditions and regimes	25
2.13 Domestic monitoring	26
2.14 International monitoring	27
2.15 Transparency and access to information	28
2.16 Trends and statistics	29
2.17 Privatisation	31
2.18 Daily cost of detention	34
3. Detention Infrastructure	35
3.1 Summary	35
3.2 Known detention facilities	38
3.3 Conditions and regimes in detention centres	38
3.3a Overview	38
3.3b Berlin-Lichtenrade	39
3.3c Bremen	39
3.3d Büren	40
3.3e Darmstadt-Eberstadt	41
3.3f Dresden	42
3.3g Eichstätt	42
3.3h Erding	42
3.3i Hamburg	43
3.3j Hannover (Langenhagen)	44
3.3k Munich Airport Hangar	44
3.3l Ingelheim	45
3.3m Pforzheim	46
3.3n Medium-term airport detention centres	46



GLOSSARY

CAT	UN Committee against Torture
CJEU	Court of Justice of the European Union
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CRC	UN Committee on the Rights of the Child
GDP	Global Detention Project
WGAD	UN Working Group on Arbitrary Detention



KEY FINDINGS

- Following the 2014 CJEU ruling in *Bero and Bouzalmate*, which obliged Germany to stop using prisons for immigration detention purposes, several new dedicated detention facilities were opened.
- Recent amendments to the country's migration legislation expanded the concept of absconding as well as grounds for detention. The recent amendments also temporarily removed the prohibition on using prisons for immigration purposes.
- Germany does not consider confinement during border asylum procedures in airport transit centres to be a form of detention.
- Criteria for finding a risk of absconding are not exhaustively enumerated in legislation and create a presumption of an intention to abscond, which the person is required to rebut.
- Immigration measures are implemented at the state (Länder) level and regulations of conditions of detention thus vary across the country. The de-centralised system also complicates efforts to get up-to-date information about detention practices as federal authorities invariably claim they are unable to answer questions concerning detention and other policies.
- German legislation does not clearly enumerate non-custodial “alternatives to detention.”
- Although Germany has not experienced the rampant privatisation of immigration detention seen in the UK and other countries, private contractors have been involved in the care and custody of immigration detainees and have some facilities.
- Detainees are required to pay for their detention in order to be able to re-enter the country at a later stage.
- During the Covid-19 crisis, reports indicate that many immigration detainees were released from detention facilities and that some centres were temporarily emptied.
- Although authorities temporarily suspended Dublin Transfers during the pandemic, an Interior Ministry procedural note stressed that where possible, returns should continue.



1. INTRODUCTION

A main destination for asylum seekers and migrants in the EU, Germany has received the highest number of asylum seekers in the EU since 2012. The country also apprehends and returns among the highest numbers of non-citizens annually in Europe: in 2019, a total of 25,140 third-country nationals were returned following an order to leave.¹ After the initial onset of the refugee “crisis” in 2015, the country adopted a welcoming posture to refugees. That year, the country took in approximately 890,000 refugees and asylum seekers² and Chancellor Angela Merkel declared that Syrian refugees were welcome to stay—regardless of where they had first entered the EU.³

Since then, however, the country has pursued more restrictive measures, in part due to the fact that migration has become a top political issue amongst many Germans—and a particular focus for the far right. Measures have included increased rates of deportations to Afghanistan;⁴ new limitations on family reunion;⁵ plans to set up shelters for returned children in Morocco;⁶ and the resumption of returns to Greece under the EU Dublin Regulation.⁷

This resumption of returns to Greece in 2017 was soon followed by other efforts to increase removals, including the launch of a controversial campaign by the Interior Ministry featuring posters encouraging non-nationals to return to their country of origin by promising to pay each returnee a year's worth of rent.⁸ In 2019, the country adopted the Orderly Return Law,

¹ Eurostat, “Asylum and Managed Migration,” <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>

² C. Kroet, “Germany Revises 2015 Number of Migrant Arrivals,” *Politico*, 30 September 2016, <https://www.politico.eu/article/germany-revises-2015-number-of-migrant-arrivals-thomas-de-maiziere/>

³ A. Hall and J. Lichfield, “Germany Opens its Gates: Berlin Says all Syrian Asylum-Seekers are Welcome to Remain, as Britain is Urged to Make a ‘Similar Statement,’” *Independent*, 24 August 2015, <https://bit.ly/2GjbKwr>; K. Connolly, “Angela Merkel Defends Germany’s Refugee Policy After Attacks,” *The Guardian*, 28 July 2016, <https://bit.ly/2YUSyvp>

⁴ M. Bulman, “Germany Suspends Deportations to Afghanistan Following Kabul Attack,” *Independent*, 31 May 2017, <https://bit.ly/2YUQmrx>; UNICEF, “Geplantes Gesetz zur besseren Durchsetzung der Ausreisepflicht muss das Wohl der betroffenen Kinder berücksichtigen,” 22 February 2017, <https://www.unicef.de/informieren/aktuelles/presse/2017/stellungnahme-unicef-ausreisepflicht/135618>.

⁵ AITIMA, “Serious Problem Regarding Family Reunification For Asylum Seekers In Germany Under Dublin III Regulation,” 14 July 2017, <https://bit.ly/3IF2R0g>

⁶ L. Gazzotti, “German Plans to Send Migrant Children to Reception Centres in Morocco Ignore Lessons from History,” *The Conversation*, 29 June 2017, <https://bit.ly/3bfAQaV>

⁷ BBC News, “Germany to Resume Sending Migrants Back to Greece,” *BBC News*, 7 August 2017, <http://www.bbc.com/news/world-europe-40850938>.

⁸ A. Buring, “Germany Offers a Year of Rent to Asylum Seekers who Return Home,” *Euronews*, 27 November 2018, <https://www.euronews.com/2018/11/27/germany-offers-year-of-rent-to-asylum-seekers-who-return-home>

which was aimed at increasing the number of returns. The law also introduced several restrictive amendments to Germany's migration and asylum legislation—including a new form of immigration detention, expanding the notion of the risk of absconding, and re-introducing the option for authorities to place non-citizens in prisons as an emergency measure until 2022.⁹

The re-introduction of the option for non-citizens to be placed in prisons was a significant about-face. Until 2014, the country had been one of a small handful of European states using prisons for the purposes of immigration detention. However, following the EU's Court of Justice (CJEU) ruling in *Bero & Bouzalmate*—in which the court ruled that Germany could not rely on the fact that there were no dedicated detention facilities in some of its federal states to justify holding non-citizens in prisons pending their removal—Germany was obliged to establish procedures enabling federal states without dedicated detention centres to place non-nationals in specialised facilities in other states.¹⁰

Since September 2018, Germany has operated 11 dedicated long-term immigration detentions in nine federal states. In 2018, Germany also established specific centres (Arrival, Decision and Municipal Distribution or Return Centres, or “AnkEr Centres”) in several federal states to accommodate asylum seekers during their asylum procedures and which—because of relevant authorities and actors being concentrated in the centre—allow asylum procedures to be accelerated and linked with return procedures.¹¹ Although those held in these facilities are permitted to exit the facility, according to the UN Committee against Torture (CAT), their isolated locations and the subsequent difficulty asylum seekers face in accessing medical and social services elsewhere results in residents facing enormous restrictions upon their liberty.¹²

Despite the restrictive measures taken at the federal level and growing negative attitudes towards migrants and asylum seekers, there have continued to be progressive actions from officials, individuals, and civil society groups. In 2018, for example, German pilots prevented the deportation of 506 people—having previously prevented the deportation of 314 in 2017, and 139 in 2016.¹³ More recently, in January 2020 a coalition of dozens of municipalities (the “Cities of Safe Harbours Initiative”) demanded that federal government resettle refugees and migrants rescued from the Mediterranean Sea or stranded in Greece or Italy. The

⁹ Pro Asyl, “Das ‘Geordnete-Rückkehr-Gesetz’ ignoriert rechtsstaatliche Grundsätze,” *Pro Asyl News*, 1 February 2019, <https://www.proasyl.de/news/das-geordnete-rueckkehr-gesetz-ignoriert-rechtsstaatliche-grundsaeetze/>; W. Wiedmann-Schmidt, “So will Seehofer mehr Abschiebungen durchsetzen,” *Spiegel Online*, 14 February 2019, <http://www.spiegel.de/politik/deutschland/grosse-koalition-horst-seehofer-legt-abschiebe-gesetz-vor-a-1253272.html>; Pro Asyl, “Achtung! Diese Mitteilung könnte künftig strafrechtliche Konsequenzen haben!,” *Pro Asyl News*, 18 February 2019, <https://bit.ly/2ELjQxp>

¹⁰ I. Majcher, “The EU Returns Directive and the Use of Prisons for Detaining Migrants in Europe,” *EU Law Analysis*, July 2014, eulawanalysis.blogspot.co.uk/2014/07/the-eu-returns-directive-and-use-of.html

¹¹ ECRE and AIDA, “The AnkEr Centres: Implications for Asylum Procedures, Reception and Return,” 2019, http://www.asylumineurope.org/sites/default/files/anker_centres_report.pdf

¹² UN Committee against Torture (CAT), “Concluding Observations on the Sixth Periodic Report of Germany, CAT/C/DEU/CO/6,” 11 July 2019, <https://bit.ly/382KcoE>

¹³ ECRE, “German Pilots Prevent 506 Deportations Amid Concerns over Rights Violations in Removal Procedures,” 10 May 2019, <https://bit.ly/3bnioqH>

municipalities—which included the cities of Potsdam and Düsseldorf—declared that they were ready to take in more people if the government were to allow it.¹⁴

Previously, several states had made similar demands for refugee children stranded in Greece, and the state of Thuringia had even voiced hopes to take in children even if the federal government were to refuse such relocations.¹⁵ In April 2020, 47 unaccompanied children were flown from Greece to Germany—a move which was both welcomed and criticised given the paltry number to be evacuated. This news was followed by an announcement by Germany’s Interior Minister in June 2020 that an additional 249 children had been flown to Germany.¹⁶ In July, the German government reported that federal states were willing to take in at least 2,100 refugees from Greek islands under a federal relocation agreement.¹⁷

Unlike some European countries such as [Spain](#) (which prohibited detention of over 60 days prior to deportation), Germany did not introduce a moratorium on new detention orders during the Covid-19 pandemic. However, reports indicate that many immigration detainees were released from detention facilities and some centres were reportedly emptied.¹⁸ According to civil society groups, people who were released were commonly transferred to asylum reception centres where they were required to remain.¹⁹ Meanwhile, although authorities temporarily suspended Dublin Transfers to and from all EU member states, in a 25 March Federal Interior Ministry [procedural note](#), the government stressed that whenever possible returns should continue to be carried out.²⁰

¹⁴ A. Davis, "Dozens of German Cities Petition to Take in More Refugees," *DW*, 13 January 2020, <https://www.dw.com/en/german-municipalities-demand-action-refugees-mediterranean/a-51990144>

¹⁵ B. Knight, "German State Considers Bringing Refugee Children from Greece Unilaterally," *DW*, 24 December 2019, <https://bit.ly/32JsZ1A>

¹⁶ Ekathimerini, "Germany Takes in Another 249 Minors from Greece," 10 June 2020, <https://bit.ly/3hPbu66>

¹⁷ Tagesspiegel, "*Seehofer verweigert Bundesländern Aufnahme von Geflüchteten*," 14 July 2020, <https://bit.ly/3jAens1>

¹⁸ European Council for Refugees and Exiles, "Information Sheet 5 May 2020: Covid-19 Measures Related to Asylum and Migration Across Europe," 5 May 2020, <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

¹⁹ G. Zandonini, "Migrants' Detention Will Not Stop with the Pandemic," *Open Migration*, 27 May 2020, <https://openmigration.org/en/analyses/migrants-detention-will-not-stop-with-the-pandemic/>

²⁰ Federal Ministry of Interior, "*Betreff: Corona-Virus, Entlastung der Ausländerbehörden*," 25 March 2020, <https://www.proasyl.de/wp-content/uploads/Austf%C3%BChrungen.pdf>



2. LAWS, POLICIES, PRACTICES

2.1 Key norms.

Core pieces of national legislation providing a framework for immigration detention

- 2008 Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory *Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet (Aufenthaltsgesetz)*
- 2008 Asylum Act (*Asylgesetz*)

Germany's legal framework for immigration detention is provided in two key pieces of legislation—the 2008 Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory (here, the Residence Act) and the 2008 Asylum Act.

Some of the provisions of the Residence Act are detailed in the 2009 General Administrative Regulation to the Residence Act (*Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz*). Procedural rules are provided in the 2008 Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction (*Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit*).

Within Germany's decentralised legal and administrative framework, the enforcement of immigration detention falls within the remit of each of the sixteen federal states. As such, federal legal provisions are intended to provide only a general framework for immigration detention.²¹ The Residence Act provides the grounds for detention, rules on the length of detention, and basic procedural safeguards. Yet, it contains few provisions dealing with conditions of detention. It is in each federal state's capacity to adopt such laws, since they are in charge of implementing detention orders. Only a few states have adopted specific laws regulating the enforcement of immigration (see 2.11 Regulation of detention conditions).²² In the remaining states the Prison Act (*Strafvollzugsgesetz*), complemented by non-binding federal states' standards, regulates conditions and overall detention regimes. This situation has been criticised by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which on numerous occasions has called upon the German authorities to ensure that detention pending deportation is

²¹ Federal Office for Migration and Refugees (EMN National Contact Point Germany), "The Use of Detention and Alternatives to Detention in Germany," 2014, <https://bit.ly/32JGQVv>

²² Federal government, "Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 18/3769," Drucksache 18/7196, 6 January 2016, <http://dipbt.bundestag.de/doc/btd/18/071/1807196.pdf>.

governed by specific rules reflecting the particular status of immigration detainees in all federal states.²³

2.2 Covid-19 response.

Did authorities issue a moratorium on new detention orders?	No
Were any immigration detainees released during the pandemic?	Yes
Were deportations ceased?	No

At the start of the pandemic, the GDP submitted information requests to all national contact points of the European Migration Network. This survey sought information pertaining to measures taken to protect immigration detainees and to better understand whether countries had introduced any new asylum legislation in response to the crisis. In response to the survey, Germany's national contact point—the Federal Office for Migration and Refugees (BAMF)—wrote that all such queries must be addressed to state (Länder) authorities. A BAMF official wrote, “In accordance with its state and constitutional structure, the individual federal states are responsible for the management of detention facilities in Germany. The Federal Office for Migration and Refugees as a federal authority can therefore not answer questions in this regard. I would therefore encourage you to consult the competent authorities at the state (“Länder”) level.”²⁴

Over many years, the GDP has repeatedly received responses like this to queries and official information requests that we have submitted to German authorities. However, given the unprecedented nature of the Covid-19 threat to detainees, the GDP considered it relevant to address the survey to BAMF, in particular in its role as the EU's European Migration Network contact point. Thus, we sent a follow-up message to the BAMF contact point, asking “Would it be accurate for us to interpret your response as indicating that the German EMN focal point is unaware of what is happening in immigration detention centres in the Länder during the Covid-19 crisis?” As of this report's publication, the GDP had yet to receive a response to this query.

Although the country did not introduce a moratorium on new detention orders during the pandemic, reports indicate that many immigration detainees were released from detention facilities.²⁵ On 17 April for example, [Pforzheim Detention Centre](#) was reported to be empty. While most detainees had been released by the end of March, a group of Nigerian detainees remained in the facility until mid-April when a Bavarian court ruled that it was impossible to deport them.²⁶ According to the German network [Refugees4Refugees](#), detainees were transferred from closed detention centres to asylum reception centres where they were

²³ For more details on this point, see, Global Detention Project, “Immigration Detention in Germany – 2014 Update,” October 2014, <https://www.globaldetentionproject.org/immigration-detention-in-germany>

²⁴ Federal Office for Migration and Refugees (BAMF), Email correspondence with the Global Detention Project, 13 May 2020.

²⁵ European Council for Refugees and Exiles, “Information Sheet 5 May 2020: Covid-19 Measures Related to Asylum and Migration Across Europe,” 5 May 2020, <https://bit.ly/32JPqUi>

²⁶ Rex Osa (Refugees4Refugees), Email correspondence with Katie Welsford (Global Detention Project), 18 June 2020; SWR, “Abschiebegefängnis in Pforzheim steht leer,” 17 April 2020, <https://www.swr.de/swraktuell/baden-wuerttemberg/karlsruhe/abschiebehaft-pforzheim-keine-insassen-100.html>

required to remain.²⁷ However, the emptying of some detention centres appears to have been short-lived—in the case of Pforzheim, by the last week of April 2020 seven detainees (from Morocco, Turkey, Algeria, and Ghana) were reportedly being held in the facility again, having been transferred into the centre from Darmstadt-Eberstadt Detention Centre (in neighbouring Hesse state).²⁸

Conditions in reception centres were regularly raised as a key area of concern during the early months of the pandemic. In several facilities, significant numbers of asylum seekers were confirmed to have contracted the virus. On 15 April, it was reported that within just five days, the number of positive cases in Ellwangen Reception Centre had shot up from seven to 251. Those confined inside complained of crowded conditions, shared facilities in which social distancing was essentially impossible, and a lack of protective equipment including disinfectant. As one resident said, “we stayed in the same building and flat as people who had been tested positive for two days. We used the same kitchens and had meals with them. Because of this neglect, we will also get corona.”²⁹ Similar concerns were reported in Halberstadt Reception Centre, where residents who had been locked down following several positive cases protested the conditions they were being confined in—which reportedly including up to 50 people sharing a single toilet.³⁰ In July, volunteers and social workers working in accommodation units in Munich reported that refugees quarantined in the shelters were permitted just thirty minutes of fresh air each day and spent the rest of their time in a space of seven square metres and in temperatures up to 50 degrees Celsius.³¹

In the state of Baden-Württemberg (in which the Ellwangen facility is located), the state’s refugee council expressed concern for the welfare of non-nationals held in reception facilities and called on all states across Germany to reduce cramped conditions in migrant centres. In Freiburg, 30 refugees were subsequently moved from a reception centre to hotels and hostels that were standing empty during the lockdown.³² Meanwhile, on 11 May a Court ruled that protections against Covid-19 at a refugee centre in the town of Rehine were “inadequate.” The court held that a pregnant woman and her husband living in the facility were not longer required to live in the facility. The couple had raised numerous health concerns, arguing that it was impossible to implement social distancing rules inside the cramped facility.³³

While German authorities stated that everyone, regardless of their status, can access Covid testing and treatment, migrant rights advocates have highlighted that undocumented migrants faced barriers in accessing such assistance. Hospitals and GPs in Germany were

²⁷ G. Zandonini, “Migrants’ Detention Will Not Stop with the Pandemic,” *Open Migration*, 27 May 2020, <https://openmigration.org/en/analyses/migrants-detention-will-not-stop-with-the-pandemic/>

²⁸ Rex Osa (Refugees4Refugees), Email correspondence with Katie Welsford (Global Detention Project), 18 June 2020.

²⁹ P. Olterman, “Refugees in German Centre Fear Lack of Protection as Covid-19 Cases Soar,” *The Guardian*, 15 April 2020, <https://bit.ly/31OwiVT>

³⁰ Are You Syrious. “Protests in German Reception Centres as More Residents Test Positive,” 6 April 2020, <https://bit.ly/2Gf13Lf>

³¹ Süddeutsche Zeitung, “*Quälende Quarantäne*,” 14 July 2020, <https://bit.ly/30ntg9j>

³² P. Olterman, “Refugees in German Centre Fear Lack of Protection as Covid-19 Cases Soar,” *The Guardian*, 15 April 2020, <https://bit.ly/3gOcbeT>

³³ DW, “German Court: Covid-19 Protection ‘Inadequate’ at Refugee Home,” 11 May 2020, <https://www.dw.com/en/german-court-covid-19-protection-inadequate-at-refugee-home/a-53395710>

obliged to provide emergency treatment to undocumented migrants, and medical practitioners are not required to pass information to immigration authorities. However, should an undocumented migrant wish to access planned care, postnatal care, preventive care, postnatal care, and care for infectious or sexually transmitted diseases, they were required to provide a document from the social welfare office—and these welfare offices are required to report undocumented migrants to immigration authorities.³⁴ Reportedly, migrants had to present this card should they seek Covid-19 testing and treatment—thus exposing them to the risk of arrest, detention, and deportation.³⁵ In the midst of a pandemic, the existence of such barriers to health care were extremely problematic. Said one migrants rights advocate said, “in the context of a spreading pandemic, states must ensure that preventative care, goods, services and information are available and accessible to everyone, regardless of their residence permit.”³⁶

According to figures released by the German government in response to an inquiry by the Leftist Party (*Die Linke*), 4,099 non-nationals were deported from Germany between January and March 2020—27 percent below the 5,613 deported during the same period in 2019.³⁷ This drop may have been linked to the cancellation of chartered deportation flights from March 2020 onwards. However, while Germany temporarily ceased Dublin Transfers to and from all EU member states in the wake of the pandemic (as well as transfers to Iceland, Norway, Switzerland, and Liechtenstein),³⁸ in a 25 March Federal Ministry of Interior [procedural note](#), authorities stressed that if possible, returns should continue to be carried out.³⁹ Reports indicate that some deportations have thus continued—despite the UN Network for Migration highlighting the dangers of returns amidst the pandemic.⁴⁰ For example, several rights groups reported the deportation of a non-national from Pforzheim Detention Centre to Turkey on 13 June.⁴¹

Regularly criticised for conducting forced deportations to [Afghanistan](#), on 31 March the Interior Ministry announced the temporary suspension of such deportations. This suspension followed Afghanistan’s 18 March 2020 plea to European states to halt all deportations to the

³⁴ The Commonwealth Fund, “Issues in International Health Policy,” December 2012, <https://bit.ly/2Gjc2U3>

³⁵ A. Grunau, “Coronavirus Pandemic Poses Threat to Undocumented Migrants,” *DW*, 13 May 2020, <https://www.dw.com/en/coronavirus-pandemic-poses-threat-to-undocumented-migrants/a-53425104>

³⁶ PICUM, “The Covid-19 Pandemic: We Need Urgent Measures to Protect People and Mend the Cracks in our Health, Social Protection and Migration Systems,” March 2020, <https://picum.org/wp-content/uploads/2020/03/COVID-19-Statement-March-2020.pdf>

³⁷ InfoMigrants, “Deportations from Germany Down in First Quarter of 2020,” 18 May 2020, <https://www.infomigrants.net/en/post/24809/deportations-from-germany-down-in-first-quarter-of-2020>

³⁸ European Council for Refugees and Exiles, “Information Sheet 5 May 2020: Covid-19 Measures Related to Asylum and Migration Across Europe,” 5 May 2020, <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>; InfoMigrants, “Deportations from Germany Down in First Quarter of 2020,” 18 May 2020, <https://www.infomigrants.net/en/post/24809/deportations-from-germany-down-in-first-quarter-of-2020>

³⁹ Federal Ministry of Interior, “*Betreff: Corona-Virus, Entlastung der Ausländerbehörden*,” 25 March 2020, <https://www.proasyl.de/wp-content/uploads/Ausf%C3%BChrungen.pdf>

⁴⁰ UN Network for Migration, “Forced Returns of Migrants Must be Suspended in Times of Covid-19,” 13 May 2020, https://migrationnetwork.un.org/sites/default/files/network_statement_forced_returns_-_13_may_2020.pdf

⁴¹ Aktion Bleiberecht, “*Imam C. wurde am frühen Morgen heimlich nach Istanbul abgeschoben! Er befand sich mit einem Mithäftling im Hungerstreik!*” 14 June 2020, <https://www.aktionbleiberecht.de/?p=17365>

country given that it was already struggling to care for its nationals returned from virus-struck Iran.⁴²

Persons who could not depart the country due to the crisis, meanwhile, were issued “tolerated stay” (“*Duldung*”)—a document which entitles the holder to remain in the country temporarily albeit with restricted social rights, but which still requires them to leave once deportation becomes possible.⁴³ However, the Federal Ministry of Food and Agriculture confirmed that between 1 April and 1 October 2020, those issued with “tolerated stay”—as well as asylum seekers whose cases have not been fully processed—are permitted to work in agricultural jobs in the country due to a high demand for labour within the agriculture sector.⁴⁴

2.3 Grounds for administrative migration-related detention.

Are grounds for administrative migration-related detention provided in law?	Yes
Are there reports of arbitrary migration-related detention?	No

The Residence Act provides several grounds justifying immigration detention.

If a non-citizen is refused entry at a port of entry but the refusal cannot be enforced immediately, the person is to be placed in “detention pending exit from the federal territory” (*Zurückweisungshaft*) (Section 15(5)). If a person has reached German territory by air and “detention pending exit from the federal territory” is not applied, the person is to be taken to an airport transit area or another place of accommodation from which exit from Germany is possible (Section 15(6)).

Besides border-related procedures, there are three main forms of immigration detention under the Residence Act: “custody to prepare deportation” (*Vorbereitungshaft*), “custody to secure deportation” (*Sicherungshaft*), and “custody to secure departure” (*Ausreisegewahrsam*). The first two categories—*Vorbereitungshaft* and *Sicherungshaft*—are both considered part of “custody awaiting deportation” (*Abschiebungshaft*) (Section 62).

If a decision on deportation cannot be reached immediately and deportation is deemed difficult or impossible without detention, a non-citizen may be placed in “custody to prepare deportation” (Section 62(2)). The General Administrative Regulation to the Residence Act explains that this measure is only permissible if the adoption of an expulsion order is legally possible and highly probable, yet the expulsion cannot be decided immediately. Such detention is permitted in particular where deportation is ordered within six weeks of the individual’s detention starting, and can be carried out within this period (Section 62.1.1).

⁴² InfoMigrants, “Germany Halts Deportations to Afghanistan in Light of Coronavirus,” 31 March 2020, <https://www.infomigrants.net/en/post/23784/germany-halts-deportations-to-afghanistan-in-light-of-coronavirus>

⁴³ European Council on Refugees and Exiles, “Information Sheet 5 May 2020: Covid-19 Measures Related to Asylum and Migration Across Europe,” 5 May 2020, <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>; Culture of Deportation, “Glossary – Duldung,” <http://cultureofdeportation.org/#glossary>

⁴⁴ InfoMigrants, “Germany to Allow Asylum Seekers to Work in Agriculture until October,” 22 April 2020, <https://www.infomigrants.net/en/post/24276/germany-to-allow-asylum-seekers-to-work-in-agriculture-until-october>

A person can be placed in “custody to secure deportation” if they represent a risk of absconding, are required to leave the federal territory on account of their unlawful entry, or received a deportation order based on a state security or terrorist threat has been issued but is not immediately enforceable (Section 62(3)).

The Orderly Return Law expanded the notion of absconding. The risk of absconding is presumed to exist if the person 1) deceives authorities regarding their identity, in particular by suppressing or destroying identity or travel documents or claiming a false identity, 2) missed a hearing or medical appointment without justification, 3) changed his place of residence without notifying the foreigners’ authority, when the departure period has expired, 4) stays in the country despite the entry ban, 5) has already evaded deportation in the past, or 6) declared his intension to evade deportation (Section 62(3a)). Concrete indicators of the risk of absconding include circumstances where the person 1) deceived authorities about his identity, 2) has paid a large sum of money to a third person to assist unlawful entry, 3) poses a considerable threat to the life and limb of third parties or internal security, 4) was sentenced to a prison sentence, 5) failed to cooperate to receive travel documents, 6) breached the residence restrictions after the expiration of the departure period, or 7) escaped authorities because they do not have a fixed address (Section 62(3b)).

The 2015 amendment to the Residence Act introduced “custody to secure departure” (*Ausreisegewahrsam*) and the amendment provided in the Orderly Return Law expanded this measure. Under Section 62b(1) a foreigner may be placed in this form of detention in particular when there is a risk of absconding and, 1) the period allowed for departure has expired (unless the foreigner was prevented from leaving or the period allowed for departure has been exceeded by an insignificant amount of time); 2) it is clear that deportation can be carried out within 10 days, and 3) the person has displayed behaviour indicating an intention to hinder deportation efforts, which is presumed if they fail to cooperate, deceive authorities regarding their identity, have been convicted of a crime, or have exceeded the deadline for departure by more than 30 days. Meanwhile, the detention order must be waived if the person can demonstrate a willingness not to evade deportation. “Custody to secure departure” is to be enforced in the transit area of an airport or in accommodation from which the foreigner’s subsequent departure is possible (Section 62b(2)) and can last up to 10 days.

The Orderly Return Law introduced a new form of immigration detention, namely detention to obtain participation (*Mitwirkungshaft*), which can last for up to two weeks. As such, under the amended Residence Act (Article 62(6)), non-citizens can be detained for identification or medical examination if they fail to cooperate and clarify their identity.

2.4 Criminalisation.

Does the country provide specific criminal penalties for immigration-related violations?	Yes
Can these penalties include prison sentences?	Yes
Are prisons sentences imposed in practice?	Rarely

The Residence Act provides that violations of various provisions can result in criminal penalties. Specifically, persons who commit one of the following offences face a one-year prison sentence or a fine (Section 95(1)): persons who reside in the federal territory without a recognised and valid passport, passport substitute, or other identification papers; reside in

the federal territory without a necessary residence title (including visa or temporary residence permit) and have failed to depart despite being ordered to do so; have unlawfully entered German territory; leave German territory if they intend to enter another state without being in possession of the necessary documents; do not collaborate with identification procedures; or repeatedly fail to meet reporting and geographic restrictions obligations.⁴⁵ While there are numerous cases of people being criminally charged for immigration-related violations, observers report that these processes rarely result in prison sentences.⁴⁶

2.5 Asylum seekers.

Is the detention of asylum seekers provided in law?	Yes
Maximum length of detention for asylum seekers	28 days
Maximum length of detention for persons detained upon arrival at ports of entry	19 days

According to Informationsverbund Asyl & Migration, asylum seekers are generally not detained as long as their application is not finally rejected and as long as they have a permission to stay.⁴⁷ In addition, although German law does not provide specific grounds justifying the detention of asylum seekers, they may still end up in immigration detention under the Asylum Act. In cases of entry by air, non-citizens coming from a safe country of origin or without identity documents who apply for asylum with the border authority may be kept in custody at airport premises during the asylum procedure for up to 19 days (Asylum Act, Section 18(a)).⁴⁸ In 1996, the German Federal Constitutional Court ruled that the placement of foreigners in airport transit zone premises does not constitute detention because, according to the court's reasoning, such persons have the option to leave by plane.⁴⁹ More recently, noting the ruling of the European Court of Human Rights in *Amuur v. France*, which concluded that accommodation in transit zones can amount to detention, the

⁴⁵ European Union Agency for Fundamental Rights (FRA), "Criminalisation of Migrants in an Irregular Situation and of Persons Engaging With Them," 2014, <https://bit.ly/3IG9SxO>

⁴⁶ UN Working Group on Arbitrary Detention (WGAD), "Report of the Working Group on Arbitrary Detention: Addendum: Mission to Germany, A/HRC/19/57/Add.3," 23 February 2012, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/DEIndex.aspx>

⁴⁷ Informationsverbund Asyl & Migration, "Country Report: Germany: 2018 update," *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, April 2019, p.90, <https://www.asylumineurope.org/reports/country/germany>

⁴⁸ If Federal Office for Migration and Refugees rejects the application within 48 hours, people have three days to appeal at a court, and the court has 14 days to decide about the case (if not people may enter the country as well), Timmo Scherenberg (Hessischer Flüchtlingsrat), Email correspondence with Izabella Majcher (Global Detention Project), August 2017; Informationsverbund Asyl und Migration, "Country Report: Germany," *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, December 2016, <http://www.asylumineurope.org/reports/country/germany>

⁴⁹ Decision of 14 May 1996 (case No. 2 BvR 1516/93), BVerfGE 94, 166, quoted in: UN Working Group on Arbitrary Detention (WGAD), "Report of the Working Group on Arbitrary Detention: Addendum: Follow-up mission to Germany, A/HRC/30/36/Add.1," 10 July 2015, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/DEIndex.aspx>

UN Working Group on Arbitrary Detention (WGAD) observed that this ruling had not led to any changes in German jurisprudence.⁵⁰

The criteria listed in Section 2(14) of the Residence Act justifying finding a risk of absconding (see 2.3 Grounds for detention) also justify finding a risk of absconding in Dublin cases. In addition to this, Section 2(15) provides that an asylum seeker may also pose a risk of absconding if they departed from another member state prior to the conclusion of Dublin or asylum proceedings, and if the circumstances of the determination made in the federal territory provide concrete indications that the person will not return to that state in the foreseeable future. According to observers, the majority of detained asylum seekers in Germany in 2012-2013 were subject to a transfer based on the EU Dublin Regulation.⁵¹

Additionally, if a foreign national applies for asylum while already in immigration detention by virtue of the Residence Act, the asylum application will not hinder the ordering or continuation of detention (Asylum Act, Section 14(3)).

In 2011, CAT issued a number of recommendations to Germany with respect to its treatment of asylum seekers. In particular, it recommended limiting the number of detained asylum seekers (including those who are subject to Dublin regulations); limiting the duration of their detention pending return; ensuring mandatory medical checks and systematic examination of mental illnesses or trauma; providing medical and psychological examinations by specially trained independent health experts when the signs of torture or trauma are detected; and providing adequate accommodation for detained asylum seekers—including their separation from remand prisoners in all detention facilities.⁵²

In 2018, a new procedure was introduced enabling the Federal Police to refuse entry at the Austrian-German land border. The objective was to facilitate the immediate removal of “Dublin cases” to Southern European countries. However, these returns are taking place without a Dublin procedure but rather through administrative arrangements with other EU Member States. At the start of 2019, only two of these agreements had been concluded with Spain and Greece and 11 forced returns had taken place (9 to Greece and 2 to Spain).⁵³

During the Covid-19 crisis, lock-down measures and movement restrictions prompted the Federal Office for Migration and Refugees to require asylum applicants to register in an initial reception centre where a proof of arrival (*Ankunftsnaehweis*) was also to be issued, and to complete an online application. Reportedly, the Federal Office concentrated its efforts

⁵⁰ UN Working Group on Arbitrary Detention (WGAD), “Report of the Working Group on Arbitrary Detention: Addendum: Follow-up mission to Germany, A/HRC/30/36/Add.1,” 10 July 2015, <https://bit.ly/2Zb8yd1>; UN Working Group on Arbitrary Detention (WGAD), “Report of the Working Group on Arbitrary Detention: Addendum: Mission to Germany, A/HRC/19/57/Add.3,” 23 February 2012, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/DEIndex.aspx>

⁵¹ Pro Asyl and Diakonie in Hessen and Nassau, “Schutzlos hinter Gittern: Abschiebungshaft in Deutschland,” June 2013, <https://www.proasyl.de/material/schutzlos-hinter-gittern-abschiebungshaft-in-deutschland/>

⁵² UN Committee Against Torture (CAT), “Consideration of Reports Submitted by States Parties under Article 19 of the Convention: Concluding Observations of the Committee Against Torture: Germany, CAT/C/DEU/CO/5,” 12 December 2011, www.ohchr.org/EN/countries/ENACARegion/Pages/DEIndex.aspx

⁵³ Informationsverbund Asyl & Migration, “Country Report: Germany: 2018 update,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, April 2019, p.11, <https://www.asylumineurope.org/reports/country/germany>

on making decisions without conducting asylum interviews—although mobile teams were deployed to conduct interviews when it was deemed necessary.⁵⁴

2.6 Children.

Is the detention of unaccompanied children provided in law?	Yes
Is the detention of accompanied children provided in law?	Yes
Number of detained children	9 (2018) ⁵⁵

German law provides for the detention of children. The Residence Act stipulates that children and families with children may be placed in pre-removal detention in exceptional cases but only for as long as is reasonable, taking into account the wellbeing of the child (Section 62(1)). However, Section 62.0.5 of the General Administrative Regulation to the Residence Act states that children below the age of 16 should not be detained, and that asylum seekers who are under 18 and whose request has been denied should remain in the same facility they were accommodated in during their asylum procedure until expulsion.

In practice, the Federal government reports that children are detained “extremely rarely.”⁵⁶ Non-governmental sources concur that the numbers of detained children have dropped since 2011, while in 2017, Informationsverbund Asyl & Migration noted that “no recent cases of detention of children have been reported.”⁵⁷ Citing information provided by federal states, the government noted in a response to a parliamentary inquiry that eight children were detained in 2015, 14 in 2016, 16 in 2017, and nine in 2018. However, as not all federal status provided statistics with breakdowns for age and type of detention (for instance, Hesse did not provide any age breakdown for its data, thus making it impossible to rule out the presence of children in detention) and some states were unable to provide complete data for the entire year of 2018, these statistics may not be entirely reliable.⁵⁸

Responding to an earlier parliamentary inquiry, the government reported that 15 children were placed in immigration detention in 2013; 55 in 2012; 61 in 2011; 114 in 2010; and 142

⁵⁴ European Council on Refugees and Exiles (ECRE), “Information Sheet 5 May 2020: Covid-19 Measures Related to Asylum and Migration Across Europe,” 5 May 2020, <https://bit.ly/2YVwQY5>

⁵⁵ Deutscher Bundestag, “Antwort der Bundesregierung auf die Grosse Anfrage der Abgeordneten Ulla Jelpke, Dr. André Hahn, Gökay Akbulut, weiterer Abgeordneter und der Fraktion DIE LINKE : Drucksache 19/448,” Drucksache 19/5817, 16.11.2018, <http://dip21.bundestag.de/dip21/btd/19/058/1905817.pdf>

⁵⁶ UN Working Group on Arbitrary Detention (WGAD), “Report of the Working Group on Arbitrary Detention: Addendum: Follow-Up Mission to Germany, A/HRC/30/36/Add.1,” 10 July 2015, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/DEIndex.aspx>

⁵⁷ Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), March 2018, <https://bit.ly/2GjIEyb>

⁵⁸ Deutscher Bundestag, “Antwort der Bundesregierung auf die Grosse Anfrage der Abgeordneten Ulla Jelpke, Dr. André Hahn, Gökay Akbulut, weiterer Abgeordneter und der Fraktion DIE LINKE : Drucksache 19/448,” Drucksache 19/5817, 16.11.2018, <http://dip21.bundestag.de/dip21/btd/19/058/1905817.pdf>

in 2009.⁵⁹ Again, this information should be read with caution because federal states have on some occasions been unable to provide adequate statistics (for more information on this issue, see 2.15 Transparency and access to information).

Considerable discrepancies exist between federal states in terms of both the regulation and practice of child immigration detention. Responding to a parliamentary inquiry in 2018, six federal states (Baden-Württemberg, Bavaria, Brandenburg, Hamburg, Hesse, and Saxony-Anhalt) noted that children were not detained in practice during 2015-2018. Three states (Lower Saxony, Rhineland Palatinate, and Schleswig-Holstein) declared that based on ministerial decrees (or detention centre instructions), children are generally not to be detained (the same applies to Saarland based on its agreement with Rhineland-Palatinate). Two states (Berlin and Thuringia) have age limits on child detention—in Thuringia children below the age of 16 cannot be detained, while in Berlin, up until the state's detention facility was operational, if children below 16 were apprehended, they were placed in child specific accommodation.⁶⁰ In the case of North Rhine-Westphalia, federal state regulations provide that if there is any doubt that a person is underage, the youth welfare office should immediately be contacted so that temporary accommodation, if necessary, can be organised.⁶¹ The states of Mecklenburg-Western Pomerania and Saxony simply declared that they do not have any detention facility in their territories.⁶² In 2015, Bremen had already declared that, according to a ministerial decree, in principle children are not to be placed in immigration detention.⁶³

Regarding conditions in detention for children, the Residence Act (Section 62a(3)) provides that age-dependent needs should be taken into account in line with Article 17 of the EU Returns Directive. According to this provision, children in detention should have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age, and, depending upon the length of their stay, should have access to education.

⁵⁹ Federal Government, "Response of the Federal Government to the Major Interpellation of the Deputies Ulla Jelpke, Jan Korte, Agnes Alpers, other MPs and the DIE LINKE: printed matter 17/10597: Implementation of the Deportation Policy of the European Union and the Practice of Detention," Ministry of Interior, 4 September 2012, dipbt.bundestag.de/dip21/btd/17/105/1710597.pdf; Pro Asyl and Diakonie in Hessen and Nassau, "Schutzlos hinter Gittern: Abschiebungshaft in Deutschland," June 2013, <https://www.proasyl.de/material/schutzlos-hinter-gittern-abschiebungshaft-in-deutschland/>. According to the EU Fundamental Rights Agency, there were no children detained on 31 December 2015, 31 March 2016, 1 September 2016, 15 November 2016, and 1 December 2016 but as noted earlier, these statistics may not be completely reliable, see: EU Fundamental Rights Agency, "European Legal and Policy Framework on Immigration Detention of Children," 2017, <http://fra.europa.eu/en/publication/2017/child-migrant-detention>

⁶⁰ Deutscher Bundestag, "Antwort der Bundesregierung auf die Grosse Anfrage der Abgeordneten Ulla Jelpke, Dr. André Hahn, Gökay Akbulut, weiterer Abgeordneter und der Fraktion DIE LINKE : Drucksache 19/448," Drucksache 19/5817, 16.11.2018, <http://dip21.bundestag.de/dip21/btd/19/058/1905817.pdf>

⁶¹ Nordrhein-Westfalen Landesregierung, "Gesetz über den Vollzug der Abschiebungshaft in Nordrhein-Westfalen (Abschiebungshaftvollzugsgesetz Nordrhein-Westfalen – HaftVolzG NRW)," 17 December 2015, https://recht.nrw.de/lmi/owa/br_text_anzeigen?v_id=71720170529104938957

⁶² Deutscher Bundestag, "Antwort der Bundesregierung auf die Grosse Anfrage der Abgeordneten Ulla Jelpke, Dr. André Hahn, Gökay Akbulut, weiterer Abgeordneter und der Fraktion DIE LINKE : Drucksache 19/448," Drucksache 19/5817, 16.11.2018, <http://dip21.bundestag.de/dip21/btd/19/058/1905817.pdf>

⁶³ Senator of the Interior and Sport, "Erlass e13-05-01 vom 15.05.2013, §62 Aufenthaltsgesetz (AufenthG) – Sicherungshaft – Grundsatz der Verhältnismässigkeit," Erlass, 15 May 2013, <https://www.inneres.bremen.de/sixcms/detail.php?gsid=bremen52.c.2422.de>; Federal Government, "Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 18/3769," Drucksache 18/7196, 6 January 2016, <http://dipbt.bundestag.de/doc/btd/18/071/1807196.pdf>

In addition, unaccompanied minors should as far as possible be provided with accommodation in institutions provided with personnel and facilities that take into account the needs of persons their age.

Pursuant to Section 62a(1), if several members of one family are detained, they should be accommodated separately from other detainees awaiting deportation and be guaranteed adequate privacy.

In 2014, the [UN Committee on the Rights of the Child \(CRC\)](#) expressed concern regarding the possibility for children to be detained for up to 18 months (which is the maximum length of immigration detention in Germany, applicable also to children). The committee found that this was a direct contravention of the right of the child to have their best interests taken as a primary consideration. The committee thus urged Germany to ensure that the detention of asylum-seeking and migrant children is always used as a measure of last resort and for the shortest appropriate time and that detention is subject to time limits and judicial review.⁶⁴

2.7 Other vulnerable groups.

What specific categories of vulnerable persons are prohibited from being placed in immigration detention?

- Individuals aged 65 or older
- Pregnant women
- Mothers within the statutory maternity protection regulations

The General Administrative Regulation to the Residence Act stipulates that individuals aged 65 or older, pregnant women, and mothers within the statutory maternity protection regulations should not be detained (Section 62.0.5). In addition, some federal states provide specific protection to vulnerable groups in their regulations. For instance, according to a decree of the federal state of Lower Saxony, pregnant women, unaccompanied minors and families or single parents with minor or school-age children are not to be placed in detention. According to the same decree, the situation of elderly, handicapped, and seriously ill people requires careful examination.⁶⁵ In the federal state of Schleswig-Holstein, authorities should in principle refrain from detaining children, single parents with children, pregnant, and breastfeeding women.⁶⁶ Detention centre regulations may also contain specific protections for vulnerable groups. The instructions of the Ingelheim detention centre in Rhineland-Palatinate posit that the facility is not suitable for the detention of children. They stipulate that unconscious, mentally ill, severely addicted, and acute suicidal persons requiring medical treatment are not detainable. Moreover, people aged 65 or above, pregnant women, and families or single parents with children should not be detained.⁶⁷

⁶⁴ UN Committee on the Rights of the Child (CRC), “Concluding Observations on the Combined Third and Fourth Periodic Reports of Germany, CRC/C/DEU/CO/3-4,” 25 February 2014, <https://bit.ly/2GIHJfD>

⁶⁵ Lower Saxony Ministry of Interior and Sport, “*Rechtliche Hinweise und verfahrensmässige Vorgaben zur Organisation und Durchführung des Rückführungs- und Rücküberstellungsvollzugs (Abschiebung) und zur Beantragung von Abschiebungshaft (Rückführungserlass)*,” Runderlass, 24 August 2016, <https://bit.ly/3gSAc49>

⁶⁶ Schleswig-Holstein Ministry of Interior, Rural Areas and Integration, “*Durchführung von Abschiebungshaft und Ausreisegewahrsam*,” Erlass, 1 September 2017, <https://bit.ly/3hRvDJ0>

⁶⁷ GfA Ingelheim, “*Geschäftsanweisung über das Verfahren zur Durchführung freiheitsentziehender Massnahmen in der GfA*,” 1 July 2015, <https://bit.ly/3lzTX4e>

Following its visit to Germany in November 2014, the WGAD noted its concern about the lack of procedures in several federal states for the identification of vulnerable asylum seekers, including unaccompanied minors or traumatised refugees. It urged Germany to prohibit pre-deportation custody orders against persons belonging to particularly vulnerable groups. The length of the detention should be reduced to the period of time strictly necessary for identification.⁶⁸

2.8 Length of detention.

Maximum length for administrative immigration detention in law

540 days

Length of detention depends upon the type of immigration detention. The duration of “custody to prepare deportation” should not exceed six weeks (Residence Act, Section 62(2)). However, the General Administrative Regulation to the Residence Act describes “atypical” scenarios in which immigration detention can last longer, for instance when there is a delay in ordering expulsion due to circumstances provoked by the detainee (Section 62.1.3).

Meanwhile, “custody to secure deportation” and “detention pending exit from the federal territory” may be ordered for up to six months. If an immigration detainee’s behaviour hinders their deportation, detention may be extended by an additional twelve months (i.e. detention can last up to a maximum of eighteen months) (Residence Act, Sections 62(4) and 15(5)). The General Administrative Regulation to the Residence Act provides examples of such behaviour, including failing to assist in providing or obtaining travel documents, breaching the requirement to surrender a passport, and refusing to contact the diplomatic mission of their country of origin. A 12-month extension is permissible in the same circumstances if the non-citizen has filed a subsequent asylum application (Section 62.3.2). Detention can also be extended when a person has been issued a deportation order based on a state security or terrorist threat, and which was not immediately enforceable and where the transmission of documents required for deportation is delayed. (Residence Act, Section 62(4)). The period of time a detainee has been subject to “custody to prepare deportation” should count towards the overall duration of “custody to secure deportation” or “detention pending exit from the federal territory” (Residence Act, Section 62(4)).

Until 2017, the duration of “custody to secure departure” could not exceed four days, but this was extended to 10 days by the 2017 amendment to the Residence Act (Section 62b(1)).⁶⁹ Asylum seekers arriving from “safe countries” can be confined in the airport transit zones for up to 19 days. However, as highlighted by Informationsverbund Asyl & Migration, Germany does not consider this procedure to be detention.⁷⁰

⁶⁸ UN Working Group on Arbitrary Detention (WGAD), “Report of the Working Group on Arbitrary Detention: Addendum: Follow-up mission to Germany, A/HRC/30/36/Add.1,” 10 July 2015, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/DEIndex.aspx>

⁶⁹ Stefan Kessler (Jesuit Refugee Service Germany), Email correspondence with Izabella Majcher (Global Detention Project), July-August 2017.

⁷⁰ Bundesamt für Migration und Flüchtlinge, “Flughafen Verfahren,” *Asyl und Flüchtlingsschutz*, <http://www.bamf.de/DE/Fluechtlingsschutz/Sonderverfahren/FlughafenVerfahren/flughafenverfahren-node.html>; Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA)*, *European Council on Refugees and Exiles (ECRE)*, March 2018, <https://bit.ly/3bdiLKE>

Persons who apply for asylum from detention should be released as soon as a positive decision on their application has been delivered, and no later than four weeks after the Federal Office for Migration and Refugees has received their application. Persons are not released, however, if another country has been requested to admit or re-admit the foreigner on the basis of EU law or an international treaty on the responsibility for processing asylum applications, or if the application for asylum has been rejected as inadmissible or manifestly unfounded (Asylum Act, Section 14(3)). Thus, the maximum one-month period of detention applies only to persons for whose asylum claims Germany is responsible. Those subject to the Dublin Regulation may stay in detention through the entire proceedings.

In 2015, the WGAD urged Germany to subject the duration of detention pending deportation to the strict application of the principle of proportionality and to limit it to the shortest possible period. It also recommended that the duration of pre-deportation custody be significantly decreased.⁷¹

On average, detention often lasts for less than six weeks and seldom exceeds six months.⁷²

2.9 Procedural standards.

What basic procedural standards are required by law?

- Information to detainees
- Right to legal counsel
- Access to asylum procedures
- Independent review of detention
- Right to appeal the lawfulness of detention
- Compensation for unlawful detention

A judicial order is required for a non-citizen to be placed in detention (Residence Act, Section 62(2)-(3)). Pre-removal detention decisions are the responsibility of the district courts where the non-citizen in question resides or, if they are not a permanent resident, where detention is to take place (General Administrative Regulation to the Residence Act, Section 62.0.3). Before the court makes a decision, the person concerned has the right to a personal hearing (Act on Procedure in Family Matters and in Non-Contentious Matters, Section 420).

However, authorities may detain without a prior judicial order if: 1) there is strong suspicion the person will be required to leave federal territory because of unlawful entry; 2) it is not possible to obtain the judicial order for detention to secure deportation beforehand; and 3) there is a well-founded suspicion that the non-citizen intends to evade the detention order. In such cases, the person is to be brought before the court without delay for a detention order (Residence Act, Section 62(5)).

Detention orders must provide reasons for detention and specify the date on which it will end (Act on Procedure in Family Matters and in Non-Contentious Matters, Sections 421-422;

⁷¹ UN Working Group on Arbitrary Detention (WGAD), "Report of the Working Group on Arbitrary Detention: Addendum: Follow-up Mission to Germany, A/HRC/30/36/Add.1," 10 July 2015, <https://bit.ly/2QK7Ezi>

⁷² Informationsverbund Asyl und Migration, "Country Report: Germany," *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), April 2019, <https://bit.ly/31NqYIK>

Residence Act, Section 62a(5)).⁷³ Court-ordered extension of detention is subject to the same rules as the initial detention order. The German legal framework thus provides for automatic judicial review of immigration detention. Detainees also have the right to appeal against detention orders before a regional court (Act on Procedure in Family Matters and in Non-Contentious Matters, Sections 425 and 429).⁷⁴ According to non-governmental sources in 2010, judges frequently issue detention orders even when authorities do not sufficiently explain the reasons justifying this measure.⁷⁵

As provided in the Residence Act, detainees are allowed to establish contact with legal representatives (Section 62a(2)), and concerned individuals can apply for legal aid.⁷⁶ In 2013, the Federal Court of Justice ruled that a person in pre-deportation detention should be provided with the means necessary to legally defend themselves against the detention order, including providing them with a lawyer if they do not have the financial means to pay for one themselves.⁷⁷ However, the allocation of free legal aid is contingent upon a court first determining the chances of success. Thus, in practice, free legal aid is rarely granted.⁷⁸

Migrants have the right to compensation for unlawful immigration detention but the rules are not explicitly laid down in the Residence Act. Those for whom this applies would need to rely on the Constitution and Civil Code.⁷⁹

In 2019, CAT urged Germany to ensure that immigration detainees have adequate access to an independent and effective mechanism for addressing complaints of torture and ill-treatment, and that all allegations are promptly, effectively, and impartially investigated. Those found to be responsible should be prosecuted and punished.⁸⁰

⁷³ H. Winkelmann, "The Act on Proceedings in Family Matters and in Matters of Voluntary Jurisdiction (FamFG) and its Procedural Implications," *Migrationsrecht.net*, 6 May 2014.

⁷⁴ Federal Office for Migration and Refugees (EMN National Contact Point Germany), "The Use of Detention and Alternatives to Detention in Germany," 2014, <https://bit.ly/2DhmCJZ>

⁷⁵ P. Fahlbusch, "Haft in Verfahren nach der Dublin II-Verordnung (Detention in the context of the Dublin procedure)," *Asylmagazin* 9/2010, 289-295.

⁷⁶ Federal Office for Migration and Refugees (EMN National Contact Point Germany), "The Use of Detention and Alternatives to Detention in Germany," 2014, <https://bit.ly/3INHZUS>; Informationsverbund Asyl und Migration, "Country Report: Germany," *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, April 2019, <https://www.asylumineurope.org/reports/country/germany>

⁷⁷ UN Working Group on Arbitrary Detention (WGAD), "Report of the Working Group on Arbitrary Detention: Addendum: Follow-up mission to Germany, A/HRC/30/36/Add.1," 10 July 2015, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/DEIndex.aspx>

⁷⁸ Informationsverbund Asyl und Migration, "Country Report: Germany," *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, April 2019, <https://www.asylumineurope.org/reports/country/germany> Informationsverbund Asyl und Migration, "Country Report: Germany," *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, December 2016, <http://www.asylumineurope.org/reports/country/germany>

⁷⁹ K. Hailbronner and D. Thym, "Completed Questionnaire for the Project Contention: National Report – Germany," 2014, <http://contention.eu/country-reports/>

⁸⁰ UN Committee Against Torture (CAT), "Consideration of Reports Submitted by States Parties under Article 19 of the Convention: Concluding Observations on the Sixth Periodic Report of Germany, CAT/C/DEU/CO/6," 14 May 2019, www.ohchr.org/EN/countries/ENACARRegion/Pages/DEIndex.aspx

2.10 Non-custodial measures (“alternatives to detention”).

Does the law require consideration of non-custodial measures as part of detention procedures?	Yes
Non-custodial measures in use	<ul style="list-style-type: none"> • Designated non-secure housing • Supervised release and/or reporting • Registration (deposit of documents)

Pre-removal detention is not permissible if the purpose of the custody can be achieved by other, less severe means (Residence Act, Section 62(1)).

However, unlike in most other EU countries, the Residence Act does not clearly enumerate “alternatives to detention.” The Residence Act does refer to the measure of “geographic restriction,” which limits a person’s geographic movement, however it is not explicitly framed as an alternative to detention. This measure may be ordered in a few circumstances, including if “concrete measures to terminate the stay are imminent against the foreigner” (Residence Act, Section 61(1c)(3) and 46(1)).⁸¹ The Residence Act also provides that further conditions and requirements may be imposed (Section 61(1e)). Examples of such measures provided in the General Administrative Regulation relating to the Residence Act (Section 46.1) include: reporting duties, obligation to attend return counselling, obligation to deposit a given amount of money, obligation to reside in a particular place, or obligation to surrender documents.⁸² Such measures are, however, seldom considered in practice.⁸³

The limited availability and use of alternatives have been flagged by the WGAD during its visits to Germany. Following its 2011 visit, the WGAD urged authorities to use alternatives to detention for non-citizens who do not have valid visas.⁸⁴ Following its 2014 visit, it also noted

⁸¹ Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, March 2018, <https://www.asylumineurope.org/reports/country/germany> ; Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, December 2016, <http://www.asylumineurope.org/reports/country/germany>; European Union Agency for Fundamental Rights (FRA), “Detention of Third-Country Nationals in Return Procedures,” November 2010, <http://fra.europa.eu/en/publication/2010/detention-third-country-nationals-return-procedures>; European Commission, “Communication from the Commission to the Council and the European Parliament on EU Return Policy, COM (2014) 199,” March 2014, <https://bit.ly/3jvFyUX>

⁸² Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, March 2018, <https://www.asylumineurope.org/reports/country/germany>; Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, December 2016, <http://www.asylumineurope.org/reports/country/germany>; European Union Agency for Fundamental Rights (FRA), “Detention of Third-Country Nationals in Return Procedures,” November 2010, <http://fra.europa.eu/en/publication/2010/detention-third-country-nationals-return-procedures>; European Commission, “Communication from the Commission to the Council and the European Parliament on EU Return Policy, COM (2014) 199,” March 2014, <https://bit.ly/3jyLk89>

⁸³ Informationsverbund Asyl & Migration, “Country Report: Germany,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, April 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_de_2018update.pdf

⁸⁴ UN Working Group on Arbitrary Detention (WGAD), “Report of the Working Group on Arbitrary Detention: Addendum: Mission to Germany, A/HRC/19/57/Add.3,” 23 February 2012, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/DEIndex.aspx>

that the principles of necessity and proportionality under international law require the use of detention alternatives.⁸⁵

2.11 Detaining authorities and institutions.

In Germany, foreigners' authorities, the Länder Police, and authorities charged with policing border traffic are responsible for immigration detention in (Residence Act, Section 71 paragraphs 1, 5, and 3 respectively).⁸⁶

2.12 Regulation of detention conditions and regimes.

Does German law provide for the use of prisons for immigration detention?	Yes
Does German law regulate conditions and treatment in detention?	Yes

Until the adoption of the Orderly Return Law in 2019, the Residence Act (Section 62(a)) provided that as a general principle, pre-removal detention should be enforced in specialised detention facilities. If there were no specialised detention facilities in the federal territory or if the person posed a significant threat to others or to state security, detention could be enforced in other custodial institutions—although in such cases, non-citizens were to be accommodated separately from criminal prisoners. This provision, effectively prioritising the use of dedicated facilities, was inserted as a response to the 2014 ruling of the [Court of Justice of the European Union](#) (CJEU) in *Bero & Bouzalmate*, which found the practice incompatible with the [EU Returns Directive](#). However, the Orderly Return Law reintroduced the possibility of detaining persons for immigration-related reasons in criminal prisons as an emergency measure until 2022 to make up for the alleged lack of beds in existing dedicated facilities.⁸⁷ Section 62(a)(1) of the Residence Act provides that immigration detainees should be confined separately from prisoners.

The Residence Act provides only basic principles for conditions and treatment in detention. It provides that if several members of a family are detained, they should be accommodated separately from other detainees awaiting deportation. They should be also guaranteed adequate privacy. Detainees awaiting deportation should be permitted to establish contact with legal representatives, family members, the competent consular authorities, and relevant aid and support organisations (Section 62a(1)-(2)).

In a growing number of federal states, the basic rules spelled out in the Residence Act are supplemented at the state level. Indeed, eight federal states have adopted specific laws—including [Berlin](#) (1995 *Gesetz über den Abschiebungsgewahrsam im Land Berlin*), [Brandenburg](#) (1996 *Gesetz über den Vollzug der Abschiebungshaft ausserhalb von Justizvollzugsanstalten*), [Bremen](#) (2001 *Gesetz über den Abschiebungsgewahrsam*), [Baden-](#)

⁸⁵ UN Working Group on Arbitrary Detention (WGAD), “Report of the Working Group on Arbitrary Detention: Addendum: Follow-up Mission to Germany, A/HRC/30/36/Add.1,” 10 July 2015, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/DEIndex.aspx>

⁸⁶ J. Grote, “*Abschiebungshaft und Alternativen zur Abschiebungshaft in Deutschland. Fokus-Studie der deutschen nationalen Kontaktstelle für das Europäische Migrationsnetzwerk (EMN)*,” Bundesamt für Migration und Flüchtlinge (BAMF), EMN, Working Paper No. 59, 2014, <https://bit.ly/32Ln0sX>

⁸⁷ W. Wiedmann-Schmidt, “*So will Seehofer mehr Abschiebungen durchsetzen*,” *Spiegel Online*, 14 February 2019, <https://bit.ly/2QLtCBY>

Württemberg (2015 *Gesetz über den Vollzug der Abschiebungshaft in Baden-Württemberg*), North Rhine-Westphalia (2015 *Gesetz über den Vollzug der Abschiebungshaft in Nordrhein-Westfalen* (amended in 2018)), Hessen (2017 *Gesetz über den Vollzug ausländerrechtlicher Freiheitsentziehungsmaßnahmen*), Saxony (2018 *Abschiebungshaftvollzugsgesetz*), and Hamburg (2018 *Gesetz über den Vollzug der Abschiebungshaft*).⁸⁸ Of these, half have adopted regulations in the past five years. Moreover, Schleswig-Holstein is also working to adopt legislation regulating immigration detention (at the time of writing, a draft was being discussed.)⁸⁹ Some states have adopted guidelines or instructions in the form of ministerial decrees and administrative regulations, including Lower Saxony, Schleswig-Holstein, Rhineland-Palatinate, Brandenburg, and Bremen.⁹⁰

These regulations provide a number of guarantees, including that detainees should be informed, if possible in their language, about their rights and obligations; men and women should be confined separately; family members should be accommodated together or at the least have the possibility to spend time together; detainees should be able to lodge complaints with the facility management, and have access to recreational activities and mail, and to receive visits.

2.13 Domestic monitoring.

Is the national human rights institution (NHRI) recognised as independent?	Yes
Does the National Preventive Mechanism carry out visits?	Yes
Do NGOs carry out visits?	Yes

Since 2009, the National Agency for the Prevention of Torture (*Nationale Stelle zur Verhütung von Folter*), composed of the Federal Agency and the Joint Commission of the States, has acted as Germany's National Preventive Mechanism (NPM) under the [Optional Protocol to the Convention against Torture \(OPCAT\)](#). As such, it carries out visits to detention centres across the country.⁹¹ In 2017, the NPM visited two immigration detention facilities, notably the Hamburg facility for custody to secure departure and the Eichstätt facility. The NPM applauded the fact that detainees were generally allowed to use their own

⁸⁸ Federal Government, "Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 18/3769, Drucksache 18/7196," 6 January 2016, <http://dipbt.bundestag.de/doc/btd/18/071/1807196.pdf>; S. Kessler, "Abschiebungshaft [online]," *Socialnet Lexikon*, 14 January 2019, <https://bit.ly/3i05CXG>

⁸⁹ S. Kessler, "Abschiebungshaft [online]," *Socialnet Lexikon*, 14 January 2019, <https://bit.ly/3bnVt4U>

⁹⁰ Lower Saxony (*Rechtliche Hinweise und verfahrensmäßige Vorgaben zur Organisation und Durchführung des Rückführungs- und Rücküberstellungsvollzugs (Abschiebung) und zur Beantragung von Abschiebungshaft (Rückführungserlass)*), Schleswig-Holstein (*Durchführung von Abschiebungshaft und Ausreisegewahrsam*), Thuringia (*Handakte für die Ausländerbehörden*), Rhineland-Palatinate (*Geschäftsanweisung über das Verfahren zur Durchführung freiheitsentziehender Massnahmen in GfA*), Brandenburg (*Erlass Nr. 12/2017 im Ausländerrecht. Durchführung der aufenthaltsrechtlichen Bestimmungen über die Beendigung des Aufenthalts (Rückführungserlass)*) and Bremen (*Erlasse e13-05-01 vom 15.05.2013 §62 AufenthG – Sicherungshaft – Grundsatz der Verhältnismässigkeit*).

⁹¹ National Agency for the Prevention of Torture, "Basic Documents," <https://www.nationale-stelle.de/en/the-national-agency/rechtsgrundlagen0.html>; National Agency for the Prevention of Torture, "National Agency for the Prevention of Torture," <https://www.nationale-stelle.de/en/the-national-agency.html>

mobile phones and had access to free WiFi in the Hamburg facility and that the Eichstätt centre offered psychological support.⁹²

Under Section 62a of the Residence Act, staff from relevant aid and assistance organisations may also visit immigration detainees upon request. Civil society groups, typically refugee councils of specific states, visit immigration detainees, such as in Hesse, Nordrhein Westfalen, or in specific cities like Munich or Hamburg An. Ecumenical advisory group has been involved in monitoring in Ingelheim and Caritas Frankfurt at the airport.

In 2019, CAT recommended that Germany ensure that independent national and international monitoring bodies and NGOs regularly monitor all places in which asylum seekers and migrants are detained.⁹³

2.14 International monitoring.

Does the country receive monitoring visits from the CPT (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment)?	Yes
Does the country receive visits from the Subcommittee on Prevention of Torture (SPT)?	Yes

As a state party to the [European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment](#), Germany receives regular monitoring visits from the CPT. During its most recent periodic visit in 2015, the CPT did not visit immigration detention facilities. However, in the course of an ad hoc visit to monitor a forced return flight to Afghanistan in 2018, the CPT visited the Eichstätt immigration detention facility. The committee recommended adapting former prison facilities to the specific needs of immigration detainees, as regards both material conditions and regime.⁹⁴ As a state party to the OPCAT, Germany should also accept visits of the [Subcommittee on Prevention of Torture \(SPT\)](#). The SPT visited the country in 2013 to provide assistance to the German NPM.⁹⁵

⁹² National Agency for the Prevention of Torture, "Annual Report 2017. Period under Review 1 January 2017 – 31 December 2017," 2018, <https://bit.ly/3IEgl7a>

⁹³ UN Committee Against Torture (CAT), "Consideration of Reports Submitted by States Parties under article 19 of the Convention: Concluding Observations on the sixth period report of Germany, CAT/C/DEU/CO/6," 14 May 2019, <https://bit.ly/3jub7yc>

⁹⁴ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the German Government on the Visit to Germany Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 15 August 2018, CPT/Inf (2018) 14," May 2019, <https://rm.coe.int/1680945a2d>

⁹⁵ Office of the High Commissioner for Human Rights (OHCHR), "Visits and Public Reports (Alphabetical Order)," https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/CountryVisits.aspx?SortOrder=Alphabetical

In the past few years the CAT (2011 and 2019)⁹⁶ and CRC (2014)⁹⁷ have expressed a number of concerns regarding the practice of immigration detention in Germany. The CAT urged the country to use detention as a last resort, reduce the length of detention, improve medical care, and ensure that the detention regime is suitable for its purpose and is strictly differentiated to that of penal detention. The CRC recommended that detention of children is always used as a measure of last resort, for the shortest appropriate time, and is subject to a judicial review. In 2011 and 2014, the WGAD visited Germany, and on both occasions the working group recommended that the country cease the detention of vulnerable persons, reduce the length of detention, and employ detention alternatives.⁹⁸

2.15 Transparency and access to information.

Is data pertaining to immigration detention readily available?	No
Was the country's EMN National Contact Point able to provide information to the GDP during the Covid-19 pandemic?	No

Accessing information on German immigration detention practices has historically been very challenging. These difficulties stem in part from the federal, decentralised nature of the country's immigration enforcement system. Because immigration detention is under the authority of regional (Länder) governments, federal authorities generally say that they are unable to answer questions about detention and other measures, instead referring researchers to local authorities, some of whom invariably do not respond to information requests.

During the Covid-19 pandemic, the GDP sent surveys to all national contact points of the [European Migration Network](#) seeking information regarding the treatment of refugees and migrants during the crisis. However, Germany's national contact point—the Federal Office for Migration and Refugees (BAMF)—stated that all queries must be forwarded to state authorities. BAMF wrote, “In accordance with its state and constitutional structure, the individual federal states are responsible for the management of detention facilities in Germany. The Federal Office for Migration and Refugees as a federal authority can therefore not answer questions in this regard.”⁹⁹

⁹⁶ UN Committee Against Torture (CAT), “Consideration of Reports Submitted by States Parties under Article 19 of the Convention: Concluding Observations of the Committee Against Torture: Germany, CAT/C/DEU/CO/5,” 12 December 2011, www.ohchr.org/EN/countries/ENACARRegion/Pages/DEIndex.aspx; UN Committee Against Torture (CAT), “Consideration of Reports Submitted by States Parties under Article 19 of the Convention: Concluding Observations on the Sixth Periodic Report of Germany, CAT/C/DEU/CO/6,” 14 May 2019, www.ohchr.org/EN/countries/ENACARRegion/Pages/DEIndex.aspx

⁹⁷ UN Committee on the Rights of the Child (CRC), “Concluding Observations on the Combined Third and Fourth Periodic Reports of Germany, CRC/C/DEU/CO/3-4,” 25 February 2014, www.ohchr.org/EN/countries/ENACARRegion/Pages/DEIndex.aspx

⁹⁸ UN Working Group on Arbitrary Detention (WGAD), “Report of the Working Group on Arbitrary Detention: Addendum: Mission to Germany, A/HRC/19/57/Add.3,” 23 February 2012, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/DEIndex.aspx>; UN Working Group on Arbitrary Detention (WGAD), “Report of the Working Group on Arbitrary Detention: Addendum: Follow-up Mission to Germany, A/HRC/30/36/Add.1,” 10 July 2015, <https://bit.ly/32HTy7j>

⁹⁹ Federal Office for Migration and Refugees, Email exchange with the Global Detention Project, 13 May 2020.

The GDP encountered a similar response in April 2013 following the submission of a joint request for information with [Access Info Europe](#). The statistics office also reported that while it had some statistics on the numbers of foreigners in prison, it did not collect statistics related to the immigration status of these prisoners.¹⁰⁰

2.16 Trends and statistics

Number of immigration detainees	2,777 (2018) (NB: figure incomplete)
Number of new asylum applications	184,180 (2018)
Non-nationals as a percentage of total population	16.6% (2018)
Number of non-nationals refused entry	5,180 (2018)
Number of non-nationals apprehended	134,100 (2018)
Number of returns	22,097 (2019)

Germany received an unprecedented influx of migrants and asylum seekers between 2014 and 2018; since 2012, the country has received the highest number of asylum applications in the EU. As its peak, 745,155 persons submitted asylum applications to the country's authorities in 2016 (77,484 applied in 2012; 126,705 in 2013; 202,645 in 2014; 476,510 in 2015; 222,560 in 2017; and 184,180 in 2018). With large numbers of arrivals, the country's foreign-born population has swelled: while 12 percent of the country's population was classified as foreign-born in 2010 (9,812,263 foreign-born persons in a population of 81,802,257), by 2018 it had shot up to 16.6 percent (13,745,843 foreign-born persons in a population of 82,792,351).¹⁰¹

The number of people refused entry to Germany has also increased in the past few years. In 2015, approximately 3,670 were refused, followed by 3,780 in 2016; 4,250 in 2017; and 5,180 in 2018. Since 2016, Germany has also apprehended the highest numbers of undocumented persons in the EU: approximately 370,600 were apprehended in 2016 (compared to 204,900 in Greece, the second highest number of apprehensions); 156,700 in 2017, and 134,100 in 2018. Germany also returns among the highest numbers of non-citizens annually. With approximately 32,100 people returned in 2018 it ranked first, and with 39,000 in 2017 is ranked second (after the UK which returned 47,200).¹⁰²

Between 2011 and 2013, the number of immigration detainees appeared to decrease. According to the NPM, 4,812 non-citizens were detained in 2013, compared to 5,748 in

¹⁰⁰ Ralph Kaiser (Federal Statistical Office of Germany), Email correspondence with Lydia Medland (Access Info Europe) regarding joint Access Info Europe - Global Detention Project freedom of information request, 22 April 2014. Previously, in 2011, the Global Detention Project sent information requests on where and how many people were detained to relevant authorities in each federal state. Only nine responded with the requested information; two states claimed that the information that was sought was "sensitive" and requested that additional steps be taken before they would release any information. see For more details on the responses from each federal state, see: Global Detention Project, "Immigration Detention in Germany – 2014 Report - Appendix," October 2014, <https://www.globaldetentionproject.org/immigration-detention-in-germany>

¹⁰¹ Eurostat, "Database," <https://ec.europa.eu/eurostat/data/database>

¹⁰² Eurostat, "Asylum and Managed Migration," <https://bit.ly/2EYCeCw>

2012, and 6,781 in 2011.¹⁰³ The ruling of the CJEU in *Bero & Bouzalmate* spurred an additional drop in the number of pre-removal detainees in the second half of 2014. According to official sources, in 2014 the country detained 1,850 non-citizens slated for removal and 563 in the first half of 2015.¹⁰⁴ However, it appears that since 2016, the number have been rising again. Based on the information provided by federal states in response to a 2018 parliamentary inquiry,¹⁰⁵ in 2015 at least 1,849 non-citizens were detained, compared to 2,833 in 2016; 4,303 in 2017; and 2,777 in 2018.¹⁰⁶ These figures, however, should be interpreted with caution, as they are incomplete.¹⁰⁷

¹⁰³ Federal Government, “Response of the Federal Government to the Major Interpellation of the Deputies Ulla Jelpke, Jan Korte, Agnes Alpers, other MPs and the DIE LINKE: printed matter 17/10597: Implementation of the Deportation Policy of the European Union and the Practice of Detention,” Ministry of Interior, 4 September 2012, dipbt.bundestag.de/dip21/btd/17/105/1710597.pdf; National Agency for the Prevention of Torture, “Annual Report 2013 of the Federal Agency and the Commission Countries,” April 2014, www.nationale-stelle.de/26.html. There are some divergences in the statistics. According to the European Migration Network, Germany detained 4,309 non-citizens in 2013, 5,064 in 2012, and 6,466 in 2011, see: Federal Office for Migration and Refugees (EMN National Contact Point Germany), “The Use of Detention and Alternatives to Detention in Germany,” 2014, <http://www.asyl-in-deutschland.rs/SharedDocs/Anlagen/EN/Publikationen/EMN/Studien/wp59-emn-abschiebungshaft.html?nn=7660242>; while according to official statistics 4,258 in 2013 and 5,131 in 2012, see: Federal Government, “Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 18/3769, Drucksache 18/7196,” 6 January 2016, <http://dipbt.bundestag.de/doc/btd/18/071/1807196.pdf>

¹⁰⁴ Federal Government, “Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 18/3769, Drucksache 18/7196,” 6 January 2016, <http://dipbt.bundestag.de/doc/btd/18/071/1807196.pdf>. It is important to note that these figures may sometimes not be completely coherent because some federal states include Dublin detainees within their statistics and others do not. See: Federal Government, “Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 18/3769, Drucksache 18/7196,” 6 January 2016, <http://dipbt.bundestag.de/doc/btd/18/071/1807196.pdf>

¹⁰⁵ Some federal states provided statistics without any differentiation in terms of grounds of detention, while others differentiated between custody awaiting deportation (*Abschiebungshaft*), custody to secure departure (*Ausreisegewahrsam*), and Dublin detention (Dublin – *Überstellungshaft*, which is sometimes conflated with *Abschiebungshaft* by Länder). When figures were broken down by detention ground, they have been summed up so as to get a total for the year of interest for each federal state. When possible, instead, the total without differentiation has been employed. Note that Hessen provided both differentiated and undifferentiated statistics, which diverged for the year 2017. In this case, the sum of breakdowns has been used, as it was higher than the total provided.

¹⁰⁶ Deutscher Bundestag, “Antwort der Bundesregierung auf die Grosse Anfrage der Abgeordneten Ulla Jelpke, Dr. André Hahn, Gökay Akbulut, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 19/448, Drucksache 19/5817,” 16 November 2018, <http://dip21.bundestag.de/dip21/btd/19/058/1905817.pdf>

¹⁰⁷ The numbers for 2015 were likely higher, as four states (Baden-Württemberg, Hamburg, Mecklenburg-Western Pomerania, and Schleswig-Holstein) did not provide any figures for that year. The same concerns related to statistics for 2018, as statistics were provided before the end of the year and different federal states reported numbers up until different periods of the year. In addition, the fact that Brandenburg did not report figures of detention carried out under the jurisdiction of municipalities for 2018, except in exceptional cases, also contributes to the underestimation of the number of detainees in 2018. Figures provided by the federal state of Mecklenburg-Western Pomerania for the years 2015, 2016, 2017, and 2018 refer to individuals detained within its territory, and not to the detention orders issued by its authorities. This is also likely to result in an underestimation of the number of immigration detainees for the years 2015-2018, as Mecklenburg-Western Pomerania does not have a dedicated facility and is thus likely to detain only a few persons in its territory. See: Deutscher Bundestag, “Antwort der Bundesregierung auf die Grosse Anfrage der Abgeordneten Ulla Jelpke, Dr. André Hahn, Gökay Akbulut, weiterer Abgeordneter und der Fraktion DIE LINKE : Drucksache 19/448, Drucksache 19/5817,” 16 November 2018, <http://dip21.bundestag.de/dip21/btd/19/058/1905817.pdf>

Albanians are among the top nationalities of detainees.¹⁰⁸ In 2018, Albanians were found to be amongst the top three nationalities in seven states (of 14 which provided such statistics). Nationals of countries currently affected by conflict or crisis also frequently appeared within the top three detainee nationalities in some federal states: in 2018, Afghans were amongst the top three nationalities in three states; in 2017 Syrians were amongst the top three nationalities in two states; while Iraqis were amongst the top three detainee nationalities in three states in 2017 and two states in 2018.¹⁰⁹

In 2019, Germany returned 22,097 people—of whom, 8,423 were returned under the Dublin Regulation. The three most common countries of return were Albania, Georgia, and Serbia, while under the Dublin Regulation the main countries of return were Italy and France.¹¹⁰

2.17 Privatisation.

Is detention centre management privatised?	No
Are private companies involved in the provision of services within detention centres?	Yes

Several private contractors have been involved in the care and custody of immigration detainees in Germany. However, the management of facilities is not outsourced, instead private companies provide services to publicly managed detention facilities.¹¹¹ Private that have provided¹¹² services in immigration detention facilities in Germany include B.O.S.S. Security and Service, Kötter, KWS Sicherheit, and European Homecare (EHC).¹¹³ These

¹⁰⁸ In this paragraph reference is made to the total number of federal states having provided information on the top nationalities of detainees each year. However, it should be noted that Länder who provided less than three nationalities have been dropped from the count, as this was either symptomatic of incomplete information or, more likely, suggested that the federal state in question detained very few individuals that year. Including them would have complicated interpretation and increased the risk of overestimation.

¹⁰⁹ Deutscher Bundestag, "Antwort der Bundesregierung auf die Grosse Anfrage der Abgeordneten Ulla Jelpke, Dr. André Hahn, Gökyak Akbulut, weiterer Abgeordneter und der Fraktion DIE LINKE : Drucksache 19/448, Drucksache 19/5817," 16 November 2018, <http://dip21.bundestag.de/dip21/btd/19/058/1905817.pdf>

¹¹⁰ European Council on Refugees and Exiles, "Germany: Temporary Suspension of Dublin Transfers Due to Covid-19," 26 March 2020, <https://bit.ly/34Uci6k>

¹¹¹ Informationsverbund Asyl & Migration, "Country Report: Germany," *Asylum Informatio Database (AIDA)*, European Council on Refugees and Exiles (ECRE), April 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_de_2018update.pdf

¹¹² B.O.S.S was a contracting partner with Brandenburg regional authorities at the Eisenhüttenstadt centre for several years (until it was shut down in 2017), reportedly providing security personnel, catering, and social services while the Brandenburg government migration agency provided overall supervision.¹¹² Kötter also used to provide security services in Büren and security and medical assistance in Ingelheim,¹¹² although the company was replaced at both centres, including by KWS Sicherheit in Büren in 2017.¹¹²

¹¹³ M. Flynn and C. Cannon, "The Privatization of Immigration Detention: Towards a Global View," *Global Detention Project*, 2009, www.globaldetentionproject.org/fileadmin/docs/GDP_PrivatizationPaper_Final5.pdf; Pro Asyl and Diakonie in Hessen and Nassau, "Schutzlos hinter Gittern: Abschiebungshaft in Deutschland," June 2013, <https://www.proasyl.de/material/schutzlos-hinter-gittern-abschiebungshaft-in-deutschland/>; Federal Government, "Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 18/3769, Drucksache 18/7196," 6 January 2016, <http://dipbt.bundestag.de/doc/btd/18/071/1807196.pdf>. The multinational company Serco, which has operated immigration detention facilities in Australia and the United Kingdom, has operated several prisons in Germany, although apparently not any facilities used for immigration purposes. See: G. Menz, "The Neoliberalized State and the Growth of the Migration Industry," In *The Migration Industry and the*

firms have provided services such as security, catering, social services, and physical and psychological medical assistance in facilities across Germany.

Perhaps the best-known service provider is European Homecare, which reportedly operated a detention facility at Düsseldorf airport,¹¹⁴ although as of 2019 the company states that it only provides “psychosocial support” at the transit facility.¹¹⁵

Their involvement in immigration detention has been the subject of considerable criticism in Germany.¹¹⁶ In 2014 for example, the organisation was the focus of a scandal regarding mistreatment of asylum seekers. In October 2014, police announced that they were investigating allegations that guards at reception centres in Burbach and Essen had assaulted asylum seekers and in some cases had even taken pictures of themselves as they abused the persons.¹¹⁷ In March 2017, the public prosecutor brought the charges against several European Homecare employees as well as state-provided guardians.¹¹⁸ In October 2018, the Court had scheduled 24 days of trials, and proceedings were still on-going as of 2019.¹¹⁹

In October 2018, European Homecare’s operations again sparked controversy when the federal state of North Rhine-Westphalia terminated its contract with the company at Sankt Augusting Reception Centre, due to deficiencies in health, hygiene, personnel, and registry management.¹²⁰ As of 2019, European Homecare reports to be working with asylum seekers and refugees in 80 facilities, in which different forms of services are provided.¹²¹

At the same time, however, some have congratulated the companies for their work. In 2005, the CPT commended B.O.S.S. for its management of the (now-closed) Eisenhüttenstadt facility. It reported: “Many of the private security staff met by the delegation had already

Commercialization of International Migration, T. Gammeltoft-Hansen and N. Nyberg Sorensen (eds.), Routledge, 2012.

¹¹⁴ G. Menz, “The Neoliberalized State and the Growth of the Migration Industry,” In *The Migration Industry and the Commercialization of International Migration*, T. Gammeltoft-Hansen and N. Nyberg Sorensen (eds.), Routledge, 2012.

¹¹⁵ European Homecare, “Who Are We?” <https://www.eu-homecare.com/en/who-are-we/>

¹¹⁶ The scholar Georg Menz provides a similar assessment of privatisation in Germany, noting that “privatization of detention has proven highly politically contested and ultimately did not proceed fully. ... Given both legal concerns and political resistance to involving private-sector companies in such a sensitive policy domain, there is no interest in broadening the remit of private sector involvement. Political resistance combined with a comparatively low extent of neoliberalization thus led to only minimal involvement of private actors.” See: G. Menz, “The Neoliberalized State and the Growth of the Migration Industry,” In *The Migration Industry and the Commercialization of International Migration*, T. Gammeltoft-Hansen and N. Nyberg Sorensen (eds.), Routledge, 2012.

¹¹⁷ Deutsche Welle, “German Police Raid Security Firm Accused of Abusing Asylum Seekers,” *Deutsche Welle*, 6 October 2014, www.dw.de/german-police-raid-security-firm-accused-of-abusing-asylum-seekers/a-17979500

¹¹⁸ Zeit Online, “Anklage wegen Misshandlung von Asylbewerbern,” *Zeit Online*, 21 March 2017, <https://bit.ly/3IHtCl0>

¹¹⁹ Westdeutsche Allgemeine Zeitung, “Flüchtlinge misshandelt: Grossprozess in Siegerlandhalle,” *WAZ.de*, 11 October 2019, <https://bit.ly/3IGuZ35>; R/ Hansmann, “Fall Burbach: Bewährungsstrafe für ehemaligen Heimleiter,” *Westfalenpost*, 22 January 2019, <https://bit.ly/3IAWKdr>

¹²⁰ Westdeutsche Allgemeine Zeitung, “Streit: Land kündigt Essener Firma European Homecare,” *WAZ.de*, 24 October 2018, <https://bit.ly/34QTUej>

¹²¹ European Homecare, “Who Are We?” <https://www.eu-homecare.com/en/who-are-we/>

been present at the time of the previous visit [in 2000]. The delegation observed that their general attitude towards foreign detainees had significantly improved. They were ready to communicate and were described by most inmates as sympathetic. This is a welcome development.” The committee had however previously stressed that “private security staff working at Eisenhüttenstadt should be held to the same standards in the execution of their duties as apply to staff employed by the Ministry of the Interior. In order to safeguard the rights of immigration detainees and prevent ill-treatment, special arrangements should be made to ensure that the standards ... are applied.”¹²²

Similarly, one rights advocate interviewed by the GDP in 2009 favourably compared Eisenhüttenstadt to a police-run detention facility in Brandenburg and stated that it was much better managed than a police-run facility. He added, “If it were me, I’d prefer to be in the B.O.S.S. facility.”¹²³ Moreover, in April 2014, the head of Germany’s NPM told the GDP that “Privatisation seems to work well in some cases because the people who are employed by the private companies to work in the detention centres are generally not German, and the fact that they are foreigners like the detainees seems to comfort them. ... However, it is difficult to promote privatisation in Germany because it is not an accepted idea to have private actors working on behalf of the state in this area.”¹²⁴

In 2013, six detention facilities were reportedly receiving security and/or management services from both government officers and private firms: Berlin Airport, Büren, Eisenhüttenstadt, Hamburg-Billwerder, Ingelheim, and Rendsburg.¹²⁵ Following the overhaul of the country’s immigration detention estate in 2014, by 2016 three facilities outsourced some of their services to a private contractor, including Eisenhüttenstadt, Ingelheim, and Büren.¹²⁶ In 2018, a parliamentary inquiry requested up to date information regarding the outsourcing of services in immigration detention facilities to private companies. In its response, the government indicated that it was not in possession of this information and redirected the parliamentary members to the response provided by federal states to a 2016 inquiry.¹²⁷

¹²² European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the German Government on the visit to Germany Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 November to 7 December 2010, CPT/Inf (2012) 6,” February 2012, www.cpt.coe.int/documents/deu/2012-06-inf-eng.pdf; M. Flynn and C. Cannon, “The Privatization of Immigration Detention: Towards a Global View,” *Global Detention Project*, 2009, www.globaldetentionproject.org/fileadmin/docs/GDP_PrivatizationPaper_Final5.pdf

¹²³ M. Flynn and C. Cannon, “The Privatization of Immigration Detention: Towards a Global View,” *Global Detention Project*, 2009, www.globaldetentionproject.org/fileadmin/docs/GDP_PrivatizationPaper_Final5.pdf

¹²⁴ Rainer Dopp (Head of the National Agency for the Prevention of Torture), Interview with Michael Flynn (Global Detention Project), 11 April 2014.

¹²⁵ Pro Asyl, “*Situation in den bundesdeutschen Abschiebegefängnissen*,” April 2013, <https://bit.ly/34RpKrx>; Indymedia, “BOSS and Asylum Jail Schönefeld,” 27 July 2012, de.indymedia.org/2012/07/333103.shtml

¹²⁶ Federal Government, “*Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 18/3769, Drucksache 18/7196*,” 6 January 2016, <http://dipbt.bundestag.de/doc/btd/18/071/1807196.pdf>

¹²⁷ Deutscher Bundestag, “*Antwort der Bundesregierung auf die Grosse Anfrage der Abgeordneten Ulla Jelpke, Dr. André Hahn, Gökay Akbulut, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 19/448, Drucksache 19/5817*,” 16 November 2018, <http://dip21.bundestag.de/dip21/btd/19/058/1905817.pdf>

2.18 Cost of detention

Daily detention cost

52 EUR/day (Bremen) – 299 EUR/day (Ingelheim) (*varies according to state*)

The Residence Act (Sections 66(1) and 67(1)) stipulates that costs relating to deportation, including the costs of detention, are to be borne by the non-citizen. Like in [Austria](#) and some other EU countries, non-citizens must pay these costs in order to be permitted to re-enter Germany, even after the ban on re-entry has expired.¹²⁸ Reportedly these costs are to be paid by the non-citizen only in the event of deportation, and as such, this often persuades persons to leave the country voluntarily instead of paying for their deportation.¹²⁹

There are considerable discrepancies between the states as regards the daily cost of detention. In 2017, daily detention costs per person ranged between approximately 52 EUR in Bremen and 299 EUR in Ingelheim.¹³⁰

¹²⁸ C. Graebisch and B. Selders, “Der Zugang zum Bundesgerichtshof ist das geringste Problem: Interview mit Christine Graebisch von Beate Selders,” In *Haft ohne Straftat. Fakten und Argumente gegen Abschiebungshaft*, Flüchtlingsrat Brandenburg, Flüchtlingsrat Schleswig-Holstein, and Humanistische Union (eds.), Berlin, 2013.

¹²⁹ Federal Office for Migration and Refugees (EMN National Contact Point Germany), “*The Use of Detention and Alternatives to Detention in Germany*,” 2014, <https://bit.ly/3gLWHrB>

¹³⁰ Deutscher Bundestag, “*Antwort der Bundesregierung auf die Grosse Anfrage der Abgeordneten Ulla Jelpke, Dr. André Hahn, Gökay Akbulut, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 19/448, Drucksache 19/5817*,” 16 November 2018, <http://dip21.bundestag.de/dip21/btd/19/058/1905817.pdf>



3. DETENTION INFRASTRUCTURE

3.1 Summary. Until 2014, Germany was one of a very small number of European states to use prisons for the purpose of immigration-related detention. Although the country's use of prisons for such purposes was the subject of intense criticism from various human rights bodies for several years, including the CPT, the country stubbornly resisted carrying out reforms.¹³¹ In 2013, of the 27 facilities used for immigration detention, 17 facilities were prisons.¹³²

In the wake of the CJEU's 2014 ruling in *Bero & Bouzalmate*—which held that the systematic detention of immigration detainees in prisons was incompatible with Article 16(1) of the EU Returns Directive—Germany overhauled its immigration detention estate. In particular, the CJEU ruled that Germany could not rely on the fact that there were no dedicated detention facilities in some of its federal states to justify holding non-citizens in prisons pending their removal. Although the court established that a federal country like Germany is not obliged to set up specialised centres in each of its states, it obliged the country to establish procedures to enable federal states that do not have dedicated facilities to place migrants in specialised facilities located in other states.¹³³

At the time of the ruling, only five German states had dedicated facilities: Berlin (Berlin-Köpenick), Brandenburg (Eisenhüttenstadt), Rhineland-Palatinate (Ingelheim), Saarland (Ingelheim), and Schleswig-Holstein (Rendsburg). In 2014, states that were using prisons or

¹³¹ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the German Government on the visit to Germany Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 November to 7 December 2010, CPT/Inf (2012) 6," February 2012, www.cpt.coe.int/documents/deu/2012-06-inf-eng.pdf. The CPT criticised the use of prisons in Germany on several occasions. For more details on the exchanges between the CPT and German authorities on this issue, see: Global Detention Project, "Immigration Detention in Germany – 2014 Update," October 2014, <https://www.globaldetentionproject.org/immigration-detention-in-germany>

¹³² Aside of the 17 prisons, four facilities were dedicated immigration detention centres (Berlin-Köpenick, Eisenhüttenstadt, Ingelheim, and Rendsburg), three were airport transit centres (Berlin-Brandenburg, Düsseldorf, and Frankfurt), and three were police stations (Bremen, Frankfurt, and Westhessen). Prisons were located in Aschaffenburg, Büren, Bützow, Chemnitz, Dresden, Frankfurt I, Frankfurt III, Hamburg-Billwerder, Hannover-Langenhagen, Mannheim, Mühlendorf am Inn, München, Nürnberg, Rockenberg, Schwäbisch-Gmünd, Suhl-Goldlauter, and Volkstedt. See: National Agency for the Prevention of Torture, "Annual Report 2013 of the Federal Agency and the Commission Countries," April 2014, www.nationale-stelle.de/26.html; Pro Asyl, "Situation in den bundesdeutschen Abschiebegefängnissen," April 2013, <https://bit.ly/3jAfNCR>; Pro Asyl and Diakonie in Hessen and Nassau, "Schutzlos hinter Gittern: Abschiebungshaft in Deutschland," June 2013, <https://www.proasyl.de/material/schutzlos-hinter-gittern-abschiebungshaft-in-deutschland/>. For a detailed description of the detention infrastructure before the overhaul in 2014, see: Global Detention Project, "Immigration Detention in Germany – 2014 Update," October 2014, <https://bit.ly/3IBS5rN>

¹³³ I. Majcher, "The EU Returns Directive and the Use of Prisons for Detaining Migrants in Europe," *EU Law Analysis*, July 2014, eulawanalysis.blogspot.co.uk/2014/07/the-eu-returns-directive-and-use-of.html

other criminal facilities¹³⁴ announced that dedicated facilities would be set up and that during the transition they would transfer immigration detainees to states that have such facilities.¹³⁵ The country's total immigration detention capacity thus shrank. As of July 2017, Germany used six facilities for immigration detention purposes: five dedicated long-term immigration detention facilities, in Pforzheim (Baden-Württemberg), Eichstätt (Bavaria), Langenhagen (Lower Saxony), Büren (North Rhine-Westphalia), and Ingelheim (Rhineland-Palatinate); and one police station, in Bremen (Polizeigewahrsam Bremen).¹³⁶

Since then, new centres have been opened. In 2018 five new long-term dedicated facilities were opened—in Erding (Bavaria),¹³⁷ with a capacity of 35,¹³⁸ Hamburg (Hamburg),¹³⁹ Darmstadt-Eberstadt (Hesse),¹⁴⁰ Dresden (Saxony),¹⁴¹ and Berlin-Lichtenrade (Berlin).¹⁴² In addition, in September 2018, Bavaria opened a new facility located in a hangar at Munich Airport with 30 places.¹⁴³

¹³⁴ National Agency for the Prevention of Torture, "Annual Report 2013 of the Federal Agency and the Commission Countries," April 2014, www.nationale-stelle.de/26.html; Pro Asyl, "Situation in den bundesdeutschen Abschiebegefängnissen," April 2013, <https://bit.ly/2QLJiW1>; Pro Asyl and Diakonie in Hessen and Nassau, "Schutzlos hinter Gittern: Abschiebungshaft in Deutschland," June 2013, <https://www.proasyl.de/material/schutzlos-hinter-gittern-abschiebungshaft-in-deutschland/>. For a detailed description of the detention infrastructure before the overhaul in 2014, see: Global Detention Project, "Immigration Detention in Germany – 2014 Update," October 2014, <https://bit.ly/3jvGZmj>

¹³⁵ UN Working Group on Arbitrary Detention (WGAD), "Report of the Working Group on Arbitrary Detention: Addendum: Follow-up Mission to Germany, A/HRC/30/36/Add.1," 10 July 2015, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/DEIndex.aspx>; Informationsverbund Asyl und Migration, "Country Report: Germany," *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), December 2016, <http://www.asylumineurope.org/reports/country/germany>

¹³⁶ Stefan Kessler (Jesuit Refugee Service Germany), Email correspondence with Izabella Majcher (Global Detention Project), July-August 2017; Informationsverbund Asyl und Migration, "Country Report: Germany," *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), December 2016, <http://www.asylumineurope.org/reports/country/germany/>; Migreurop, "Fiche de pays: Allemagne," *Close the Camps*, February 2016, <http://closethecamps.org/pays/DEU>; R. Breyton and T. Heimbach, "Das Comeback der Abschiebehaft in Deutschland," *Welt*, 1 August 2017, <https://bit.ly/3gVZf6N>

¹³⁷ K. Woitsch, "Abschiebehaft JVA Erding: Gleich am ersten Tag gab es Tumulte," *Merkur.de*, 16 February 2018, <https://bit.ly/3hPdX0m>

¹³⁸ Informationsverbund Asyl & Migration, "Country Report: Germany: 2018 update," *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), April 2019, <https://bit.ly/2YRSJYi>

¹³⁹ Hamburgasyl, "Abschiebung," *Hamburgasyl.de*, <http://hamburgasyl.de/themen/abschiebungshaft/>

¹⁴⁰ I. Schaible, P. Zschunke, and J. Giertz, "Das Darmstädter Abschiebegefängnis stockt seine Plätze auf," *Frankfurter Neue Presse*, 17 December 2018, <https://bit.ly/32LKNsU>

¹⁴¹ T. Baumann-Hartwig, "Abschiebegefängnis geht in Betrieb," *Dresdner Neueste Nachrichten*, 3 December 2018, <http://www.dnn.de/Dresden/Lokales/Abschiebegefängnis-geht-in-Betrieb>

¹⁴² S. Kessler, "Abschiebungshaft," *Socialnet Lexikon*, 14 January 2019, <https://www.socialnet.de/lexikon/Abschiebungshaft/>; G. Mallwitz, "Gefährder ziehen in Lichtenrader Anstalt – Bewohner besorgt," *Berliner Morgenpost*, 21 September 2018, <https://bit.ly/3hUjy5S>

¹⁴³ Informationsverbund Asyl und Migration, "Country Report: Germany," *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), April 2019, <https://www.asylumineurope.org/reports/country/germany/>; M. Arnsperger, "Bayern mietet Riesen-Hangar – und bringt dort nur zwei Häftlinge unter," *Focus.de*, 18 December 2018, <https://bit.ly/34ZA4xs>

As of July 2020, Germany operated 11 long-term dedicated facilities and one police station for the purposes of long-term migration-related detention.¹⁴⁴ Germany also operates five medium-term airport detention centres (at the Berlin, Düsseldorf, Frankfurt, Munich, and Hamburg airports),¹⁴⁵ which are used to confine asylum seekers coming from “safe countries” or those arriving without identity papers during airport procedure, which, according to the Asylum Act, can last up to 19 days.

Further expansion is scheduled. Schleswig-Holstein plans to open a 60-person detention facility in Glückstadt in 2021, which would also be used to confine detainees from Hamburg and Mecklenburg-Western Pomerania.¹⁴⁶ In 2018, it was reported that Brandenburg would open a new detention facility in 2020 as, since the closure of Eisenhüttenstadt in 2017, the state has relied on other states’ facilities.¹⁴⁷ However, in July 2020 a representative from Germany’s National Agency for the Prevention of Torture reported to the GDP that in 2019, authorities announced that Eisenhüttenstadt would instead be reopened.¹⁴⁸ Reports also indicate that Bavaria plans to establish two additional centres—one in Hof by the end of 2020 (with a capacity of 150)¹⁴⁹ and one in Passau by the end of 2022 (with a capacity of 200)¹⁵⁰—and that the state is also considering establishing a new facility near Munich airport in order to facilitate deportations.¹⁵¹ In Saxony-Anhalt, authorities are planning to convert a

¹⁴⁴ Deutscher Bundestag, “Schriftliche Fragen mit den in der Woche vom 4. Februar 2019 eingegangenen Antworten der Bundesregierung, Response to Question No. 47, Drucksache 19/7585,” 8 February 2019, <http://dipbt.bundestag.de/doc/btd/19/075/1907585.pdf>; M. Arnspenger, “Byern mietet Riesen-Hangar – und bring dort nur zwei Häflinge unter,” *Focus.de*, 18 December 2018, <https://bit.ly/2EBXVsB>; S. Kessler, “Abschiebungshaft,” *Socialnet Lexikon*, 14 January 2019, <https://www.socialnet.de/lexikon/Abschiebungshaft>; Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), April 2019, <https://bit.ly/31Me6Mp>

¹⁴⁵ Flüchtlingsrat NRW, Email correspondence with Izabella Majcher (Global Detention Project), August 2017; Timmo Scherenberg (Hessischer Flüchtlingsrat), Email correspondence with Izabella Majcher (Global Detention Project), August 2017; Loulou Kinski (Münchener Flüchtlingsrat), Email correspondence with Izabella Majcher (Global Detention Project), August 2017; Anne Lausmann (Caritasverband Frankfurt), Telephone conversation with Izabella Majcher (Global Detention Project), 16 August 2017; Flüchtlingsrat Hamburg, Telephone conversation with Izabella Majcher (Global Detention Project), 17 August 2017; Federal Office for Migration and Refugees, “Flughafenverfahren,” August 2016, <https://bit.ly/3jzQ8dz>; Migreurop, “Fiche de pays: Allemagne,” *Close the Camps*, February 2016, <http://closethecamps.org/pays/DEU>; Federal Office for Migration and Refugees, “Flughafenverfahren,” *Website*, August 2016, <https://bit.ly/2DgzJeq>

¹⁴⁶ K. Nachrichten, “Abschiebehaftanstalt 2021 in Betrieb,” *Kieler Nachrichten*, 21 October 2019, <https://bit.ly/3h1QFt7>; Representative from Germany’s National Agency for the Prevention of Torture, Email correspondence with Katie Welsford (Global Detention Project), 30 July 2020.

¹⁴⁷ B. Lassiwe, “Vor 2020 keine Abschiebehaft,” *Lausitzer Rundschau – LR Online*, 13 December 2018, https://www.lr-online.de/nachrichten/brandenburg/vor-2020-keine-abschiebehaft-in-brandenburg_aid-35117701

¹⁴⁸ Representative from Germany’s National Agency for the Prevention of Torture, Email correspondence with Katie Welsford (Global Detention Project), 30 July 2020.

¹⁴⁹ In Franken, “Millionenprojekt in Oberfranken: Hier entsteht ein Abschiebegefängnis,” 9 September 2019, <https://bit.ly/32MPWAO>; Representative from Germany’s National Agency for the Prevention of Torture, Email correspondence with Katie Welsford (Global Detention Project), 30 July 2020.

¹⁵⁰ S. Sartor, “Abschiebungen sorgen für grossen Frust bei der Polizei,” *Augsburger Allgemeine*, 28 February 2019, <https://bit.ly/34UvQYi>; Representative from Germany’s National Agency for the Prevention of Torture, Email correspondence with Katie Welsford (Global Detention Project), 30 July 2020.

¹⁵¹ D. Mittler, “Am Münchner Flughafen soll eine Einrichtung für Abschiebehaft entstehen,” *Süddeutsche Zeitung – SZ.de*, 25 June 2018, <https://bit.ly/3h1QQEN>

prison in Dessau into a dedicated immigration facility with a capacity of 30, to be operational at the end of 2020.¹⁵²

3.2 Known detention facilities.

Name	Name	State
Long-term dedicated facilities	Berlin-Lichtenrade	Berlin
	Büren	North Rhine Westphalia
	Darmstadt-Eberstadt	Hesse
	Dresden	Saxony
	Eichstätt	Bavaria
	Erding	Bavaria
	Hamburg	Hamburg
	Hannover (Langenhangen)	Lower Saxony
	Ingelheim	Rhineland Palatinate
	Munich Airport (Hangar 3) ¹⁵³	Bavaria
Medium-term dedicated facilities	Pforzheim	Baden Württemberg
	Berlin Airport	Berlin
	Düsseldorf Airport	North Rhine Westphalia
	Frankfurt Airport	Hesse
	Hamburg Airport	Hamburg
Police stations	Munich Airport	Bavaria
	Bremen	Bremen

3.3 Conditions and regimes in detention centres.

3.3a Overview. According to official sources, although no national standard on cell size exists, individuals are detained in cells that measure from eight to 14 square metres and are either detained alone or alongside other detainees (up to eight people are held in cells). Cells should be equipped with at least a bed, a chair, a cupboard, and a toilet. However, some facilities provide more furniture and amenities than others. Rules on the use of mobile phones also vary depending on the facility considered; but every centre has a pay phone that detainees can use.¹⁵⁴

In May 2019, CAT urged Germany to ensure that immigration detention regimes are strictly differentiated from penal detention regimes. In particular, the committee noted that solitary

¹⁵² Mitteldeutsche Zeitung, “Offener Vollzug wird geschlossen: Regierung billigt Pläne für Abschiebehaft in Dessau,” 4 September 2018, <https://bit.ly/31F5LCc>; Süddeutsche Zeitung, “Land sucht Azubis für Job in künftiger Abschiebehaft,” 6 December 2018, <https://bit.ly/31KBzxD>; Representative from Germany’s National Agency for the Prevention of Torture, Email correspondence with Katie Welsford (Global Detention Project), 30 July 2020.

¹⁵³ As of July 2020, the Munich Airport (Hangar 3) facility was reported to have been temporarily closed, but that plans were in place for its reopening. Representative from Germany’s National Agency for the Prevention of Torture, Email correspondence with Katie Welsford (Global Detention Project), 30 July 2020.

¹⁵⁴ European Migration Network (EMN), “EMN Ad-hoc Query on Detention and Material Detention Conditions - Requested by FR EMN NCP on 21st February 2018,” 2018, <https://bit.ly/3jwXVc3>

confinement should not be used as a disciplinary measure in the context of immigration detention.¹⁵⁵

3.3b Berlin-Lichtenrade. Opened in 2018, the facility confines “*abzuschiebende Gefährder*”—that is, potential offenders posing a threat to internal security and who are to be deported.¹⁵⁶ (According to media source, the centre is used to confine suspected terrorists awaiting deportation.)¹⁵⁷

The facility can detain between eight and ten individuals.¹⁵⁸

3.3c Bremen. The state of Bremen continues to detain immigration detainees in the Bremen police headquarters (*Polizeigewahrsam*).¹⁵⁹ The ground floor of the building confines people in police custody, while the first floor confines up to 20 immigration detainees.¹⁶⁰ Reportedly, these two areas, including the common areas, are separated from each other. Although both categories of detainees share the same yard, they access it at different times of day. Immigration detainees have more freedoms and rights in detention than people in police custody.¹⁶¹ Because of these features, many observers in Germany classify the facility as a specialised detention centre.¹⁶² However, in the GDP’s typology this facility remains a “police station.” First, immigration detainees can be accommodated in secured cells on the ground floor if they pose a danger to other detainees or themselves. Reportedly, this happens rarely. Secondly, both sections of the building are run by the police and the custodial

¹⁵⁵ UN Committee Against Torture (CAT), “Consideration of Reports Submitted by States Parties under Article 19 of the Convention: Concluding Observations on the Sixth Periodic Report of Germany, CAT/C/DEU/CO/6,” 14 May 2019, www.ohchr.org/EN/countries/ENACARRegion/Pages/DEIndex.aspx

¹⁵⁶ S. Kessler, “Abschiebungshaft,” *Socialnet Lexikon*, 14 January 2019, <https://www.socialnet.de/lexikon/Abschiebungshaft>; G. Mallwitz, “Gefährder ziehen in Lichtenrader Anstalt – Bewohner besorgt,” *Berliner Morgenpost*, 21 September 2018, <https://bit.ly/31MLNgX>

¹⁵⁷ G. Mallwitz, “Gefährder ziehen in Lichtenrader Anstalt – Bewohner besorgt,” *Berliner Morgenpost*, 21 September 2018, <https://bit.ly/3gKmlNz>; U. Kraetzer, “Nur drei ‘Gefährder’ sitzen in neuer Abschiebehaft-Anstalt,” *Berlin Morgenpost*, 15 October 2018, <https://bit.ly/2YUfESM>

¹⁵⁸ S. Kessler, “Abschiebungshaft,” *Socialnet Lexikon*, 14 January 2019, <https://bit.ly/355HeAH>

¹⁵⁹ Martin von Borstel (Verein für Rechtshilfe im Justizvollzug des Landes Bremen), Email correspondence with Izabella Majcher (Global Detention Project), August 2017; Federal Government, “Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 18/3769, Drucksache 18/7196,” 6 January 2016, <http://dipbt.bundestag.de/doc/btd/18/071/1807196.pdf>

¹⁶⁰ R. Breyton and T. Heimbach, “Das Comeback der Abschiebehaft in Deutschland,” *Welt*, 1 August 2017, <https://bit.ly/2YTl8NI>; M. von Borstel (Verein für Rechtshilfe im Justizvollzug des Landes Bremen), Email correspondence with Izabella Majcher (Global Detention Project), August 2017; Deutscher Bundestag, “Schriftliche Fragen mit den in der Woche vom 4. Februar 2019 eingegangenen Antworten der Bundesregierung - Response to Question No. 47, Drucksache 19/7585,” 8 February 2019, <https://bit.ly/3lzWnjK>

¹⁶¹ Martin von Borstel (Verein für Rechtshilfe im Justizvollzug des Landes Bremen), Email correspondence with Izabella Majcher (Global Detention Project), August 2017.

¹⁶² Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, December 2016, <http://www.asylumineurope.org/reports/country/germany>; Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, March 2018, <https://www.asylumineurope.org/reports/country/germany>; Martin von Borstel (Verein für Rechtshilfe im Justizvollzug des Landes Bremen), Email correspondence with Izabella Majcher (Global Detention Project), August 2017.

authority is vested in the interior ministry.¹⁶³ According to both official and non-governmental sources, as of 2016, the rooms were only locked at night and detainees could use their mobile telephones, wear their own clothes, and prepare their own meals. They have access to TV, games, a small library, and a prayer room.¹⁶⁴

3.3d Büren. Between the mid-1980s, non-citizens have been detained in the 426-person immigration detention section of Büren Prison. Rooms, ranging from single to six-person, were equipped with beds, table, chairs, a locker, sink, and toilet, and detainees had a kitchen and seating area at their disposal. Families and couples could be detained together in a four-bed room equipped with WC, shower, and cooking facilities. The facility was guarded by the state's prison service as well as the private firm Kötter.¹⁶⁵ In 2017, Kötter was replaced by KWS Sicherheit.¹⁶⁶

In May 2015, the prison was transformed into a dedicated immigration detention centre, with a maximum capacity of 100 persons.¹⁶⁷ Since then, the facility's capacity has been increased to 120 in February 2017,¹⁶⁸ and to 175 as of January 2019.¹⁶⁹ In 2016, the average daily number of detainees was 58.¹⁷⁰

¹⁶³ Martin von Borstel (Verein für Rechtshilfe im Justizvollzug des Landes Bremen), Email correspondence with Izabella Majcher (Global Detention Project), August 2017.

¹⁶⁴ Federal Government, "Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 18/3769, Drucksache 18/7196," 6 January 2016, <http://dipbt.bundestag.de/doc/btd/18/071/1807196.pdf>

¹⁶⁵ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the German Government on the Visit to Germany Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 November to 7 December 2010, CPT/Inf (2012) 6," February 2012, www.cpt.coe.int/documents/deu/2012-06-inf-eng.pdf; Pro Asyl and Diakonie in Hessen and Nassau, "Schutzlos hinter Gittern: Abschiebungshaft in Deutschland," June 2013, <https://www.proasyl.de/material/schutzlos-hinter-gittern-abschiebungshaft-in-deutschland/>; Government of North Rhine-Westphalia, "NRW schafft in Büren mehr Plätze für die Abschiebungshaft," 22 February 2017, <https://www.land.nrw.de/pressemitteilung/nrw-schafft-bueren-mehr-plaetze-fuer-die-abschiebungshaft>

¹⁶⁶ Radio Hochstift, "Firmenwechsel im Bürener Abschiebegefängnis," *Radio Hchstift – News Archive*, 31 July 2017, <https://bit.ly/3gKWQvn>; KWS Sicherheit, "Sicherheitskräfte (m/w/d) nach §34 a GewO für die Unterbringungseinrichtung für Ausreisepflichtige (Ufa Büren) (KWS)," *Jobbörse - KWS Website*, 21 November 2018, <https://bit.ly/2YRv4aE>

¹⁶⁷ Informationsverbund Asyl und Migration, "Country Report: Germany," *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, December 2016, <http://www.asylumineurope.org/reports/country/germany>; Ministry of the Interior of the Federal State of North Rhine-Westphalia, "Abschiebungshaft in NRW: Land plant Einrichtung in Büren - Strafvollzug am Standort Büren wird eingestellt," 28 November 2014, <https://bit.ly/3hPeK1x>

¹⁶⁸ Government of North Rhine-Westphalia, "NRW schafft in Büren mehr Plätze für die Abschiebungshaft," 22 February 2017, <https://bit.ly/2DhpgPV>

¹⁶⁹ Informationsverbund Asyl und Migration, "Country Report: Germany," *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, March 2019, <https://www.asylumineurope.org/reports/country/germany>

¹⁷⁰ Government of North Rhine-Westphalia, "NRW schafft in Büren mehr Plätze für die Abschiebungshaft," 22 February 2017, <https://bit.ly/3gSCTCN>

According to official sources, detainees are allowed to move freely within the premises from 07.00 to 22.00, and they may use their own phones.¹⁷¹ During its 2018 visit, the NPM noted that the use of solitary confinement did not comply with law, and that the widespread use of cameras, in places such as toilets, hampered privacy.¹⁷² In 2018, the association “Hilfe für Menschen in Abschiebehaft” published a press communiqué reporting mistreatment allegations against the personnel and the facility’s management. Allegations included forced undressing and a case in which the head of the centre ordered unknown medications to be added to a detainee’s food. The association also denounced the use of solitary confinement without justification, which includes the prohibition of any contact with fellow prisoners and, at least sometimes, the prohibition of wearing personal clothes.¹⁷³ In early 2019, the association informed journalists that their access to the facility and to detainees had been severely restricted.¹⁷⁴

3.3e Darmstadt-Eberstadt. Opened in March 2018,¹⁷⁵ the Darmstadt-Eberstadt had a capacity of 20 as of January 2019,¹⁷⁶ with plans to expand to 80.¹⁷⁷ Detainees can move freely within the perimeter of the centre. Their cells measure around ten square metres and are equipped with furniture, a TV, and refrigerator. Non-citizens held in the Darmstadt-Eberstadt facility can use their mobile phones both to call and use Internet. However, phones with cameras are not permitted. Detainees receive three meals a day but may also cook for themselves using the centre’s kitchen.¹⁷⁸ In 2018, civil society groups reported that some detainees were ill-treated, but authorities denied the allegations.¹⁷⁹

¹⁷¹ Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, March 2018, <https://www.asylumineurope.org/reports/country/germany>

¹⁷² Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, April 2019, <https://www.asylumineurope.org/reports/country/germany>; Nationale Stelle zur Verhütung von Folter, “Besuchsbericht: Unterbringungseinrichtung für Ausreisepflichtige Büren, Besuch vom 24./25. Januar 2018,” 2018, <https://bit.ly/2QM5KrW>

¹⁷³ Hilfe für Menschen in Abschiebehaft Büren, “Schwere Menschenrechtsverletzungen in der Abschiebehaft Büren,” *Presse Information*, 24 January 2018, <https://bit.ly/2QF1wLk>; Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, March 2018, <https://www.asylumineurope.org/reports/country/germany>

¹⁷⁴ H. Jedicke, “Wird standing schlimmer: Helfer prangert unwürdige Bedingungen in Abschiebehaft an,” *FOCUS.de*, 4 February 2019, <https://bit.ly/3gPaVrQ>

¹⁷⁵ I. Schaible, P. Zschunke, and J. Giertz, “Das Darmstädter Abschiebegefängnis stockt seine Plätze auf,” *Frankfurter Neue Presse*, 17 December 2018, <https://bit.ly/3jAvkTm>

¹⁷⁶ Deutscher Bundestag, “Schriftliche Fragen mit den in der Woche vom 4. Februar 2019 eingegangenen Antworten der Bundesregierung - Response to Question No. 47, Drucksache 19/7585,” 8 February 2019, <http://dipbt.bundestag.de/doc/btd/19/075/1907585.pdf>

¹⁷⁷ Hessenschau.de, “Abschiebegefängnis stockt Plätze auf,” *Hessenschau.de*, 16 December 2018, <https://bit.ly/3gLbd2H>; I. Schaible, P. Zschunke, and J. Giertz, “Das Darmstädter Abschiebegefängnis stockt seine Plätze auf,” *Frankfurter Neue Presse*, 17 December 2018, <https://www.fnp.de/hessen/abschiebegefangaengnis-stockt-plaetze-10873174.html>

¹⁷⁸ I. Schaible, P. Zschunke, and J. Giertz, “Das Darmstädter Abschiebegefängnis stockt seine Plätze auf,” *Frankfurter Neue Presse*, 17 December 2018, <https://bit.ly/3IEZ2bC>

¹⁷⁹ Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, April 2019, <https://bit.ly/2QFCqt8>

3.3f Dresden. Opened in December 2018,¹⁸⁰ the immigration detention facility in Dresden (Saxony) cost 11.7 million EUR to construct.¹⁸¹ With a total capacity of 58,¹⁸² 24 beds are reserved for custody awaiting deportation (*Abschiebungshaft*) and 34 for custody to secure departure (*Ausreisegewahrsam*).¹⁸³

3.3g Eichstätt. Established on the premises of a former prison in June 2017, the centre replaced an older facility in Mühldorf am Inn.¹⁸⁴ Between 2017 and January 2019, its capacity decreased from 96¹⁸⁵ to 88.¹⁸⁶ According to official sources, detainees can move freely in the facility during the day, have access to pastoral care, sport facilities, TV, telephone, and a kitchen to prepare their own food. The centre employs law enforcement officers, physicians, psychologists, and social workers.¹⁸⁷

Following its visits in 2017, the NPM lauded the fact that two psychologists were present at the centre, but raised concerns that detainees are often required to provide translation during consultations—in breach of the principle of confidentiality. Detainees wear prison clothing. Reportedly, this measure was initially put in place for male detainees only due to a lack of access to laundry facilities. However, women have also been found to be wearing such clothing. The NPM recommended that the use of personal clothing be privileged and access to recreational activities and work opportunities be improved.¹⁸⁸ In October 2018, between three and 10 detainees were reported to be on hunger strike to protest deportations.¹⁸⁹

3.3h Erding. The centre in Erding opened in February 2018, following the conversion of a prison to make up for a shortage of immigration detention beds in Bavaria (the number of

¹⁸⁰ T. Baumann-Hartwig, "Abschiebegefängnis geht in Betrieb," *Dresdner Neueste Nachrichten*, 3 December 2018, <http://www.dnn.de/Dresden/Lokales/Abschiebegefängnis-geht-in-Betrieb>

¹⁸¹ CDU Sachsen, "Ausreisegewahrsam und Abschiebehaft in Dresden eröffnet," *CDU Die Sächsische Union*, 3 December 2018, <https://bit.ly/32P8yjA>

¹⁸² Deutscher Bundestag, "Schriftliche Fragen mit den in der Woche vom 4. Februar 2019 eingegangenen Antworten der Bundesregierung - Response to Question No. 47, Drucksache 19/7585," 8 February 2019, <http://dipbt.bundestag.de/doc/btd/19/075/1907585.pdf>

¹⁸³ T. Baumann-Hartwig, "Abschiebegefängnis geht in Betrieb," *Dresdner Neueste Nachrichten*, 3 December 2018, <http://www.dnn.de/Dresden/Lokales/Abschiebegefängnis-geht-in-Betrieb>; CDU Sachsen, "Ausreisegewahrsam und Abschiebehaft in Dresden eröffnet," *CDU Die Sächsische Union*, 3 December 2018, <https://www.cdu-sachsen.de/aktuelles/2018/ausreisegewahrsam-und-abschiebehaft-in-dresden-eroeffnet>

¹⁸⁴ T. Betz and J. Röhmel, "Demo gegen Abschiebeknast Eichstätt," *BR 24*, 12 June 2017, <http://www.br.de/nachrichten/oberbayern/inhalt/start-abschiebegefängnis-eichstaett-100.html>; Stefan Kessler (Jesusit Refugee Service Germany), Email correspondence with Izabella Majcher (Global Detention Project), July-August 2017.

¹⁸⁵ Informationsverbund Asyl und Migration, "Country Report: Germany," *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, March 2018, <https://bit.ly/31Klxmo>

¹⁸⁶ Deutscher Bundestag, "Schriftliche Fragen mit den in der Woche vom 4. Februar 2019 eingegangenen Antworten der Bundesregierung, Response to Question No. 47, Drucksache 19/7585," 8 February 2019, <http://dipbt.bundestag.de/doc/btd/19/075/1907585.pdf>

¹⁸⁷ Federal Government, "Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 18/3769, Drucksache 18/7196," 6 January 2016, <http://dipbt.bundestag.de/doc/btd/18/071/1807196.pdf>

¹⁸⁸ National Agency for the Prevention of Torture, "Annual Report 2017," 2018, <https://bit.ly/3jzR81j>

¹⁸⁹ D. Mittler, "Mindestens drei Gefangene in Abschiebehaftanstalt in Hungerstreik," *Süddeutsche Zeitung – SZ.de*, 4 October 2018, <https://www.sueddeutsche.de/bayern/asylpolitik-gefangene-im-hungerstreik-1.4157125>

places available in Eichstätt were no longer sufficient).¹⁹⁰ As of January 2019, the centre had a capacity of 24,¹⁹¹ but the Ministry of Justice declared that in exceptional cases and for short periods of time, the capacity could be raised to a maximum of 49.¹⁹² Detainees can move freely in the facility during the day. When the centre first opened, journalists reported that no psychologists or social workers were present, making it difficult for the facility's guards—the same employees who worked in the prison before its conversion—as they were not used to working with traumatised individuals.¹⁹³ Riots and suicide attempts thus characterised the first weeks of the facility's operation.¹⁹⁴ However, by March 2018 such services had been established.¹⁹⁵

3.3i Hamburg. Since April 2018, Hamburg Airport has hosted a long-term detention centre (*Rückführungseinrichtung*).¹⁹⁶ Until 2017, the facility only detained non-citizens for “custody to secure departure” (*Ausreisegewahrsam*).¹⁹⁷ As of January 2019, the facility had capacity for 20 persons.¹⁹⁸

Detainees are allowed to use their mobile phones and are provided with free internet access. During its 2017 visit, the NPM commended the “generous daily visitation rights” granted to detainees.¹⁹⁹ At the same time however, the NPM reported that the centre did not employ a psychologist, did not conduct initial medical examinations, used straps to restrain detainees, and did not provide a diverse selection of recreation activities.²⁰⁰

¹⁹⁰ K. Woitsch, “Abschiebehaft JVA Erding: Gleich am ersten Tag gab es Tumulte,” *Merkur.de*, 16 February 2018, <https://bit.ly/32NTZwT>; T. Daller, “JVA wird Abschiebegefängnis,” *Süddeutsche Zeitung – SZ.de*, 1 February 2018, <https://www.sueddeutsche.de/muenchen/erding/erding-jvawird-abschiebegefangaengnis-1.3850559>

¹⁹¹ Deutscher Bundestag, “Schriftliche Fragen mit den in der Woche vom 4. Februar 2019 eingegangenen Antworten der Bundesregierung, Response to Question No. 47, Drucksache 19/7585,” 8 February 2019, <http://dipbt.bundestag.de/doc/btd/19/075/1907585.pdf>

¹⁹² K. Woitsch, “Abschiebehaft JVA Erding: Gleich am ersten Tag gab es Tumulte,” *Merkur.de*, 16 February 2018, <https://bit.ly/3gPbcuS>

¹⁹³ K. Woitsch, “Abschiebehaft JVA Erding: Gleich am ersten Tag gab es Tumulte,” *Merkur.de*, 16 February 2018, <https://bit.ly/32ZFfLB>; R. Bluhme, “Chefsache Abschiebehaft,” *Süddeutsche Zeitung – SZ.de*, 1 March 2018, <https://www.sueddeutsche.de/muenchen/erding/reaktion-auf-kritik-chefsache-abschiebehaft-1.3889094>

¹⁹⁴ K. Woitsch, “Abschiebehaft JVA Erding: Gleich am ersten Tag gab es Tumulte,” *Merkur.de*, 16 February 2018, <https://bit.ly/2QHZufs>; R. Bluhme, “Chefsache Abschiebehaft,” *Süddeutsche Zeitung – SZ.de*, 1 March 2018, <https://www.sueddeutsche.de/muenchen/erding/reaktion-auf-kritik-chefsache-abschiebehaft-1.3889094>

¹⁹⁵ R. Bluhme, “Chefsache Abschiebehaft,” *Süddeutsche Zeitung – SZ.de*, 1 March 2018, <https://www.sueddeutsche.de/muenchen/erding/reaktion-auf-kritik-chefsache-abschiebehaft-1.3889094>

¹⁹⁶ Bürgerschaft der freien und hansenstadt Hamburg, “Schriftliche Kleine Anfrage der Abgeordneten Christiane Schneider (DIE LINKE) vom 10.07.2018) und Antwort des Senats, Drucksache 21/13759,” 17 July 2018, https://www.buergerschaft-hh.de/parldok/dokument/63141/abschiebehaft_am_flughafen_hamburg_ii.pdf

¹⁹⁷ Hamburgasyl, “Abschiebung,” *Hamburgasyl.de*, <http://hamburgasyl.de/themen/abschiebungshaft/>; Bürgerschaft der freien und hansenstadt Hamburg, “Schriftliche Kleine Anfrage der Abgeordneten Christiane Schneider (DIE LINKE) vom 10.07.2018) und Antwort des Senats, Drucksache 21/13759,” 17 July 2018, https://www.buergerschaft-hh.de/parldok/dokument/63141/abschiebehaft_am_flughafen_hamburg_ii.pdf

¹⁹⁸ Deutscher Bundestag, “Schriftliche Fragen mit den in der Woche vom 4. Februar 2019 eingegangenen Antworten der Bundesregierung, Response to Question No. 47, Drucksache 19/7585,” 8 February 2019, <http://dipbt.bundestag.de/doc/btd/19/075/1907585.pdf>

¹⁹⁹ National Agency for the Prevention of Torture, “Annual Report 2017,” 2018, <https://bit.ly/3lAZ6ch>

²⁰⁰ National Agency for the Prevention of Torture, “Annual Report 2017,” 2018, <https://bit.ly/3jDGAON>

3.3j Hannover (Langenhagen). The Hannover (Langenhagen) detention centre is one of two detention facilities in Germany that operated as a criminal prison prior to the CJEU ruling (the other is Büren).²⁰¹ Following its conversion into a dedicated immigration detention centre, the Hannover facility could confine up to 30 persons. Since then, the capacity has increased—to 68 in 2017—and plans are in place to further increase capacity to 116.²⁰²

According to official sources, as of 2016, detainees can move freely within the centre's premises and their rooms are never locked. They can receive visits every day, have access to free internet, and spend at least four hours outdoors daily.²⁰³ More recently—as of 2018—it appears that detainees are banned from using their own mobile phones (due to the presence of cameras and internet access) but are instead provided with one by the facility.²⁰⁴ In March 2018, a group of detainees complained about the ill-treatment they had been subjected to at the facility. They alleged that they had experienced beatings, had been prevented from using toilets, and their faith had been disrespected. Although investigations merely reported that there was a lack of evidence,²⁰⁵ the allegations gave rise to controls by both public prosecutors and the Ministry of Justice.

3.3k Munich Airport Hangar. Beyond the facilities in Eichstätt and Erding, Bavaria has rented containers in a former Air Berlin hangar at Munich Airport in order to increase its total detention capacity.²⁰⁶ As of January 2019, the centre had a capacity of 30 beds.²⁰⁷ The layout of the centre has been described in detail by Informationsverbund Asyl & Migration and ECRE: “The facility is surrounded by a 4-meter fence with barbed wire on the top, resembling a cage, inside the hangar. The living units are organised in blue containers and

²⁰¹ Pro Asyl and Diakonie in Hessen and Nassau, “Schutzlos hinter Gittern: Abschiebungshaft in Deutschland,” June 2013, <https://www.proasyl.de/material/schutzlos-hinter-gittern-abschiebungshaft-in-deutschland/>

²⁰² R. Breyton and T. Heimbach, “Das Comeback der Abschiebehaft in Deutschland,” *Welt*, 1 August 2017, <https://bit.ly/2ERJZu7>; Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), December 2016, <http://www.asylumineurope.org/reports/country/germany>; HAZ, “JVA: Mehr Plätze für Abschiebungshaft,” HAZ, 18 March 2016, <https://bit.ly/3jwZ7fx>

²⁰³ Federal Government, “Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 18/3769, Drucksache 18/7196,” 6 January 2016, <http://dipbt.bundestag.de/doc/btd/18/071/1807196.pdf>; E.M. Weiss, “Das Gefängnis der offenen Türen,” *Neue Presse*, 21 February 2015, <https://tinyurl.com/y555452m>

²⁰⁴ P. Hellerling, “Abschiebehaft Langenhagen: Keine Belege für Misshandlung,” *Hannoversche Allgemeine – Haz.de*, 2 July 2018, <http://www.haz.de/Hannover/Aus-der-Stadt/Abschiebehaft-Langenhagen-Keine-Belege-fuer-Misshandlung-von-Insassen>

²⁰⁵ P. Hellerling, “Misshandlungsvorwurf: zwei Insassen befragt,” *Hannoversche Allgemeine – Haz.de*, 24 September 2018, <http://www.haz.de/Hannover/Aus-der-Stadt/uebersicht/Abschiebehaft-Langenhagen-Zwei-Haeftlinge-zu-Vorwurf-der-Misshandlung-befragt>; P. Hellerling, “Abschiebehaft Langenhagen: Keine Belege für Misshandlung,” *Hannoversche Allgemeine – Haz.de*, 2 July 2018, <http://www.haz.de/Hannover/Aus-der-Stadt/Abschiebehaft-Langenhagen-Keine-Belege-fuer-Misshandlung-von-Insassen>

²⁰⁶ *Süddeutsche Zeitung*, “Bayern errichtet Abschiebehaftanstalt am Münchner Flughafen,” *Süddeutsche Zeitung – SZ.de*, 19 July 2018, <https://tinyurl.com/y4xbhoqu>; M. Arnsperger, “Byern mietet Riesen-Hangar – und bring dort nur zwei Häftlinge unter,” *Focus.de*, 18 December 2018, <https://bit.ly/31KJivK>

²⁰⁷ M. Arnsperger, “Byern mietet Riesen-Hangar – und bring dort nur zwei Häftlinge unter,” *Focus.de*, 18 December 2018, <https://bit.ly/31LI8t9>; S. Kessler, “Abschiebungshaft,” *Socialnet Lexikon*, 14 January 2019, <https://www.socialnet.de/lexikon/Abschiebungshaft>

each (...) is surrounded by a second fence within the fenced facility in the hangar.”²⁰⁸ The facility is equipped with a common area offering recreational activities, including a library, TV, and games.²⁰⁹ As of July 2020, however, the facility was reported to have been temporarily closed—although plans were in place for its reopening.²¹⁰

3.3I Ingelheim. The Ingelheim dedicated immigration detention centre is the only facility that was operating as a specialised immigration detention centre prior to the 2014 CJEU ruling. Established in 2001, the centre was renovated in 2012.²¹¹ As of 2016, it had a capacity of 70,²¹² but since then it has reduced: to 40 by 2017²¹³ and to 32 by 2019.²¹⁴ Until recently, the centre’s staff was comprised of both state authorities and staff provided by the private firm Kötter.²¹⁵ (In 2016, the federal state’s authorities confirmed that the centre used the services of private companies for surveillance, medical care, cleaning, and telephone services.)²¹⁶ However, more recently Kötter was replaced with another firm.

The facility is comprised mainly of single-room cells. Each cell is equipped with a bed, table, chair, locker, and wardrobe. There is also a separate area with a sink and toilet. In 2013, the National Agency for the Prevention of Torture found that rooms and sitting rooms were clean and in a good state of repair. The cells were open during the day and detainees could spend

²⁰⁸ Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, April 2019, <https://www.asylumineurope.org/reports/country/germany>

²⁰⁹ Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, April 2019, <https://www.asylumineurope.org/reports/country/germany>

²¹⁰ Representative from Germany’s National Agency for the Prevention of Torture, Email correspondence with Katie Welsford (Global Detention Project), 30 July 2020.

²¹¹ National Agency for the Prevention of Torture, “Annual Report 2013 of the Federal Agency and the Commission Countries,” April 2014, www.nationale-stelle.de/26.html; Pro Asyl, “*Situation in den bundesdeutschen Abschiebegefängnissen*,” April 2013, http://archiv.proasyl.de/fileadmin/proasyl/12-04-13_A-Haftbedingungen_-_PRO_AsyL_2__Quartal_2013_01.pdf; Pro Asyl and Diakonie in Hessen and Nassau, “*Schutzlos hinter Gittern: Abschiebungshaft in Deutschland*,” June 2013, <https://www.proasyl.de/material/schutzlos-hinter-gittern-abschiebungshaft-in-deutschland/>

²¹² Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, December 2016, <http://www.asylumineurope.org/reports/country/germany>

²¹³ R. Breyton and T. Heimbach, “*Das Comeback der Abschiebehaft in Deutschland*,” *Welt*, 1 August 2017, <https://www.welt.de/politik/deutschland/article167243145/Das-Comeback-der-Abschiebehaft-in-Deutschland.html>.

²¹⁴ Deutscher Bundestag, “*Schriftliche Fragen mit den in der Woche vom 4. Februar 2019 eingegangenen Antworten der Bundesregierung, Response to Question No. 47, Drucksache 19/7585*,” 8 February 2019, <http://dipbt.bundestag.de/doc/btd/19/075/1907585.pdf>

²¹⁵ National Agency for the Prevention of Torture, “Annual Report 2013 of the Federal Agency and the Commission Countries,” April 2014, www.nationale-stelle.de/26.html; Pro Asyl and Diakonie in Hessen and Nassau, “*Schutzlos hinter Gittern: Abschiebungshaft in Deutschland*,” June 2013, <https://www.proasyl.de/material/schutzlos-hinter-gittern-abschiebungshaft-in-deutschland/>

²¹⁶ Federal Government, “*Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 18/3769, Drucksache 18/7196*,” 6 January 2016, <http://dipbt.bundestag.de/doc/btd/18/071/1807196.pdf>

four hours a day outside.²¹⁷ According to official sources, as of 2016 detainees could access the internet and use their phones, provided that they did not have cameras; receive visits every day; and wear their own clothes.²¹⁸ However, following an alleged escape attempt, the facility's phone policy was amended and detainees can no longer use their personal phones or access the internet. While they can still use the facility's phone, they are only granted the right to make to phone calls during their stay. The alleged escape attempt has also led the management of the centre to put in place stricter security measures, such as a reduction of the time detainees can spend outdoors and an increased use of barbed wire.²¹⁹

3.3m Pforzheim. Set up in April 2016 on the premises of a former juvenile prison, the Pforzheim facility had a capacity of 21 in 2016, which increased to 80 as of January 2019.²²⁰ According to official sources, detainees are allowed to move freely within the premises, receive visits, make phone calls, use the internet, prepare their meals, and wear their own clothes.²²¹

3.3n Medium-term airport detention centres. As of 2019, Germany operated five medium-term airport detention centres, located at the **Berlin, Düsseldorf, Frankfurt, Munich, and Hamburg** airports.²²² These facilities are used to confine asylum seekers coming from “safe countries” or those arriving without identity papers for the period of the airport procedure—which, according to the Asylum Act, can last for up to 19 days. Germany considers people confined in these facilities as not having entered the country (for more, see 2.3 Grounds for

²¹⁷ National Agency for the Prevention of Torture, “Annual Report 2013 of the Federal Agency and the Commission Countries,” April 2014, www.nationale-stelle.de/26.html; Pro Asyl and Diakonie in Hessen and Nassau, “Schutzlos hinter Gittern: Abschiebungshaft in Deutschland,” June 2013, <https://www.proasyl.de/material/schutzlos-hinter-gittern-abschiebungshaft-in-deutschland/>

²¹⁸ Federal Government, “Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 18/3769, Drucksache 18/7196,” 6 January 2016, <http://dipbt.bundestag.de/doc/btd/18/071/1807196.pdf>

²¹⁹ Global Detention Project, “Harm Reduction in Immigration Detention: A Comparative Study of Detention Centres in France, Germany, Norway, Sweden, and Switzerland (Report Commissioned by the Norwegian Red Cross),” October 2018, <https://www.globaldetentionproject.org/harm-reduction-immigration-detention>

²²⁰ R. Breyton and T. Heimbach, “Das Comeback der Abschiebehaft in Deutschland,” *Welt*, 1 August 2017, <https://www.welt.de/politik/deutschland/article167243145/Das-Comeback-der-Abschiebehaft-in-Deutschland.html>; Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, December 2016, <http://www.asylumineurope.org/reports/country/germany>; Federal State of Baden-Württemberg, “Abschiebungshafteinrichtung in Pforzheim nimmt Betrieb auf,” 1 April 2016, <https://bit.ly/2YQ05vq>

²²¹ Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, March 2018, <https://www.asylumineurope.org/reports/country/germany>; Federal State of Baden-Württemberg, “Abschiebungshafteinrichtung in Pforzheim nimmt Betrieb auf,” 1 April 2016, <https://bit.ly/3gRbUYm>

²²² European Council on Refugees and Exiles (ECRE), “Airport Procedures in Germany: Gaps in Quality and Compliance with Guarantees,” 2019, <http://www.asylumineurope.org/sites/default/files/airportproceduresgermany.pdf>; Flüchtlingsrat NRW, Email correspondence with Izabella Majcher (Global Detention Project), August 2017; Timmo Scherenberg (Hessischer Flüchtlingsrat), Email correspondence with Izabella Majcher (Global Detention Project), August 2017; Loulou Kinski (Münchner Flüchtlingsrat), Email correspondence with Izabella Majcher (Global Detention Project), August 2017; Anne Lausmann (Caritasverband Frankfurt), Telephone conversation with Izabella Majcher (Global Detention Project), 16 August 2017; Flüchtlingsrat Hamburg, Telephone conversation with Izabella Majcher (Global Detention Project), 17 August 2017; Federal Office for Migration and Refugees, “Flughafenverfahren,” August 2016, <https://bit.ly/3hQAbPD>; Migreurop, “Fiche de pays: Allemagne,” *Close the Camps*, February 2016, <http://closethecamp.org/pays/DEU>; Federal Office for Migration and Refugees, “Flughafenverfahren,” August 2016, <https://bit.ly/3IGxOKH>

detention). As a result, the GDP classifies these facilities as medium-term “transit centre” detention sites.

As of 2017, the Düsseldorf airport facility had a capacity of 50,²²³ Hamburg 20,²²⁴ Munich approximately 20,²²⁵ and Berlin 30.²²⁶ The Berlin airport facility, which contracts security to B.O.S.S., cost 1.3 million EUR to build.²²⁷ The Frankfurt airport has a capacity of 100 but usually detains less people, up to around 50.

The Frankfurt airport site confines people in six-person rooms and separates women and men. It also has a space for families.²²⁸ Detainees have two sitting rooms and a courtyard at their disposal, and they can move about freely within the facility. The National Agency for the Prevention of Torture found that the facility was clean, properly lit and furnished.²²⁹ Although in theory people can be confined there for up to 19 days, [Caritas Frankfurt](#) and [Hessischer Flüchtlingsrat](#) report that frequently people have been held for longer, due to prolonged identification or deportation proceedings.²³⁰ After 30 days in the detention centre another judge has to decide about further detention and frequently orders it for three months. If the deportation has not taken place within that period due to lack of travel documents, in most cases people are allowed entry to the country. Rarely, their detention at the airport is extended for another three months. According to official figures for 2016, of the 258 people detained in the airport centre, 188 were allowed to enter the country and 64 were deported within two days.²³¹

²²³ Flüchtlingsrat NRW, Email correspondence with Izabella Majcher (Global Detention Project), August 2017.

²²⁴ Flüchtlingsrat Hamburg, Telephone conversation with Izabella Majcher (Global Detention Project), 17 August 2017.

²²⁵ Undisclosed source, Email correspondence with Izabella Majcher (Global Detention Project), August 2017.

²²⁶ Undisclosed source, Email correspondence with Izabella Majcher (Global Detention Project), August 2017.

²²⁷ K. Starke, "At Schönefeld Airport Refugees Live Behind Bars," *Berliner Morgenpost*, 10 October 2013.

²²⁸ Anne Lausmann (Caritasverband Frankfurt), Telephone conversation with Izabella Majcher (Global Detention Project), 16 August 2017.

²²⁹ National Agency for the Prevention of Torture, "Annual Report 2013 of the Federal Agency and the Commission Countries," April 2014, www.nationale-stelle.de/26.html

²³⁰ Anne Lausmann (Caritasverband Frankfurt), Telephone conversation with Izabella Majcher (Global Detention Project), 16 August 2017; Timmo Scherenberg (Hessischer Flüchtlingsrat), Email correspondence with Izabella Majcher (Global Detention Project), August 2017.

²³¹ Timmo Scherenberg (Hessischer Flüchtlingsrat), Email correspondence with Izabella Majcher (Global Detention Project), August 2017.



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