



**Drug Commissioner of
the Federal Government**

Drug Consumption Rooms

Background Information

Federal Ministry of Health and Social Security

Berlin, Germany

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I. History

The first drug consumption room for opiate-dependent persons in Germany was opened in Frankfurt on the Main in December 1994. In March 2003 there were 19 drug consumption rooms in the Federal Republic of Germany¹: These institutions provide several hundred drug injecting places; they are used every day by several thousand addicts several times a day.

The motivation for establishing drug consumption rooms was the obviously growing health-related and social destitution of hard-core drug addicts on the open drug scene of the big cities. The conception of the drug consumption rooms has been developed in close co-operation between representatives of the municipal authorities, the police, the administration of justice and of the organizations of drug-addict care services. Their objective was to minimize - by direct assistance on the spot - the risks and problems resulting from illicit drug use for the individual drug addicts themselves but also for their social environment.

Most drug related deaths are caused by overdosing of heroin and mixed intoxication due to polydrug abuse. Therefore, it is a prime aim of the Federal Government not only to facilitate health and social rehabilitation via abstinence-oriented assistance schemes and therapies, but also to secure the survival and health stabilisation of the drug users.

II. Legal situation

In the beginning, the legal situation of the drug consumption rooms was uncertain and controversial. Therefore the German Parliament adopted an amendment of the Narcotics Act in order to provide a clear legal basis for the establishment of drug consumption rooms. This amendment came into force in April 2000.

¹ 7 in Hamburg, 4 in Frankfurt/M, 1 in Hanover, 1 in Saarbrücken, 1 in Cologne, 1 in Aachen, 1 in Dortmund, 1 in Essen, 1 in Münster, 1 in Wuppertal

The main **purpose** of the new legislation was:

- to ensure by provision of a licence of the competent state authority that drug consumption rooms comply with recognised standard requirements of drug demand reduction programmes, in particular of risk reduction measures for hard-core drug addicts,
- to provide a sound and uniform legal basis for the work of the personnel in drug injecting rooms and to protect it from being at risk of unlawful action.

The **text** of the new provisions concerning the drug consumption rooms (namely section 10a of the Narcotics Act) is attached to this note. According to this new legislation, the following objectives, preconditions and measures have to be applied in all drug consumption rooms:

The following **objectives** for drug addicts are pursued:

- Deliverance from life-threatening patterns of drug abuse and stabilisation of health
- Improvement of assistance in cases of emergency (first aid, medical care by emergency doctors)
- Improvement of the accessibility of hard-core drug addicts who could so far not be cared for
- Conveying offers of assistance organized by drug-addict care services and aiming at confirming the drug users in their desire to abandon these illicit activities
- Prevention of infectious diseases by hygienic and stressless conditions for the injection of carry-on-drugs, in particular prevention of HIV infections.

The following **requirements** have to be met:

- Drug consumption rooms require that the relevant city has already organized a wide range of offers and programmes of assistance of addict-support. The drug consumption rooms have to be interlinked with other already existing offers of assistance (counselling, medical outpatient care, therapy etc.). They particularly complement the so-called drug abuse emergency services (contact-café, lunch table, syringe-exchange, emergency overnight shelter, crisis intervention etc.).
- The target group consists of intravenous drug users, their minimum age should be 18 years as a rule. Methadone-using patients are excluded.
- Occasional and first-time drug users are not allowed to enter the premises.
- First aid and medical care by emergency doctors have to be guaranteed.

- Addicts have to be purposefully influenced to make use of the following offers of assistance aiming at a life without drugs:
 - counselling and care,
 - placement of addicts in institutions of detoxification and withdrawal and/or drug substitution treatment
 - as well as medical care.
- Drug trafficking and the supply of drugs in the drug consumption room are prevented; in the vicinity of these rooms the police ensures the compliance with these preconditions.
- Drug users are allowed to bring only one consumption unit with them into the drug consumption room.
- Only the injecting equipment provided at the drug consumption room shall be permitted for use.
- The entire work done at the drug injecting room has to be documented and evaluated.

The following **organizational measures** are applicable, *inter alia*, to the daily routine at the drug consumption rooms:

A multiprofessional team (full-time social workers and nursing staff, supported by trained auxiliary personnel) ensures that the drug consumption room is run regularly and under supervision. Everyday opening hours (up to a maximum of 16 hours) are geared to the local demand. It is checked whether users actually belongs to the target group. There are house regulations which have to be complied with. In case of an infringement there is a ban on entering the drug consumption room. Professional drug dealers shall be reported to the police. In every drug consumption room a maximum number of 12 drug injecting places is made available and these can be permanently supervised by the staff. The rooms provide users with the necessary injecting paraphernalia including injecting equipment. One or several rooms serve as waiting rooms. Drug consumption rooms are strictly separated from premises for other offers of assistance, although they are frequently housed under the same roof. Usually the drug injecting rooms are located in the immediate vicinity of the drug scene of the city.

Ordinances are meanwhile in place in Hamburg, Hesse, Lower Saxony, Northrhine-Westphalia, the Saarland and Berlin.

III. Drug Consumption Rooms and the international Drug Conventions

The INCB and several Governments challenge the compatibility of drug consumption rooms with the international Drug Conventions. The INCB takes the stance that drug injection rooms are contrary to the international Drug Control Treaties, "because they might even facilitate drug abuse and possibly abet illicit drug trafficking".

While the INCB's criticism may be justified when it refers to premises that serve as a mere venue for the injection of illicit drugs and that do not meet any minimum requirements or safety precautions, it does not apply to the German drug consumption rooms.

- (a) German drug consumption rooms which are established according to the Narcotics Act do not violate the provisions of the Conventions that require the States Party to make the illicit traffic in and possession of drugs a punishable offence (cf. Article 4 letter c, Article 36 of the 1961-Convention and Article 3 of the 1988-Convention).

Under German law, the punishability of the illicit traffic in and possession of drugs is not nullified in the drug consumption rooms; on the contrary, section 10 a subs. 2 Nos. 5 and 6 of the Narcotics Act stipulates that concrete measures must be taken to prevent - to the greatest possible extent - criminal offences under this Act from being committed inside or in the immediate surroundings of drug consumption rooms. For this purpose, close co-operation with the local authorities responsible for ensuring public order and safety has explicitly been written into this Act.

However, the Act allows for the option that prosecution for possession may be refrained from if only small quantities of drugs for personal consumption are involved. This is admissible, indeed sometimes even necessary, under German constitutional law by virtue of the proportionality principle enshrined therein. Inside a drug consumption room the possession of a small quantity of drugs for personal consumption should - as a rule - not be prosecuted. This position is also in line with the international Conventions: After all, the latter make the obligations on the Parties generally subject to national constitutional principles and basic concepts (cf. Article 36 paragraph 1a of the 1961-Convention and Article 3 paragraph 2 of the 1988-Convention); moreover, prosecution is specifically subject to domestic law (cf. Article 36 paragraph 4 of the 1961-Convention and Article 3 paragraph 11 of the 1988-Convention).

Overall, drug consumption rooms in Germany are a particularly safe and secure setting in respect of concerns over illicit drug trafficking. By no means is it so that they violate the obligation to prevent and prosecute illicit drug trade, but, on the contrary, they are instrumental in implementing these obligations.

- (b) Over and beyond that, drug consumption rooms are institutions that serve to implement Article 38 of the 1961-Convention which requires the States Parties “to take all practicable measures for the prevention of abuse of drugs and for the early identification, treatment, education, aftercare, rehabilitation and social integration of the persons involved”.

This is precisely what the drug consumption rooms aim to achieve, namely to provide the addicts with survival assistance, reduce the damage to their health, get them into medical treatment, motivate them to change their life situation and consumption patterns, and, eventually, move them out of the vicious circle of addiction and criminalisation and reintegrate them into society. In fact, these forms of assistance must be provided in drug consumption rooms according to the provisions stipulated in the Narcotics Act, which, *inter alia*, calls for

- arrangements to ensure immediate provision of emergency medical care,
- medical counselling and assistance for the purpose of risk minimisation in the use of narcotic drugs
- continuous presence of a sufficient number of reliable staff whose professional training qualifies them to comply with the requirements mentioned.

Observance of these statutory requirements is monitored by the Land health authorities; any violations of these provisions will be prosecuted.

- (c) In Germany, drug consumption rooms do by no means take the place of therapy options, but complement them. Germany has a well-developed system for the treatment of drug-dependent persons that offers both drug-free and substitution-based therapies, so that every addict who so wishes, will obtain a therapy place. Drug consumption rooms do not replace facilities for treatment but offer low-threshold services for individuals who - for whatever reasons - do not undergo a therapy.

Even the best system cannot reach all addicts. However, those who cannot be reached must nevertheless be helped, too, for the obligation pursuant to Article 38 also applies to this population. For them, the State must provide appropriate assistance options outside the medical treatment system, a service which, in Germany, has been guaranteed

through, inter alia, drug consumption rooms. States who do not permit the setting up of such establishments must face the question of whether they might not be violating Article 38 of the 1961-Convention.

In its 2002 report the INCB encourages governments "to provide a wider range of facilities for the treatment of drug abuse..., instead of aiding and abetting drug abuse (and possibly illicit drug trafficking) through drug injection rooms". We feel that these approaches are not mutually exclusive, but rather complementary: drug consumption rooms are a constituent element of an integrated continuum of treatment and assistance options that must give every addict access to medical care.

- (d) Drug consumption rooms do not infringe the spirit and sense of the international Drug Conventions. They are also in line with the resolutions of the 20th Special Session of the United Nations General Assembly (UNGASS 98), mainly with the Action Plan for the Implementation of the Declaration on Guiding Principles of Drug Demand Reduction adopted by the General Assembly in its Resolution 54/132 in 1999. With respect to addicts who are not under medical treatment, drug consumption rooms are an approach towards attaining the objectives laid down in the principles. Consequently, they fully comply with CND Resolution 43/3 of 15th March 2000 which

- urges Member States to develop services for early detection, counselling, treatment, relapse prevention, aftercare and social reintegration and to ensure that such services are widely available and have sufficient capacity for those in need;

- requests Member States to find strategies and increase access to an availability of services designed to reach drug abusers who are not integrated into or reached by existing services and programmes and are at high risk of severe health damage, drug-related infectious diseases and even fatal incidents, in order to assist such drug abusers in reducing individual and public health risks.

IV. Experiences

Drug consumption rooms proved to be an important constituent in the so-called harm-reducing approach. This is clearly demonstrated by:

- the improved accessibility of severely ill drug addicts who were unknown thus far;
- the reduction of the open drug scene;
- an improved public security in the city;
- the decline in the number of drug-related deaths.

There were indications that the setting up and operation of drug consumption rooms has led to a decrease in drug-related deaths. So, to be able to furnish scientific evidence of these trends and study the impact of the new legislation, the work of drug consumption rooms was subjected to an evaluation running from November 2001 to July 2002.

The study: "**Evaluation der Arbeit der Drogenkonsumräume in der Bundesrepublik Deutschland**" (Evaluation of the work of drug consumption rooms in the Federal Republic of Germany), was realised by the *Zentrum für angewandte Psychologie-, Umwelt-, und Sozialforschung (ZEUS)* in Bochum on behalf of the Federal Ministry of Health and the Drug Commissioner of the Federal Government. The study included 19 drug consumption rooms.

The study aimed to

- compare the statutory ordinances passed by the individual Federal Laender with one another and assess their respective impacts;
- gather precise data on the uptake of the facilities (use of the assistance offered, drug-related emergencies, referral to other types of assistance);
- evaluate the operation of the drug consumption rooms in place against the legal standards required and to suggest practical improvements;
- identify, by means of a time series analysis, what specific contribution drug consumption rooms make towards decreasing drug-related mortality and acquisitive crime and easing the burden on the environment involved.

For this purpose, existing Land-specific ordinances on the operation of drug consumption rooms were compared with each other, accurate data on the uptake of consumption rooms and the affiliated contact facilities collected, interviews made with the staff in charge, opioid-dependent individuals surveyed in the individual consumption rooms, compliance with the

statutory minimum standards checked, general weak points identified and suggestions for improving the work in the facilities prepared. Time series analyses served to verify whether drug consumption rooms do influence the number of drug-related deaths.

The following are the study's **key findings**:

- The goal of moving long-term heroin addicts who use drug consumption rooms into further (abstention-oriented) assistance services, has been reached; more than half of the users interviewed said that contact with other services, particularly detoxification facilities, authorities and therapy facilities had been arranged for them.
- Immediate emergency care ensures survival of the opioid addicts in all consumption rooms; between 1995 and 2001, a total of 2.1 million consumption episodes took place; over the same period, a total of 5,426 emergencies were recorded that might have had a fatal outcome but for the immediate intervention of staff.
- The time series analysis done by the foregoing research institute, which looked at the number of drug-related fatalities in the cities under study - Hamburg, Hanover, Frankfurt on the Main and Saarbrücken - over a more than ten years' period revealed that there was a statistically significant reduction of drug-related mortality in these cities after the establishment of consumption rooms. Hence, drug consumption rooms, alongside other factors, make a specific, above random contribution towards lowering drug-related death rates.

Moreover, the study found that

- the statutory ordinances adopted by the individual Federal Laender concretely specify the minimum standards required by the Federal law; there are no material differences among these ordinances; occasional and first-time drug users are not allowed to enter the premises;
- the minimum standards laid down in the statutory ordinances are complied with; immediate emergency medical care is ensured; full-time staff have the experience required for low-threshold work with addicts; usually introductory talks are had with newcomers to the facilities to discuss further assistance options; networking with other assistance services is good;
- more than three quarters of users approved of the opening hours; the majority are also regularly approached to discuss forward-looking plans; contact with staff is for the most part rated as good; the provision of basic services (medical care, syringe exchange etc.) is given a highly positive rating.

Data evaluation shows that

- overall, the target group identified by the legislator is reached (particularly long-term heroin users - averaging 12.5 years of use and high-level cocaine co-use),
- interviewers never encountered minors in the drug-consumption rooms,
- upwards of 90% of those surveyed had a several years' history of opioid dependence,
- interviewees reported that consumption rooms have significantly improved their health care provision,
- consumption rooms enhance access to the medical assistance system in general,
- co-operation with the police and regulatory authorities in the participating cities is good.

There was found to be room for improvement concerning the future development of these low-threshold facilities; among others things, the problem of hepatitis infection should be awarded greater attention, as should the question of how the proportion of women that is lower here than in other drug assistance facilities, may be increased. Another problem is a small group of individuals under substitution treatment who demand access.

V. Conclusion

In the open drug scene of big German cities, drug consumption rooms proved to be an efficient measure for providing assistance in surviving, stabilizing the drug users' health and delivering them from drug addiction. This success could only be achieved because the offer of drug consumption rooms in big cities is integrated into a well-developed and widespread network of measures providing counselling, assistance, treatment and social reintegration. It is carefully seen to it that the establishment of drug injecting rooms does not place the already existing and proven other types of offer at a disadvantage. On the contrary, they actually reinforce these measures and enable more and more addicts to abandon their illicit drug use and their drug addiction.

Over the last 3 years, the number of drug-related deaths decreased considerably in Germany (2000: **2030**; 2001: **1835**; 2002: **1513**). This is of course due to a great number of factors, but it seems evident that among these factors, the tools of the German risk reduction policy, namely the low-threshold offers and the drug consumption rooms contribute to this positive development.

The Federal Government's expectations of what drug consumption rooms should accomplish have been fulfilled. Drug consumption rooms facilitate contact to this hard-to-reach group. The low-threshold offer of consumption rooms has proved to be a means of stabilising the health of drug dependent persons, an approach towards survival assistance and, what is more, in many cases an impulse to actually escape from addiction. Moreover, they contribute towards decreasing public drug scenes.

**Act to regulate the traffic in narcotics
(Narcotics Act)**

**Section 10 a
Licence to operate drug consumption rooms**

(1) A licence of the highest Land authority is required by whoever wishes to operate an establishment in the premises of which drug-addicted persons are afforded or granted an opportunity to use narcotic drugs the latter bring with them and that have not been medically prescribed (drug consumption room). A licence may only be issued if the Land government stipulated the requirements for such issue in a statutory order in accordance with subsection 2.

(2) The Laender governments are authorized to stipulate, by means of a statutory order, the prerequisites for the issue of a license pursuant to paragraph 1. These stipulations must establish, in particular, minimum standards for the following to ensure the safety and supervision of the use of narcotic drugs in drug injecting rooms:

1. Appropriate equipment of the premises that are to serve as drug injecting rooms;
2. Arrangements to ensure immediate provision of medical emergency care;
3. Medical counselling and assistance for the purpose of risk minimisation in the use of the narcotic drugs brought by the drug-addicted persons;
4. Placement of these persons in abstinence-oriented follow-up counselling and therapy services;
5. Measures to prevent criminal offences under this Act from being committed in drug injecting rooms, other than the possession of narcotic drugs pursuant to Section 29 subsection 1, first sentence, No. 3 for personal use in insignificant quantities;
6. The cooperation with the local authorities responsible for public order and safety required to prevent, to the greatest possible extent, any criminal offences from being committed in the immediate surroundings of the drug injecting rooms;
7. A precise definition of the group of persons entitled to use drug consumption rooms, specifically as regards their age, the type of narcotic drugs they may bring with them and licit consumption pattern; obvious first-time or occasional users are to be excluded from using these rooms;
8. Documentation and evaluation of the work done in the drug injecting rooms;
9. Continous presence of a sufficient number of reliable staff whose professional training qualifies them to comply with the requirements mentioned in numbers 1 to 7;
10. Appointment of a qualified person who shall be responsible for compliance with the requirements mentioned in numbers 1 to 9, the duties imposed by the authorities issuing and orders issued by the supervisory authority (responsible person) and who can permanently comply with the obligations incumbent on him/her.

(3) Section 7, first and second sentence, Nos. 1 to 4 and 8, Sections 8, 9 subsection 2 and Section 10 shall apply mutatis mutandis to the licensing procedure; for the purposes of the latter, the competent highest authority of the Land involved takes the place of the Federal Institut for Drugs and Medical Devices, and the Federal Institute for Drugs and Medical Devices takes the place of the highest Land authority.

(4) A licence pursuant to subsection 1 does not entitle the staff working in a drug consumption room to conduct assays of the narcotic drugs brought by its clients or to provide active assistance in the actual use of these narcotic drugs.

Section 29 Criminal offences

- (1) A term of imprisonment of up to five years or a fine shall be imposed on anyone who
1. in an unauthorised fashion cultivates, produces and trades with narcotics, or who imports, exports, sells, supplies, otherwise brings into traffic, acquires or procures narcotics in any other way without trading with them,
 2. produces an exempt preparation (Section 2, subsection 1, No 3) with a licence pursuant to Section 3, subsection 1, No 2,
 3. possesses narcotics, without at the same time being in possession of written permission for their acquisition,
 4. (dropped)
 5. contrary to Section 11, subsection 1, third sentence, carries narcotics in transit,
 6. contrary to Section 13, subsection 1,
 - a. prescribes narcotics
 - b. administers or makes available narcotics for direct use,
 7. contrary to Section 13, subsection 2, supplies narcotics in a pharmacy or in a veterinary dispensary,
 8. contrary to Section 14, subsection 5, advertises for narcotics,
 9. gives incorrect or incomplete information to obtain a prescription of a narcotic for himself, for another or for an animal,
 10. communicates publicly or out of selfish motives an opportunity for illicit use, acquisition or illicit supply of narcotics, procures for or grants such opportunity to another or misleads him into the illicit use of narcotics, or
 11. (dropped)
 12. publicly, at a meeting or by the dissemination of written material (Section 11 subsection 3 of the Criminal Code) calls for the use of narcotics which have not been prescribed in the permitted manner,
 13. puts at the disposal of another money or other items of property for the commission of an unlawful act pursuant to Nos 1, 5, 6, 7, 10 or 12.
 14. acts in contravention of a statutory order pursuant to Section 11 subsection 2, second sentence, No 1 or Section 13 subsection 3, second sentence, Nos 1 or 3, where such statutory order refers to the present criminal provision in respect of a specific offence.

The supply of sterile disposable syringes to drug addicted persons and the information of the public on this supply shall not constitute affording and public reporting of an opportunity for use within the meaning of No. 11 of the first sentence.

(2) - (6) ...

Section 31a
Refraining from prosecution

(1) If the substance of the proceedings is an offence under Section 29, subsection 1, 2 or 4, the public prosecution office may refrain from prosecution if the offence of the offender can be regarded as minor, a criminal prosecution would not serve the public interest and the offender cultivates, produces, imports, exports, carries in transit, acquires, otherwise procures or possesses narcotics only for his own use in insignificant quantities.

(2) If the charge has already been preferred, the court may discontinue the proceedings at any stage thereof subject to the prerequisites laid down in subsection 1 above, with the consent of the public prosecution office and of the accused. The accused's consent shall not be required if the trial cannot be conducted for the reasons stipulated in Section 205 of the Code of Criminal Procedure or if, in the cases referred to in section 231, subsection 2, Section 232 and Section 233 of the Code of Criminal Procedure, the trial is conducted in absentia. The decision shall be made by court order, which shall not be subject to appeal.