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# De Jure Temporary, De Facto Permanent: Shelters for People Experiencing Homelessness in Germany

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› **Abstract\_** *This paper focuses on one element of homelessness services in Germany: temporary accommodation for people experiencing homelessness. Tens of thousands of people experiencing homelessness currently live in such accommodation. Numbers are rising. Originally intended as a short-term measure – for a few days or weeks – people increasingly stay there for a longer time. This paper looks at temporary shelter from a legal and an empirical point of view. From a human rights perspective, standards which suffice for short-term housing may not be adequate for longer-term accommodation. The human right to adequate housing thus demands more than the minimum standards that currently apply for temporary accommodation for people experiencing homelessness. The empirical analysis is based on 28 interviews with people experiencing homelessness, officials in municipalities and social workers. It reveals large differences across German municipalities in such accommodation. Differences relate to accessibility, conditions inside, as well as the chances of moving on from shelter to regular housing.*

› **Keywords\_** *Homelessness, Germany, right to adequate housing, shelter*

## Introduction

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The human right to housing obliges states to ensure that adequate housing is available to everyone in their respective country. It is recognised in several international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights, but also in domestic constitutions. A state may realise the right to adequate housing by different means, for instance, through a policy of investing in social housing or through statutory tenant protection or social benefits. The UN Special Rapporteur on adequate housing has called homelessness “perhaps the most visible and most severe symptom of the lack of respect for the right to adequate housing” (UN Office of the High Commissioner for Human Rights and UN Habitat, 2009, p.21). In order to fully realise the right to adequate housing, states are obliged to take measures to prevent and overcome homelessness. Such measures also include providing short-term shelter to people experiencing homelessness. The article examines the legal scope of such an obligation as well as its practice in the case of Germany.

In Germany, municipalities are legally obliged to provide emergency support to people experiencing homelessness, including short-term shelter. The obligation to provide shelter arises from a general clause in police and public order-laws of the 16 regional state legislations. In the absence of further specification of this clause, municipalities have considerable leeway in its implementation. Thus, due to historical, financial and political differences in the 10 799 municipalities (as of 31 December 2019), shelter provided by the municipality can mean very different things: a low-cost hotel room, a multi-bed-dormitory or a regular apartment used by the authorities to temporarily accommodate people experiencing homelessness. Having to stay in a municipal shelter can mean continuous social support (where desired) or being left-alone despite multiple problems; a stay of several days before moving into a new apartment or a lifelong wait in the housing queue.

Few numbers exist on how many people experiencing homelessness are provided with temporary accommodation by German municipalities. Presumably tens of thousands of people are affected: In North Rhine-Westphalia, the most populous of the 16 regional states, 32 623 people experiencing homelessness were provided with temporary accommodation by the municipality (as of 30 June 2019), in Bavaria it affected 12 681 people (as of 30 June 2017). And the numbers are rising: the figure for Berlin quadrupled between 2014 (9 615) and 2018 (36 271). Statistics also clearly indicate that such accommodation, originally intended as an emergency solution and short-term measure – for a few days or weeks – is increasingly one of the longer term. More than one third of those provided with accommodation in this manner remain there for more than two years.

This prompted the author to take a closer look at temporary accommodation for people experiencing homelessness in Germany. The first part of this article provides some background on the national situation: How many people are experiencing homelessness? How many are provided with shelter by the municipalities, and for how long do they stay there? Section 3 summarises an analysis conducted by Engelmann et al. (2020): What does international human rights law prescribe with regard to temporary accommodation for people experiencing homelessness, and how much does the German legal situation comply with this? Section 4 then looks at the practice in Germany: What are the realities when it comes to the legal obligation to provide temporary shelter? Who does (not) get access to the shelters? What do they look like inside? The author also discusses some of the reasons why it is so difficult to find regular housing again for people living in the shelters. The final section discusses the need for policy action, including standards for temporary homeless accommodation.

The paper starts from the assumption that temporary accommodation for people experiencing homelessness – they might be called shelter, hostel, transitional housing or any other term dependent on their location (see Edgar & Meert, 2005, p.23 with an attempt to differentiate between the different forms of temporary accommodation) – continue to play a role in providing homelessness services (for more elaboration on this point, see Busch-Geertsema and Sahlin, 2007). The sheer extent of that role is clearly unsatisfactory as are the living conditions in many shelters and the low prospects of inhabitants to find regular housing again. There is ample evidence that Housing First and other housing-led services, including rapid rehousing (for a differentiation between the strategies, see Pleace et al, 2019, p.10) “not only correspond to the preferences of homeless people but would also contribute substantially to reducing the need for temporary accommodation to a minimum, something hostel programmes have failed to do so” (Busch-Geertsema and Sahlin, 2007, p.84).

However, for the time being, shelters, hostels and other forms of temporary accommodation will – at least in the mid-term perspective – continue to form a key part of state response to homelessness. Not only the number of shelter users increases but evidence from several countries shows that the length of stay in shelters is by no means temporary anymore. Beyond this general trend, cross-country comparisons are methodologically problematic due to the huge differences in homelessness services in Europe (see Pleace et al., 2018, for an overview of such services) but also due to a lack of data. Shelters are still a somewhat “black box”. As long as they exist, we should subject them to empirical analysis, to make sure that the living conditions of residents adhere to human rights. This paper thus contributes to the debate by filling the empirical gap, and discussing, from a legal point of view, state obligations related to temporary shelter for people experiencing homelessness.

## **Background: About Homelessness and Shelters in Germany**

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### ***Extent of homelessness***

It is unknown how many people are currently experiencing homelessness in Germany. There are two recent estimates, both from 2018. One puts the number of people experiencing homelessness at 337 000 (Busch-Geertsema et al., 2020, p.83), the other at 542 000 (Neupert and Lotties, 2019). As of 2022, there will be nation-wide numbers on the extent of homelessness in Germany. The Act on Reporting on Homelessness, adopted in 2020, obliges all municipalities to report numbers on people experiencing homelessness of ETHOS-light-category 2 and 3, that is people living in emergency accommodation and people living in accommodation for the homeless. Reported numbers will include data on gender, age, nationality and household type. While the expected numbers will not portray the entire extent of homelessness in Germany – people experiencing street homelessness will neither be counted nor will the hidden homeless – it is an important improvement on the current situation. For now, there are numbers available for parts of the country. For example, North Rhine Westphalia has been publishing statistics on the extent of homelessness for many years, covering almost all categories (for more detail on available numbers in Germany, see Hanesch, 2019).

### ***Temporary accommodation for people experiencing homelessness***

People who are unable to find a place to stay and do not want to live on the street are defined as “involuntarily homeless” under German police and public order law (Polizei- und Ordnungsrecht). Municipalities are legally obliged to provide shelter for such people; this is known as “accommodation provided under law on police and public order” (ordnungsrechtliche Unterbringung). Tens of thousands of people experiencing homelessness were provided with such municipal temporary accommodation in Germany in 2018 (see data below).

In Germany, national legislation sets the general legal framework regarding housing and social policy, such as tenancy law, social law and housing benefit law. There is no formal role for the federal state level when it comes to the provision of homelessness services (including shelter). Instead, responsibility lies entirely with the 10 799 municipalities. The regional state level, namely police and public order law of the 16 States, sets the legal framework for providing temporary accommodation for people experiencing homelessness. The legal obligation for municipalities arises out of the so-called police general clause of each of the 16 regional state laws which requires authorities to take immediate measures in the face of a threat to public security and public order. Until now, it has not led to a statutory regulation. The

legitimacy of the way people experiencing homelessness are provided with temporary accommodation is decided on a case-by-case basis by courts. The guiding standard for such court rulings has been human dignity (see part 3).

In the absence of further legal concretisation of the general police clause with regards to the provision of accommodation to those experiencing homelessness, municipalities have considerable leeway in its implementation. Very few municipalities or regional states have adopted standards.<sup>1</sup> Due to historical, financial and political differences in the 10 799 municipalities, shelter provided by the municipality can mean very different things, as Pleace et al. (2018, p.37) illustrate:

Quality and intensity of support differ widely between different types of temporary accommodation and different providers. Some municipal shelters can be very basic and provide only very basic support, others may have quite intensive onsite support and all larger cities will also have hostels run by NGOs with substantial personalised support. In addition, there is a growing bulk of supported housing for homeless people in regular flats. In some of these projects people may remain after support has run out, in a majority they have to leave after a certain period of support and search for their own independent housing.

The only common ground is that municipalities are legally obliged to provide such short-term shelter for anyone not wanting to live in the streets.

This paper solely focuses on temporary accommodation for people experiencing homelessness provided under police/public-order law. It thus covers people falling under category 3 of the ETHOS light terminology of homelessness. Category 3 encompasses “people living in accommodation for the homeless”. Such accommodation is defined by a period of stay that is time-limited, with no long-term housing provided. It can include people staying temporarily in homeless hostels, temporary accommodation, transitional supported accommodation, women’s shelter or refugee accommodation. However, temporary accommodation provided under German police/public order law does not include women’s shelters and (some of the) transitional housing settings, because they are regulated under a

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<sup>1</sup> For example: The regional states Bavaria and Saxony have issued general and non-binding recommendations for communal homeless accommodation. Berlin adopted binding standards for its communal shelters, which are currently under review. The “old” standards included, amongst others, the following requirements: single rooms must have a size of minimum nine square metres and double rooms 15 square meters; lockable closets for single rooms and multibed-dormitories; lockable rooms; sanitary rooms must be gender-segregated; communal kitchen for maximum 10 people; toilets for maximum eight people; and facilities have to be cleaned daily by the operator. A contact person must be available in-person for eight hours per day to the inhabitants, and for the rest of the time on-call. The regional state of Hamburg determines the ratio for the contact person, one per 97 inhabitants. For more detail, see Engemann et al. (2020, p.42).

different legal regime. These were therefore excluded from the study at hand. Moreover, the paper does not deal with ETHOS light category 2, that is people in emergency accommodation, usually overnight shelters. These shelters are only available during the night and a stay is limited to a few nights. The question of “prolonged temporariness” therefore does not arise there.

### *Extent of people living in temporary shelter*

Numbers on the extent of people experiencing homelessness living in temporary accommodation exist for several of the 16 regional states: North Rhine-Westphalia counted 32 623 people (as of 30 June 2019) living in (emergency) accommodation for people experiencing homelessness; Bavaria counted 12 681 (as of 30 June 2017); in Lower Saxony 6 588 people experiencing homelessness lived in temporary accommodation (as of 31 December 2016); and in Hamburg 20 393 (as of 31 December 2018). The numbers are not comparable because they partly encompass different groups of people experiencing homelessness. However, one trend is clear: Tens of thousands of people are affected and the numbers are rising. The figure for Berlin quadrupled between 2014 (9 615) and 2018 (36 271); in Lower Saxony it nearly doubled between 2013 and 2016; and in North Rhine-Westphalia it more than tripled between 2014 (10 224) and 2019 (32 623).

What about the length of stay? There is a general trend that residents of homeless shelters stay much longer than originally intended. Busch-Geertsema and Sahlin (2007) speak of the “everlasting temporary status” (p.81). Numbers in Germany support this statement: Where numbers exist, it clearly shows that accommodation provided under police/public-order law, originally intended as an emergency solution and short-term measure – for a few days or weeks – is increasingly one of the longer term. In North Rhine-Westphalia, almost 50 percent of people staying in communal shelters have been there for more than two years (as of 30 June 2019); in Bavaria, this applies to one third of affected people (as of 30 June 2017); and in Berlin, more than one third of the households living in communal shelters for the homeless have been there for two years or longer (as of 31 December 2018). While one has to acknowledge that the duration of stays is overestimated when relying on point in time data, it has certainly increased in recent years.

## **Temporary Shelter for the Homeless and the Human Right to Adequate Housing**

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### ***The human right to adequate housing***

The right to housing as codified in the International Covenant on Economic, Social and Cultural Rights (as part of the right to an adequate standard of living, article 11 (1) of the ICESCR) obliges states to ensure access to adequate housing to everyone in their respective jurisdiction. A state can choose how to realise the right to housing, for instance, by establishing a policy to invest in social housing, providing statutory tenant protections or social benefits. Providing short-term emergency shelter is another means.

In realising the right to housing, states must make use of their maximum available resources and must progressively enhance service levels over time. The UN Committee on Economic, Social and Cultural rights, which monitors the implementation of the ICESCR, stresses that the right to housing is more than “a roof over your head” meaning that housing must be adequate. What is adequate depends on the specific country situation, the economic situation and the overall standard of living. This means that the realisation of the right to adequate housing can put a higher threshold on state authorities in countries with a relatively high standard of living, such as Germany, and a lower one on low-income countries, such as Romania.

Notwithstanding resource availability, some obligations are of immediate effect, including the obligation of non-discrimination and of non-retrogression. This means that states have to guarantee the right to adequate housing in an equal and non-discriminatory manner and prevent forced evictions or halt other measures that infringe on people’s right to housing (UN Office of the High Commissioner for Human Rights and UN Habitat, 2009).

What does the human right to adequate housing actually encompass? The UN Committee on Economic, Social and Cultural rights (1991) developed seven criteria to monitor the adequacy of a specific accommodation: legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location and cultural adequacy.

### ***Legal standards for temporary shelters***

Engelmann et al. (2020) analyse in how far this normative content of the right to adequate housing (such as legal security of tenure, availability of services, materials and facilities, affordability, accessibility, location, protection from violence) resonate with German law. Apart from basic health, safety and building regulations, there is no unified and codified set of standards for temporary accommodation for people experiencing homelessness as the municipal obligation to provide shelter arises

out of a general clause in regional state legislation (see section 2). Thus, in order to answer this question, one has to look at standards developed by German administrative courts.

Under the current jurisprudence in Germany, a very simple minimum standard of housing and the availability of facilities and services are deemed sufficient for accommodation provided under police/public order law. German administrative courts have judged the provision of temporary accommodation on a case-by-case basis using human dignity as a yardstick. Although German case law does not refer explicitly to criteria from the international human rights regime, more or less the same aspects are considered when it comes to judging the adequacy of temporary housing for people experiencing homelessness. For example, courts determine that temporary accommodation must include heating in winter, basic sanitary and cooking facilities, as well as basic furniture including a bed, a closet and electricity. Dormitories are viewed as sufficient. For certain aspects, requirements arising under international human rights law go further than the current German case law, such as in the case of the normative criteria of accessibility. The requirements for people with disabilities or people with other special needs remain unclear. There is also legal uncertainty with regard to the security of tenure, in particular under which circumstances people who are not entitled to social benefits in Germany have access to shelter. There are other aspects of the right to adequate housing that have not been dealt with by German courts so far, including location (in the sense of connection to public transport and services such as doctors, school, work possibilities, support structures) and protection from violence.

From a fundamental and human rights law perspective, standards which suffice for short-term housing may not be adequate in the case of housing used for longer-term accommodation. In light of the fact that accommodation provided under police/public order law in Germany is de facto being used as longer term accommodation, the right to adequate housing demands more than the minimum standards that currently apply.

### **Empirical Analysis: the Obligation to Provide Shelter in Practice**

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This section looks at the practice regarding temporary shelter for people experiencing homelessness: Given the legal obligation to provide temporary shelter, who does (not) get into the shelters? What does it look like inside? The paper also discusses some of the reasons why it is so difficult to find regular housing again for people living in the shelters.



## ***Methodology***

To inform this analysis, the author, supported by a second interviewer, conducted qualitative interviews with 28 experts in six municipalities. The selection of municipalities was based on three exploratory expert interviews with people having a long-term and comprehensive knowledge about German municipalities' response to those experiencing homelessness. Since the research aimed to show a broad spectrum of shelter practice in Germany, municipalities with maximum differences regarding size, region and organisation of services were been selected.

From each of the six municipalities, interviewees included at least one, but mostly two, people currently or formerly experiencing homelessness, at least one frontline staff from non-profit service providers (usually social workers), as well as at least one employee of the municipal office responsible for providing people experiencing homelessness with shelter. Interviewed people experiencing homelessness were heterogenous in age, gender and nationality. One interview was conducted with the support of an interpreter. In order to get in contact with potential interviewees, the interviewers contacted local support organisations in the respective municipality.

The semi-structured interviews ranged from 45 to 60 minutes. They were audio-recorded and transcribed. Interview transcripts were analysed according to Mayring's (2010) qualitative content analysis, with the help of a qualitative data analysis software (MaxQDA). Categories derived primarily from the seven criteria for the right to adequate housing and their respective interpretation through the UN Committee on Economic, Social and Cultural Rights (1991). For example, all quotes related to accessibility were coded and subsequently categorised into a hierarchical coding frame. Being aware of the potential bias such a coding approach might inherit, the author tried to be open to new themes in the data that were unrelated to predefined categories. Throughout the coding process, parts of the transcripts were test-coded by a second researcher, and where necessary, the coding system was revised.

Interview data was supplemented by existing studies as well as information and statistics from the federal states and municipalities. Data collection took place between February and June 2019.

## ***Getting in***

In Germany, municipalities are legally obliged to provide accommodation to people who are "involuntarily homeless". This obligation relates to the municipality where the person is actually located, irrespective of whether one has a local connection to the municipality and also irrespective of nationality. The absence of a local connection rule in Germany is comparatively unique in a European perspective, with only Austria, Denmark, France and Slovakia have similar rules

stipulating that a person experiencing homelessness cannot be refused access to emergency accommodation on the basis that (s)he had no local connection (Baptista et al., 2015, p.7).

However, in practice, access to temporary accommodation for people experiencing homelessness is by no means entirely inclusive. There are municipalities which do not comply at all with the obligation to provide shelter. They argue that there are simply no people experiencing homelessness on-site. However, this view is contradicted by official statistics and studies (for example: Busch-Geertsema et al., 2020, p.83). Other municipalities argue that they are not responsible due to a local connection rule (which is unlawful in the German case, as noted above) or because the person experiencing homelessness is not entitled to social assistance; or simply that they cannot accommodate because they have no or no adequate spaces available.

There are big differences with regard to whether municipalities can provide adequate spaces for all people experiencing homelessness that need to be accommodated. The supposed biggest group lacking adequate spaces are women experiencing homelessness. Existing studies show that women largely avoid municipal accommodation for people experiencing homelessness because they feel unsafe and experience gender based violence. It is still common in Germany that homeless shelters are not separated by gender. Civil society has for many years been critical of the insufficient and inadequate support, including shelter, for women experiencing homelessness in Germany.

Another group with largely inadequate access to homeless shelters in Germany are people with disabilities. There is no reliable data on the question of how many people experiencing homelessness are disabled. However, what is known is that many municipalities have no accessible accommodation at all or far too few spaces (see for example Busch-Geertsema et al., 2020, p.87). A social worker of a shelter in a large city describes how she, on an almost daily basis, has to reject a person experiencing homelessness in a wheelchair:

I am not allowed to let him in, due to fire regulations. He can also not get into another shelter in the neighbourhood, and not on another one. Hospitals regularly drop them here in front of the shelter. They take the wheelchair with them because it belongs to them. What do I do with these people?

She continues describing that, eventually, these people camp in the neighbourhood of the shelter.

The lack of adequate shelter spaces has several consequences: people continue (or start) living on the street, as the example of the man in the wheelchair illustrated; or they live in shelters – in some cases for many years – but cannot be provided

with adequate support. Social workers interviewed stressed that a significant number of people experiencing homelessness in communal shelters need additional support, next to actual housing, to exit homelessness (see next section). For women experiencing homelessness, the lack of adequate shelter results in many cases in hidden homelessness. What is typical for women experiencing homelessness are experiences of abuse and housing situations that are insecure and change frequently (see for example: Moss and Singh, 2015; Mayock et al., 2015).

In addition, access to municipal shelters for homeless EU-citizens is a key aspect in the current public debate on homelessness in Germany. The number of people experiencing homelessness from other EU countries, especially from Bulgaria, Romania and Hungary, increased in the past number of years, particularly in large cities like Berlin or Hamburg. In this regard, Germany is not different from other EU member states. The legal obligation for municipalities to provide accommodation under police/public-order law applies irrespective of the residence status and nationality of the person concerned. This immediate obligation is also supported by several court decisions. In practice, however, many municipalities do not provide shelter to people experiencing homelessness from other EU member states, or provide only a minimum form of support for a short period of time (see also Busch-Geertsema et al 2020, p.87). The consequences are similar to EU migrant homelessness in other European countries (see for example, Mostowska, 2015): People experiencing homelessness from other EU countries live in very poor circumstances, either sleeping on the street or facing unacceptable housing conditions (see for example, Gerull, 2018).

### *Inside*

There is no systematic overview on the conditions inside communal shelters for those experiencing homelessness in Germany. Accommodation facilities vary greatly, ranging from “normal housing” (flats) to multi-bed dormitories in collective accommodation facilities. Many municipalities also use hotels or hostels to fulfil their obligation of having to provide shelter. Further differences relate to sanitary and cooking facilities, common spaces and location (in the sense of connection to public transport and services such as doctors, school, work possibilities, support structures). The Federal Government acknowledged in its 2017 Report on Poverty and Wealth that accommodation provided under police/public-order law is, in some regions, inadequate (Bundesministerium für Arbeit und Soziales, 2017, p.483).

One key problem concerning accommodation provided under police/public-order law are the very cramped sleeping and living conditions. Multi-bed dormitories are very common, as are spaces with less than 10 square meters per person. These living conditions go hand in hand with permanent noise and a lack of privacy.

Keeping in mind that people do not stay for a few days but several months or years, it is an unbearable situation for everyone, but especially for people with mental disabilities or women having experienced violence.

There are also large differences with regard to sanitary conditions ranging from impeccable hygienic conditions to bordering on squalor. During the interviews, former inhabitants of such shelters talked about cockroaches. Being asked about a particularly difficult condition, one interviewee, a long-time volunteer for a support organisation, describes the following:

The tiles are very dirty, there is no bin. The last bin has been destroyed [...] There is litter everywhere [...] The doors can't be locked because someone destroyed them [...] a lot of broken things have simply never been replaced [...] toilets are broken.

Of course, it has to be stressed that the sanitary and living conditions described above are not prevalent in homeless shelters in all municipalities. However, studies, support organisations and media reports on German shelters for people experiencing homelessness provide evidence that they are not uncommon, and by no means exceptions.

As a consequence, people experiencing homelessness living in these shelters are exposed to a climate of violence, noise and fear of being robbed. (Former) people experiencing homelessness described during the interviews how they constantly felt insecure because they were not able to lock their belongings. Their daily life is determined by being afraid of violent attacks from their roommates, and by conflicts, often connected to alcohol and drug use. A former man experiencing homelessness who lived for several months in a multibed dormitory and was sick during this time, described his living situation as follows:

You had people living next to you who would, during the night, bawl at each other all the time or get drunk. And then blare songs. This was not useful to get healthy again. You never had peace and quiet.

These latter findings about shelters in Germany are by no means an exception in comparative perspective. Especially large shelters have been linked with poor health and wellbeing of their inhabitants, characterised by crime and use of drugs. Empirical evidence primarily exists from the US (Grunberg and Eagle, 1990; Mackie et al., 2017, p.22 for more sources) but there are also a number of studies on European countries (for example Hansen LÖfstrand, 2015).

On the one hand, these circumstances explain why people experiencing homelessness choose to live on the streets rather than in shelters (for example Fahnoe, 2018; Mackie et al., 2017). However, they also provide one explanation why people do not

leave shelters. The term “shelterization”, coined by Grunberg and Eagle (1990), describes a process of personal adaption to these circumstances: “despite the dangers of shelter living, many residents do not flee; instead they develop coping strategies that provide them with a feeling of mastery unparalleled on the outside. This [...] ‘shelterization’ is characterized by a decrease in interpersonal responsiveness, a neglect of personal hygiene, increasing passivity, and increasing dependency on others” (p.521). For the case of Germany and probably most European countries, we still know very little about living situations in shelters, including a possible “shelterization” effect. We also know little about successful ways out of shelters. Existing studies as well as anecdotal evidence from media and support organisations about the shelter conditions suggest that we urgently need a debate on the role of shelters in the support system (see conclusion).

### ***Getting out***

Accommodation provided for people experiencing homelessness under police/public-order law is per definition temporary. However, a big part of people experiencing homelessness remain in such shelters for many months and years, some people even until the end of their life. Varying from person to person, the reasons might be simple or complex and often interrelated. The lack of affordable housing is another key issue, but not the only one. Even if housing is available, people experiencing homelessness hardly have access to it. Again, there are many reasons for this. Two key aspects, arising from the interviews, are explained in this section; there is a general lack of adequate support for people experiencing homelessness and people experiencing homelessness are discriminated against when looking for an apartment.

### **Lack of adequate support**

When it comes to overcoming homelessness, a large proportion of people experiencing homelessness depend on support, not only with regard to actually finding an apartment, but also with regard to overcoming problems that might be related to their homelessness, such as alcohol (or drug) addiction treatment, settling debts, dealing with public authorities or meeting deadlines. The scale of the communal support structure is huge in Germany. Differences relate not only to the very availability of services but also to its organisation (private/public) and the legal regime under which support is provided (see for example Pleace et al., 2018; Hanesch, 2019; Busch-Geertsema et al., 2020). The following results only relate to support that is directly related to people accommodated under police/public-order law. Thus, it does not relate to people experiencing homelessness who are accommodated and supported under social legislation, which is only a small part of people experiencing homelessness in Germany.

A “classic” way to receive support with regard to finding an apartment is the local social welfare office. Some municipalities have also “bundled” all support related to overcoming and preventing homelessness in one central office (so-called “Fachstelle Wohnungslosigkeit”). If needed and desired, they would refer to further welfare services: a person experiencing homelessness who also has problematic substance use would be referred to addiction care, an older person experiencing homelessness to nursing care, a young person experiencing homelessness to the youth welfare system. In many cases, imparting to other welfare services has been described as rather difficult. For example, there is specialised support for people having to overcome social difficulties (according to §§ 67 sqq. Social Code, book XII). However, receiving such support requires extensive paper work, time and patience. A social worker interview describes it as follows:

An application can take six weeks or two months. [...] Or it is rejected for unknown reasons and then one has to file a lawsuit against this decision. By then, the client [homeless person] has given up.

In addition, social welfare offices rarely have the capacity to reach out to people experiencing homelessness living in communal shelters. Their capacities are fully occupied by the people who find their way to their office. Interviews illustrated that employing outreach teams is the exception rather than the norm. As a result, those not finding their way to the local authorities, “fall through the cracks”, as an employee in a social welfare office stresses. However, these people are usually the ones who need the support most. In practice, they stay in their communal accommodation and support services are not available to them.

Another possibility for people experiencing homelessness accommodated under police/public-order law is to receive on-site support. This could be an incoming social worker or a support office that is permanently installed at the accommodation depending on the size of the accommodation, the people living there and the overall support structure in the municipality. Such on-site support could help inhabitants to find an apartment or to refer to further welfare services if other or increased assistance is desired. Civil society has for many years been pointing out that such a support structure is hardly ever available (for example: Qualitätsgemeinschaft Soziale Dienste e.V., 2018; BAG W., 2013). Apart from a handful of local studies and media reports, there is hardly any empirical evidence on whether or not such support is available for people experiencing homelessness accommodated under police/public-order law. There are also only very few examples of local standards regarding the on-site support (see footnote 1 above).

Certain groups of people might be in even more need of sufficient counselling by a qualified social worker, e.g. people who suffer from addiction, people with mental impairments or long-term care needs. They may be unable to gain access to assis-

tance appropriate to their needs – such as therapy, an assisted living group or out-patient services. Without these services, these people end up in accommodation for the homeless as the “last social net” (the best case scenario) or out on the streets (the worst case scenario). In their meta-study, Mackie et al. (2017, pp.17, 24) argue that if no adequate support is provided, shelters face a concentration of the most complex needs people. Similar observations have been reported by the social workers interviewed for this research project.

### **Discrimination in the housing market**

In some municipalities in Germany, people experiencing homelessness hardly ever have a chance to find an apartment again. This is first and foremost related to the lack of affordable housing. Social housing stocks in Germany have, just as in other European countries like Spain and the UK, been continuously shrinking over the last years (Fernandez Evangelista, 2016). Where social housing is available, people experiencing homelessness are the last in the competition to be considered as potential renters. The reasons are illustrated by an interviewed social worker:

And then we talk about stigmatisation meaning landlords say that they will not take people who receive social assistance. I can hear it when [homeless] people phone the landlords: No chance without an employment contract; they want to see six salary slips, a paper of proof that there are no rent arrears. And in the ideal case also a household insurance and a liability insurance, and so on.

The label “homelessness” minimises the chance for getting an apartment. Interviewed social workers stress that simply saying the name of the current accommodation – meaning a communal shelter – already is enough reason for many landlords not to rent out to people experiencing homelessness. This is not only a German observation. There is evidence that in several European countries social and private landlords do not want to rent out their apartments to people experiencing homelessness (Baptista et al., 2015, p.51). Interviewed people experiencing homelessness as well as social workers see the so-called “Schufa-Auskunft”, a paper of proof that is required by landlords to show that there are no rent arrears, as one of the central obstacles to finding an apartment. Many people experiencing homelessness are thus excluded by housing companies from the very beginning.

There is also evidence that certain groups of people experiencing homelessness experience intersectional discrimination because they have problematic substance use or are mentally disabled, but also because they are single or due to their race (see for example Pries and Tuncer-Zengingül, 2018). An interviewed social worker stresses:

A homeless person of colour will have big difficulties finding [an apartment]; same goes for people from other EU member states, maybe speaking no fluent German and living in communal homeless accommodation. They will have even more difficulties to find an apartment.

## Conclusion

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From an empirical perspective, there are large differences across German municipalities in accommodation provided under police/public-order law. Access to accommodation is largely determined by whether the municipality in question has sufficient accommodation places available. However, the municipality's understanding of and attitude towards its obligation to provide accommodation also plays a role. Accommodation facilities vary greatly, ranging from "normal housing" (flats) to multi-bed dormitories in collective accommodation facilities, from impeccable hygienic conditions to bordering on squalor. Although the results are not generalisable in the strict sense, they do show the range of practices across German municipalities. A number of common problems emerge from the data regarding access to shelters and the living conditions at shelters, and this, combined with the number of people living in temporary accommodation, amounts to an urgent need for action.

Under the current jurisprudence in Germany, a very simple minimum standard of housing and the availability of facilities and services are deemed sufficient for accommodation provided under police/public-order law. However, from a fundamental and human rights perspective, standards which suffice for short-term housing may not be adequate in the case of temporary housing used for longer term.

In light of the fact that accommodation provided under police/public order law in Germany is now *de facto* being used for longer term accommodation, the right to adequate housing – which applies to accommodation in this category in Germany just as it does for other forms of housing and shelter – demands more than the minimum standards that currently apply. In Germany, setting such standards has been a key demand of support and advocacy organisations for the homeless for many years (for example: BAG W, 2013; Qualitätsgemeinschaft Soziale Dienste e.V., 2018; Zentrale Beratungsstelle Niedersachsen, 2020). Also in a European context, cross-country minimum-standards (Busch-Geertsema and Shalin, 2007) as well as benchmark standards (Fitzpatrick and Wygnanski, 2007) have been proposed.

Alongside physical and social standards, a debate on standards in municipal homeless shelters also needs to focus on achieving a safe living environment. What can someone do who feels violated in his/her human rights? How can an effective monitoring be realised and what is the role of monitoring bodies in the process?



How can we ensure that people with special protection needs are identified at an early stage? In order to answer these questions, it is worth having a look at other regulatory systems where many people are accommodated on limited space – for example refugee accommodation. In the German context, the discussion on protection from violence, complaints mechanisms or identification of vulnerable people in refugee accommodation is much further advanced and should become part of the debate on standards for homeless shelters.

Until now, the federal government of Germany and the 16 regional states primarily view municipalities as being responsible for realising the right to adequate housing for people experiencing homelessness. However, fundamental and human rights also legally oblige the federal government and regional state governments to take action. At the regional state level, some governments are active in financially supporting homelessness services (see Hanesch, 2019). However, action at the federal government level does not go beyond acknowledging the inadequacy of conditions in communal shelters in some municipalities (Bundesministerium für Arbeit und Soziales, 2017, p.483). A national discussion about homelessness has still not been initiated. Germany is one of the countries in Europe where no National Strategy on Homelessness exists (Baptista and Marlier, 2019). There is also no political debate on the need for standards for municipal temporary accommodation. Hopefully, this will change once the first results of the national homelessness statistic are published in 2022. By then, there will be the first reliable nation-wide numbers on how many people live in communal shelters for those experiencing homelessness in Germany.

We also need a wider debate on the role of shelters in the support system. There is no doubt that shelters – or any form of temporary accommodation for people experiencing homelessness – is a key part of state responses to homelessness (Busch-Geertsema and Sahlin, 2007; Fitzpatrick and Wygnanska, 2007, p.42). There is also no doubt that this role has been growing over the last years. Not only is the number of shelter users increasing, but evidence from several countries show that the length of stay in shelters is by no means temporary anymore. Despite this fact, we still know surprisingly little about the role of shelters in resolving homelessness. Under what conditions can shelter-users find regular housing again? Shelters are still somewhat a “black box”. We need more research on these topics.

However, raising the standards of temporary accommodation for people experiencing homelessness is only one of many elements necessary to improve the living conditions of people experiencing homelessness in conformity with the human right to adequate housing. The primary aim of state action on homelessness – at the federal, regional state and municipal level – should be to overcome the problem completely by addressing root causes in order to get and keep all people out of

homelessness. In addition to the effective organisation of all assistance services at the municipal level, achieving this aim will require the availability of an accessible and affordable housing supply in the municipalities, particularly for those living in poverty, and that people experiencing homelessness and those at high risk of losing their homes receive priority in the allocation of that housing.

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