



Permanent Mission
of the Federal Republic of Germany
to the Office of the United Nations and
to the other International Organizations
Geneva

Ref.: Pol-10-381.70/28

(please quote when answering)

Note No.: 281/2021

Note Verbale

The Permanent Mission of the Federal Republic of Germany to the Office of the United Nations and to the other International Organizations in Geneva presents its compliments to the Office of the High Commissioner of Human Rights and has the honour to refer to a communication sent by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on 26 August 2021.

The Permanent Mission of the Federal Republic of Germany is pleased to transmit herewith the response to the communication.

The Permanent Mission of Germany to the Office of the United Nations and to the other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner of Human Rights the assurances of its highest consideration.

Geneva, 14 December 2021



To the
Office of the High Commissioner of Human Rights
Palais Wilson
Geneva

**Response of the Federal Government
to the
Communication by the UN Special Rapporteur on Torture and Other Cruel, Inhuman or
Degrading Treatment or Punishment
AL DEU 6/2021 – 26 August 2021**

Preliminary remarks

The Federal Republic of Germany is a federal state with 16 Länder. According to Germany's Basic Law, all executive powers, including the police, are fundamentally exercised by the Länder. This means that the Länder themselves are responsible for both enacting and enforcing their Police Acts. An exception applies to certain special police and criminal investigation matters, for which the Federation enacts and administers the laws. These federal responsibilities lie with the Federal Police, the Federal Criminal Police Office and the Police of the German Bundestag.

The Model Police Act of 1985 drawn up by the Standing Conference of the Interior Ministers of the Federation and Länder serves as a foundation to facilitate the greatest possible consistency of police law within Germany in fundamental operationally relevant matters. In addition, statutory provisions pertaining to criminal law, criminal procedural law and official liability are applied on a uniform basis nationwide. The right of petition is also guaranteed throughout the country through the German Basic Law. However, apart from this a large number of regulatory areas vary in detail between the Länder in how they are drawn up. For this reason, it is not possible to provide a uniform response to the communication at hand for the Federal Republic of Germany. Instead, in order to do justice to the complexity of the issue and to the legal matters, the response provided below distinguishes between the Länder and the police forces of the Federation.

Question 1:

Please submit all supplementary information and/or comments at your disposal concerning the aforementioned accusations, introductory remarks and concerns.

Question 2:

Please submit information about all investigations carried out or planned with regard to each one of the aforementioned suspected acts of torture or cruel, inhuman or degrading treatment or punishment, as well as more general information about the broader patterns mentioned in the report concerning the excessive use of force by officers entrusted with law enforcement towards peaceful demonstrators throughout Germany. If such investigations have not been initiated, please explain how this is reconcilable with Germany's human rights obligations.

Questions 1 and 2 are answered jointly due to their close factual connections.

One of the core jobs of the police in a democratic state under the rule of law is to protect peaceful demonstrations. Freedom of assembly is governed and protected in Germany by the Basic Law. Detailed provisions concerning the legal framework in connection with assemblies are set out in the Law Concerning Assemblies and Processions (Federal Act) and the individual Laws Concerning Assemblies and Processions of the Länder.

The central task of the police at assemblies is to protect and enable them to take place. Policing and police interpretation of the Law Concerning Assemblies and Processions are geared to these objectives. De-escalating and assembly-friendly conduct accordingly form the fundamental operating principles practised by the police.

In the event of a possible escalation, direct physical force is only deployed as a last resort and is subject to clear statutory provisions, in particular the principle of proportionality. All police officers are taught about the actual practical deployment of physical coercive measures in a comprehensive training or degree course.

There is no pattern of the excessive use of force by police officers towards peaceful demonstrators in Germany. Individual cases of suspected unlawful or disproportionate actions by police officers are followed up consistently. Reference is therefore made to the answers to questions 3 and 4 below.

Concerning the individual cases mentioned here, the position of the Federal Government is as follows¹:

Case 1²³: A person from the “Querdenker” (unconventional thinker) scene advertised several assemblies in Dresden for 17 April 2021. As a result, the authority responsible for assemblies and demonstrations in Dresden issued a prohibition order on all assemblies of the “Querdenker” movement in Dresden for 17 April 2021. The reasons cited for this particularly included the fact that due to the information available and past experiences of similar gatherings in other German cities, it was to be expected that the supporters of the “Querdenker” movement would not comply with the COVID-19 protection regulations, official requirements and police instructions. Furthermore, in view of the high and above-average infection figures in Saxony when compared nationwide and the increasing spread of virus variants, an incalculable risk existed for those taking part in such demonstrations, police officers and passers-by.

Operational police measures were carried out to enforce the ban. A citizen was noticed by police forces from North Rhine-Westphalia during this operation reading out the German Basic Law in a loud voice. A crowd then started forming that steadily grew, thereby resulting in further breaches of the Law Concerning Assemblies and Processions and the Corona Protection Ordinance. The person exerted a direct influence on the people by interacting with them. In doing so he initiated a banned assembly. The danger was recognised that this could later spill out into an illegal procession. The person concerned failed to respond to the repeated calls by the police enforcement officers to change his behaviour. Instead, the person attempted to evade the police measure and depart by bicycle. In order to prevent this, the man was provisionally arrested in order to establish his identity. Owing to his resistance, it was necessary to carry out the arrest by means of direct force. The arrest of the man was altogether proportionate, particularly in order to prevent any further mobilisation of sympathisers.

Case 2: The issue was reported by an uninvolved citizen to the Berlin public prosecution office under file reference number 277 UJs 1711/21. The accused is a police officer from Bavaria⁴. Land Criminal

¹ Where criminal law investigation procedures are being conducted in the individual cases mentioned here, in order to protect these investigations it is not possible at present to provide any further details.

² It is assumed that this case – contrary to the information provided in the communication itself – concerns an incident in Dresden on 17 April 2021.

³ The communication also makes reference to a police officer from North Rhine-Westphalia in connection with the demonstrations in Dresden. Inquiries, complaints and reported offences in connection with the deployment of police forces from North Rhine-Westphalia to support those from Saxony in Dresden were forwarded by North Rhine-Westphalia to Dresden district police headquarters.

⁴ This case concerns a member of a closed unit of the Bavarian public order support forces that was dispatched at the request of the Berlin authorities to support the local police forces. The Bavarian police forces were placed under the operational command of the Berlin Police for the duration of the operation.

Police Office 342 has been commissioned by the Berlin public prosecution office to carry out the investigations, which are currently ongoing.

Case 3: The video scene has been matched with the events of 1 August 2021. This is a case of persons who had been sent away deliberately entering the carriageway to hinder the path of police vehicles. This case explicitly does not involve the escorting of a demonstration. Instead, the persons intent on forming an assembly, some of whom had travelled to Berlin, wandered partly aimlessly but partly also led by locals through the city and in doing so deliberately caused massive disruption to the normal free-flowing traffic at various places.

Reported offences concerning another scene pertaining to the video have since been received from an uninvolved consumer of the video. Following conclusion of the internal police investigations, the video has now been sent to the Berlin public prosecution office for further evaluation.

Case 4: Based on the description, this case is presumed to concern an incident from the year 2020 (30 August 2020). The incident is registered with the Berlin public prosecution office under file reference number 231 UJs 2349/20 and has been processed by Land Criminal Police Office 342 as specialist unit for police offences. According to the Berlin public prosecution office, the investigations are still ongoing.

Case 5: The responsible police station of the Land Criminal Police Office has so far been unable to match this incident with any specific investigation proceedings on the basis of the case description.

Case 6: Land Criminal Police Office 342 has received a number of reports of offences from largely uninvolved persons via various channels concerning the events of 1 August 2021 on Suarezstraße in Berlin. These include charges filed by the Berlin public prosecution office with file reference number 231 UJs 1725/21. The core of the matter concerns a police arrest with the deployment of coercive measures, in this case the use of physical force. The large number of charges is explained by a video sequence spread on social media. However, the video sequence does not show the entire course of events but essentially only the police arrest. The investigations concerning the overall incident have already reached an advanced stage. Witness statements and other video recordings permitting a broader view of the overall situation including the actions of the aggrieved party have been secured and evaluated. The case is approaching the conclusion of police investigations.

Case 7: This case is also on record with a large number of reported offences from members of the public, as well as reports of offences filed by the Berlin public prosecution office with file reference number 271 UJs 1659/21. The matter is currently still being processed by Land Criminal Police Office 342. Members of the public also filed a large number of reported offences directly with the Berlin public prosecution office and other Länder and Federation police forces. The Berlin Police therefore only gained knowledge of criminally relevant circumstances in these cases at a later stage. While the case is approaching the conclusion of police investigations, it has not yet been possible to identify the aggrieved party.

Question 3:

Please explain which measures have been taken or are still planned in order to bring perpetrators and their superiors to justice, ensure appropriate compensation and rehabilitation for the victims and their families and prevent such incidents in the future.

Concerning the individual cases mentioned in the communication, please see the answers to questions 1 and 2. For all other cases, reference is made to the answers of the Länder provided below as well as that of the Federal Ministry of the Interior, Building and Community.

Baden-Württemberg:

Whenever police stations and institutions receive knowledge of conduct by police officers relevant under criminal or disciplinary law, criminal and disciplinary law measures are systematically taken into consideration. For this purpose, a structured reporting system was established. Breaches of criminal law are investigated using all resources available under the rule of law and with the involvement of the responsible public prosecution office. Reported misconduct that cannot be prosecuted by the courts is dealt with in disciplinary proceedings.

Furthermore, the parliamentary groups supporting the government in the current coalition agreement have decided to introduce an anonymised labelling requirement for closed units of the police deployed in large-scale emergency situations. The audit-proof assignment of individual numbers and safeguarding of standardised processes for the review of any accusations is intended to further improve and enhance the objectivity of staff attribution and the resolution of contentious situations while upholding the privacy rights of the individual police officers. Furthermore, this measure is aimed at reinforcing the transparent and citizen-centred approach of Baden-Württemberg Police and further strengthening trust between the public and the police.

Concerning the issue of appropriate compensation for potential victims of police measures, any intentionally unlawful act during a police operation fundamentally meets the requirements constituting a violation of official duties within the meaning of section 839 of German Civil Code. Should a police officer wilfully or negligently breach the official duty towards a third party incumbent upon them in the exercise of their duties, the employment entity served by said police officer is required by section 839, subsection (1), sentence 1 of German Civil Code in conjunction with Article 34 of the German Basic Law to pay compensation for the damages sustained by the third party. This claim against breach of official duties also includes compensation for immaterial damages, i.e. the payment of damages for pain and suffering.

Bavaria:

Whenever the judicial authorities ascertain cases of unlawful use of force by police officers, corresponding obligations within the meaning of the inquiry arise that are based on the actual decisions and rulings of the public prosecution offices and courts dealing with such cases and the other statutory obligations. The same applies to any disciplinary measures to be taken. Reference is otherwise made to the answer to question 4.

Berlin:

Police actions are subject to constant monitoring. This means that in the event of initial suspicion of criminal activity, criminal law investigation procedures are systematically carried out regardless of person and status.

Within the investigation procedures, evidence must be obtained of all circumstances permitting an objective assessment of the case. The final legal appraisal then lies with the Berlin public prosecution office.

The Berlin Police is also legally obliged to advise victims of violence about their victims' rights within and outside the criminal proceedings, thereby fundamentally ensuring that those affected receive

access to support systems/aids. These include information and mediation for the legally watertight documentation of infringements through the confidential securing of evidence, psychosocial assistance in court proceedings, Berlin Crisis Service and the Berlin Trauma Clinics (*Berliner Traumaambulanzen*). In order also to add more political weight to the concerns of victims and offer them more effective support services, a Victims' Commissioner has been appointed by the Senate Department for Justice, Consumer Protection and Anti-Discrimination.

Brandenburg:

Indications of possible misconduct by police officers are followed up in both Brandenburg and throughout Germany by the independent judiciary, which also decides on any compensation to be paid in the event of police misconduct.

Recourse to the courts is available to all persons affected by any unlawful police actions under both criminal and administrative law in order to establish the unlawfulness of such actions. Any claims with regard to breach of official duties are to be lodged exclusively with the civil courts in accordance with Art. 34, sentence 3 of the German Basic Law and section 839 of the German Civil Code. Should police officers gain knowledge of criminal offences, they are obliged *ex officio* to report them. This also applies to offences committed by other police officers when carrying out their duties.

In addition to the criminal proceedings, a review is carried out in separate internal disciplinary proceedings of whether officers have breached their official duties. Depending on the outcome of these proceedings, internal sanctions may be imposed.

Bremen:

If there are sufficient factual indications justifying a suspected breach of duty, the supervisor has the official duty to initiate disciplinary proceedings in accordance with section 17, subsection (1) of the Bremen Disciplinary Act (BremDG). Proceedings are thus initiated *ex officio*. While an application is fundamentally not essential, it can provide the necessary indications for initiating the proceedings. The highest service authority ensures that this duty is fulfilled within the scope of its supervisory mandate. It may seize jurisdiction over the disciplinary proceedings at any time, thereby ensuring an independent examination of the police officers involved.

In addition, the Law on an Independent Police Commissioner for the Free Hanseatic City of Bremen (*Gesetz über eine unabhängige Polizeibeauftragte oder einen unabhängigen Polizeibeauftragten für die Freie Hansestadt Bremen*) offers an effective means of redress for affected victims. The duties of the Independent Police Commissioner for the Free Hanseatic City of Bremen include working towards ensuring that reasonable indications and complaints are investigated. Furthermore, mistakes and misconduct in individual cases suggesting a breach of the rule of law or freedom from discrimination and corresponding structural shortcomings and undesirable developments are to be identified and instructions and recommendations issued with the aim of rectifying them and preventing their repetition.

Hamburg:

The Complaint Management and Disciplinary Affairs Office (*Dienststelle Beschwerdemanagement und Disziplinarangelegenheiten – BMDA*) offers low-threshold contact channels for complaints from both members of the public and employees in order to expand the opportunities for criticising police misconduct particularly for groups with low complaints power.

Cases that involve a normative breach are dealt with on the basis of the relevant statutory provisions. In addition, the aim in cases where this appears possible is to offer a moderated conflict resolution meeting subject to the willingness of the parties involved in order to enable the police officers affected to change their perspective. Furthermore, an analysis of the subject matter of complaints received is carried out with regard to structural elements with the goal of identifying early and swiftly responding to recognised patterns of misconduct.

Much value is placed on the communication skills of police officers in the basic and advanced training courses, at the departments specialising in leadership and transcultural communication and in the corresponding research projects of the Hamburg Police Academy, with such skills promoted in class.

Hesse:

If issues become known that justify the initial suspicion of a criminal offence by a police officer, such issues are forwarded to the responsible public prosecution office for legal assessment. While the police authorities are answerable to the Hesse Ministry of the Interior and Sport, the public prosecution offices fall under the Hesse Ministry of Justice and therefore have no relationship of dependency with the police.

If an issue offers sufficient factual indications justifying a suspected breach of duty by a police officer, according to section 20, subsection (1), sentence 1 of the Hesse Disciplinary Act (*Hessisches Disziplinalgesetz – HDG*) the supervisor must initiate disciplinary proceedings.

Knowledge of conduct by police officers relevant under criminal or disciplinary law is therefore reviewed in all cases and systematically followed up under criminal and disciplinary law.

Furthermore, the Hesse Police has points of contact at multiple levels for the area of police victim protection. There are specially trained and experienced staff at each of the seven police departments working as victim protection commissioners. There is also a Land Victim Protection Commissioner at the Hesse Land Criminal Police Office. The police victim protection staff regularly offer training activities and train the trainer courses in order as far as possible to sensitise all Hesse public officials to whom this applies to the area of police victim protection and further raise the profile of victim protection. These are also used to address current issues and problems.

From a conceptual perspective, police victim protection in Hesse is based on a three-pillar model consisting of “risk prevention measures”, “professional handling of victims” and “information about rights”. Victim protection pursues a holistic approach here that enables all victims and their relatives to contact the Hesse Police in confidence regardless of the underlying harmful event. This does not include any thematic breakdown of victim protection by individual field of crime.

At the same time, the Hesse Police collaborates intensively with specialist aid institutions. As well as upholding the information obligations prescribed by law, the Hesse Police supports each victim in finding a suitable aid institution.

Mecklenburg-Western Pomerania:

Each transgression is systematically followed up with all the means available under criminal and disciplinary law. Where members of the Land Police Force are suspected of having committed an offence, there is a duty incumbent on the police authorities to inform the Ministry of the Interior and European Affairs. Reported misconduct that cannot be prosecuted by the courts is dealt with in disciplinary proceedings. A department has been set up at Mecklenburg-Western Pomerania Land

Criminal Police Office to deal with internal investigations and offences committed in public office. The staff there carry out investigations in proceedings launched against police officers. The “Internal Investigations” department safeguards the neutral processing of accusations against members of the Land Police Force. It contributes towards guaranteeing uniform and high standards of processing in the area of internal investigations and offences committed in public office and shedding light on the proceedings before presenting them to the public prosecution office for decision-making.

All operating units of the police departments and the Land public order support forces bear uniform nationwide back labelling on their riot gear, while the unit commanders are individually labelled down to the level of group commander. Furthermore, the police officers of closed units bear individual labelling in closed operations (velcro name badge measuring 14.00 x 2.50 cm) in the form of a five-digit sequence of numbers in addition to their existing tactical back labelling.

In order to take the needs of persons affected by a criminal offence into account professionally, strengthen the agencies involved in the criminal proceedings (especially also with aid and support facilities for victims and their relatives) locally and at Land level and enable victims to assume their rights in criminal proceedings, binding concepts exist for police victim protection. These include the appointment of police victim protection commissioners to serve as an interface to the victim support facility and if necessary broker legal, medical, psychological or therapeutic specialist support.

Lower Saxony:

Criminal law investigations are launched in the event of potential misconduct by police officers relevant under criminal law. If, following the conclusion of the investigations, sufficient suspicion remains that an officer has committed a criminal offence through his or her actions, the public prosecution office submits charges to or applies for a penal order at the responsible criminal court. If the guilt of an officer is successfully proven in the court proceedings, the criminal courts can impose fines or prison sentences (including suspended sentences).

Furthermore, according to section 18 of the Lower Saxony Disciplinary Act (*Niedersächsisches Disziplinalggesetz – NDiszG*), the disciplinary authority is obliged to initiate disciplinary proceedings if there are sufficient factual indications justifying the suspicion of a breach of duty. The officer must therefore at all times also expect disciplinary sanctions as well as consequences under criminal law. If the officer can be proven to have committed a breach of duty, sanctions under civil service law include reprimands, fines, reduction of remuneration, or in cases in which the relationship of trust with the employer has been irrevocably destroyed dismissal from service.

If third parties sustain damage, they have the possibility of suing for compensation (e.g. damages for pain and suffering) owing to injuries received before the German civil courts (so-called claims arising from breach of official duties). It is also possible in the criminal proceedings for the perpetrator to make redress to the aggrieved party, e.g. through financial compensation, by way of so-called “victim-offender mediation”.

In order to prevent police officers from unlawfully using force, increased focus is already placed on the theme of prevention during their training. Students at Lower Saxony Police Academy are prepared in a variety of ways for taking a de-escalating stance towards members of the public during operations. In the “Social sciences and leadership” module they are taught among other things the principles of psychology and in particular about the themes of stress, emotion and social cognition, aggression and prosocial behaviour. This includes a discussion of the formation of prejudices that can also be brought

about by (perceived) cultural otherness. Promoting the emotional intelligence of the students pursues the goal of treating people according to the situation at hand and equally.

Furthermore, two communication training courses are held at the start of the Bachelor degree course at Lower Saxony Police Academy. While the first course conveys basic knowledge about communication modalities, the second one explicitly places the theme of “conflict” in the foreground and is used to practice the deployment of a de-escalating approach towards one’s counterpart. The students are taught how to solve conflicts by means of communication.

Later on in their studies the students are confronted in various modules with the theme of “stress” and in particular address the theme of “resilience”. In doing so they reflect on what factors trigger or can trigger stress and how opportunities can be created to counter this stress adequately.

The themes of “de-escalation” and “intercultural skills” also play a significant role in the advanced training of police officers. A large number of topic-related advanced training events are provided in particular on the topic areas of “cross-cultural sensitisation”, “police conflict management in a cross-cultural context”, “police communication and conversational techniques in a cross-cultural context” and “case handling of intercultural situations – focus on the Turkish and Arabic cultural environment”.

North Rhine-Westphalia:

All indications of criminal offences or other inappropriate conduct by police officers of North Rhine-Westphalia are systematically followed up.

Police officers are legally obliged in accordance with the principle of legality to follow up indications of possible criminal offences. This also applies to possible offences committed by colleagues. An infringement of this criminal prosecution mandate triggers potential criminal liability.

For reasons of neutrality and objectivity, criminal proceedings against police officers in North Rhine-Westphalia (so-called offences committed in public office) are not processed by the employing authority but by a local police authority serving as criminal headquarters responsible for the processing of offences committed in office.

Rhineland-Palatinate:

Like any other activity of public authorities, policing needs to be reasonable and police officers are accountable. Owing to the eminent importance of the service they provide for the public, they need to be prepared to have their executive activity scrutinised. They therefore fundamentally wear name badges in detached duty and an individual number combination in closed operations such as at demonstrations that enables them to be uniquely identified in the aftermath.

In the event of initial suspicion of the use of unlawful force by a police officer, criminal law investigation procedures are initiated either ex officio or through the reporting of an offence. This applies irrespective of the individual circumstances and irrespective of the person or political convictions of the complainant. Such procedures are fundamentally processed by the organisational units for internal investigations. The final criminal assessment and powers to direct investigation proceedings lie with the public prosecution office. Should the suspicion of a breach of duty be justified, disciplinary proceedings are initiated against the police officer.

Saarland:

A transgression under civil service is fundamentally investigated by the employer as soon as concrete suspicions in this regard arise. Depending on the outcome of the investigation, disciplinary

proceedings are initiated and disciplinary measures may be imposed on the officer. In the case of criminally relevant circumstances, offences are reported.

In Germany, the state has the obligation to combat crime and protect the public from criminal actions. For this reason, victims of acts of violence have a fundamental entitlement to compensation. The prerequisites for this are set out in the Criminal Victims Compensation Act (*Opferentschädigungsgesetz*). The aim of the Criminal Victims Compensation Act is to restore the physical and mental health of those affected as much as possible so that they can return to their occupations and society. Benefits under the Criminal Victims Compensation Act are granted in accordance with the provisions of the Federal War Victims' Compensation Act (*Bundesentschädigungsgesetz*). These also include medical and psychotherapeutic treatment, the provision of aids and even pension benefits.

In addition, victims of crime can assert claims for compensation or damages for pain and suffering against the accused not only by way of action before the civil court but already in the criminal proceedings (adhesion procedure). Decisions on sanctions and compensation are then made at a trial.

So-called "victim-offender mediation" may also come into question in this connection. This offers perpetrators and victims the opportunity to resolve a conflict out of court and unbureaucratically with the involvement of a mediator. The aim is to reach a fair redress of the damage caused for both sides by mutual agreement.

In order to prevent such incidents, all police officers already acquire extensive knowledge during their training of issues including the right to intervene. Students learn about police powers as encroachments in the fundamentally protected rights of citizens and are able to understand the field of tension between the freedom entitlements of citizens and the goal of effective prevention and repression. The objective of the training is to gain a full understanding of the powers of police law and criminal procedure law and their importance for the substantive lawfulness of police actions. After successfully completing the training, police officers are able to assess complex police situations under consideration of preventative and repressive tasks, select the appropriate enabling provision with regulatory provisions attached and apply it in the light of the value judgement contained in the German Basic Law within the boundaries of the rule of law and in particular the principle of proportionality.

Saxony:

Victims of criminal offences, including those of police violence, are offered a wide range of different aid and support services in the Free State of Saxony.

To start with, every police officer serves as a point of contact for matters concerning victim protection and is obliged to inform victims about both their rights and advisory and aid services. As the specific circumstances of each case of victim protection need to be taken into account, there are no standard solutions in this regard. However, victims (of police violence) are to be given appropriate advice and tips during police processing or, if it appears appropriate, already when reporting cases, and provided with further information material and leaflets.

Furthermore, full-time victim protection commissioners have been appointed at the district police headquarters who deal exclusively with this issue and therefore have corresponding expertise. The job of the victim protection commissioners is to enable police officers to deal with and approach victims correctly and to provide them with the necessary information and advice. There is also a statutory

obligation concerning the latter based on the Act to Reform the Protection of Victims' Rights (*Opferschutzreformgesetz*). The practical knowledge of the victim protection commissioners and their extensive networking make a significant contribution towards enabling staff to address these issues and offer help to those affected.

The overall coordination of police victim protection lies with Saxony's Land Criminal Police Office. The following task fields in particular are dealt with there:

- Network and committee work,
- Preparation of publications, e.g. brochure entitled *Polizeilicher Opferschutz* ("Police Victim Protection"),
- Preparation of concepts, guidelines, guides for action and the like,
- Organisation of workshops and the like.

Furthermore, the principle of legality ensures that victims of police violence are able to set in motion objective investigations of the events and therefore a review of the conduct of the police officers following infringements.

In addition, there is an "Independent Trust and Complaints Office" in the Free State of Saxony within the purview of the State Chancellery of Saxony. The basis for this is section 98 of the Saxony Police Officers' Act (*Sächsisches Polizeivollzugsdienstgesetz – SächsPVDG*). The office exercises its activities independently, is exempt from direction and is subject only to the law. Members of the public can contact this office with complaints and issues concerning police work. The office reviews complaints submitted in accordance with the legal powers conferred on it by section 98 SächsPVDG. However, it does not have any criminal procedural law or disciplinary investigative powers.

Saxony-Anhalt:

Police officers in Saxony-Anhalt are obliged under section 12, subsection (2) of the Security and Public Order Act for Saxony-Anhalt (*Gesetz über die öffentliche Sicherheit und Ordnung des Landes Sachsen-Anhalt – SOG LSA*) to wear a name badge on their uniform during official duties in Saxony-Anhalt. In individual cases where the purpose of the official duty or overriding interests of the police officer meriting protection could be impaired by this, police officers wear a badge with a five-digit officer number suitable for subsequent identification instead of the name badge. According to section 12, subsection (3) SOG LSA, police officers in operating units wear tactical labelling suitable for subsequent identification instead of the name badge and officer number badge. The tactical labelling consists of the letter sequence "ST" and a five-digit sequence of numbers. Exceptions from the labelling obligation are set out in section 1, subsection 2 of the Ordinance on the Labelling Obligation for the Subsequent Identification of Police Officers for Saxony-Anhalt (*Kennzeichnungspflicht-Verordnung Sachsen-Anhalt*).

Schleswig-Holstein:

In the event of initial suspicion of the use of unlawful force by a police officer, criminal law investigation procedures are initiated either ex officio or through the reporting of offences. This applies irrespective of the individual circumstances and irrespective of the person or political convictions of the complainant. Such procedures are fundamentally processed by the organisational units responsible for internal investigations. The final criminal assessment and powers to direct investigation proceedings lie with the public prosecution office. Should the suspicion of a breach of duty be justified, disciplinary proceedings are initiated against the police officer. As well as criminal law and disciplinary investigations, unlawful actions by police officers can also justify damage claims

against the Land. The same applies to damage to third parties caused by lawful actions. These claims can be asserted through the courts.

Police officers of Schleswig-Holstein fundamentally wear name badges in detached duty and an individual number combination in closed operations such as at demonstrations that enables them to be uniquely identified in the aftermath. Reference is otherwise made to the answer to question 4.

Thuringia:

Police officers who use force during operations without justification or culpably and therefore in breach of their duty are, as a rule, held to account under both criminal and disciplinary law. If there are concrete indications pointing towards a criminal offence or breach of duty, the matter must initially be resolved by the offices responsible within the scope of criminal investigation and/or disciplinary proceedings. In the case of closed police unit operations, such as at assemblies, video recordings of the events during the operation as well as tactical labels and the personal numerical labels on combat clothing help to identify the suspects. Any misconduct can have both criminal law and disciplinary consequences through to dismissal from service. This also applies to superiors who have rendered themselves liable to prosecution or culpably violated their duties through their conduct.

However, victims of unjustified use of police force have various possibilities for obtaining appropriate redress and rehabilitation. For example, they can approach the employer by way of a complaint against a public servant/operational supervision, file charges and have the unlawfulness of police measures established and unlawful consequences eliminated by a court ruling, and in the event of sustained damages claim compensation and if applicable damages for pain and suffering. Reference is otherwise made here to the answer to question 4.

The police are also bound by the rule of law with regard to their actions (Article 20, paragraph 3 of German Basic Law). The risk of the unjustified use of force during police operations can be minimised in particular by means of sound police training, regular advanced training courses (above all during police deployment training), a correspondingly sensitised management culture and systematically shedding light on and punishing such misconduct. However, such incidents cannot be entirely ruled out.

Federation:

Generally speaking, matters of criminal law relevance are additionally assessed by superiors with the involvement of the legal adviser's department in order if necessary also to initiate disciplinary proceedings alongside any pending criminal proceedings. Preventative measures are taken to strengthen democratic resilience and avert extremism within the police forces of the Federation. These topics are systematically addressed both in the recruitment process, in higher education and in basic and advanced training.

Question 4:

Please present information about existing mechanisms, if in place, enabling the presumed victims of the excessive use of force and other abuse of power by police officers to file complaints in a safe and effective manner that leads to an immediate, impartial, independent and transparent review of the conduct of the police officers involved.

Baden-Württemberg:

The police stations and institutions of the Land Police Force each operate their own complaint management, as does the Ministry of the Interior.

Should the complaint submission contain indications of criminal law relevance, the responsible public prosecution office is involved. The complaint proceedings are generally suspended until the legally binding conclusion of the criminal proceedings and resumed again thereafter. If the complaint submission criticises a specific incident of misconduct by police officers, preliminary disciplinary investigations are carried out and the responsible police stations and institutions of the Land Police Force are tasked with dealing with this matter. The complaint proceedings are also generally suspended in this situation until the legally binding conclusion of the disciplinary proceedings and resumed again thereafter.

Members of the public in Baden-Württemberg can also contact the ombudswoman of Baden-Württemberg directly with submissions or complaints. She among other things has the statutory duty here to strengthen the relationship of partnership between the public and the police. She supports members of the public in dialogue with the police and works to ensure that justified complaints are redressed. To this end she acts as an independent complaints office for members of the public submitting complaints about incidents of personal misconduct by individual police officers or unlawful police measures. The ombudswoman as an institution pursues two effective directions here: she is a partner of both the public and the administration and in this role aims to mediate between the parties by means of neutral moderation.

Bavaria:

In order to safeguard the public trust in the police that is essential for successful police work, and the requisite legal certainty of police officers with regard to the measures they take, it is necessary for the police systematically to take action with all means legally available against transgressions by staff and also to follow up on all corresponding indications in a competent manner.

To this end, investigations against police officers in Bavaria were centralised at Department 13 “Internal Investigations” at the Bavarian Criminal Police Office back on 1 March 2013 in order to secure even more distance from day-to-day operations and the neutrality of the investigations. All offences reported or complaints submitted in person or writing are taken seriously and carefully followed up on. Criminal law investigation procedures against police officers do not differ in principle in terms of the actual procedures carried out from those against other suspects. In both cases the basic conditions of the Code of Criminal Procedure apply and the investigation proceedings are directed by the public prosecution office.

In addition to the options already mentioned, potential victims also have the possibility at all times of contacting the Bavarian State Ministry of the Interior, Sport and Integration, the Petitions Committee of the Bavarian Parliament or the ombudsman of the Bavarian State Government.

The control instruments provided by the rule of law, such as administrative and functional supervision, the processing of complaints and disciplinary matters by legal staff, investigations of offences committed in public office by specialist criminal police units and the “Internal Investigations” central department, the investigation of cases by public prosecution offices and independent courts and monitoring by the Ministry of the Interior, parliament and the public ensure that complaints brought forward and offences reported are dealt with effectively and transparently.

Berlin:

Members of the public can contact the Berlin Police directly with complaints and submissions. The processing responsibilities for complaints are known throughout the police force and have been firmly established for 20 years so that submissions always reach the office responsible. The staff of the Central Complaints Office at Internal Risk Management are available as points of contact. They are supported in the execution of their tasks by staff from the decentralised complaints offices at the police departments. Complaints generally concern accusations of personal misconduct by members of the Berlin Police as well as unreasonable or disproportionate police measures. The complaints procedure is free of charge for petitioners. As well as advice via the complaints hotline, they can submit complaints by post, e-mail or online using the complaints form. Internal Risk Management is directly linked to the force management in organisational terms. The submission is confirmed and the petitioner is informed of the further course of complaint processing. The processing of anonymous letters is possible under certain conditions.

Complaints are processed independently and impartially by the local complaints office responsible or at a higher level by Central Complaint Management. The staff affected in the complaints procedure are invited to present their case concerning the allegations in writing. Following the review, the petitioners are notified of the outcome in a reply letter or e-mail. The outcome can also be communicated by telephone on request. It is also possible for a clarifying discussion of the petitioner with senior Berlin police staff to take place. The petitioner may inspect the records concerning the complaints procedure following conclusion of the proceedings upon request.

When investigating the conduct of staff subjected to complaint during the complaints procedure disciplinary law is also taken into consideration. If the accusations weigh heavy and concern transgressions relevant under criminal or disciplinary law, the allegations are forwarded to the disciplinary offices for further examination or, depending on the individual case, to the Land Criminal Police Office with responsibility for police offences. This ensures, for example, that accusations concerning disproportionate use of police force at assemblies can be followed up and if necessary sanctioned. The complainants are also notified of this in the interests of transparent administrative action.

Brandenburg:

Reference is made to the answer to question 3. Mention should furthermore be made in this context of the particularly simple channel of the police online citizen portal for reporting offences and submitting complaints. Reported offences and complaints are received and initially processed at a central office, regardless of the police station affected.

Members of the public who have allegedly become victims of unlawful police actions are also free to contact the Petitions Committee of the Brandenburg Parliament. In addition to this, the Land government has resolved in its coalition agreement to set up a central complaints office for members of the public.

Bremen:

Alleged victims of the excessive use of force and other abuse of power by police officers can contact the officer's disciplinary superior informally or directly involve the supervisory authority. This complaint against a public servant is a special form of the petition envisaged in Article 17 of the German Basic Law. The complaint triggers an in-house check concerning the lawfulness and expediency of the contested official act or conduct.

On top of this, alleged victims may file criminal charges. As the highest service authority, the “Internal Investigations” division under the Senator for Interior Affairs can generally investigate criminal law accusations against public service staff if the accusations are connected with the exercise of their professional duties. This also guarantees independent proceedings. Offences can be reported to the office of the Senator for Internal Affairs, the public prosecution office, the Local Court or any police station. Criminal law investigations are then initiated against the police officers concerned by the public prosecution office. This process is firmly based on the provisions of the Code of Criminal Procedure. The “Internal Investigations” division was set up under the Senator for Internal Affairs in 2009 in order to avoid the police conducting investigations against themselves. Reference is otherwise made to the answer to question 3.

Hamburg:

The Complaint Management and Disciplinary Affairs Office (*Dienststelle Beschwerdemanagement und Disziplinarangelegenheiten* – BMDA) was established in 2021. Directly attached to the President of Police, it processes incoming complaints and investigates matters coming to its knowledge. Low-threshold contact channels aim to enable criticism about police actions also to be voiced outside police stations and anonymously. To this end a branch outside police premises and a digital whistleblowing mechanism have been set up.

Complaints are processed by both police officers and sociologists, who jointly incorporate all perspectives and endeavour to find a solution to justified complaints in the interests of the petitioner. Final processing of complaints must fundamentally take place within four weeks, contain all the key investigation results and transparently explain how they come about.

The realignment of BMDA is intended to enable undesirable developments such as radicalisation trends, breaches of diversity aspects etc. to be spotted at an early stage, among other things with the assistance of structural-analytic controlling, in order to facilitate a swift response. This early recognition will enable BMDA to develop proposals and measures for dealing with complaints on a continuous basis in cooperation with the specialist units.

Hesse:

Criminal law investigation proceedings in the case of suspected offences are subject to the powers to direct investigation proceedings of the public prosecution offices (Justice Department).

The subordinate police authorities therefore fundamentally submit all complaints concerning the misconduct of police officers that in content terms justify initial suspicion of criminal law relevance to the responsible public prosecution office for legal appraisal.

Furthermore, the Ministry of the Interior is responsible for the administrative and functional supervision of the subordinate police authorities and ensures that all complaints received there are taken over by the responsible specialist units. This serves to ensure at all times that the necessary specific criminal law investigations are carried out by a different police station from the one against whose staff the accusations are levied. These are generally the competent specialist units of the police departments. Issues of particular gravity are taken over by another police department or by the Hesse Land Criminal Police Office.

As the public prosecution offices are attached to the Justice Department, they are able at any time, should the necessity arise, as office in charge of the investigation proceedings to have follow-up

investigations carried out by police authorities or to conduct their own investigations independently from the police (Department of the Interior).

Moreover, the Hesse Parliament passed the Law on the Independent Ombudsperson and Police Commissioner for the State of Hesse (*Gesetz über die unabhängige Bürger- und Polizeibeauftragte oder den unabhängigen Bürger- und Polizeibeauftragten des Landes Hessen*) in December 2020. Members of the public can contact this independent office with their concerns, but a substantive examination is not envisaged for cases that are the subject of public prosecution, tax offence or internal investigation proceedings; substantive examinations are only permitted here if the submission concerns the delayed handling of the investigation proceedings.

Mecklenburg-Western Pomerania:

Legal redress against police measures (filing a suit/application for interim measures) is fundamentally available to all citizens and can be sought at the responsible administrative courts. Furthermore, complaints against a public servant indicative of misconduct by members of the Land Police Force are subjected to a detailed examination. They can also entail disciplinary or criminal law proceedings.

According to the Mecklenburg-Western Pomerania Petition and Commissioner for Citizens' Affairs Act (*Petitions- und Bürgerbeauftragtengesetz Mecklenburg-Vorpommerns*), the Commissioner also has the task of dealing with cases from policing brought to his attention by way of a submission. This includes both complaints from members of the public and complaints from police officers. Police officers can thus contact the Commissioner directly without making use of the official channels with submissions alleging personal or official misconduct by individual police officers or shortcomings or undesirable developments in the Land Police Force. The Commissioner also takes action at his own initiative if he becomes aware of misconduct falling within his purview. According to section 14, complaints may also be submitted, also anonymously, to the police commissioner attached to the Commissioner, who will then either take action himself or forward the submission to the office responsible without conducting a substantive examination himself. The police commissioner in particular has rights to information and rights to inspection of records. He may also interview the person submitting a complaint, witnesses and experts.

Lower Saxony:

According to Article 20, paragraph 3 of the German Basic Law, the legislature is bound by the constitutional order and the executive and the judiciary by law and justice. In the performance of their duties the police must act in conformity with the law.

In order to avert danger and prevent crime, the Lower Saxony Police and Public Order Authority Act (*Niedersächsisches Polizei- und Ordnungsbehördengesetz – NPOG*) sets out the preventative measures that may be taken for this purpose. These include questioning, establishing identities, carrying out forensic identification measures, searching and examining persons and in particular taking them into police custody in order to protect them or prevent imminent criminal offences. It also defines special rights of persons affected; during questioning, for instance, the persons affected must be informed upon request of the legal basis of the duty of disclosure or advised of the voluntary nature of their disclosures, their rights to information under data protection law and their right to withhold information⁵. Certain particularly invasive measures are subject to a court order. This applies in particular when taking persons into custody, in which case a court ruling on the continuation and

⁵ Section 12, subsection (5) NPOG

permissibility of detention must be obtained immediately. The person held must be given the opportunity immediately to notify a person of their choice and to call on them for advice.

The criminal prosecution powers of the police are set out in particular in the Code of Criminal Procedure. The police are overseen here by the public prosecution offices.

Members of the public affected by police measures have various options for initiating a review of such measures:

1) Legal redress: Persons affected fundamentally have the possibility of filing a suit and submitting an application for interim measures to the administrative courts against police measures on the basis of NPOG. An exception applies in the case of legal redress against measures which require a court order, such as in particular detention. Here the NPOG provides for application of the provisions of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction (*Gesetz über das Verfahren in Familiensachen und der freiwilligen Gerichtsbarkeit – FamFG*). Dispositions are made by the local courts and may be contested by complaint to the regional courts.

The lawfulness of a repressive measure in the area of criminal prosecution is examined by the courts of ordinary jurisdiction. Where in emergencies measures such as searches or confiscation are ordered by police officers as investigators of the public prosecution office, the person affected can submit a request for judicial review. In the event of a provisional arrest, the person affected is to be presented to the court immediately and no later than on the day following the arrest.

2) Review by the authority; administrative and functional supervision: In addition, persons affected can also contact the responsible authorities informally to request a review of measures by officers by their administrative and functional supervision. This concerns both the expediency and lawfulness of the measures and the officers' conduct on duty.

3) Complaints office for members of the public and the police: The complaints office for members of the public and the police was established in Lower Saxony by resolution of the Land government on 1 July 2014 at the Lower Saxony Ministry of the Interior and Sport (MI). As a unit reporting directly to the State Secretary, the complaints office lies outside the line organisation of the Ministry of the Interior and Sport, i.e. it is not assigned to any of its central or specialist departments. This guarantees its independence and strengthens complaint and idea management in institutional terms.

The complaints office is responsible for complaints concerning the conduct of staff of the Ministry of the Interior and Sport and its subordinate authorities, which explicitly also includes the police. The complaints office has been set up with the aim of enabling both members of the public and police officers to bring matters to its attention. The complaints office is thus a point of contact for both members of the public and police officers. Alongside the independent processing of complaints which continues to take place locally at police stations (dual complaints procedure), the complaints office processes information that it receives directly or via the Ministry of the Interior and Sport, including complaints against persons for whom disciplinary powers lie with the Ministry of the Interior and Sport. Furthermore, it also processes follow-up complaints, that is, complaints against the processing of complaints at the local police stations. The complaints office also investigates anonymous reports. In the case of complaints not concerning the Ministry of the Interior and Sport but other ministries, the persons lodging them are referred to those ministries. Specialist complaints concerning the Ministry of the Interior and Sport are forwarded to the responsible offices within the ministry or its subordinate authorities.

According to the resolution of the Land government, the complaints office is entitled to obtain statements from the employees affected, their superiors, police stations and station commands. Should the suspicion of a breach of duty arise from complaints proceedings, the office responsible for disciplinary supervision decides on the steps to be taken. In the case of a suspected criminal offence, the responsible police authorities are notified.

In addition to the above-mentioned options existing for members of the public affected by police measures, there is also a positive internal climate shaped by trust that prevails at Lower Saxony Police. Within this climate, officers have both the right and the obligation to report identified shortcomings and when observing any transgressions are able at any time to contact their superior, staff representatives, equal opportunities officer or other point of contact in confidence without having to fear any personal disadvantages.

Openness, trust and addressing a changing error culture are important cornerstones here for generating a forward-looking understanding of leadership against the background of constantly changing environmental conditions of global proportions and employee needs changing from one generation to the next.

North Rhine-Westphalia:

Reference is made here to the answer to question 3. It should additionally be pointed out that as well as criminal law investigations, all indications of other misconduct by police officers arising from complaints against a public servant and operational supervision are followed up.

Furthermore, according to Article 17 of the German Basic Law, each person has the right individually or jointly with others to address written requests or complaints to the competent authorities and to the legislature. A petitions committee is set up at the Parliament of North Rhine-Westphalia for this purpose.

Rhineland-Palatinate:

In addition to the political review options by Parliament, public scrutiny via the media and the disciplinary and criminal law investigation options, there is also the option that members of the public in Rhineland-Palatinate contact the ombudswoman and police commissioner. The Land has established the office of ombudsperson as the central complaints mechanism for conflicts between members of the public and the administration. The office of police commissioner was also conferred upon the ombudsperson back in 2014. Members of the public can consult the commissioner if in the case of a police measure they have the impression of personal misconduct on the part of an officer or think the measure was unlawful. The commissioner is also available to support police officers with their concerns versus the employer.

Even if no conduct punishable under criminal or disciplinary law can be ascertained but there is an initial suspicion of an abuse of power, the officer is emphatically reminded of his or her existing official duties and the potential consequences of infringement.

Saarland:

Should a member of the public find their rights to have been impermissibly violated or consider themselves to have been treated unreasonably, they have a range of options available for taking action against this depending on the circumstances of the specific matter at hand. As well as submitting an informal complaint, for example to the supervisors responsible, persons affected can report the alleged

personal misconduct of police officers by way of a complaint against a public servant. The complaint and the issue underlying it are then reviewed by the supervisor and/or the offices commissioned to do so and the member of the public concerned is informed about the outcome.

All organisational units of the Land Police Department are obliged to report complaints to Office LPP 321 Disciplinary Affairs/Administrative Supervision, which is located within the HR Division of the Land Police Department. Complaints are therefore processed centrally from there unless processed in the ministry due to the importance of the matter. Disciplinary measures are taken if necessary.

In case of a suspected criminal offence by police officers, victims of alleged police violence can report an offence according to section 158, subsection (1), sentence 1 of the Code of Criminal Procedure to the police, public prosecution office or Local Court. The provisions of the Code of Criminal Procedure then apply, with the powers to direct investigation proceedings lying with the public prosecution office. Proceedings against police officers in connection with the exercise of their duties are processed centrally by an assistant chief of section by way of a special responsibility in accordance with the assignment of tasks by the Saarbrücken public prosecution office, thereby ensuring that particular experience and sensitivity are at hand here for the processing of such proceedings. The Land Police Department has furthermore ensured by means of internal procedural instructions that such criminal proceedings are processed in such a way as to guarantee the highest degree of objectivity.

Should police officers themselves become aware of (internal) shortcomings or undesirable developments, they are in any case obliged under civil service law to report these to their superiors and, should no redress be provided in response, to the next higher superior. Should this instrument not appear suitable or if persons affected are in personal conflict situations with colleagues or superiors, they can obtain additional support from the staff representatives and advocacy groups that have proven to be competent points of contact and mediators even in difficult situations.

The State Chancellery and various ministries of the Saarland, including the Ministry for Internal Affairs, Construction and Sport, have ombudspersons available as direct points of contact to advise and support members of the public in their dealings with the authorities.

Saxony:

Reference is made to the answer to question 3.

Saxony-Anhalt:

The right of complaint is derived from the basic right pursuant to Article 17 of the German Basic Law to address written requests or complaints to competent authorities and to the legislature (right of petition). Article 19, clause 2 of the Constitution of the Land of Saxony-Anhalt also requires complaints to be responded to within a reasonable period.

Fulfilment of the constitutional right of complaint is safeguarded in all authorities and institutions within the scope of operations of the Ministry of the Interior and Sports Facilities of Saxony-Anhalt, to which the Land Police Force also belongs.

Persons affected on the one hand have the option of submitting complaints to the complaints offices of the authorities and institutions of the Land Police Force (decentralised complaints offices).

On the other hand, the Central Complaints Office provides a channel independent of the police structure. The Central Complaints Office was established at the Ministry of the Interior and Sports

Facilities of Saxony-Anhalt on 1 September 2009 to support the right of complaint guaranteed in constitutional law by creating an additional option for submitting complaints alongside the options already existing at all authorities and institutions of the Land Police Force.

In order to guarantee an impartial and independent review of the conduct of staff of the ministry or its subordinate authorities, the Central Complaints Office was set up outside the ministry's line organisation as an independent division that reports directly to the State Secretary. In order to make its independence visible externally, the Central Complaints Office is deliberately outsourced physically as an extension of the ministry.

The Central Complaints Office serves as a central point of contact for complaints from the public (external complaints) and the staff of the ministry and its subordinate authorities (internal complaints) and directly receives complaints, suggestions and concerns.

As low a threshold as possible for statements to the complaints offices is generally aimed for in line with the spirit and purpose of the right of complaint. There are accordingly no formal requirements for the assertion of complaints. Complaints may be received in person, by telephone, in writing or electronically.

Furthermore, each individual has the right to complain about the conduct of staff without themselves being directly affected by the contested measures. Each case is recorded regardless of the legal capacity and own personal circumstances of the person lodging the complaint. Complaints can also be processed on an anonymous basis at the request of the petitioner.

The Central Complaints Office fundamentally processes each complaint against a public servant directly addressed to it or to the ministry conclusively. It is also responsible for the processing of complaints concerning complaints processing by the authorities and institutions subordinate to the ministry (so-called follow-up complaints).

In order to ensure effective and successful complaints processing, the Central Complaints Office collaborates in confidence with all subordinate authorities and institutions. In order to achieve the greatest possible transparency, the latter are obliged alongside the reports and official statements of the officers concerned in particular to enclose the documented chronological sequence of events, journal entries, topographic maps and other documents that could assist a comprehensive assessment. In order to guarantee independent complaints processing, the authorities and institutions are required to brief the Central Complaints Office in detail, which must be able to conduct its own sufficient assessment of the issue concerned on the basis of the documents provided.

As complaint satisfaction ultimately depends significantly on the duration of processing, as prompt a reply as possible is aimed at in all cases. Should this not be possible in individual cases owing to the need for extensive investigations, the complainants are notified of this. The same applies if it is necessary to suspend the processing of a complaint against a public servant because disciplinary or criminal law investigation proceedings are initiated against the officer concerned due to the matter forming the subject of the complaint.

Regardless of whether or not a specific instance of misconduct is established when processing individual complaints, important information about the causes of complaints can be gained from these in both quantitative and qualitative terms. The Central Complaints Office regularly conducts an evaluation across the whole of Saxony-Anhalt for the ministry's scope of operations based on the data

collected for this purpose both at the authorities and institutions and at the Central Complaints Office in accordance with a uniform collection model. Insights from complaint management revealing weaknesses in action are addressed at the operational level by adopting targeted follow-up measures such as specific training activities for staff.

Schleswig-Holstein:

First of all, the channels guaranteed by the rule of law for reporting offences are available to complainants of all kinds and regardless of the issue-related motivation. Offences can be reported verbally or in writing at any police station, the public prosecution office or the local courts, without any requirements as to form.

In addition, it is possible in Schleswig-Holstein at any time to contact the parliamentary control authority in the person of the independent police commissioner. As well as open dealings, the latter also offers a confidential and anonymous line of action.

Furthermore, a complaints office and contact point has been established in Schleswig-Holstein at the Ministry of the Interior, Rural Affairs, Integration and Equality. Officers of closed units in Schleswig-Holstein can be personally identified during operations by means of the numeric ID assigned to them for said operations so that investigations can be conducted against responsible police officers if necessary.

Thuringia:

Victims of the unjustified use of police force have several options for gaining redress. First of all, the person affected can pursue recourse to the administrative courts, where in particular the unlawfulness of the police action can be legally established and any unlawful consequences eliminated. It is also possible to claim damages before the regional courts in accordance with the principles of state and official liability. Furthermore, complaints against a public servant and operational supervision can be lodged with the responsible offices of Thuringia Police. In addition, there is the possibility in Thuringia, also anonymously, of contacting the confidential agency of Thuringia Police that exists independently from the police department at the Thuringian Ministry of Internal Affairs and Local Government and can initiate an investigation into the matter.

Federation:

Alleged victims of unlawful Federal Police measures may report an offence verbally or in writing at any police station, public prosecution office or court. This cannot be rejected and the law enforcement agencies are obliged by law to investigate the matter. Further processing takes place independently outside the applicable Federation police force.

In addition, a complaints office is established at each Federal Police authority that receives all informal complaints and coordinates their processing within the framework of complaint management. Should a criminal offence be the subject of the complaint, the case is forwarded to the responsible public prosecution office or Land Police Force.

The office of Ethics Commissioner was established at the Federal Criminal Police Office in January 2021. As well as exerting an impact within the authority, the Ethics Commissioner could prospectively also become a point of contact for members of the public.

Based on the guarantee of recourse to the courts in accordance with Article 19, paragraph (4) of the German Basic Law, all persons considering their rights to have been violated through the exercise of

public authority are granted access to jurisdiction. Furthermore, according to Article 17 in conjunction with Article 45 c of the German Basic Law, everyone is entitled to address their requests or complaints to the Petitions Committee of the German Bundestag.

Question 5:

Please provide detailed information about the number of police officers whose conduct in the handling of assemblies since January 2020 has been the subject of disciplinary and legal reviews and, in the case of misconduct, the sanctions accordingly imposed.

Baden-Württemberg:

Since January 2020, the conduct of a total of 84 police officers in connection with assembly-related incidents has been the subject of corresponding reviews. Details are provided in the table below.

Date	Number	Accusation	Criminal proceedings	Disciplinary proceedings	Outcome/sanctions
08/04/2020	8	Infliction of bodily harm during performance of official duty; coercion	Case dismissed	No disciplinary proceedings	-
02/05/2020	1	Infliction of bodily harm during performance of official duty	Proceedings ongoing	No disciplinary proceedings to date	Pending
02/05/2020	1	Infliction of bodily harm during performance of official duty	Proceedings ongoing	No disciplinary proceedings to date	Pending
02/05/2020	1	Coercion	Proceedings ongoing	No disciplinary proceedings to date	Pending
02/05/2020	1	Infliction of bodily harm during performance of official duty	Proceedings ongoing	No disciplinary proceedings to date	Pending
02/05/2020	1	Obstruction, in public office, of prosecution or punishment	Case dismissed	No disciplinary proceedings	-
02/05/2020	1	Obstruction, in public office, of prosecution or punishment; coercion	Proceedings ongoing	No disciplinary proceedings to date	Pending
19/10/2020	2	Obstruction, in public office, of prosecution or punishment	Case dismissed	No disciplinary proceedings	-

09/11/2020	4	Infliction of bodily harm during performance of official duty	Case dismissed	No disciplinary proceedings	-
19/11/2020	3	Unlawful detention	Proceedings ongoing	No disciplinary proceedings to date	Pending
29/11/2020	2	Obstruction, in public office, of prosecution or punishment	Case dismissed	No disciplinary proceedings	-
04/12/2020	2	Infliction of bodily harm during performance of official duty; coercion	Case dismissed	No disciplinary proceedings	-
05/12/2020	6	Coercion	Case dismissed	No disciplinary proceedings	-
12/12/2020	2	Unlawful detention	Proceedings ongoing	No disciplinary proceedings to date	Pending
19/12/2020	2	Infliction of bodily harm during performance of official duty	Case dismissed	No disciplinary proceedings	-
22/12/2020	2	Unlawful detention	Proceedings ongoing	No disciplinary proceedings to date	Pending
06/01/2021	1	Coercion; unlawful detention	Case dismissed	No disciplinary proceedings	-
02/02/2021	1	Coercion	Case dismissed	No disciplinary proceedings	-
20/02/2021	1	Obstruction, in public office, of prosecution or punishment; coercion	Proceedings ongoing	No disciplinary proceedings to date	Pending
21/02/2021	1	Defamation	Case dismissed	No disciplinary proceedings	-
22/02/2021	1	Infliction of bodily harm during performance of official duty	Case dismissed	No disciplinary proceedings	-
27/02/2021	1	Infliction of bodily harm during performance of official duty	Case dismissed	No disciplinary proceedings	-
10/03/2021	1	Coercion	Case dismissed	No disciplinary proceedings	-
15/03/2021	1	Coercion	Case	No disciplinary	-

28/03/2021	18	Unlawful detention; infliction of bodily harm during performance of official duty; coercion	dismissed Case dismissed	proceedings No disciplinary proceedings	-
28/03/2021	5	Unlawful detention; infliction of bodily harm during performance of official duty; coercion	Proceedings ongoing	No disciplinary proceedings to date	Pending
28/03/2021	1	Unlawful detention; infliction of bodily harm during performance of official duty; coercion	Case dismissed	No disciplinary proceedings	-
28/03/2021	1	Coercion	Case dismissed	No disciplinary proceedings	-
03/04/2021	1	Malicious gossip	Proceedings ongoing	No disciplinary proceedings to date	Pending
03/04/2021	Unknown ⁶	Obstruction, in public office, of prosecution or punishment; perversion of justice	Proceedings ongoing	No disciplinary proceedings to date	Pending
03/04/2021	Unknown	Obstruction, in public office, of prosecution or punishment	Proceedings ongoing	No disciplinary proceedings to date	Pending
03/04/2021	1	Infliction of bodily harm during performance of official duty	Case dismissed	No disciplinary proceedings	-
14/04/2021	2	Unlawful detention	Proceedings ongoing	No disciplinary proceedings to date	Pending
17/04/2021	Unknown	Unlawful detention	Proceedings ongoing	No disciplinary proceedings to date	Pending
17/04/2021	Unknown	Unlawful detention	Proceedings ongoing	No disciplinary proceedings to date	Pending
17/04/2021	Unknown	Unlawful detention	Proceedings	No disciplinary	Pending

⁶ charges against a number of police officers not yet specifiable.

			ongoing	proceedings to date	
17/04/2021	Unknown	Unlawful detention	Proceedings ongoing	No disciplinary proceedings to date	Pending
20/04/2021	1	Obstruction, in public office, of prosecution or punishment; coercion	Proceedings ongoing	No disciplinary proceedings to date	Pending
01/05/2021	1	Infliction of bodily harm during performance of official duty	Proceedings ongoing	No disciplinary proceedings to date	Pending
08/06/2021	2	Infliction of bodily harm during performance of official duty	Proceedings ongoing	No disciplinary proceedings to date	Pending
13/06/2021	2	Coercion	Case dismissed	No disciplinary proceedings	-
20/06/2021	2	Infliction of bodily harm during performance of official duty	Proceedings ongoing	No disciplinary proceedings to date	Pending

Bavaria:

An automated analysis with regard to the question on the basis of police crime statistics or the case processing programme (IGVP-FE) is not possible as the “assembly” deployment event cannot be explicitly researched here.

However, based on a special analysis prepared annually by the Bavarian Land Criminal Police Office, the following number of cases can be disclosed as an illustration of the order of magnitude with regard to internal investigations against members of the police:

Department 13 of the Bavarian Criminal Police Office responsible for internal investigations against police staff conducted investigations in 1,352 cases involving reported offences in 2020. Of these, 400 cases concerned bodily injury offences. Following conclusion of the investigations, factual indications pointing towards criminal or unlawful actions only resulted for nine cases involving charges in the area of bodily injury offences. Concerning the outcome of the associated proceedings, it can be reported that two cases were dismissed due to lack of sufficient grounds for suspicion in accordance with section 170, subsection (2) of the Code of Criminal Procedure, one case was dismissed subject to payment of a fine in accordance with section 153a, subsection (1) of the Code of Criminal Procedure, one case led to conviction with a fine and one was referred to private prosecution. The outcome of the proceedings in four cases was not yet known at the time of reporting.

Berlin:

Data with regard to the question cannot be researched by the Berlin Police in the automated procedure.

Brandenburg:

Since January 2020 there have been 21 accused police officers whose conduct while dealing with assemblies has been the subject of disciplinary or legal investigations. Both the criminal law investigations and the preliminary disciplinary investigations are still ongoing in some of the cases. In those cases in which the criminal law investigations have already been concluded, criminal proceedings have been dropped due to lack of sufficient grounds for suspicion in accordance with section 170, subsection (2) of the Code of Criminal Procedure.

No misconduct by police officers in connection with assemblies has been proven in any of the proceedings concluded to date under either disciplinary or criminal law.

Bremen:

It has only been possible to conduct a manual evaluation of the disciplinary and complaints proceedings in connection with police officers whose conduct while dealing with assemblies since January 2020 has been the subject of disciplinary or legal reviews and potentially incurred sanctions. One case was reported in which charges were brought against police officers among other things due to suspected coercion and unlawful detention during an assembly on Marktplatz on 5 December 2020. The proceedings are still ongoing.

Hamburg:

The Internal Investigations Department (DIE) and the Complaint Management and Disciplinary Affairs Office (BMDA) are aware of the following cases with regard to the question (as at 13 September 2021):

Date	Event	Outcome of proceedings
2020/DIE	Investigation proceedings against a police officer due to suspected infliction of bodily harm during performance of official duty at a gathering	Dismissal due to lack of sufficient grounds for suspicion in accordance with section 170 (2) of the Code of Criminal Procedure
2020/DIE	Investigation proceedings against a police officer due to suspected infliction of bodily harm during performance of official duty at a gathering	Dismissal due to lack of sufficient grounds for suspicion in accordance with section 170 (2) of the Code of Criminal Procedure
2020/DIE	Investigation proceedings against a police officer due to suspected defamation at a gathering	Dismissal due to lack of sufficient grounds for suspicion in accordance with section 170 (2) of the Code of Criminal Procedure
2020/BMDA	Suspected infliction of bodily harm during performance of official duty at an assembly	Detailed factual circumstances not ascertainable. Suspect and aggrieved party not known.
2021/DIE	Investigation proceedings against a police officer due to suspected infliction of bodily harm during performance of official duty at a gathering	Decision of the public prosecution office still pending
2021/DIE	Investigation proceedings against several police officers due to suspected infliction of bodily harm during performance of official duty at a gathering	Decision of the public prosecution office still pending

Hesse:

Relevant statistics in connection with assemblies are not available in Hesse.

Mecklenburg-Western Pomerania:

Complaints against a public servant have been submitted against five officers in connection with assemblies since January 2020. No misconduct has been established in this connection. An offence was reported in one further case (section 240 of German Penal Code – Coercion). However, the proceedings are still ongoing.

Lower Saxony:

There were altogether 24 criminal law investigation procedures in 2020 and 2021 against Lower Saxony police officers whose conduct in connection with the management of assemblies has been reviewed. Of the 24 criminal law investigation procedures, seven criminal proceedings have been concluded: two of them were dropped upon payment of a fine in accordance with section 153a of the Code of Criminal Procedure and five were dismissed due to a lack of sufficient grounds for suspicion in accordance with section 170, subsection (2) of the Code of Criminal Procedure. All other criminal proceedings are still ongoing. It should be pointed out that the criminal proceedings have not just been initiated on grounds of the use of direct force but that several charges have been brought against police officers, for example because they attempted to enforce the applicable COVID-19 protection measures such as covering the nose and mouth (wearing a mask) at assemblies.

Disciplinary proceedings are about to be initiated in two further cases. The examination of whether to initiate disciplinary proceedings is still ongoing in two further cases. There have so far not been any disciplinary sanctions in the 24 cases reported for the period in question.

North Rhine-Westphalia:

Details of criminal law, disciplinary and administrative proceedings in the aftermath of deployments at assemblies are not available and could only be obtained by conducting an extremely time-consuming survey requiring large numbers of staff at the 47 district police authorities.

Rhineland-Palatinate:

Twenty-two investigation procedures against a total of 44 police officers in connection with operations at demonstrations became known in Rhineland-Palatinate in the period in question. No sanctions under criminal law have so far been imposed on any police officers. Six cases are still pending at the present time. The remaining 16 have all been dismissed due to a lack of sufficient grounds for suspicion in accordance with section 170, subsection (2) of the Code of Criminal Procedure.

Furthermore, disciplinary investigations were conducted against 16 police officers in eight cases in the aforementioned connection. No misconduct was established in any of the cases and therefore no disciplinary measures were taken.

Saarland:

No relevant cases prompting disciplinary investigations against police officers became known in the period under consideration (January 2020 to the present day). Specific cases of the kind described in the letter are also not known within the area of responsibility of the public prosecution office.

Saxony:

Disciplinary or criminal law investigations were carried out with regard to 36 police officers in the period from January 2020 until 20 September 2021 due to possible misconduct at assemblies/protests. The criminal law investigation proceedings have been dropped for 19 of the 36 police officers, while they are still ongoing for the remaining 17. The disciplinary investigations have so far not led to the initiation of disciplinary proceedings.

Saxony-Anhalt:

Five criminal law investigation procedures were initiated against eleven officers of Saxony-Anhalt Police due to their conduct at demonstrations in the period from January 2020 until August 2021. Two investigation procedures against four police officers were dismissed due to lack of sufficient grounds for suspicion in accordance with section 170, subsection (2) of the Code of Criminal Procedure and another one against one police officer was dismissed due to the trivial nature of the offence pursuant to section 153, subsection (1) of the Code of Criminal Procedure. Two investigation procedures against six police officers are still ongoing. Disciplinary proceedings have so far been initiated against four of the eleven police officers and are still ongoing.

Schleswig-Holstein:

Four criminal investigation procedures have been initiated in connection with the conduct of police officers at gatherings since January 2020. Three of these procedures have been dismissed by the public prosecution office following review, while in one case the review by the public prosecution office is still ongoing. In addition, one disciplinary investigation procedure has been carried out and is still ongoing.

Thuringia:

Disciplinary proceedings have been initiated against one police officer of the Thuringian public order support forces since 1 January 2020 due to suspected infliction of bodily harm during performance of official duty to the disadvantage of two participants at the assembly against COVID-19 measures on 20 March 2021 in Kassel. The proceedings are still ongoing. In parallel with this, criminal investigation proceedings against this and three other officers of the Thuringian public order support forces are being conducted by Kassel public prosecution office. As the investigations against the three other officers have so far not (yet) yielded any reasonable suspicion of a breach of duty, no disciplinary proceedings have (yet) been initiated.

Furthermore, Erfurt public prosecution office decided not to initiate criminal investigation proceedings against two officers of the Thuringian public order support forces accused of persecuting innocent people in connection with an assembly in Erfurt against COVID-19 measures on 27 February 2021 due to lack of initial suspicion of an offence. Disciplinary proceedings against the officers were also not initiated.

Finally, Erfurt public prosecution office conducted criminal investigations against two officers of the Thuringian public order support forces due to suspected infliction of bodily harm during performance of official duty in connection with their conduct at an assembly against COVID-19 measures on 12 December 2020. The criminal investigation procedure was later dismissed due to a lack of sufficient grounds for suspicion and there were also no disciplinary proceedings initiated against the officers.

No information can be provided concerning further details of the proceedings due to reasons pertaining to personal data protection law. No other relevant proceedings are known here or statistically recorded.

Federation:

No relevant cases have occurred at the Federal Criminal Police Office. There is currently intelligence at the Federal Police concerning ten cases about investigation proceedings on grounds of alleged infliction of bodily harm during performance of official duty. The proceedings are so far still ongoing. Disciplinary proceedings have been initiated in one of the ten cases and are suspended pending conclusion of the criminal law investigations.

Question 6:

Please explain in particular which measures have been taken or are planned in order to improve operations directives in such a way as to take better account of the prevailing restrictions on all use of force or coercive measures by officers entrusted with law enforcement, even when the intervention threshold has been reached. If no such measures have been taken, please explain how this is reconcilable with Germany's human rights obligations.

Baden-Württemberg:

Baden-Württemberg Police sees itself as a community police force that aims to resolve conflict situations primarily in dialogue with members of the public. According to the principles taught in basic and advanced training, police officers accordingly endeavour when intervening to use the least invasive means available based on the objective circumstances and taking into account the principle of equality. The vast majority of all police operations accordingly do not require any threat or use of coercive force.

Should the threat or use of coercive force become necessary in individual cases of police intervention, this takes place on the basis of narrowly defined legal empowerments. The use of aids for physical force (such as spit hoods, handcuffs) or even weapons (such as riot control agent dispensers, batons) fundamentally only comes into consideration if it is not possible to achieve the police purpose with simple physical force.

At assemblies, the police must not only observe the principle of proportionality but in particular also the freedom of expression and assembly anchored in the free democratic basic order. The police approach, which at assemblies is frequently shaped by a field of tension spanning various parameters (e.g. freedom of expression/assembly, protection of the basic rights of third parties, proportionality, public impact, behaviour/reaction of assembly participants) is fundamentally geared towards the operation order issued specifically for this after having assessed the situation.

According to the applicable Police Service Regulation, the overriding priority of police action is the obligation to respect and protect human dignity. By protecting basic rights, the police also uphold the staging of conflicts within the limits of the law. In order to comply with this mandate and strict observance of the principle of proportionality, guidelines form an intrinsic part of operational preliminary planning and execution. They serve as a means of action orientation for the officers deployed and are fundamentally binding. The guidelines define intervention thresholds and the decision-making powers reserved for police commanders in the event of particularly invasive encroachments upon basic rights by the police.

Although unlawful force by police officers only occurs in very exceptional cases, the law enforcement agencies take each individual instance of the use of unlawful force very seriously and thoroughly follow this up. Having said this, it must be noted in view of the statistical facts (in particular police crime statistics) that the use of unlawful force by officers in Baden-Württemberg does not pose a structural problem.

However, the same cannot be said with regard to violence against police officers. With 5,151 cases, up 3.2% on 4,993 cases in 2019, 2020 marked a new peak in case numbers in Baden-Württemberg. Compared with 2015, case numbers in 2020 were even up by 31.1%. A total of 2,630 police officers were injured by persons they dealt with in Baden-Württemberg in 2020.

Finally, it should be noted that pursuant to the Administrative Regulation of the Ministry of the Interior on the Targeted Exchange of Information about Important Events in the Security Area (*Verwaltungsvorschrift des Innenministeriums zum gezielten Austausch von Informationen über wichtige Ereignisse im Sicherheitsbereich*), among other things wilful offences committed by employees both on and off duty are also communicated by default to the Land Police Department at the Baden-Württemberg Ministry of the Interior, Digitalisation and Local Government. The cases conveyed are regularly reviewed also with regard to a potential adjustment requirement within basic and advanced training and/or the framework regulations issued by the Land Police Department.

Bavaria:

The European Convention on Human Rights, the Basic Law of the Federal Republic of Germany and the Bavarian Constitution form the foundation for the official activity of the Bavarian Police. The respect and protection of the principles set out therein are of paramount importance and have a binding effect for police operational management at both the planning and strategic level and for the operational implementation of police measures by individual officers.

Special value is already placed during training, alongside the purely legal instruction of operational forces provided as a matter of course particularly in the subjects of “professional ethics”, “civic education/current affairs” and “communication and conflict management”, on the further development of personal and social skills and conveying the underlying importance of human rights, especially that of Article 1, paragraph 1 of the Basic Law stating that “Human dignity is inviolable”. Police officers are required to adapt their conduct and approach to the situation at hand by means of communicative abilities, psychological skill and conflict management expertise. These skills are maintained through advanced training. Topics such as internal and external interaction, coping with stress, emotional stability, conflict management and self-control play a central role at seminars. Particularly worthy of mention here is the so-called “S.T.E. Training Course” focusing on self-development, team orientation and operational management. As part of the training programme in police operational conduct, Bavarian police officers are taught in training sessions staged as close to reality as possible how to ensure professional awareness and conduct in police operations. The principle of proportionality plays a central role in both the theoretical training and the practical exercises. The overriding goal of police intervention is to master situations in a professional manner with non-violent conflict resolution by means of a communicative solution.

The following is to be noted with regard to the guideline of a “low intervention threshold” addressed by the Special Rapporteur:

The goal of a guideline in the police operation order is to convey uniform requirements concerning action orientation to all forces and command positions deployed, thereby safeguarding as

homogeneous a tactical approach as possible during a specific operation. Part of these guidelines often also comprises a statement on the general intervention threshold during the operation. The definition of the intervention threshold serves as a general directive for the interpretation of discretion-based decisions about the whether, when and how of police measures (e.g. installation of police barriers, establishment of the identity of disturbers).

However, a low intervention threshold under no circumstances entails a lower threshold for the deployment of means of coercion against those concerned. The principle of proportionality must continue to be taken into account to the customary degree.

It should additionally be noted in this regard that generally valid requirements, such as observing laws and regulations and complying with the principle of proportionality, are not accorded any guideline character, as these requirements must be observed in all cases and thus do not represent any special feature of the respective operation requiring interpretation. The personal responsibility of each individual officer for the measures they adopt or instruct is one of the core aspects of basic and advanced police training. Regular and standardised instruction and consolidation serve to create a lasting and fundamental sense of responsibility.

Berlin:

The results of planning and decision-making processes in the preparation of police operations are subject to constant further development. The Berlin Police regularly reviews the content of written orders issued by police stations managing operations in terms of optimisation requirements with regard to preserving the principle of proportionality, especially concerning the use of direct force. The command and operational units of the Berlin Police are thus regularly sensitised accordingly.

The Berlin Police is not only a neutral guarantor of freedom of assembly in accordance with its statutory mandate but also on the basis of its self-image. It does not protect the respective theme of the assembly but rather the basic right of freedom of assembly per se. Under this premise, the Berlin Police guarantees freedom of assembly in accordance with a graduated (three-stage) operational concept. This concept is based on the aforementioned self-image, a firmly anchored, assembly-friendly operating philosophy, the legal framework and the latest relevant jurisprudence. Relevant operational situations are always followed up and checked against this in order to carry out any applicable optimisation for the purpose of ensuring conformity of tactics with the law.

The Berlin Police has spent decades professionalising its communication as the primary police resource and constantly developed it further to become an irrevocable component of its operational concepts. The Berlin Police makes repeated and multiple use of all levels of communication.

Brandenburg:

All police officers are taught about the practical deployment of physical coercive measures in a comprehensive training or degree course. This also includes dealing with extremely stressful situations, aggressive assembly participants and group dynamic processes. Cross-cultural peculiarities are also part of the training. Communication plays a central role for the Brandenburg Police at gatherings. Specially trained communication officers are deployed in teams for this purpose. The aim at all times is to avoid an escalation with the use of direct physical force. However, the thresholds for this lie clearly with criminal offences, which are systematically averted.

All police operations are fundamentally followed up. The aim of this is to enhance future operational management. To this end individual and general requirements for further training measures are also identified and implemented.

Bremen:

All use of force or coercive measures derives from the statutory basis of the Bremen Police Act. All downstream instructions are drawn up in accordance with and under consideration of this statutory basis. The instructions are regularly reviewed to ensure they are up to date. The principles of de-escalating operational conduct are always of particular interest in these reviews and are immediately improved where regulatory gaps are identified.

Hamburg:

The relevant measures include the following:

- Assessment of national rulings and international jurisprudence (e.g. European Court of Human Rights).
- Mandatory follow-up of operations of the police command staff with the involvement of the Complaint Management and Disciplinary Affairs Office (BMDA) and press office.
- Deployment of communication teams that are visibly recognisable (waistcoat with label) and already active in the collection phase of demonstrations and available, for example, to answer questions from demonstrators about the right of assembly and the topic of coercion and thus increasingly gain respect among demonstration participants.
- The tactical approach of the police, for example at gatherings, is the subject of regular advanced training and in particular the training of public order support forces. A nationwide exchange of experiences also takes place in this regard.
- Principles are taught during police training sessions as part of the basic and advanced training of the Hamburg Police that are primarily targeted at the verbal management of situations and improving its prospects of success. Furthermore, coercive measures are depicted in operational situations that can be used if it is not possible to resolve the situation verbally. Various everyday police situations are simulated here. This training programme is available to police officers in digital format at all times, also for self-study.

Hesse:

The guidelines and operation orders in Hesse regularly point out that high priority is assigned to guaranteeing the basic right of freedom of assembly and the basic right to life and physical integrity. In view of this, the interests of these two basic rights are to be regularly weighed up in the light of the principle of proportionality (practical concordance). This process of weighing up must be explained by means of open, transparent and clear communication to the assembly leadership, assembly participants, media representatives and uninvolved parties.

Furthermore, identified misconduct by police officers is systematically and comprehensively followed up and transparently communicated to all police officers. A committee of experts comprising representatives from science, civil society, the police and the domestic intelligence services was recently convened especially for this in order to facilitate a neutral view of the work of the police. It presented a concluding report in the summer of 2021 that contains substantiated work assignments for the police to address intensively in the period to come in order to reflect on and realign their own actions in a targeted manner.

A management unit, supported by an external business consultancy, has been set up to implement the recommendations and actions needed (among other things with regard to self-perception, dealing with the issue of data protection, the focus of basic and advanced training and the general handling of mistakes).

Mecklenburg-Western Pomerania:

As a major bearer of the monopoly on the use of force, the police can and must be able to apply so-called coercive force in certain situations. Primarily through the provisions contained in the Public Security and Order Act, the legislator already clearly defines the barriers placed on the deployment of coercive force by means of physical force, aids (such as handcuffs) or even weapons.

A key focus in the basic and advanced training of police officers in Mecklenburg-Western Pomerania is placed on the message that the use of force encroaches upon the fundamental rights of the persons affected, in particular the right to physical integrity and the right to individual liberty, and that coercive force may only be deployed if there are no less invasive alternatives and its use is therefore at all times subject to the principle of proportionality. All relevant tactical operational concepts of the Land Police Force are geared to these stated principles. Continuous follow-ups of all operations furthermore support the ongoing review of police unit actions, especially in connection with rather critical situations, in terms of improvement potential.

Lower Saxony:

Lower Saxony has a well-trained police force that already practises the lawful and proportionate exercise of police coercive measures intensively during training. As there are many different reasons for the use of direct force, operation orders can only provide a framework and not be considered a conclusive set of rules for the underlying police operation. The contents of the operation orders are derived among other things from the occasion and the insights gained in this connection that are incorporated into a situation and threat assessment. Operation orders are drawn up on this basis that among other things also stipulate the force requirements and the police tasks to be carried out. They also include measures subject to the decision-making powers reserved for police commanders, such as the use of water cannons, batons or pepper spray. Where optimisation requirements exist with regard to operation orders, the latter can be amended accordingly. As a guide when drawing up operation orders, a standardised template is available nationwide in Police Service Regulation 100 "Police command and deployment".

North Rhine-Westphalia:

The police in North Rhine-Westphalia have for many years pursued an operational tactic geared to de-escalation (so-called de-escalative deployment model). This applies especially to operations at assemblies due to the dynamic events and the emotionality associated with such situations.

This model aims to shape police presence and actions in such a way as to have a conflict-mitigating effect, with coercion only deployed if other means of conflict resolution, particularly communication, have proven unsuitable or cannot be considered due to unavoidable pressure to act for the defence of important legally protected interests.

In his or her written operation order, the police commander sets out guidelines containing expectations regarding the conduct of police officers that are fundamentally geared to this model. The guidelines are explained to the officers deployed at briefings.

Rhineland-Palatinate:

The police in Rhineland-Palatinate sees itself as a communicative police force for the community in which the use of force and coercion are viewed as a means of last resort. The police monopoly on the use of force is an obligatory principle that entails proactive responsibility. This self-image is manifested among other things in the binding Police Service Regulation 100 and the guiding principle of the Rhineland-Palatinate Police.

Particular priorities are set in the police tactical and legal training of police officers in Rhineland-Palatinate as part of the Bachelor's degree course that include the upholding of basic and human rights, the lawfulness of government activity and the appropriateness and proportionality of intrusive measures.

At the same time, the legal prerequisites and tactical requirements for the use of direct force by police officers are dealt with in detail. The corresponding scenarios and measures are practised in a nuts-and-bolts manner during practical training sessions regularly taking place as part of the degree course.

In specific operational situations potentially requiring the use of force or coercion, the intervening police officer conducts a legal review in consideration of the overall circumstances (assessment of the situation). If the legal prerequisites are at hand and deployment is clearly suitable, necessary and proportionate in order to avert a corresponding threat, an assessment of the legally protected interests and review of the tactical approach are additionally carried out. Particular importance is attached here to the graduated selection of operational resources.

In special organisational structures, such as for coping with demonstrations or football gatherings, the use of force and coercion by closed police units, e.g. deployment of batons and irritant gas, taking into custody of larger groups of persons and use of particular command and operational resources such as water cannons and special vehicles is routinely at the discretion of the police commander. This is stated in the guidelines contained in the operation order. The guidelines, which set out the overriding goals and the operating philosophy of the police commander, also contain key statements about intervention thresholds. The principle applied here is that the greater the willingness to cooperate and communicate of the members of the public or groups affected, the higher the intervention threshold. Particular importance is attached here to preserving the exercise of basic rights such as freedom of assembly. In order to actively promote this approach on the part of the police, specialised officers are deployed for direct and indirect communication. The Tactical Communication officers aim at influencing persons and groups of persons communicatively in direct dialogue. These measures are regularly supplemented by accompanying loudspeaker announcements. Press and PR staff communicate with the public above all via social media, explain police measures and attempt through communication to achieve forms of behaviour that consequently render the use of police force and coercion unnecessary.

Furthermore, measures involving the use of force and coercion in such situations are documented as seamlessly as possible together with the triggering factors by staff specialising in the securing of evidence (video recordings/photos) and recorded in the operation protocol system.

The corresponding measures are processed methodically and reviewed in terms of their method of application during operation follow-ups.

Saarland:

The Saarland Police only deploys officers for the tasks in question here who have received comprehensive tactical and legal basic and advanced training for this and are therefore also familiar with the relevant legal provisions for the use of direct force.

Furthermore, Police Service Regulation 100 serving as the basis for operational concepts and operation orders that is, as a matter of fact, applicable nationwide already specifies the following in paragraph 1.1: “The overriding priority of police action is the obligation to respect and protect human dignity.” The police gears its entire operational management to this supreme guiding principle and may also substantiate it with respect to the specific underlying conditions of the operation in question. It goes without saying that concepts such as that of a “low intervention threshold” override neither this obligation nor the obligation to comply with statutory provisions, including the principle of proportionality. The officers, some of whom are trained by way of a university degree course, are aware of this. Instead, the aforementioned concept can be used to highlight the importance of the defence of significant legally protected interests, in particular also including that of the life and health of third parties and police officers, in the light of any threats already identified in advance. In addition, explicit reference is regularly made to the fact, for example, that the police units act with tolerance and a high degree of sensitivity, that they distinguish between peaceful and violent participants and that precedence is fundamentally to be given to non-coercive, communicative conflict resolution. Depending on the situation at hand, particularly invasive measures, especially against larger groups of persons, are additionally placed under the decision-making powers reserved for police commanders.

Saxony:

1) Prior to each operation, guidelines are laid out by the police commander in the operation order to which the execution of police tasks is to be geared. Furthermore, the use of force and corresponding command and operational resources (e.g. batons, water cannons) can be placed under the decision-making powers reserved for police commanders. The guidelines and decision-making power reservations serve as action orientation and are fundamentally binding.

Generally applicable guidelines fundamentally come into consideration with regard to the:

- intervention threshold,
- observance of the de-escalation requirement,
- setting of priorities,
- press and PR work accompanying operations,
- degree of transparency of police tactics and
- the presence and appearance of the police.

2) Furthermore, in order to ensure a uniform approach of the Saxony Police in dealing with operational situations in connection with assemblies and processions directed against government anti-COVID measures, a corresponding concept was sent to the police stations for implementation by the Saxony State Ministry of the Interior with a letter dated 30 March 2021.

3) The following guidelines (among others) were set out in the operation order for the police operation on 17 April 2021 in accordance with the aforementioned concept of the Saxony State Ministry of the Interior:

- The provisions of the Saxony Coronavirus Protection Ordinance are to be consistently enforced. The intervention threshold depends on the disturbance potential in each individual case. A graduated procedure is to be adopted.
- The proportionality of police measures is to be guaranteed in each operational phase. This applies particularly to the use of direct force.
- Disturbances of public safety and order are to be prevented and averted resolutely; administrative and criminal offences are to be prosecuted in a targeted, swift, offensive, consistent, purposeful and low-threshold manner.
- Action is to be taken against violence with a low intervention threshold in an independent, swift and offensive manner within the framework of the jointly coordinated tactical concepts.

Saxony-Anhalt:

Police operations are fundamentally prepared on the basis of insights concerning the situation, available police units and under consideration of the prevailing legal situation. In addition, appropriate guidelines are issued for the management of complex operational situations such as assemblies that specify in particular the discretion to be applied in the use of direct force in the specific operational situation.

It is also possible in Saxony-Anhalt to draw on so-called conflict managers for police operational management. Their job during the operation is to increase the transparency of possible police measures and to discuss the police guidelines in order to help bring about conflict-free operational management. In addition, a structured operation follow-up is carried out for larger operations. Large-scale police operations in particular are debated here in a constructively critical manner during talks and command meetings.

Schleswig-Holstein:

An intervention threshold regarding the use of direct force is generally defined in operation orders, and the use of certain means of coercion, such as water cannons, is also placed under the discretion of a defined level of command. Regardless of the defined intervention thresholds, the use of direct force may only take place if this is suitable, necessary and proportionate in the specific individual case; it is otherwise not lawful.

Thuringia:

There are operation orders for police operations at gatherings that are standardised by the Police Service Regulations applicable nationwide. They contain fundamentally binding guidelines that serve the police officers as action orientation. These particularly include provisions concerning the intervention threshold and de-escalation. In addition, certain types of use of so-called direct force, i.e. the use of physical force and corresponding command and operational resources (e.g. water cannons) can be placed under the decision-making powers reserved for the police commander or a representative designated by the latter, thereby establishing an additional evaluation level.

As well as the general organisational measures, decisions on the use of direct force by the units deployed on site are to be taken on the basis of the specific circumstances of the individual case and under consideration of the legal prerequisites, in particular the proportionality requirement.

Culpable violations of these provisions can have both criminal law and disciplinary consequences for the officers deployed through to dismissal from service.

The legal basis of police actions and the practical application of operating and action principles form an integral part of the basic and advanced training of police officers and particularly of police deployment training.

Federation:

During the basic and advanced training of the police forces of the Federation, a graduated approach appropriate to the situation at hand when dealing with opponents is taught. Particular importance is attached here to the principle of proportionality (prohibition of excessiveness). The deployment of weapons and other aids for physical force must always take subordinate priority compared with communicative and de-escalating measures. Each official measure must first be checked by the police officer as to its legality, including its proportionality.

Regardless of this, the police commanders are free to underline the principle of proportionality separately in the individual operation orders/operations directives.

For example, the police commander of the Federal Police decided for the operation during the transportation of radioactive waste by rail from Nordenham to Biblis in 2020 to draw special attention to adherence to the principle of proportionality during the rapid and resolute elimination of disturbances.

Furthermore, operation follow-ups ensure that operations directives are regularly reviewed among other things with regard to their regulation content and clarity of statement. The results are incorporated into future operations directives, thereby securing the continuous further development of operational management, also with a view to the deployment of coercive measures.