



# The AnKER centres

Implications for asylum procedures, reception and return



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The visit to Germany was conducted as part of the Asylum Information Database (AIDA) managed by ECRE, which provides up-to-date information and analysis of the legal framework and practice with regard to asylum procedures, reception conditions, detention and content of international protection in 23 European countries. This report complements and should be read together with the [AIDA Country Report on Germany](#).

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## GLOSSARY & LIST OF ABBREVIATIONS

<b>AnKER centre</b>	Initial reception centre hosting asylum seekers for a period of up to 24 months, in application of Section 47(1b) of the Asylum Act. Such centres exist in three federal states (Bavaria, Saxony, Saarland)   <i>AnKER-Zentrum</i>
<b>Arrival centre</b>	Centre where registration and security checks take place prior to distribution to a federal state   <i>Ankunftszenrum</i>
<b>Arrival certificate</b>	Certificate received upon arrival in the arrival centre, attesting registration of the intention to apply for asylum   <i>Ankunftsnachweis</i>
<b>Dependance</b>	Branch of an AnKER centre where only accommodation is provided. <i>Dependancen</i> are specific to certain AnKER centres in Bavaria.
<b>Dublin system</b>	System establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application, under <a href="#">Regulation (EU) No 604/2013</a> .
<b>Initial reception centre</b>	Reception centre where a branch office of the Federal Office for Migration and Refugees is located and where asylum seekers are generally assigned to reside for up to 6 months   <i>Aufnahmeeinrichtung</i>
<b>Take back request</b>	Request under <a href="#">Regulation (EU) No 604/2013</a> for a country to receive a person who applied for asylum on its territory and whose application is pending, has been withdrawn or has been rejected.
<b>Transit centre</b>	Initial reception centre hosting asylum seekers for a period of up to 24 months, in application of <a href="#">Section 47(1b) of the Asylum Act</a> . Three such centres existed in Bavaria (Manching/Ingolstadt, Regensburg and Deggendorf) until August 2018   <i>Transitzentrum</i>
<b>AIDA</b>	Asylum Information Database
<b>AnKER</b>	Arrival, Decision and Municipal Distribution or Return   Ankunft, Entscheidung und kommunale Verteilung bzw. Rückführung
<b>BAMF</b>	Federal Office for Migration and Refugees   Bundesamt für Migration und Flüchtlinge
<b>CJEU</b>	Court of Justice of the European Union
<b>DRK</b>	German Red Cross   Deutsches Rotes Kreuz
<b>EASY</b>	Initial Distribution of Asylum Seekers   Erstverteilung von Asylbegehrenden
<b>ECHR</b>	European Convention on Human Rights
<b>ECtHR</b>	European Court of Human Rights
<b>EU</b>	European Union
<b>GU</b>	Collective accommodation   Gemeinschaftsunterkunft
<b>LfAR</b>	Bavarian State Office for Asylum and Returns   Bayerisches Landesamt für Asyl und Rückführungen
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>VG</b>	Administrative Court   Verwaltungsgericht
<b>ZAB</b>	Central Aliens Office   Zentrale Ausländerbehörde



## INTRODUCTION

The coalition agreement between German federal coalition partners CDU, CSU and SPD from February 2018 and the implementation of a “plan for asylum” elaborated in the State of Bavaria on 5 June 2018 foresaw the roll-out of Arrival, Decision and Municipal Distribution or Return Centres (*Ankunft, Entscheidung und kommunale Verteilung bzw. Rückführung, AnKER-Zentren*) in each district of Bavaria.<sup>1</sup> The model, envisioned as a pilot project to be evaluated by 2020,<sup>2</sup> builds on previous types of centres established in three Bavarian districts, which took the form of Transit Centres (*Transitzentren*) in Manching/Ingolstadt, Regensburg and Deggendorf.<sup>3</sup>

The concept of an AnKER centre is to be understood as a single location concentrating all relevant authorities and actors in the process, as well as accommodating asylum seekers. The aim of the centralisation of all relevant actors is an acceleration and linkage of the asylum, Dublin and, where relevant, return procedure. While the asylum procedure is under federal responsibility, reception and return fall within the competence of Federal States.

On 1 August 2018, each of the seven districts of Bavaria established an AnKER centre, while the Federal State of Saarland has introduced one AnKER centre in Lebach, and Saxony has established one AnKER centre in Dresden and is planning to set up two more.<sup>4</sup> The Federal Ministry of Interior has sought to

<sup>1</sup> Federal Government, *Koalitionsvertrag zwischen CDU, CSU und SPD*, February 2018, available in German at: <https://bit.ly/2HCOTw0>, 107.

<sup>2</sup> Tagesschau, “Es geht doch nur um einen Namen”, 2 February 2019, available in German at: <https://bit.ly/2UBIIDU>.

<sup>3</sup> For more information on transit centres, see AIDA, *Country Report Germany, 2017 Update*, March 2018, available at: <https://bit.ly/2lpbOqa>, 64.

<sup>4</sup> Die Welt, ‘Weitere Ankerzentren für Migranten geplant’, 15 April 2019, available in German at: <https://bit.ly/2VMgmhn>.

establish AnkER centres as a blueprint to be replicated more broadly across Germany. Other federal states have similar centres, albeit without adopting the “AnkER” label.<sup>5</sup>

This report analyses the AnkER model implemented in the Federal State of Bavaria from the perspective of the asylum and Dublin procedure and return on the one hand, and reception and detention conditions on the other. It presents the findings of a fact-finding visit to Germany conducted between 1 and 5 April 2019, during which the ECRE delegation visited:

- The initial reception centre at Frankfurt Airport, where it met with representatives of the Church Refugee Service;
- Frankfurt, where it met with representatives of PRO ASYL;
- Munich, where it met with representatives of the Bavarian Refugee Council and the Max Planck Institute for Law and Social Policy;
- Erding, where it met with representatives of the Federal Office for Migration and Refugees (BAMF) and the German Red Cross;
- Regensburg, where it met with representatives of Caritas, BI Asyl, the Refugee Law Clinic Regensburg, Campus Asyl, Amnesty International and other stakeholders;
- The pre-removal detention centre of Eichstätt, where it met with representatives of the Bavarian State Ministry of Justice;
- The AnkER centre of Manching/Ingolstadt, where it met with the District Government of Upper Bavaria and the Bavarian State Ministry of Interior;
- The airport facility of Munich Airport, where it met with representatives of the Church Service;
- The pre-removal detention centre of Munich Airport (“Hangar 3”), where it met with representatives of the Bavarian State Office for Asylum and Returns (LfAR).

Information and data gathered from interviews and observations made in the various sites visited are complemented by desk research and authoritative sources on the AnkER centres and the asylum procedure in Germany.

The report is structured into three chapters: **Chapter I** analyses the main aspects of the AnkER centre and provides an account of the functioning of the asylum procedure, the Dublin procedure and forced return; **Chapter II** looks at reception conditions such as freedom of movement, accommodation, access to education, employment and health care; and **Chapter III** discusses the conditions in the pre-removal detention centres of Eichstätt and Munich Airport. A final section contains general conclusions and recommendations to relevant German authorities.

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<sup>5</sup> Information provided by PRO ASYL, 1 April 2019. The Federal State of Mecklenburg-Vorpommern is reportedly also planning to set up similar centres, albeit without using the “AnkER” label: NDR, ‘Schnellere Asylverfahren ohne “Ankerzentrum”’, 9 April 2019, available in German at: <https://bit.ly/2ZtUoll>.

## CHAPTER I: ASYLUM PROCEDURE, DUBLIN AND RETURN IN AnKER CENTRES

### 1. The AnKER centres in Bavaria

Although AnKER centres are premised on the concentration of all national authorities and procedural stages in a single location, they are not the sole facilities accommodating asylum seekers subject to procedures in AnKER centres. To prevent overcrowding in the AnKER centres, the State of Bavaria has enlisted decentralised accommodation facilities to serve as “branches” (*Dependancen*) of the various AnKER centres. A total of 23 facilities serving as AnKER centres and *Dependancen* exist in Bavaria:

AnKER centres & <i>Dependancen</i> in Bavaria		
District	AnKER Centre	Dependance
Upper Bavaria ( <i>Oberbayern</i> )	Manching/Ingolstadt	Ingolstadt Manchingerstraße Ingolstadt Marie Curie Straße Ingolstadt Neuburgerstraße Munich Funkkaserne Garmisch Waldkraiburg Fürstenfeldbruck
Lower Bavaria ( <i>Niederbayern</i> )	Deggendorf	Hengersberg Osterhofen Stephansposching
Upper Palatinate ( <i>Oberpfalz</i> )	Regensburg Zeißstraße	Regensburg Pionierkaserne Schwandorf
Upper Franconia ( <i>Oberfranken</i> )	Bamberg	-
Middle Franconia ( <i>Mittelfranken</i> )	Zirndorf	Nuremberg Roth Neuendettelsau
Lower Franconia ( <i>Unterfranken</i> )	Schweinfurt	-
Swabia ( <i>Schwaben</i> )	Donauwörth	Augsburg
<b>Total</b>	<b>7</b>	<b>16</b>

According to the State Ministry of Interior, no more than 1,500 persons should be hosted under each AnKER centre to avoid overcrowding.<sup>6</sup> More specifically, the capacity and occupancy of facilities in **Ingolstadt**, Upper Bavaria on 19 March 2019 was as follows:

Capacity and occupancy in Ingolstadt: 19 March 2019		
Facility	Capacity	Occupancy
AnKER Centre Manching/Ingolstadt	680	622
AnKER Dependance Ingolstadt Manchingerstraße	490	343
AnKER Dependance Ingolstadt: Marie Curie Straße	320	260
AnKER Dependance Ingolstadt: Neuburgerstraße	350	249
<b>Total</b>	<b>1,840</b>	<b>1,474</b>

Source: District Government of Upper Bavaria, 4 April 2019.

<sup>6</sup> Süddeutsche Zeitung, ‘Das sind die sieben neuen Ankerzentren in Bayern’, 1 August 2018, available in German at: <https://bit.ly/2MeAYKy>.

The actors present in the AnKER centres in Bavaria are:

- Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge*, BAMF), which examines asylum applications and implements the Dublin procedure at federal level;
- Federal Agency for Employment (*Bundesagentur für Arbeit*);
- Bavarian State Office for Asylum and Returns (*Bayerisches Landesamt für Asyl und Rückführungen*, LfAR), new agency set up in Bavaria on 1 August 2018 which is gradually undertaking responsibility as the central focal point for the organisation of returns at state level;<sup>7</sup>
- Central Aliens Office (*Zentrale Ausländerbehörde*, ZAB) which is responsible for residence of foreigners in Germany at district level;
- Social Welfare Office (*Sozialamt*), which is responsible for housing and social assistance at municipal level;
- In some AnKER centres, Registrar of the Administrative Court (*Verwaltungsgericht*, VG) which receives appeals against negative decisions.

Given that the *Dependancen* only offer accommodation, asylum seekers are required to travel to the relevant AnKER centre for all administrative steps of their procedure. The distance between a *Dependance* and the competent authorities can be especially long in Upper Bavaria, where **Munich** is located 70km away from **Waldkraiburg** and 90km from **Garmisch**.<sup>8</sup> Accordingly, the AnKER premise of all steps of the asylum procedure being concentrated in one place proves to be illusory for many asylum seekers in practice.<sup>9</sup>

## 2. The registration and examination of asylum applications

Germany draws a distinction between the “registration” of an asylum application and its formal “lodging”.<sup>10</sup> According to the authorities, a person making an application for international protection in Bavaria is brought to the arrival centre (*Ankunftszentrum*) in Munich, where the application is registered and security checks are conducted.<sup>11</sup> If no security concerns arise, the person receives an arrival certificate (*Ankunftsnachweis*) from the BAMF and is allocated to a federal state according to the *Königsteiner Schlüssel*, a calculation method for distributing asylum seekers amongst Germany’s 16 federal states, supported by the Initial Distribution of Asylum Seekers (*Erstverteilung von Asylbegehrenden*, EASY) system.<sup>12</sup>

If the EASY system allocates the applicant to the State of Bavaria, he or she undergoes a health check for infectious diseases at a short-term reception facility (*Kurzaufnahme*) near the arrival centre, and subsequently receives a train ticket to travel to the assigned AnKER centre or one of its *Dependancen* in one of the seven districts of Bavaria.

Placement in specific districts and facilities is generally carried out according to the nationality of the asylum seeker and the expertise of the BAMF offices, albeit not subject to clear criteria.<sup>13</sup> In Upper Bavaria, for example, the AnKER centre of **Manching/Ingolstadt** accommodates nationals of Moldova, while nationals of Nigeria are usually accommodated in the *Dependancen* of **Garmisch** and **Munich**

<sup>7</sup> Information provided by the LfAR, 5 April 2019.

<sup>8</sup> Exceptionally, the BAMF carries out procedures in two locations in Upper Bavaria: Manching/Ingolstadt and Munich given the size of the district and the number of asylum seekers it receives: Information provided by the District Government of Upper Bavaria, 4 April 2019.

<sup>9</sup> Information provided by the Bavarian Refugee Council, 2 April 2019.

<sup>10</sup> AIDA, Country Report Germany, 2018 Update, April 2019, available at: <https://bit.ly/2HRECve>, 18-19.

<sup>11</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019.

<sup>12</sup> See further AIDA, Country Report Germany, 71-72.

<sup>13</sup> For a list of nationalities distributed across centres, see Lower Saxony Refugee Council, *Zuständigkeiten Außenstellen und Ankunftszentren des BAMF bundesweit*, 11 March 2019, available in German at: <https://bit.ly/2vdsLPY>.

**Funkkaserne**, since their applications are processed by the BAMF in Munich.<sup>14</sup> In Upper Palatinate, Moldovan asylum seekers are accommodated in the *Dependance* of **Schwandorf**, while Ethiopian nationals are accommodated in the **Regensburg Pionierkaserne** *Dependance*, and Nigerian nationals seem to be subject to a rotating distribution system across different districts every week.<sup>15</sup> While this model of distribution may not *per se* aim at differential treatment according to nationality, the disparities in the living conditions prevailing across AnKER centres and *Dependancen* (see **Reception Conditions in AnKER**) result in certain nationalities benefitting from better quality of reception conditions than others.

### *Quality and duration of procedure*

The asylum procedure applied in the AnKER centres as such does not differ from that applied in other centres.<sup>16</sup> However, some stakeholders have pointed to certain nationalities having much lower recognition rates for certain countries of origin in these centres compared to nationwide average rates. This is the case for nationals of Iraq in **Regensburg**,<sup>17</sup> and for nationals of Afghanistan in **Zirndorf**, for example, as corroborated by official statistics for 2018.<sup>18</sup>

One difference of the AnKER system relates to the length of the procedure. The authorities have referred to an average two-month duration of asylum procedures in AnKER centres, compared to a duration of three months in other facilities.<sup>19</sup> It appears that the AnKER system enables the BAMF to quickly organise interviews, usually within two to three days of arrival, while the issuance of the decision can take more than a week.<sup>20</sup> Given the limitations of counselling provided to asylum seekers in the AnKER centres, as discussed below, the speed of the procedure is liable to undermine the ability of individuals to sufficiently prepare for the interview.

Another observation concerns the use of medical reports to substantiate asylum applications, which appears to be subject to important obstacles in AnKER centres. If an asylum seeker claims to have mental health problems, a medical report can be submitted to the BAMF. However, in **Regensburg**, the doctor present is only a general practitioner and does not provide such reports. Access to specialised doctors can only take place following a referral from the general practitioner. Due to the restrictive interpretation of “essential treatment” in the law across Germany, which must be fulfilled for social services to approve medical costs, the general practitioner does not easily grant such referrals. Asylum seekers thus have to pay themselves if they wish to receive medical assistance by a specialised professional outside of the AnKER centre.<sup>21</sup> Furthermore, medical reports have to be handed over within a very short period of time, and asylum seekers usually obtain a medical report only after the interview has taken place, in which case the medical report will only be taken into account if submitted before the decision.

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<sup>14</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019.

<sup>15</sup> Information provided by Caritas Regensburg, 3 April 2019.

<sup>16</sup> Information provided by the Max Planck Institute for Law and Social Policy, 2 April 2019.

<sup>17</sup> Information provided by BI Asyl, 3 April 2019; Federal Government, Reply to parliamentary question by The Left, 19/8701, 25 March 2019, 18.

<sup>18</sup> Taz, ‘Ein halbes Jahr „Ankerzentren“ in Bayern’, 12 February 2019, available in German at: <https://bit.ly/2P0O682>; Federal Government, Reply to parliamentary question by The Left, 19/8701, 25 March 2019, 17.

<sup>19</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019.

<sup>20</sup> Information provided by the Bavarian Refugee Council, 2 April 2019.

<sup>21</sup> Information provided by Caritas Regensburg, 3 April 2019.

## Appeal

Appeals are systematically lodged against negative decisions of the BAMF, according to the authorities.<sup>22</sup> The presence of the Registrar of the Administrative Court with a view to registering appeals varies depending on the AnKER centre; it is present in **Manching/Ingolstadt** but not in **Regensburg** due to the proximity of the Administrative Court.<sup>23</sup> In addition, the participation of the court should not be understood as permanent presence in the facilities. The Registrar of the Administrative Court is only present in Manching/Ingolstadt once a week.<sup>24</sup> According to the authorities, appeals are rarely lodged through the Registrar directly in the centre.<sup>25</sup>

However, according to stakeholders, the lodging of appeals may be hampered by the fact that BAMF decisions, which do not contain a date, are no longer notified through registered mail but are simply handed to the applicant in an envelope. This may create uncertainty as to the actual date of notification and hence the deadline for lodging an appeal.<sup>26</sup>

### 3. The Dublin procedure

Outgoing Dublin procedures are prevalent in the AnKER centres and *Dependancen*,<sup>27</sup> the vast majority concerning Italy. In 2018, Germany issued 17,286 outgoing requests and implemented 2,848 outgoing transfers to Italy, far ahead of other Member States.<sup>28</sup>

The BAMF systematically applies the Dublin Regulation, including to families with young children, pregnant women and persons with medical conditions.<sup>29</sup> In one case in **Regensburg**, a pregnant woman was forcibly put on a plane to be transferred to Italy despite a medical report clearly attesting her unfitness to travel. In another case in Regensburg, a forced transfer was ordered of a family in March 2019, despite the fact that one of the daughters had been hospitalised in a psychiatric institution and the mother had been diagnosed with PTSD.<sup>30</sup>

#### Incoming Dublin transfers

Germany is also a main recipient of Dublin transfers from other countries, as it received 25,008 requests and 7,580 actual transfers in 2018.<sup>31</sup> Dublin returnees usually arrive under individual transfers through commercial flights. One exception concerns persons returned from the United Kingdom by charter flight, who are transported from Munich Airport to the waiting room (*Warteraum*) in **Erding**, operated by the BAMF and the German Red Cross (*Deutsches Rotes Kreuz*, DRK). Dublin transfers from the UK are preceded by detention and a high-security forced removal, during which persons are handcuffed. Due to this, the German Red Cross uses the short stay in Erding to focus on de-escalating tension.<sup>32</sup>

<sup>22</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019.

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.* Note that appeals against inadmissibility and manifestly unfounded decisions have to be lodged in one week.

<sup>25</sup> *Ibid.*

<sup>26</sup> Information provided by the Bavarian Refugee Council, 2 April 2019.

<sup>27</sup> Information provided by Caritas Regensburg, 3 April 2019; Bavarian Refugee Council, 2 April 2019.

<sup>28</sup> ECRE, *The implementation of the Dublin III Regulation in 2018*, March 2019, available at: <https://bit.ly/2G7KZsk>.

<sup>29</sup> Germany recently terminated its previous policy of requesting guarantees from Italy for families with children below the age of 3: Informationsverbund Asyl und Migration, 'BAMF führt Überstellungen nach Italien wieder "uneingeschränkt" durch', 29 March 2019, available in German at: <https://bit.ly/2Uobbqu>.

<sup>30</sup> Information provided by BI Asyl, 3 April 2019.

<sup>31</sup> ECRE, *The implementation of the Dublin III Regulation in 2018*, March 2019.

<sup>32</sup> Information provided by the German Red Cross, 2 April 2019.

In “take back” cases concerning persons with an ongoing asylum procedure or implicitly withdrawn application,<sup>33</sup> returnees are directed to the district where their procedure took place prior to departure from Germany, and are able to re-access the asylum procedure and reception conditions under the same conditions as other applicants in the AnkER centres and *Dependancen*.<sup>34</sup> In cases where a final decision has already been taken in Germany,<sup>35</sup> returnees may be directly transferred to pre-removal detention centres in some cases.<sup>36</sup>

#### 4. Counselling and legal assistance

##### *Counselling by the BAMF*

With the start of operation of AnkER centres in Bavaria on 1 August 2018, the BAMF established a new practice of “counselling” provided to asylum seekers by dedicated BAMF officials. The same approach to counselling is followed in the AnkER centres in Saxony and Saarland.

The District Government of Upper Bavaria asserted that the counselling is independent in their view because the BAMF counsellor is not a caseworker and is prohibited from discussing case details with other officials of the agency. Counselling takes place in separate rooms but still in BAMF premises in places such as **Manching/Ingolstadt** and **Munich**.<sup>37</sup> Civil society organisations have criticised the arrangement of BAMF counselling for not being institutionally independent, which also affects the quality of the counselling offered; for example, no advice being given on possible legal action against incorrect negative decisions.<sup>38</sup>

Counselling by the BAMF includes interpretation and has a two-step approach: (i) group counselling sessions by language group upon arrival in the centre; and (ii) individual counselling upon request by the asylum seeker.<sup>39</sup> In practice, in most cases counselling is limited to group information sessions, while individual counselling does not seem to be provided.<sup>40</sup> The rationale behind counselling upon arrival has been described as a way to inform applicants prior to the lodging of their applications with the BAMF, in an effort to ensure that persons not interested in seeking international protection do not proceed with the asylum procedure.<sup>41</sup>

Practice so far does not indicate that counselling has led persons to withdraw their intention to lodge an application.<sup>42</sup> Group counselling sessions tend to be organised within a very short period before the personal interview with the BAMF.<sup>43</sup>

The counselling arrangements established in the AnkER centres give rise to quality concerns. According to observations from civil society in Upper Bavaria and Upper Palatinate, the BAMF official tends to provide general information on the asylum procedure, sometimes focusing only on asylum

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<sup>33</sup> Article 18(1)(b) and (c) Dublin III Regulation.

<sup>34</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019; Bavarian Refugee Council, 2 April 2019; Caritas Regensburg, 3 April 2019; Max Planck Institute for Law and Social Policy, 2 April 2019.

<sup>35</sup> Article 18(1)(d) Dublin III Regulation.

<sup>36</sup> Information provided by the LfAR, 5 April 2019.

<sup>37</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019.

<sup>38</sup> Information provided by PRO ASYL, 1 April 2019. See e.g. PRO ASYL, *Implementation by Germany of the Convention against Torture (CAT) – Parallel report*, March 2019, available at: <https://bit.ly/2ltQ6Fq>.

<sup>39</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019.

<sup>40</sup> Information provided by the Max Planck Institute for Law and Social Policy, 2 April 2019; Bavarian Refugee Council, 2 April 2019; Caritas Regensburg, 3 April 2019; Refugee Law Clinic Regensburg, 3 April 2019.

<sup>41</sup> Information provided by the Max Planck Institute for Law and Social Policy, 2 April 2019.

<sup>42</sup> *Ibid.*

<sup>43</sup> Information provided by Caritas Regensburg, 3 April 2019.

seekers' obligations,<sup>44</sup> and at times may even imply incorrect information such as an obligation to provide a passport to the authorities.<sup>45</sup>

Civil society organisations such as Caritas remain present in AnkER centres and, according to the District Government of Upper Bavaria, continue to be a key counselling provider well known to asylum seekers.<sup>46</sup> Nevertheless, Caritas has no way of ensuring systematic counselling sessions with every new arrival, since they do not receive the registration list of residents in the centre.<sup>47</sup> Other organisations, such as Amnesty International and the Refugee Law Clinic whose volunteers visit the AnkER centre of **Regensburg**, have difficulty identifying cases since they are informed of upcoming interviews at very short notice by the BAMF.<sup>48</sup> In other centres like **Manching/Ingolstadt**, access of civil society organisations is more restricted. An "Info Bus" operated by the local Amnesty International group and the Munich Refugee Council is no longer allowed to enter the premises of the facility, for example.<sup>49</sup>

More broadly, the contribution of independent NGO counselling to adequately informing applicants and building trust in the asylum system seems to be downplayed by the authorities, despite existing evidence. From March to May 2017, Germany launched a pilot project in three initial reception centres (**Gießen, Bonn and Lebach**) with free of charge provision of counselling to asylum seekers by the German Red Cross, Caritas and Diakonie. The organisations were assisted by lawyers who trained and supported counsellors. The findings of the evaluation of the project by the BAMF and the United Nations High Commissioner for Refugees (UNHCR) were never published by the Federal Ministry of Interior, but a draft of the evaluation highlighted *inter alia* that: (a) the general information provided by the BAMF to asylum seekers is insufficient, as it is not tailored to their individual situation; (b) independent counselling is of great importance and ensures that all facts are correctly presented during counselling and the interview; (c) the speed of the asylum procedure hinders effective access to counselling, as only 40% of applicants covered by the project received counselling prior to their interview and only 25% prior to the lodging of their application.<sup>50</sup>

To the extent that counselling by BAMF officials consists of the provision of legal and procedural information on the asylum procedure, it is not *per se* incompatible with Articles 19 and 21 of the recast Asylum Procedures Directive, which allow professionals from government authorities or from specialised services of the State to provide such information. However, as information provision in practice appears to be generally limited to group sessions by BAMF officials, it does not seem to comply with the requirement under Article 19(1) of the Directive for such information to be provided "in the light of the individual's particular circumstances".

In any case, the provision of information by officials of the asylum authority responsible for taking a decision on the individual's asylum application inevitably raises questions over their independence and potential conflict of interests. This is problematic, in particular where it is not complemented by systematic information provision and counselling by organisations independent from asylum authorities, which appears to be the case in the AnkER centres. Independent counselling and information provision at an early stage contribute to ensuring trust of asylum seekers in the process, a precondition for a fair and efficient asylum procedure.

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<sup>44</sup> Information provided by the Bavarian Refugee Council, 2 April 2019.

<sup>45</sup> Information provided by Caritas Regensburg, 3 April 2019.

<sup>46</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019.

<sup>47</sup> *Ibid*; Information provided by Caritas Regensburg, 3 April 2019.

<sup>48</sup> Information provided by Amnesty International Regensburg, 3 April 2019; Refugee Law Clinic Regensburg, 3 April 2019.

<sup>49</sup> Information provided by the Bavarian Refugee Council, 2 April 2019.

<sup>50</sup> Lower Saxony Refugee Council, *Evaluation des Pilotprojektes „Asylverfahrensberatung“*, Draft of 25 September 2017, available in German at: <https://bit.ly/2P1DLsz>; PRO ASYL, *Implementation by Germany of the Convention against Torture (CAT) – Parallel report*, March 2019.

## Legal assistance

As regards legal assistance, asylum seekers can appoint a lawyer at their own expenses during the first instance procedure. Even for those who can financially afford legal services, the ability to reach a lawyer in the AnKER centres and *Dependancen* is questionable, since the BAMF is not allowed to suggest specific lawyers and there are no established lists of available lawyers working on asylum cases for applicants to choose from.<sup>51</sup> In **Manching/Ingolstadt**, a group of lawyers has established a service in the city of Ingolstadt but this is rarely reached by people.<sup>52</sup>

Access to legal aid in judicial appeals is severely constrained due to the “merits test” applied by the Administrative Court. In **Regensburg**, requests for legal aid are examined by the very judge who decides on the substance of the appeal. The prospect of success of an appeal is assessed on the basis of the nationality of the applicant and with reference to the recognition rates for that country of origin. As a result, nationals of countries such as Ethiopia are not granted legal aid as their appeals are not deemed likely to succeed.<sup>53</sup>

## 5. Return

The AnKER model launched on 1 August 2018 in Bavaria reflects a clear Bavarian Ministry of Interior policy to establish a link between the asylum procedure and the return of rejected asylum seekers. This intention is echoed by the creation of a dedicated State Office for Asylum and Returns (*Landesamt für Asyl und Rückführungen*, LfAR) which, despite its title, is tasked solely with organising returns and pre-removal detention.<sup>54</sup>

The AnKER system has not fundamentally changed Bavaria’s return policy. However, its actual contribution to promoting rapid returns of rejected asylum seekers has not been clear thus far. According to the authorities, obstacles to return are the main factor behind asylum seekers’ prolonged stay in the AnKER centres and *Dependancen*.<sup>55</sup>

With regard to the enforcement of Dublin transfers, the previous practice of the police entailed unannounced visits to reception centres to apprehend people with a view to transporting them to the airport for their transfer.<sup>56</sup> Since the beginning of 2019, stakeholders have witnessed a change of practice on the enforcement of Dublin transfer decisions in the AnKER centres. Following the BAMF decision dismissing the asylum claim as inadmissible due to the applicability of the Dublin Regulation, the ZAB issues a notification of Dublin return (*Rücküberstellung*) notifying the applicant of the date and destination of the transfer and indicating a time during which the applicant must stay in his or her room in the AnKER centre with his or her belongings packed so as to be picked up by the police. Instructions usually require asylum seekers to be ready for pick-up between 03:30 and 05:00.<sup>57</sup> In one decision of the ZAB of Upper Palatinate seen by ECRE, a family was instructed to be in their room from 03:30 onwards in view of a transfer to Italy.

ECRE has heard accounts of excessive force in the context of enforcement of Dublin transfers in **Bavaria**. As stated by several asylum seekers and stakeholders in discussions with ECRE in Regensburg, on several occasions police forces have arrived late at night with dogs and have triggered the fire alarm, causing severe distress and re-traumatisation to the residents, particularly to children.

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<sup>51</sup> Information provided by Caritas Regensburg, 3 April 2019; Max Planck Institute for Law and Social Policy, 2 April 2019.

<sup>52</sup> Information provided by the Bavarian Refugee Council, 2 April 2019.

<sup>53</sup> Information provided by BI Asyl, 3 April 2019.

<sup>54</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019; LfAR, 5 April 2019.

<sup>55</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019.

<sup>56</sup> Information provided by BI Asyl, 3 April 2019.

<sup>57</sup> Information provided by Caritas Regensburg, 3 April 2019.

Handcuffing is frequently witnessed as well, even in the case of pregnant women. Similar reports of frequent physical restraints, coupled with violence, family separations and use of sedative medication have been made in **Berlin** and **Lower Saxony** earlier this year.<sup>58</sup>

It is frequent for asylum seekers faced with a Dublin transfer decision not to show up for their appointment with the police for the Dublin transfer.<sup>59</sup> Meetings with civil society in Regensburg highlighted cases of people self-harming and suffering injuries such as broken limbs when trying to avoid apprehension by the police. Where the applicant is not found in the room for the transfer pick-up, the police may return a few hours later to verify if he or she has returned. If the transfer pick-up has been unsuccessful, the ZAB notifies the BAMF that he or she has “absconded”. The BAMF in turn extends the transfer deadline from 6 to 18 months under Article 29(2) of the Dublin Regulation. “Absconding” from the Dublin procedure also leads to a reduction of material reception conditions (see [Reception Conditions in AnkER](#)) and is relied upon to request a detention order from the court.

It is not clear whether the ZAB sends the asylum seeker a subsequent notification of a transfer date and time of pick-up after a failed transfer. However, it is common in such situations for people to be apprehended and placed in pre-removal detention without being informed beforehand.<sup>60</sup>

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<sup>58</sup> ECRE, ‘Germany: Violence in Deportation Procedures’, 15 February 2019, available at: <https://bit.ly/2UUWgR6>, citing Federal Government, Reply to parliamentary question by Die Linke, 19/7401, 29 January 2019, available in German at: <https://bit.ly/2HWaiQQ>.

<sup>59</sup> Information provided by Caritas Regensburg, 3 April 2019.

<sup>60</sup> Information provided by Caritas Regensburg, 3 April 2019.

## CHAPTER II: CONDITIONS IN AnKER CENTRES

Whereas the AnKER model has been envisioned as a blueprint to be implemented across Germany, rules on reception conditions are not standardised and their practical application varies from one facility to another in Bavaria.

### 1. Freedom of movement

#### *The obligation to stay in AnKER centres*

AnKER centres fall within the scope of “initial reception centres” (*Aufnahmeeinrichtungen*) in Section 47 of the Asylum Act. The law imposes an obligation to stay in an initial reception centre as follows:

- All asylum seekers referred to an initial reception centre in Germany are required to reside there for a period ranging from 6 weeks to 6 months;<sup>61</sup>
- Asylum seekers coming from a safe country of origin are required to reside in the initial reception centre for their entire asylum procedure and in case of rejection of the application, until their removal;<sup>62</sup>
- If a federal state so decides, asylum seekers referred to one of its initial reception centres are required to reside there for up to 24 months: (a) until the BAMF decides on their application; or (b) where the BAMF deems their application inadmissible or manifestly unfounded. However, it is also possible for Federal States to require applicants to reside in such centres if the BAMF notifies the authorities that it cannot decide within a short period of time whether the application is inadmissible or manifestly unfounded.<sup>63</sup>

This possibility was already used by the State of Bavaria in 2017 when Manching/Ingolstadt, Regensburg and Deggendorf operated as transit centres.<sup>64</sup> It is now used across the AnKER centres in Bavaria,<sup>65</sup> as well as Saxony.<sup>66</sup> However, it appears that in the AnKER centres of Bavaria the 24-month obligation to stay is applied broadly to asylum seekers.

Where international protection is granted or the period of mandatory accommodation in an initial reception centre lapses, the asylum seeker is transferred to collective accommodation (*Gemeinschaftsunterkunft*, GU) as a rule.<sup>67</sup> He or she may also be moved to individual accommodation at municipal level.<sup>68</sup>

Whereas the AnKER system was envisioned as a model streamlining asylum procedures and return, people remain in the facilities for prolonged periods. The average duration of stay varies according to country of origin. According to the authorities in **Manching/Ingolstadt**, nationals of Syria stay for 3-4 months, nationals of safe countries of origin who cannot be returned stay for over 36 months, and other

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<sup>61</sup> Section 47(1) Asylum Act.

<sup>62</sup> Sections 47(1a) and 49(1) Asylum Act.

<sup>63</sup> Section 47(1b) Asylum Act.

<sup>64</sup> AIDA, Country Report Germany, 2017 Update, March 2018, 64.

<sup>65</sup> Section 2(2) Bavarian Residence Act (*Aufnahmegesetz*), as amended by Section 4 Act of 5 December 2017, available in German at: <https://bit.ly/2uE71MT>.

<sup>66</sup> Section 12 Refugee Reception Act of Saxony (*Sächsisches Flüchtlingsaufnahmegesetz*), as amended by Section 15 Act of 14 December 2018, available in German at: <https://bit.ly/2VaJLkY>.

<sup>67</sup> Section 53 Asylum Act.

<sup>68</sup> AIDA, Country Report Germany, 73-74.

nationalities stay for 10-11 months if they appeal a negative BAMF decision before the Administrative Court.<sup>69</sup> In **Regensburg**, persons falling under a Dublin procedure stay for longer periods than others.<sup>70</sup>

Protracted stay in the AnKER centres often exceeds the time limits permitted by the law. In some cases, persons not coming from a safe country of origin have remained in the centres for more than 24 months.<sup>71</sup> Prior to the transformation of transit centres to AnKER centres on 1 August 2018, stakeholders in **Regensburg** had witnessed a problematic practice whereby, instead of moving asylum seekers out of the transit centre following the end of the mandatory stay period, the authorities designated a section within the centre – at times specific rooms – as a GU and formally considered persons to have been transferred from one form of accommodation to another. Despite this legal fiction, residents remained subject to the same house rules and reception regime. It is not clear whether the same practice persists with the AnKER centres at the moment, although as far as **Upper Bavaria** is concerned, the authorities have stated that no GU exists in the premises of an AnKER centre.<sup>72</sup>

### *Absence from the AnKER centres*

AnKER centres are open centres and residents can enter and exit at all times, subject to no curfew or obligation to stay in the facility overnight.<sup>73</sup> That said, presence in the centres is monitored in different ways:

- a. In centres such as the AnKER in **Manching/Ingolstadt**, security staff at the door record entries and exits, and staff providing food in the canteen record people receiving meals;<sup>74</sup>
- b. In other centres such as the AnKER **Regensburg Zeißstraße**, residents are given a card with a bar code, which they scan every time they leave and enter the facility. This system is likely to be rolled out in the *Dependance* in **Regensburg Pionierkaserne** soon.<sup>75</sup>

Absence from the centre may lead to the application being deemed implicitly withdrawn on the basis that the applicant has absconded.<sup>76</sup> According to the authorities, implicit withdrawal is ordered when the person has been absent from the centre for one week.<sup>77</sup> To reactivate the asylum procedure, the person is required to appear before the arrival centre in Munich to make an application with the BAMF.

However, absences shorter than one week can result in the person being de-registered (*abgemeldet*) from the records of the centre (i.e. they are removed from the records of the centre). De-registration does not *per se* seem to have particular consequences, as individuals are allowed to re-access reception conditions upon return to the centre as long as their application has not been considered as implicitly withdrawn. The period of absence leading to de-registration varies, ranging from 2-3 days in **Manching/Ingolstadt** to 5-6 days in **Regensburg**.<sup>78</sup>

Centres such as **Manching/Ingolstadt** and **Deggendorf** are isolated from the local community, while **Regensburg** is located closer to the city centre. The location of certain reception centres considerably

<sup>69</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019.

<sup>70</sup> Information provided by Caritas Regensburg, 3 April 2019.

<sup>71</sup> Information provided by the Bavarian Refugee Council, 2 April 2019.

<sup>72</sup> A total 86 GU and 1,630 local accommodation places, both under the responsibility of the District government, are available in Upper Bavaria: Information provided by the District Government of Upper Bavaria, 4 April 2019.

<sup>73</sup> *Ibid.*

<sup>74</sup> *Ibid.*

<sup>75</sup> Information provided by Caritas Regensburg, 3 April 2019.

<sup>76</sup> Section 33(2)(2) Asylum Act.

<sup>77</sup> *Ibid.*

<sup>78</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019; Caritas Regensburg, 3 April 2019.

limits the mobility of asylum seekers and their accessibility for lawyers, organisations and family members and friends.<sup>79</sup>

The authorities provide asylum seekers in the AnKER centres with subsidised public transport tickets.<sup>80</sup> However, residents in *Dependancen* located outside the municipality of the competent AnKER centre – e.g. **Schwandorf**, located 38km from **Regensburg** – are only provided with public transport tickets to travel to the competent AnKER centre for official appointments such as interviews with the BAMF. Applicants have to cover their own travel costs for any other appointments, including meetings with NGOs or doctors, which are not present in *Dependancen*.<sup>81</sup> The set-up and location of the *Dependancen* therefore poses an additional barrier to asylum seekers' access to essential services.

## 2. Material reception conditions

### *Accommodation conditions*

The structure and physical conditions of centres vary dramatically across districts, and disparities also exist between AnKER centres and *Dependancen* within districts. In **Regensburg**, for example, the AnKER centre in Zeißstraße is a relatively new building, while the *Dependance* in Pionierkaserne is an old former military barracks.<sup>82</sup> All centres are surrounded by a fence, however.

Particular concerns have been voiced with regard to *Dependancen* such as **Schwandorf** and **Stephanposching**, which consist of large halls with no separate rooms to allow for privacy.<sup>83</sup> In the *Dependance* of **Munich Funkkaserne**, a former barracks which hosted over 200 people at the end of March 2019, collapsing sinks, a damaged medical room and insalubrity have been reported, far below acceptable standards.<sup>84</sup> Following public criticism, the authorities have started renovation works in the facility of early April 2019 and have transferred several residents to other facilities.<sup>85</sup> Tensions between residents and police have been frequently reported in **Bamberg** among other centres.<sup>86</sup>

### *Financial allowance*

In **Regensburg**, material reception conditions are increasingly provided in kind and not in the form of financial allowances. The District Government of Upper Palatinate announced on 1 October 2018 that it would no longer grant cash assistance for transport and clothes to residents. These needs would be covered by the Social Welfare Office (*Sozialamt*) through in-kind benefits or coupons.<sup>87</sup> The only financial allowance received by residents is a monthly sum of 102 € as pocket money.

In **Regensburg** and **Deggendorf**, asylum seekers under a Dublin procedure have their financial allowance reduced or withdrawn if they are deemed to have “absconded”, i.e. failed to show up for the pick-up appointment with the police (see **Return**).<sup>88</sup> Their pocket money is reduced to a fortnightly

<sup>79</sup> Information provided by the Max Planck Institute for Law and Social Policy, 2 April 2019.

<sup>80</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019.

<sup>81</sup> Information provided by the Bavarian Refugee Council, 2 April 2019; Caritas Regensburg, 3 April 2019.

<sup>82</sup> Information provided by Caritas Regensburg, 3 April 2019.

<sup>83</sup> Information provided by the Bavarian Refugee Council, 2 April 2019.

<sup>84</sup> Süddeutsche Zeitung, “Die Regierung muss hier sofort einschreiten”, 26 March 2019, available in German at: <https://bit.ly/2OGa40d>.

<sup>85</sup> Süddeutsche Zeitung, ‘Die Funkkaserne wird angeblich unter Hochdruck saniert’, 5 April 2019, available in German at: <https://bit.ly/2KA8Rcv>.

<sup>86</sup> See e.g. Die Welt, ‘Ermittler sicher – Flüchtlinge in Ankerzentrum wollten Polizisten töten’, 11 December 2018, available in German at: <https://bit.ly/2NhwAvx>.

<sup>87</sup> City of Regensburg, *Announcement: Granting of non-cash benefits for transportation needs / coupons for clothing and shoes essentials*, 1 October 2018.

<sup>88</sup> Information provided by the Bavarian Refugee Council, 2 April 2019. See Section 1a(3) Asylum Seekers' Benefits Act.

amount of 3 € in Regensburg.<sup>89</sup> Such a reduction is not ordered in **Manching/Ingolstadt** according to the authorities.<sup>90</sup>

### 3. Education and employment

According to the law, compulsory education applies to all persons residing in Germany for more than three months. The three-month time limit is strictly applied in all cases in Bavaria.<sup>91</sup>

AnKER centres do not guarantee the right to education in the same way as other reception centres in Germany. The general policy foresees the provision inside the AnKER centres of both schooling for children aged 6-16 and vocational training (*Berufsschule*) for persons aged 16-21.

In **Manching/Ingolstadt**, classes are provided every weekday morning by teachers recruited by the local school, and focus predominantly on German language courses.<sup>92</sup> Children with sufficient knowledge of German are allowed to access local schools outside the facility.<sup>93</sup> While children receive a certificate upon completion of the course, they do not undergo examinations at the end of the school year.<sup>94</sup> Civil society organisations have highlighted, however, that education provided in the AnKER centres is not equivalent to public education, as children follow a six-month curriculum which is not based on a certified schooling programme.<sup>95</sup>

The management of some centres such as **Regensburg** in Upper Palatinate and **Garmisch and Fürstenfeldbruck** in Upper Bavaria has allowed children up to the age of 16 to access local schools, primarily due to the lack of capacity to make arrangements for classes in the centre.<sup>96</sup> Vocational training classes are provided in the centres, however.<sup>97</sup>

Access to the labour market is not available to any person residing in the AnKER centres, since asylum seekers living in initial reception centres are not allowed to take up employment.<sup>98</sup> This does not *per se* infringe the recast Reception Conditions Directive, given that the BAMF usually issues a first instance decision within 9 months of the asylum application.<sup>99</sup> In some *Dependancen*, however, first instance decisions can take longer than 9 months.<sup>100</sup>

### 4. Health care and special needs

An assessment of vulnerability is not systematically conducted in the AnKER centres, nor is there an established mechanism for that purpose.<sup>101</sup> The detection of special needs is even more difficult in *Dependancen*, given that doctors are not present there and that costs of often lengthy travel to the AnKER centres for medical appointments are not covered. The need for effective access to health care

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<sup>89</sup> Information provided by BI Asyl, 3 April 2019.

<sup>90</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019.

<sup>91</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019; Caritas Regensburg, 3 April 2019; Bavarian Refugee Council.

<sup>92</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019.

<sup>93</sup> *Ibid.* In early 2018, the Administrative Court ruled that access had to be ensured in such cases: Süddeutsche Zeitung, 'Flüchtlingskinder aus Transitzentrum dürfen reguläre Schule besuchen', 9 March 2018, available in German at: <https://bit.ly/2uS928f>.

<sup>94</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019.

<sup>95</sup> Information provided by the Bavarian Refugee Council, 2 April 2019.

<sup>96</sup> Information provided by the Bavarian Refugee Council, 2 April 2019.

<sup>97</sup> Information provided by Caritas Regensburg, 3 April 2019.

<sup>98</sup> Section 61(1) Asylum Act.

<sup>99</sup> Article 15 recast Reception Conditions Directive.

<sup>100</sup> Information provided by the Max Planck Institute for Law and Social Policy, 2 April 2019; Caritas Regensburg, 3 April 2019.

<sup>101</sup> Information provided by the Max Planck Institute for Law and Social Policy, 2 April 2019.

has been highlighted in respect of mental health, given that conditions such as anxiety, insomnia and depression are prevalent in the centres.

Special reception conditions are offered to groups such as women at risk in **Manching/Ingolstadt**. Women arriving alone have the possibility to be accommodated in separate quarters of the centre.<sup>102</sup>

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<sup>102</sup> Information provided by the District Government of Upper Bavaria, 4 April 2019.



Eichstätt pre-removal detention centre

### CHAPTER III: CONDITIONS IN DETENTION CENTRES

As stated in *Return*, following their stay in AnKER centres, rejected asylum seekers may be placed in pre-removal detention with a view to return to the country of origin or to a Dublin transfer.

In 2018, Bavaria expanded its detention apparatus with the establishment of two new pre-removal detention centres in **Erding** and **Munich Airport** (“Hangar 3”), in addition to an existing centre in **Eichstätt**. More detention facilities are being built in **Hof** and **Passau**.<sup>103</sup> Traditionally, the management of pre-removal detention centres in Bavaria, as in Lower Saxony, is entrusted to the State Ministry of Justice which is responsible for the management of prisons. While the State Ministry of Justice manages the pre-removal centres – former prisons – in **Eichstätt** and **Erding**, the **Hangar 3** pre-removal centre near Munich Airport is directly managed by the LfAR.<sup>104</sup>

The use of prisons for immigration detention is liable to re-emerge in German practice, following the presentation of a proposal for an “orderly return law” (*Geordnete-Rückkehr-Gesetz*) by the Federal

<sup>103</sup> Stephan Keßler, *Abschiebungshaft*, 14 January 2019, available in German at: <https://bit.ly/2TiNCji>.

<sup>104</sup> Information provided by the LfAR, 5 April 2019.

Government in April 2019 which intends to introduce wider possibilities for implementing pre-removal detention in penitentiary facilities.<sup>105</sup>

The pre-removal detention centre (*Abschiebungshafteinrichtung*) of **Eichstätt** was converted from a prison, open since 1900, to a dedicated facility in 2016. Its capacity is 96 places. Male and female quarters are separate and accommodate 86 and 10 persons respectively. The female quarters are supervised by female security guards only. Children are not detained in the centre, which means that families are separated prior to detention, while pregnant women are detained. At the time of the visit 71 men and 9 women were detained in the centre and the average duration of detention is 31 days.

The living units are divided into rooms, including single rooms and rooms with a number of beds. There are common showers, in which detainees also do their own laundry. People are generally free to move within the facility, except during lunch and dinner. During lunch (starting 11:15 and until 13:00) and dinner, the men are locked in their rooms (a head count also takes place during dinner). Women are not locked in their rooms.<sup>106</sup> There is a small courtyard surrounded by barbed-wire which is accessible during the day as well as a leisure room.

The staff of the centre includes 44 guards, of whom 4 paramedics, 4 social workers and two psychologists. A general practitioner is present twice a week. All staff working in the facility receive the training programme used for correctional detention facilities developed by the Ministry of Justice, with specific training provided on intercultural communication, tension de-escalation and prevention.

Self-harm is frequent, usually prior to removal.<sup>107</sup> Tensions between detainees were frequent but have reduced since the opening of additional detention facilities in Bavaria in 2018. Disciplinary measures can be taken if a person violates rules e.g. withdrawal of shopping rights, access to television etc. in accordance with prison rules. Detainees can also be isolated for a certain period of time, for their own safety. However, where isolation is used, it is for very short periods of time.

The detention facility is run by the Ministry of Justice in support of the Ministry of Interior and the management of the centre has no role nor responsibilities as regards any immigration-related procedures which are pending or initiated during the detainee's stay in the centre. This also implies that detainees are not proactively informed of the possibility to apply for international protection, while persons who express the intention to make an application are informed by the social worker or an NGO how to send their application to the competent authority.

The pre-removal centre in **Munich Airport "Hangar 3"** was inaugurated on 10 September 2018 under a temporary contract running until 31 December 2019. Its capacity is 30 places. The facility hosts adult men only; no women or children.<sup>108</sup> The detention centre is located inside a large hangar in the "visitors' park" (*Besucherpark*) of the airport, previously used by Air Berlin for repairing Airbus planes. Inside the hangar, the facility is a space surrounded by a 4-meter high fence with barbed wire on the top, resembling a cage. The living units are organised in blue containers and each set of containers is surrounded by a second fence within the fenced facility in the hangar. Next to the hangar there is a small open air space, again surrounded by a high fence. Detainees can access at any time of the day under escort, as the open air area is locked by key. Within the open space area there is one blue container which is completely empty.

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<sup>105</sup> PRO ASYL, 'Kabinett beschließt massive Verschlechterungen für Geflüchtete', 17 April 2019, available in German at: <https://bit.ly/2V7ZkgL>.

<sup>106</sup> Information provided by the Bavarian State Ministry of Justice, 4 April 2019.

<sup>107</sup> *Ibid.*

<sup>108</sup> Information provided by the LfAR, 5 April 2019.

There are 21 container rooms with two beds per container and a separate room for the toilet and showers. All container windows have metal bars. The container rooms have a picture of the detainee and his name on the front door. The showers and toilets were in a good condition and clean. The policy of the management is to accommodate one person per container, but according to the social worker, whenever there is a fear or indication of possible self-harm they try to have the person accompanied by another detainee. The container rooms all have two beds.

In the middle of the facility, there is a common area with metal benches and tables, ping pong and baby soccer tables, a chess board, and a common room (container) with a small TV and a table without chairs and no decorations. A number of books are also available. The common area is open from 09:00 to 21:00. There are no other leisure activities available and people cannot purchase anything during their stay in the Hangar 3, given that detention is usually short. Anything they require e.g. cigarettes is provided to them if they so request.

The same maximum duration for detention laid down in law applies as in other facilities on the territory, i.e. 3 months, extendable to 18 months. However, in practice an internal informal maximum period of between 10 and 14 days is applied by the authorities and the average duration so far has been 9 days. Where this informal maximum time limit is reached without removal taking place, the person is usually returned to the Eichstätt detention centre.

In case a person wants to apply for asylum from the facility, the BAMF is contacted by the LfAR and the asylum interview is carried out by the BAMF in a separate container within the hangar. Lawyers can be contacted by phone and consultation rooms for lawyers to meet their clients are available. However, it is unclear how detainees entering the detention centre without already having a lawyer would be able to contact one if necessary as no lists of lawyers who can be contacted seem to be available to the detainees and no NGOs providing information and counselling visit the facility on a regular basis. A request of the Munich Refugee Council for permission to visit the facilities on a weekly basis was pending at the time of the visit.

Detention in the Hangar is used to effect both return to the country of origin and to the Member State responsible under the Dublin Regulation. Of the 124 persons detained in the Hangar between 10 September 2018 and 5 April 2019, 40 were returned to their country of origin and 35 were transferred to another EU country under the Dublin Regulation.<sup>109</sup>

The specific location of a container-based and heavily fenced facility within a very large hangar at the airport creates a highly negative atmosphere for detainees as well as staff, and raises the question whether the claimed operational convenience of proximity to the airport can justify the use of this particular facility and location. This is in particular the case if detention were to last for longer periods of time, which is not excluded as current time limits are applied by way of internal administrative practice; detention for up to 18 months is in theory possible under the law.

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<sup>109</sup> *Ibid.*

## CONCLUSIONS & RECOMMENDATIONS

The AnkER approach developed in Bavaria was launched with the aim of increasing efficiency by concentrating all actors involved in the processing of asylum applications at locations where asylum seekers are accommodated. The theory is that by keeping asylum applicants at the disposal of the asylum authorities the process will be speeded up and result in fast decision-making and clarity for the applicant as regards his or her perspectives in Germany: integration in German society or return to the country of origin or to the responsible Member State in accordance with the Dublin Regulation.

The findings of this report suggest that certain aspects of the AnkER approach risk undermining asylum seekers' access to a quality asylum procedure and adequate reception conditions. This results mainly from the increasing linkage between asylum and return from the outset of the procedure. The linking of asylum and return is also foreseen in the Commission proposal on the recast of the Return Directive, currently under discussion in the Council and the European Parliament.

The approach risks undermining procedural guarantees such as access to independent, timely and individual counselling. Its impact on the quality of decision-making is not yet clear, but statistics so far indicate risks that asylum seekers face more restrictive assessments of international protection needs in AnkER centres compared to the rest of Germany. Also, the linkage between asylum and return results in mainstreaming punitive measures which reduce reception conditions available to all residents, and in a dangerous expansion of detention well beyond last resort use in exceptional circumstances.

In light of these observations, ECRE makes the following recommendations:

### *Asylum procedure*

1. **Dublin procedure:** The BAMF should completely refrain from automatically conducting Dublin procedures and make use of the discretion afforded by the Dublin Regulation to undertake responsibility for asylum seekers whose transfer to other countries would be unlawful and/or impossible to carry out in practice.<sup>110</sup> This includes in particular persons with special needs such as pregnant women or applicants with medical conditions, whose health is at serious risk of deterioration in the process of transfer to countries such as Italy and thereafter. For its part, the police should refrain from excessive use of force and other acts causing distress and re-traumatising asylum seekers when enforcing transfers.
2. **Counselling:** A revision of the current arrangements entrusting to BAMF the provision of counselling to asylum seekers is urgently needed. The institutional independence of actors providing counselling to applicants is indispensable to fair asylum procedures. In addition, counselling should be understood as an individual, tailored consultation with the asylum seeker that cannot be discharged through group information sessions. It is important to highlight in this regard that the valuable contribution of civil society continues to be acknowledged by authorities at the operational level. ECRE therefore recommends the incorporation of free of charge counselling by specialised civil society organisations into the procedure, building on positive experience from the 2017 pilot project run in Gießen, Bonn and Lebach.
3. **Legal assistance:** To ensure effective access to legal assistance the BAMF should make available to asylum seekers in AnkER centres and detention facilities a list of registered lawyers who can be contacted to provide advice in the procedure.

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<sup>110</sup> See also ECRE, *To Dublin or not to Dublin?*, November 2018, available at: <https://bit.ly/2EbDosN>.

### *Reception conditions*

4. **Freedom of movement:** The obligation of asylum seekers to stay in AnKER centres beyond the general maximum period of 6 months should only be imposed in strictly defined cases. As a rule, transfer to collective or decentralised accommodation should be arranged after the 6-month period.
5. **Education:** To ensure uniform and effective access to education, the Bavarian State Ministry of Interior should allow unequivocal access to public schools for all children of school age residing in AnKER centres and provide for sufficient preparatory classes where necessary.

## ANNEX I - LIST OF INTERLOCUTORS

Name and Organisation	Date	Location
Federal and state authorities		
Peter Hauck, Bundesamt für Migration und Flüchtlinge	02 Apr 2019	Erding
Florian Steinmetzer & Johannes Reind, Bayerisches Landesamt für Asyl und Rückführungen	05 Apr 2019	Munich Airport
Daniel Waidelich, Bayerisches Staatsministerium für Inneres, Sports und Integration	04 Apr 2019	Manching
Walter Jonas & Hedwig Göhner-Pentenrieder, Regierung Oberbayern	04 Apr 2019	Manching
Peter Laudauer, Justizvollzugsanstalt Kaisheim	04 Apr 2019	Eichstätt
Civil society organisations		
Bellinda Bartolucci, Meral Zeller, Bernd Mesovic & Wiebke Judith, PRO ASYL	01 Apr 2019	Frankfurt
Julia Brückner, Deutsches Rotes Kreuz	02 Apr 2019	Erding
Jana Weidhaase, Bayerischer Flüchtlingsrat	02 Apr 2019	Munich
Christian Bumes & Lisa Bredl, Caritas Regensburg	03 Apr 2019	Regensburg
Gotthold Streitberger, Bürger-innen Initiative Asyl	03 Apr 2019	Regensburg
Research institutes		
Constantin Hruschka & Tim Rohmann, Max Planck Institute for Law and Social Policy	02 Apr 2019	Munich

## THE ASYLUM INFORMATION DATABASE (AIDA)

The **Asylum Information Database** is a database containing information on asylum procedures, reception conditions and detention and content of international protection across 23 European countries. This includes 20 European Union (EU) Member States (Austria, Belgium, Bulgaria, Cyprus, Germany, Spain, France, Greece, Croatia, Hungary, Ireland, Italy, Malta, Netherlands, Poland, Portugal, Romania, Sweden, Slovenia, United Kingdom) and 3 non-EU countries (Switzerland, Serbia, Turkey).

The overall goal of the database is to contribute to the improvement of asylum policies and practices in Europe and the situation of asylum seekers by providing all relevant actors with appropriate tools and information to support their advocacy and litigation efforts, both at the national and European level. These objectives are carried out by AIDA through the following activities:

❖ **Country reports**

AIDA contains national reports documenting asylum procedures, reception conditions, detention and content of international protection in 23 countries.

❖ **Comparative reports**

Comparative reports provide a thorough comparative analysis of practice relating to the implementation of asylum standards across the countries covered by the database, in addition to an overview of statistical asylum trends and a discussion of key developments in asylum and migration policies in Europe. AIDA comparative reports are published in the form of thematic updates, focusing on the individual themes covered by the database. Thematic reports published so far have explored topics including reception, admissibility procedures, content of protection, vulnerability, detention, access to the territory and registration.

❖ **Fact-finding visits**

AIDA includes the development of fact-finding visits to further investigate important protection gaps established through the country reports, and a methodological framework for such missions. Fact-finding visits have been conducted in Greece, Hungary, Austria and Croatia, France, Belgium and Germany.

❖ **Legal briefings**

Legal briefings aim to bridge AIDA research with evidence-based legal reasoning and advocacy. Twelve briefings have been published so far. In addition, statistical updates on the Dublin system have been published 2016, the first half of 2017, 2017, the first half of 2018 and 2018.

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