Prof. Dr. Jörg Fegert, Opening Words by the Organizer, 10:30-10:40 a.m.

Ladies and gentlemen,

On behalf of Action Mental Health Germany, I would like to warmly welcome you to the international symposium “The challenges of National Preventive Mechanisms in psychiatric care”.

I would particularly like to welcome Mr Wagner, from the Division of Human Rights and Gender Issues at the Federal Foreign Office, who is accompanying the project “Strengthen monitoring for prevention of torture and ill-treatment in places of liberty deprivation ”, as part of which today’s symposium is taking place. Your institution has supported the project for several years, and this workshop is also possible thanks to the funding from the Federal Foreign Office. On behalf of Action Mental Health Germany, I thank you very much for this support.

I would also like to welcome you, Ms. Osterfeld and Dr. Baumann, as responsible organizers of the event and you, Mr. ……/Ms.,……

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. for joining us to discuss the challenges and opportunities in the work of National Preventive mechanisms and the highly topical questions concerning the

implementation of the **O**ptional **P**rotocol to the **C**onvention **a**gainst **T**orture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and other UN conventions and statements regarding people with psychosocial disabilities and psychiatric care.

I would like to extend a particularly warm welcome to our international speakers and guests. Thank you very much for making this journey from more than ten European countries.

I would also like to already thank the moderators who will guide us through the day.

At the end of last year, we celebrated the 10th anniversary of the entry into force of the Optional Protocol to the Convention Against Torture – OPCAT and honoured this with an international workshop organized by Action Mental Health Germany here in Berlin.

With ratification of the OPCAT, 83 signatories, since 2008 also Germany, have now committed themselves to establishing a national, independent institution – the National Preventive Mechanism/NPM –, which conducts visits to places in which people are or could be detained, including correctional facilities, immigration detention facilities, and psychiatric clinics, with the aim of preventing torture and ill-treatment.

The NPMs encounter a whole range of challenges in their work. And frequently, in their efforts to prevent torture, inhuman or degrading treatment, as OPCAT defines it, they encounter a divide between ideals and reality. This concerns the monitoring of restrictions of freedom at various places of detainment from a mental health perspective as well as questions of self-determination in monitoring psychiatric care, the treatment of people with psychosocial disabilities in police custody, and also coercive measures used against children and adolescents according to the will of their parents or legal guardians.

Children's rights are human rights. The work of the NPMs is not only taking place as a result of the UN anti-torture convention and the UN CRPD, but the children's rights convention (CRC) also plays a significant role. The Convention on the Rights of the Child (CRC) is the most important international human rights instrument for children. The Convention on the Rights of the Child belongs to the United Nation's international human rights treaties. The UN children's rights convention was passed on November 20, 1989 at the United Nations General Assembly. With the exception of one single state – the USA –, all member states of the United Nations ratified the children's rights convention.

As a child and adolescent psychiatrist and psychotherapist, it is very important to me to address the especially vulnerable position of children and adolescents with mental health problems. I became Medical Director at the Department for Child and Adolescent Neuropsychiatry in Rostock in the 1990s, coming from

West Berlin after the fall of the wall. The structural and hygienic conditions were catastrophic back then, patients were hardly offered any space for intimacy etc. These first impressions in this job inspired me to lead a project, with support from the Volkswagen Foundation, on patient information and participation in child and adolescent psychiatry. The project was based on lending an ear to the affected children and adolescents from East and West Germany and giving them a voice in the book and other publications. Nearly at the same time, I was reviewing the case of a head of department colleague in child and adolescent psychiatry who had taken advantage of his position of power by sexually abusing the patients entrusted to him for years. I was focusing on the subjects of "responsibility in therapeutic relationships, protection concepts in institutions, participation, and self-determination" with particular intensity at this time. In the case of the chief physician, a visiting commission started the process; this might illustrate the importance of independent site visits.

As a result of the so-called "sexual abuse scandal 2010" in Germany, the threat and issue of exploitation in power structures was brought to the foreground of German politics and the public debate. Sexual exploitation through coercion in institutions is a topic that NPMs must pay attention to not only in child and adolescent Psychiatry but also on wards for adult patients. Protection concepts have to consider potential victimization by fellow patients as well as a recent case from Andernach illustrates.

As the German constitution states, parents are in principle the best representatives of their children's interests. Nonetheless, the state community watches over their activities, and I found it unbearable that, in contrast to coercive measures for adults, measures for children and adolescents such as fixation, isolation in so called time-out rooms etc. in hospitals and facilities for persons with disabilities could be carried out based only on the permission of the parents. In part due to our work within the project of the action mental health focusing on the infrastructure of care for children with mental disorders in Germany, a requirement of judicial decree has been introduced by the end of the legislative period in Germany through a change of § 1631 b in the German Civil Code. The aim of this change is to ensure adequate control, even when it comes to coercive measures.

The publication of the "Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" from March 23, 2017 triggered a critical debate in Germany.

We should of course welcome the principle "There is no health without mental health". The reductionist view regarding psychiatry as merely biological psychiatry is generally not plausible for Germany, even if one may criticize research funding tendencies leaning towards biological research. We completely support the determination that mental health is a topic that various social actors

in medical care, in science, but also in areas of society such as school, the working world, etc. must engage with.

We share the general criticism of large care institutions and the associated exclusion. However, it does not apply to Germany in this way. Especially in the last legislative period, the PsychVVG, a law to further develop the care and compensation for psychiatric and psychosomatic services, helped ensure that even small regionalized treatment units could offer care close to a patient's family and home. The average duration of stay of child and adolescent psychiatric in-patients has decreased by a fifth of the original duration in the last 20 years. The social psychiatry agreement for resident colleagues and the good treatment through out-patient care is generally leading to a dominance of outpatient care offers. We certainly agree that prevention measures are crucial and system boundaries must be overcome at the intersections of social care systems

I find the claim that the field of mental health is generally overmedicated to be very undifferentiated, this undifferentiated depiction of pharmacotherapy does little to help. Moreover, from a children's rights perspective, the fact should be lamented that numerous medications available to treat adults have still not been examined for their side effects and altered effects in childhood and adolescence. Drug safety is therefore generally worse for children: children are still so-called "therapeutic orphans". In Germany, psychopharmacotherapy in child and

adolescent psychiatry certainly does not represent the primary form of treatment. Nonetheless, we should demand that children profit from the same safety standards as adults when they receive medication, even if children and youths do not represent a “large market for psychotherapeutic drugs”.

I do not agree with the general warning against early medicalization through child and adolescent psychiatry in the report as well as the clumsy juxtaposition between biologically oriented, negatively evaluated medicine and positive (social) pedagogy.

Within the field of healthcare, we have a big problem in the training and education of medical professionals, since knowledge on early childhood burdens such as neglect, abuse, sexual assault, as well as development difficulties and mental disorders in childhood and adolescence is not taught in mandatory courses. And this despite the fact that, according to information from the Robert Koch Institute, 20% of children in Germany display mental problems, and representative surveys show that a third of all people in Germany have experienced some type of abuse or neglect in their childhood (these numbers correspond to those in the WHO report for the European region). The reappraisal of the abuse scandal showed that marginalizing children in pedagogical facilities such as children’s homes and boarding schools also represents a considerable risk for their human rights.

Following the human rights treaties is crucial for the mission and vision of Action Mental Health Germany. A short glance at our institutional history for our international guests: At the beginning of the 1970s, more precisely 1971, the German Bundestag used an expert commission on “reform of mental health services” to research the conditions in large psychiatric hospitals. Action Mental Health was founded on January 18, 1971 by representatives of all parliamentary parties of the German Bundestag and experts in the field of psychiatry with the goal of “working towards a fundamental reform of care of the mentally ill in Germany with political means”. In the summer of the same year, Action Mental Health took over the offices of the Enquête Commission.

The results are known: The commission lamented catastrophic states; at the time, many persons with mental disorders and with disabilities lived in miserable, partly inhumane conditions. More than half of the patients spent two years of their lives in a hospital. Nearly as many patients were accommodated in large, open dormitories, storing their personal belongings under their bed in a box. The report revealed unacceptable hygienic conditions, far too few staff members, and hardly any possibilities of follow-up care.

The “(Commission’s) report on the state of psychiatry in the Federal Republic of Germany” was presented to the government in 1975 and is considered the starting point of the reform process.

However, the protection of human rights as we understand them today and the support of these in psychiatry – meaning the right to physical integrity, self-determination, supporting the participation of those concerned, establishing independent institutions for submitting complaints, overall the demand of a non-violent, subject and dialog-oriented psychiatry – were not yet focal points in the Enquête report.

The report gave the decisive impulse for a fundamental change in the psychiatric care structure, away from "asylum psychiatry" and towards a decentralized, community-based and complementarily organized care structure.

At this time, Action Mental Health Germany was founded as an initiative to provide a connecting point between politics and psychiatry and to advocate the needs of people with mental psychosocial disabilities across party lines. Action Mental Health Germany is institutionally funded by the Federal Ministry of Health. Then and now, the Action is characterized by an independence from individual interests and its activities in bringing together different organizations and lobbies, associations of persons with experience in psychiatry and relatives, service providers, medical institution associations, and professional associations to discuss mental health policy issues together.

A general Human rights perspective – also as part of the implementation of the UN Convention of the Rights of Persons with Disabilities – is increasingly becoming a central focus of the work of Action Mental Health Germany.

Whether regarding the care of vulnerable population groups such as children and adolescents or persons with mental health problems and, of current importance, refugees, or regarding legislation on financing psychiatric care in hospitals or participation rights, but also with respect to matters of self-determination and coercion in psychiatric institutions.

The Action has founded a working group solely for the topic of "psychiatry and human rights" and is represented in the relevant committees for implementing the UN CRPD in Germany. The project "Strengthen monitoring for prevention of torture and ill-treatment in places of liberty deprivation" started with the Action in 2015, and in 2016, a cooperative project with the federal working group for community-based psychiatric associations for the prevention of coercive measures was added, funded by the Federal Ministry of Health. The Action has published numerous statements on human rights topics, for example a recent position paper on the understanding and use of the term "capacity for consent" and on the "draft of a law to change the material admissibility requirements of coercive measures carried out by medical doctors and to strengthen the right to self-determination of affected persons".

We are very excited that we have the possibility to discuss the challenges which the National Preventive Mechanisms encounter in practice and the options for overcoming these together with you. You, ladies and gentlemen, have taken the time for this, and some of you have travelled far. Thank you again for coming.

I wish all of us an exciting and informative event, and I now look forward to your welcoming words, Mr Wagner.