

Forced foster care mechanisms in Germany – legalized violence against families

Good afternoon, dear colleagues,

My name is Maxim Zhilenkov. I am a civil rights activist from Germany. My colleagues and I study how forced foster care mechanisms, specifically the German child protective service (German: Jugendamt), works in the Federal Republic of Germany in theory and in practice. In particular, we had helped several families residing in Germany to reunite with their children seized by German child protective services.

In the course of learning about the methods employed by these services, we had also studied all registered cases of children being seized from families in Germany in the course of the past several decades.

The analysis of German forced foster care mechanisms' statistics allows us to see the results of family policy that was originally announced as a good cause, the priority of which was supposed to be prevention of any violence against children in families. Unfortunately, we can say today that such policy in practice led to sad results, specifically to legalized violence against birth families and, as a consequence, to violence against children.

There are several notable components in the basis of this family policy. First, it contraposes children's and parents' rights. In other words, this is not even about the equality of parents' and children's rights, this is about the prevalence of children's rights over the parenting rights of the parents, and factoring out such a basic value as "birth family". At the same time, in practice birth family is often considered by the German child protective services to be a place of special risk for the child.

Let me cite the opinion of Dr. Uwe Jopt, a German professor and a counseling psychologist in the fields of family and criminal law in the Bielefeld University: *"In this situation, the first thing they do is push for depriving the real parents of parental rights despite the problems that arise in children, in this case they try to find new foster parents for the children as soon as possible. In this reasoning birth parents are but a hindrance. They are, to say so, are a 'threat' to the further development of the child, and it is necessary to stay away from them."*

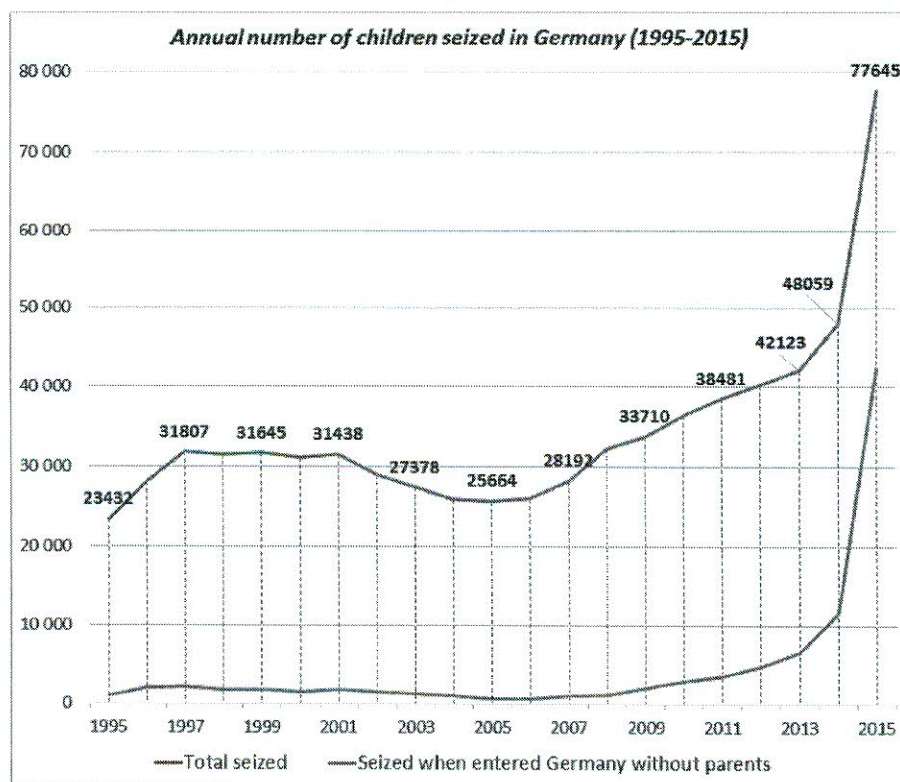
The second important basic component of the German forced foster care family policy is the right of social workers to intrude into the family's affairs and to make the decision about the need to seize a child based on subjective judgement. Subsequently, this

subjective interpretation about the family is transferred to the family court, which is very often entirely trusts the child protective services and even often just copies their indictment, as the former German family judge Elmar Bergmann notes.

Another important aspect of German forced foster care mechanisms is the absence of external control over the activities of child protective services (for example, public control). This way, professor and counseling psychologist Dr. Uwe Jopt notes that Jugendamt is in practice not overseen by anybody, apart from their own superiors.

Statistics

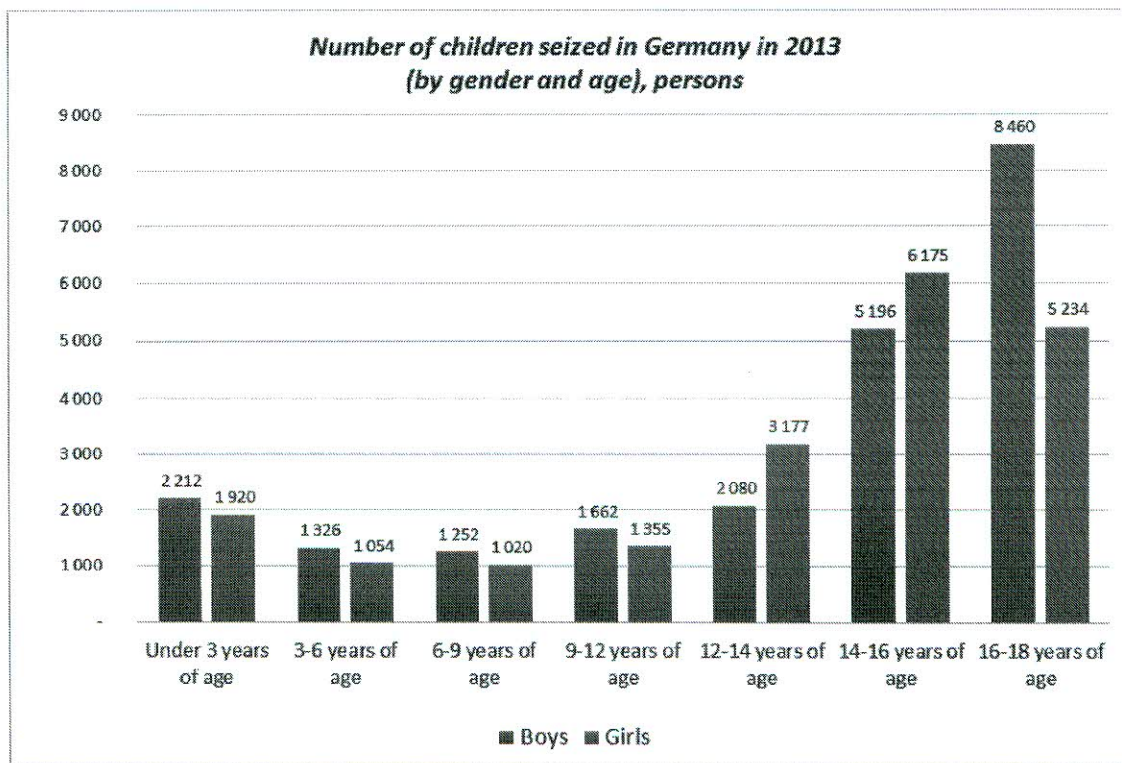
We have analyzed all of the reported cases of children being seized from families over two decades. As a source, we used data from the German Federal Statistical Office's, specifically document *Number of proactive and protective measures for children and adolescents* for the period between 1995 through 2015 (i.e. for a period of 21 years).



Over the 21-year period, a total of 719,789 children were seized; among these, 91,817 were seized for “entering Germany from abroad without being accompanied by an adult”. This means that in the 21 years of operation, the German forced foster care system seized 627,972 children who were already living in Germany. This number is comparable with Germany's annual number of births, which is 682,000 children (for 2013). Thus, virtually

almost an entire generation has gone through the forced foster care system in a 21-year period.

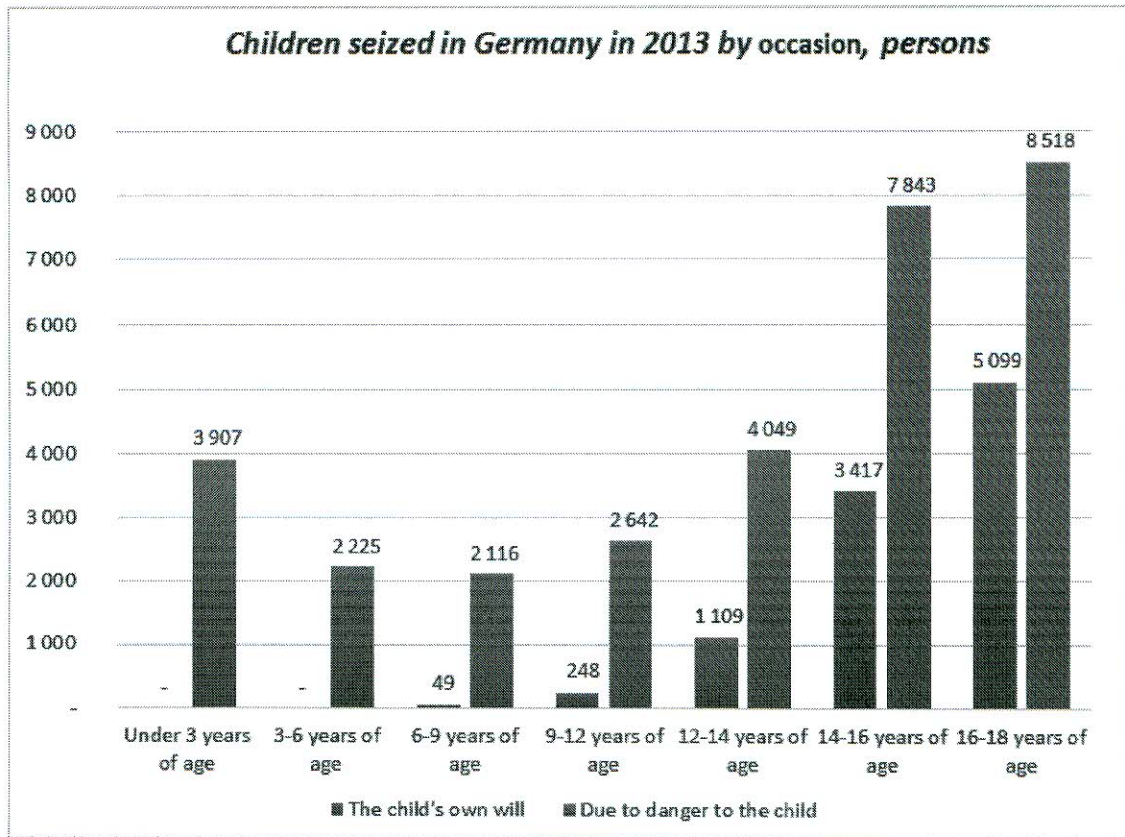
The annual number of children being seized increased from 23,432 in 1995 to 42,123 in 2013, which is nearly twofold. This growth was most significant during 1995–1996, 2009–2010 and 2014–2015. In 2014 and 2015, the number of children seized because of “entering Germany from abroad without being accompanied by parents” rapidly grew. In 2014 and 2015 this reason accounted for 11,642 and 42,309 children, respectively, vs. 6,584 in 2013. In order to exclude the effect of this category of seized children, statistics provided further will be for 2013.



72% of the children seized belong to the adolescent age group (12-18 years); furthermore, approximately 60% of all children seized are older adolescents of 14-18 years of age.

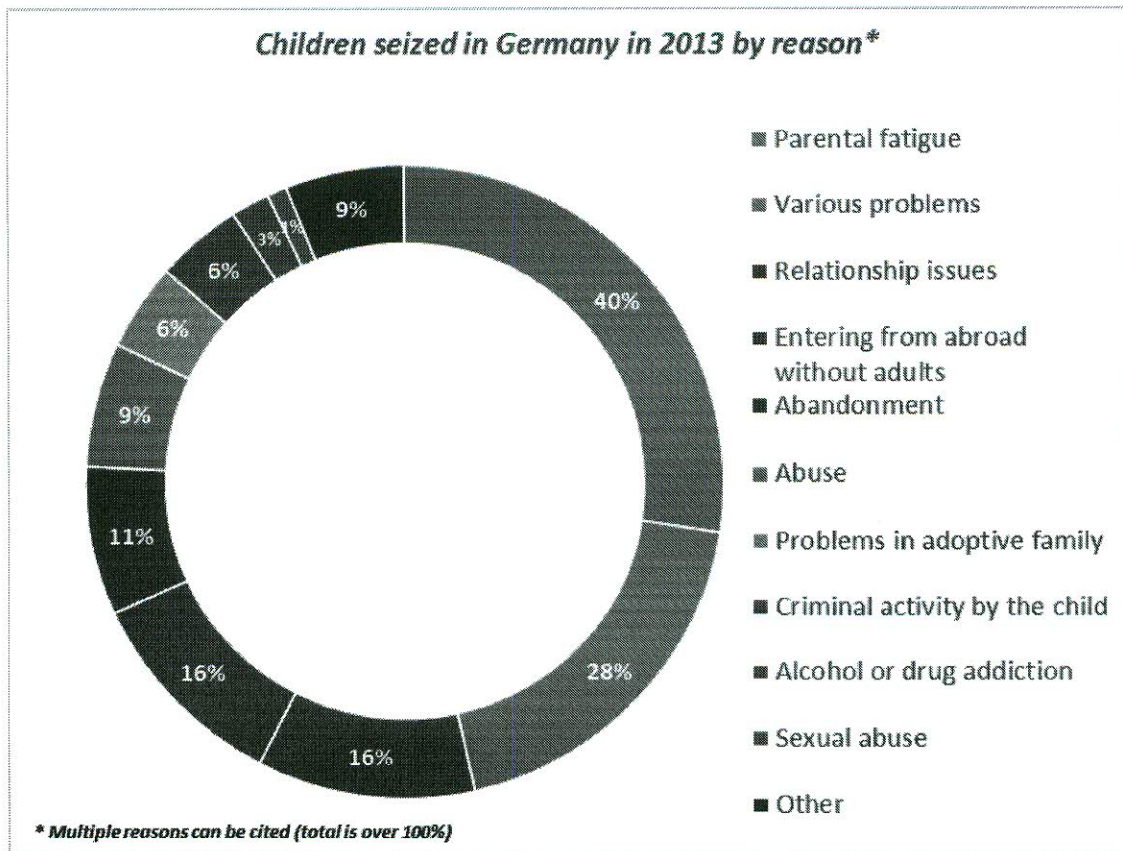
The gender distribution of children removed from their families is nearly equivalent: 47.33% are boys, 52.67% are girls.

The forced foster care system primarily affects Germans, not migrants. About two thirds of all children removed are from German families.



In analyzing the two major of removing children from their families in Germany (danger for the child and the child's own will), it can be noted that children under 6 are removed not due to their own will. As for the other occasion for removal, the child's own will, it should be noted that this situation is complex at any age, especially in the age between 14 to 18 when most of the removals based on the child's own happens.

24% of the total number of children were removed voluntarily, while the number of removals based on an assessment that the situation is dangerous for the child was 76%. This is a worrisome ratio, because supporters of forced foster care oftentimes present the system as a measure that is taken primarily based on the child's own will.



In examining the reasons for the seizure of children, it should be noted that multiple reasons can be cited simultaneously; consequently, the percentages shown below equal more than 100%.

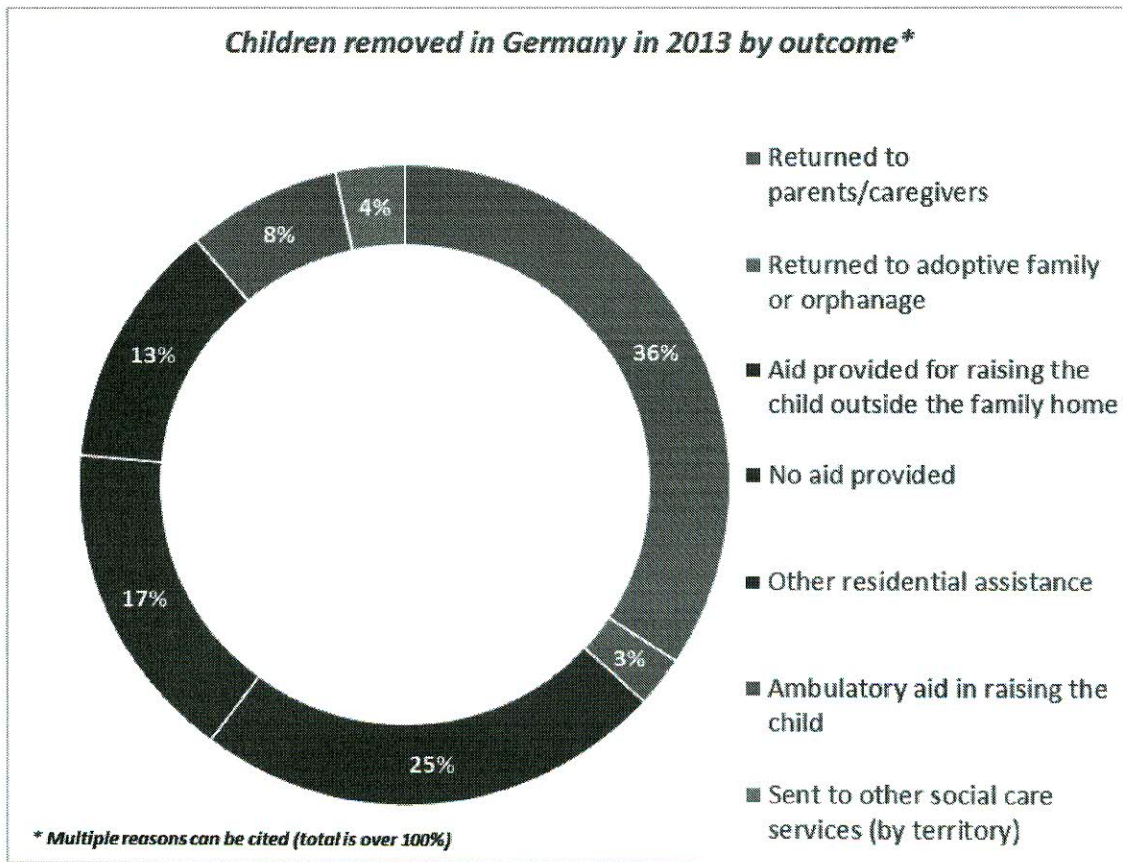
The most common reason for seizing children is parental fatigue (40%). In German family psychology it is defined as a situation of risk with the following symptoms:

- a) various forms of individual and social ill-being,
- b) the parents' lack of confidence or capability to raise children, especially during the troublesome periods of a child's life,
- c) mental disorders or diseases on the part of the parents and/or the child,
- d) situations of risk where the possibility of violence against the child exists; this sub-category specifically applies to the possibility of violence, while removal because of actual child abuse is a separate category (see below).

In our opinion, the way child protective services workers define "parental fatigue" poses the greatest risk of biased interpretations by social services, which can result in unjustified seizures.

Seizures due to child abuse account for only 9.1% of all cases. This category is much smaller than usually presented by media.

Another reason for removing children from their families that the mass media have widely publicized is the sexual abuse of children. However, this reason accounts for only 1.5% of the children seized in Germany (which makes it the least common reason for removing children from their families).



The outcome for the seized child is a very telling sign. In 39% of cases, the child was returned to his or her parents, caregivers, adoptive family, or orphanage. In the rest 61% of cases children were not returned.

The return rate of 39% remained more or less constant over the two decades, suggesting that the reasons of these removals were questionable. Indeed, removing a child from his or her family is a severe stress for both the child and the parents. Was the removal really necessary if the child was returned in the end?

Elmar Bergmann, a former family court judge from the Federal Republic of Germany, believes that *“taking a child away from his dearest persons seriously damages his mental health; only a greater damage from staying in the family can justify such mental harm”*.

Children who have experienced the psychological trauma of being removed from their families will have much greater difficulty starting their own families and raising children without fear. Furthermore, removal makes the child and his or her family feel helpless and vulnerable to abuse by social workers, and thus by the state they represent.

Summarizing the analysis of German forced foster care mechanisms', we can draw the following conclusions:

1. In Germany, the common practice of forced foster care exposes the birth family to legalized violence. The presumption of parental guilt is followed in practice, as the parents need to prove their innocence.
2. Child protective services officials often interpret the reasons for removing a child from the family very subjectively.
3. The forced foster care system is beyond public control. Child protective services officials are not seriously held accountable before parents and the law.
4. Thus, the right of social workers to make a decision about the remove of children from families based on subjective judgments practically leaves the family without adequate protection by the state, although the right to such protection is enshrined in Article 6 of the Constitution of the Federal Republic of Germany.
5. Therefore, we can conclude that one of the cornerstones of the state's national legal framework is being trampled.

We recommend the OSCE member states to:

1. Fundamentally revise their family policy, which is based on an assumed conflict between parents' and children's rights, and the presumption of parental guilt.
2. Pursue a family policy that would be based, in the first place, on providing help, protection, and support to the birth family.
3. Make social workers legally accountable for the unjustified removal of children. Bring the children protection services under public control.