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Verbalnote

Die Ständige Vertretung der Bundesrepublik Deutschland bei der Organisation für Sicherheit und Zusammenarbeit in Europa, Wien, begrüßt die Delegationen und Vertretungen aller Teilnehmerstaaten der OSZE sowie das Konfliktverhütungszentrum und beehrt sich, unter Bezugnahme auf den Informationsaustausch der Bundesrepublik Deutschland zum „Verhaltenskodex zu politisch-militärischen Aspekten der Sicherheit“, in deutscher Sprache übermittelt unter FSC.EMI/170/09 Rev. 1/Corr. 1 am 03.09.2009, eine englische Sprachfassung nachzureichen.

Die Ständige Vertretung der Bundesrepublik Deutschland bei der Organisation für Sicherheit und Zusammenarbeit in Europa, Wien, benutzt diesen Anlass, die Delegationen und Vertretungen aller Teilnehmerstaaten der OSZE sowie das Konfliktverhütungszentrum erneut ihrer ausgezeichneten Hochachtung zu versichern.

Wien, 04. September 2009



An

- alle Delegationen und Vertretungen der Teilnehmerstaaten der OSZE
- das OSZE-Konfliktverhütungszentrum

Wien

Translation



Auswärtiges Amt

**Information exchange
on the Code of Conduct on politico-military
aspects of security**

(FSC.DEC/4/03)

Report by the Federal Republic of Germany
for 2008

Berlin, 15 June 2009

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1. Appropriate measures to prevent and combat terrorism, in particular participation in international agreements to that end:

Transnational terrorism has become a global phenomenon which can only be countered with success through international cooperation. Germany has reacted to the terrorist threat with a set of repressive and preventive measures. As well as the further development of national efforts (creation of the legal basis) and the optimization of the security architecture, the stepping up of international cooperation is an important part.

The United Nations plays a central role in Germany's policy. Our efforts focus on the implementation of UN Security Council Resolutions (in particular 1267, 1373, 1390 and 1624), the swift and unconditional ratification of all UN anti-terror conventions (Germany has ratified all 13 conventions) as well as the readiness to facilitate quick agreement on the Comprehensive Convention on International Terrorism. As a Member State of the EU, Germany has played a key role in ensuring that the EU reacted quickly and comprehensively to the terrorist threat. The EU's Counter-Terrorism Strategy forms an important basis for EU policies on combating terrorism. Implementation of the Action Plan on Combating Radicalization and Recruitment to Terrorism is the focus of EU activities in the fight against terrorism.

Within the OSCE, Germany co-sponsored the decision to make the fight against terrorism one of the organization's key tasks and is helping to implement it. Furthermore, Germany is working actively within the G8 on the coordination and optimization of counter-terrorism measures. As a member of NATO, Germany supports the Alliance's efforts to help fight and prevent international terrorism.

(a) List of international agreements, including all United Nations conventions and protocols related to terrorism, to which the participating State is a party;

The Federal Republic of Germany has ratified all thirteen UN Conventions dealing with the fight against international terrorism.

These conventions are:

1. Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 14 September 1963)
2. Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, 16 December 1970)
3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 23 September 1971)

4. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (New York, 14 December 1973)
5. International Convention against the Taking of Hostages (New York, 17 December 1979)
6. Convention on the Physical Protection of Nuclear Material (Vienna, 3 March 1980)
7. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 24 February 1988)
8. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 10 March 1988)
9. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (Rome, 10 March 1988)
10. Convention on the Marking of Plastic Explosives for the Purpose of Detection (Montreal, 1 March 1991)
11. International Convention for the Suppression of Terrorist Bombings (New York, 15 December 1997)
12. International Convention for the Suppression of the Financing of Terrorism (New York, 9 December 1999)
13. International Convention for the Suppression of Acts of Nuclear Terrorism (New York, 13 April 2005)

(b) Accession to and participation in other multilateral and bilateral agreements or measures undertaken to prevent and combat terrorist activities;

Cooperation in multilateral bodies

Germany is engaged in the fight against international terrorism not only within the United Nations but also within the EU, OSCE, the G8, the Financial Action Task Force on Money Laundering (FATF), NATO, the IAEA and the Council of Europe, among others.

OSCE

The adoption in Bucharest in 2001 of the Plan of Action for Combating Terrorism and in Porto in 2002 of the Charter on Preventing and Combating Terrorism has provided the OSCE with a solid basis for its contribution towards the global fight against terrorism. The Ministerial Council in Helsinki (2008) adopted a decision on combating terrorism. On that occasion, the German Government expressed its view that close counter-terrorism cooperation is essential. In the development of the OSCE's normative acquis on fighting and preventing terrorism,

Germany successfully argued in favour of granting adequate consideration for international law and human rights.

Germany co-sponsored the OSCE decision to make the fight against terrorism one of the organization's key tasks. It supports the OSCE in carrying out this task and is working to foster close cooperation with other international organizations. The Federal Republic of Germany is participating in the OSCE Counter-Terrorism Network (CTN), an information-sharing forum established to deal with programmes and questions regarding the fight against terrorism. The aim of the CTN is to ensure a high degree of information-sharing in order to enhance the coordination of counter-terrorism activities in the OSCE region.

Germany has provided considerable financial contributions and almost 50 experts financed by the Federal Foreign Office towards the OSCE field missions. The field missions make a substantial contribution towards the preventive fight against terrorism through institution-building including the police and border protection, anchoring rule-of-law principles, promotion of free elections and the repatriation of refugees, the fight against arms and people smuggling, as well as the suppression of the financing of terrorism. What is more, Germany supports the work of the OSCE's Action against Terrorism Unit (ATU) and its Office for Democratic Institutions and Human Rights (ODIHR), which focuses on ensuring that human rights are respected within the context of the fight against terrorism.

Germany advocates the swift implementation of the OSCE Documents on Small Arms and Light Weapons and on Stockpiles of Conventional Ammunition, as well as the existing OSCE principles on non-proliferation. One special focus is the promotion of bilateral and multi-lateral project support on issues such as the stockpiling of conventional weapons and ammunition, as well as the destruction of surplus stockpiles.

Council of Europe

Germany has ratified the European Convention on the Suppression of Terrorism of 27 January 1977 and signed the Additional Protocol to this Convention. Moreover, it signed the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196) on 24 October 2006 and the Council of Europe Convention on Action against Trafficking in Human Beings on 17 November 2005. The ratification of these Conventions is being prepared. Germany ratified the European Convention on Cyber Crime of 23 November 2001, the first international agreement on combating this new form of crime, on 9 March 2009. Moreover, it signed the First Additional Protocol to this Convention on 28 January 2003.

EU

The EU has a comprehensive set of instruments to prevent and fight terrorism which has been steadily further developed. In this context, Germany has above all called for the rule-of-law elements in the EU's counter-terrorism sanctions regime to be strengthened. Following the attacks in Madrid on 11 March 2004, the post of EU Counter-Terrorism Coordinator was created. The post is currently held by Gilles de Kerchove.

The EU Counter-Terrorism Strategy adopted by the European Council in December 2005 and complemented by an action plan emphasizes the Union's strategic engagement in combating terrorism around the world while respecting human rights. The four lines of action are prevention, protection, prosecution and reaction. The Hague Programme to create "an area of freedom, security and justice" is one of the key basic documents which are aimed at making Europe safer for its citizens.

In the field of prevention, an EU Strategy for Combating Radicalization and Recruitment to Terrorism was adopted in 2005 and since then the implementation of this initiative has been the focus of EU activities in the fight against terrorism. The aim is to prevent people from turning to terrorism by focusing on those factors in Europe and beyond Europe which can lead to radicalization and recruitment to terrorism. In this connection, Germany has launched an initiative ("Check the web") aimed at intensifying cooperation within the EU to prevent terrorists from using the Internet. In 2007 an information portal was set up at Europol which serves as a platform for exchanging information among Member States and will be developed further. Furthermore, a Green Paper on Bio-Preparedness was presented.

The EU is also actively seeking to lessen the vulnerability of citizens and infrastructure to attacks, inter alia through increased security at borders, in transport and in critical infrastructure. The extension of the Schengen area in December 2007 to include nine new Member States enlarged the search area for the Schengen Information System (SIS).

Furthermore, Germany has already ratified the agreement concluded between the EU and the US on 26 July 2007 on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the United States Department of Homeland Security. An EU framework decision on PNR is being prepared. By way of implementing the European Programme for Critical Infrastructure Protection (EPCIP), the EC Directive on the identification and designation of European Critical Infrastructure (ECI) and the assessment of the need to improve their protection was adopted in 2008.

The EU has taken numerous measures aimed at hunting down terrorists also beyond EU borders. Further progress has been made in incorporating the Nine Special Recommendations of the Financial Action Task Force on Money Laundering (FATF) into community law. The most important instruments were put in place in 2007, for example the Payment Services Directive. In 2008 the Council decision on intensifying cross-border cooperation, particularly in combating terrorism and transnational crime, was adopted (political agreement on the Council decision was reached during Germany's EU Presidency in 2007). This decision is based on the 2005 Treaty of Prüm initiated by Germany, which has now been ratified by eleven EU member states, and incorporates most of the Treaty into the EU's legal framework. It serves to improve and accelerate the exchange of information between prosecution and crime prevention authorities. The work on the incorporation of the Europol Convention into the EU's legal framework has also advanced during the period under report: political agreement was reached in the Council in 2008 (it has yet to be formally adopted). With the entry into force of the decision on incorporating this Convention, Europol will become a genuine EU agency.

NATO

As a member, Germany supports NATO efforts to help fight and prevent terrorism through civilian and military measures. The threat of international terrorism continues to be one of the key security challenges for NATO. At the Riga summit (November 2006), the Alliance therefore once more affirmed its resolve to fight international terrorism in accordance with international law and UN principles. In political terms, extending the cooperation with a growing number of partner countries and other international players is to the fore. In the military sphere, Operation Active Endeavour, which was established on the basis of Article 5 of the NATO Treaty, remains the Alliance's most visible contribution towards the fight against terrorism. However, NATO operations to foster stability in Afghanistan and in the Balkans have indirectly also helped create conditions intended to prevent the emergence and spread of terrorist threats.

NATO's fight against terrorism was marked by continuity in 2008. Alliance activities continue to be based on the package of measures (cf. last year's report) adopted at the Istanbul summit (June 2004), of which key parts have already been implemented. The Alliance's current efforts are focused on the comprehensive Programme of Work for Defence against Terrorism, which will require a longer implementation phase. The exchange of intelligence is the focus of the political cooperation among NATO states and with partner countries.

Recently a Cyber Defence Programme was adopted, and a Centre of Excellence for this sphere was established in Riga. The Centre of Excellence – Defence against Terrorism established in Ankara in 2005 holds a host of seminars and workshops covering the entire spectrum of counter-terrorism.

The Terrorist Threat Intelligence Unit (TTIU) established by the Istanbul summit in 2004 carries out thematic and regional, as well as situation-related, analyses of terrorist threats. It draws on national civilian and military intelligence resources but does not attempt to elaborate a coordinated assessment. Furthermore, it provides information for a host of NATO fora on dealing with terrorism-related aspects.

The Alliance's Article 5 operation following 11 September 2001, Operation Active Endeavour (OAE), whose aim is to monitor shipping in the Mediterranean, continues.

The Programme of Work for Defence against Terrorism (PoW DaT) carried out since 2004 under the aegis of the Conference of National Armaments Directors (CNAD) remains the key instrument for developing the Alliance's counterterrorism capabilities. Divided at present into ten thematic spheres for each of which a NATO member state has assumed responsibility as the Lead Nation, the Programme includes, for example, the development of technology for "Intelligence, reconnaissance, surveillance and target acquisition of terrorists" (Lead Nation: Germany).

Enhancing defence capabilities against attacks with chemical, biological, radiological or nuclear substances (CBRN) continues to be a central task for NATO even after the implementation of the five initiatives adopted at the Prague summit.

Work in the sphere of civil emergency planning focused again in 2007 on improving protection of the civilian population from possible terrorist attacks using conventional weapons and weapons of mass destruction, as well as on optimizing international crisis management in the event of terrorist attacks, in particular consequence management.

Furthermore, NATO is cooperating in the field of counterterrorism with partners and other international organizations. The Partnership Action Plan against Terrorism (PAP-T) adopted at the Prague summit (2002) forms a foundation for cooperation with EAPC partners.

Ukraine is seeking close cooperation with NATO in the field of counterterrorism. In addition to the relevant activities outlined in the NATO-Ukraine Annual Target Plan, Ukraine is making increased use of meetings under the mandate of the Joint Working Group on Defence Reform to this end.

Cooperation with Russia within the framework of the NRC in the fight against international terrorism is going well. It is based on the six-monthly updating of the NATO-Russia Action Plan against Terrorism in the fields of prevention, the fight against terrorist activities and consequence management.

Key areas of the cooperation with the states involved in the Mediterranean Dialogue include the exchange of intelligence within the context of twice-yearly meetings of experts, civil emergency planning and the desire of some Dialogue partners to take part in Operation Active Endeavour (Algeria, Morocco).

Ways of cooperating with the states of the Istanbul Cooperation Initiative (ICI) are being explored.

G8

Within the G8, too, Germany is playing an active role in coordinating and optimizing measures aimed at combating international terrorism. The documents of all G8 summits in the last few years show the considerable attention which the G8 countries are paying to the problem of terrorism. The main forum for G8 cooperation on fighting terrorism and organized crime is the so-called Rome-Lyon Group, in which experts from the countries involved meet several times a year and engage in pragmatic and targeted cooperation. The implementation of the Action Plan, adopted in 2004, on the Secure and Facilitated International Travel Initiative (SAFTI) has been completed. It provides for measures in various fields, inter alia on improving the security of travel documents, enhancing the exchange of information relevant to terrorism, containing the risks posed by MANPADS, as well as on air, harbour and shipping security. In addition to the issues already mentioned, the Rome-Lyon Group is constantly turning its attention to new aspects of the terrorist threat which have arisen, inter alia, as a result of the further development of certain technologies (e.g. communications and information technology) or of “new” intelligence (e.g. regarding radicalization and recruitment for terrorist activities). The Group’s findings will be made available to the relevant bodies, for instance in the UN sphere.

Via measures aimed at destroying and better safeguarding weapons of mass destruction totalling up to US\$ 20 billion, the G8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction initiated in 2002 serves to prevent terrorists from gaining access to nuclear, chemical, biological or radiological materials. The work of the Global Partnership initially focused on the states of the former Soviet Union, but the way is now open for cooperation with states in other regions. Germany, with a sum of up to US\$ 1.5 billion, is the second largest contributor not including Russia's own contributions.

The Global Initiative to Combat Nuclear Terrorism (GICNT) was established on the fringes of the G8 summit held in St. Petersburg in 2006. The aim of the Initiative is above all to prevent the procurement, transport and use of nuclear material and radioactive sources for terrorist purposes, to avert terrorist attacks on nuclear facilities, as well as to optimize the exchange of information and cooperation among the relevant police forces and intelligence services. To this end, the capabilities of the countries involved in the Initiative and their cooperation is to be enhanced. Germany took part in the annual meetings of the Initiative, organized an international workshop on registering highly radioactive sources and supports other activities within the GICNT by seconding experts.

In addition to the spheres mentioned, the G8 countries work together in numerous other fields in the fight against terrorism. For example, the recommendations adopted on this by the G8 Foreign Ministers back in 2002 include the following issues: fostering international treaties and agreements on fighting terrorism, measures aimed at preventing attacks with chemical, biological, radiological and nuclear weapons, the control of explosives and firearms, steps towards suppressing the financing of terrorism, as well as possible ties between terrorism and organized crime.

Within the framework of the Counter-Terrorism Action Group (CTAG), the G8 and some other countries are also coordinating their efforts to support third states in the fight against terrorism.

IAEA

Germany actively supports and advances the IAEA activities aimed at combating nuclear terrorism. The package of measures adopted by the IAEA in March 2002 on strengthening protection against nuclear terrorism was due to a German initiative. Between 2004 and 2006, the German Government supported the implementation of these measures by providing experts free of charge and by contributing 1 million euro to the IAEA's Nuclear Security

Fund. The IAEA measures funded via the Nuclear Security Fund focus on activities aimed at enhancing the physical protection of nuclear plants, fissile material and radioactive sources from terrorist attacks or from attempts to steal them for terrorist activities. In addition to this, there are measures aimed at making borders more secure, thus preventing nuclear smuggling. In 2006, the IAEA used German, among other, resources to play an advisory and supportive role in preventing terrorist attacks involving radioactive materials during the World Cup in Germany.

The Convention on the Physical Protection of Nuclear Material, negotiated within the IAEA, is one of the 13 UN Conventions dealing with terrorism and serves to protect nuclear materials and facilities. The Convention's area of application was considerably extended with the active support of Germany at a diplomatic conference held in Vienna in July 2005. Germany continues to push for the early entry into force of the amended Convention as well as for its universalization, because it makes a key contribution towards diminishing the dangers posed by nuclear terrorism. The national requirements for ratification have been fulfilled. Germany will submit the instrument of ratification together with the other EU member states.

In the same sphere, Germany is supporting IAEA efforts to increase the safety and security of radioactive sources in order to prevent them being used by terrorists, for example in the form of a "dirty bomb". Germany has undertaken to implement the IAEA Code of Conduct on the Safety and Security of Radioactive Sources and is currently striving to implement the IAEA Guidelines on controlling the import and export of radioactive sources. Key elements of the Code of Conduct and the Guidelines have already been incorporated into German law with the Act on the Control of High-Activity Radioactive Sources of 12 August 2005.

Financial Action Task Force on Money Laundering (FATF)

The FATF is the most important international standard setter in the fight against money laundering and, since October 2001, also in the suppression of the financing of terrorism. The Nine Special Recommendations on terrorist financing adopted by the FATF which, along with freezing the assets of suspected terrorists, also request measures in the financial sector on ensuring transparency in transactions and on combating underground banking, are being implemented by Germany via the Banking Act (Kreditwesengesetz – KWG) and the Money Laundering Act (Geldwäschegesetz – GwG).

Export control regimes for weapons of mass destruction, delivery systems, conventional weapons and related dual-use goods

In keeping with the EU Strategy against the proliferation of weapons of mass destruction the Federal Republic of Germany is working to strengthen the existing multilateral norms and treaties on non-proliferation. It is a participating state in all export control regimes controlling the export of goods which can be used in both a civilian and military context to produce weapons of mass destruction: the Nuclear Suppliers Group (the control regime in the nuclear field), the Australia Group (which endeavours to prevent abuse in connection with the development of biological and chemical agents) and the Missile Technology Control Regime (MTCR, control mechanism for missiles and their systems of delivery which can be used to launch weapons of mass destruction). Since 11 September 2001, all the regimes mentioned have formally set themselves the additional goal of preventing non-State actors, i.e. also terrorists, from gaining access to weapons of mass destruction and listed goods (dual-use goods) which can be used to produce weapons of mass destruction. The German Government actively supports programmes launched by the EU Commission with which the EU helps third states within and outside the regimes to establish and further develop export controls. The Federal Office of Economics and Export Control (BAFA) is responsible for the implementation of most of these programmes. To this end, Germany also supports the implementation of UN Security Council Resolution 1540 of 28 April 2004 (reaffirmed by Resolutions 1673 of 27 April 2006 and 1810 of 25 April 2008), adopted during its Presidency, on preventing non-State actors from gaining access to weapons of mass destruction and their delivery systems. Furthermore, it is working towards eliminating stocks of weapons of mass destruction which are subject to bans and disarmament obligations in order to effectively counter the risk of proliferation.

The Federal Republic of Germany is also a member of the Wassenaar Arrangement (export control regime for conventional military equipment and the related dual-use goods and technologies). Following 11 September 2001, the fight against terrorism was added to the Wassenaar regime's list of tasks, with a view to preventing the diversion of conventional military equipment and related dual-use goods and technology into the hands of terrorists via more effective national export controls. Important progress was made by extending the transparency rules for the export of small arms and light weapons, including stricter control rules for MANPADS, as well as the introduction of stricter controls on arms brokering. Germany continues within the Wassenaar Arrangement to actively engage in the fight against terrorism, e.g. by way of initiatives on improving the exchange of information and controlling goods of relevance to terrorism. Based on a German proposal, a comprehensive strategy on guarantees

concerning end use was recently adopted for the sphere of dual-use goods. Furthermore, in the field of export controls for conventional armaments, the German Government is an active supporter of efforts to conclude an international agreement on trade in conventional weapons (Arms Trade Treaty – ATT). An ATT could make a crucial contribution towards preventing the diversion of conventional weapons to terrorists. In the first half of 2008, Germany was represented in the UN group of experts which was looking at the feasibility, possible scope and parameters of such a treaty, and it continues to work for a comprehensive ATT, above all within the framework of the open-ended working group on this issue which took forward the work of the UN group of experts.

The Federal Republic of Germany also supports the regular exchange of information with other states on the smuggling of arms, munitions and explosives as well as other sensitive material in order to prevent acts of terrorism. Accordingly, it also attaches importance to a more intensive exchange of information within and between the export control regimes. Furthermore, it is involved, also financially, in IAEA activities on fighting nuclear terrorism (Nuclear Security Fund).

List of the agreements on cooperation to combat terrorism, organized crime, etc.

(Not all agreements listed have yet come into force; in some cases the preparations for the entry into force are still underway.)

Bilateral:

- Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Belarus concerning Cooperation in the Fight against Organized Crime, Terrorism and other Significant Offences, Bonn, 4 April 1995
- Agreement between the Government of the Federal Republic of Germany and the Government of the Kingdom of Belgium concerning Cooperation between Police Authorities and Customs Administrations in Border Areas, Brussels, 27 March 2000
- Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Bulgaria concerning Cooperation to Combat Organized and Serious Crime, Sofia, 30 September 2003
- Agreement between the Ministry of the Interior of the Federal Republic of Germany and the Ministry for Public Security of the People's Republic of China

concerning Cooperation in the Fight against Crime, Beijing, 14 November 2000

- Agreement between the Government of the Federal Republic of Germany and the Government of the Czech and Slovak Federal Republic concerning Cooperation in the Fight against Organized Crime, Prague, 13 September 1993
- Treaty between the Federal Republic of Germany and the Czech Republic concerning Cooperation between Police Authorities and Border Police Authorities in Border Areas, Berlin, 19 September 2000
- Agreement between the Government of the Federal Republic of Germany and the Government of the Kingdom of Denmark concerning Police Cooperation in Border Areas, Berlin, 21 March 2001
- Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Estonia concerning Cooperation in the Fight against Organized Crime and Terrorism and other Significant Offences, Bonn, 7 March 1994
- Agreement between the Government of the Federal Republic of Germany and the Government of the French Republic concerning Cooperation between Police and Customs Authorities in Border Areas, Mondorf (Luxembourg), 9 October 1997
- Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Hungary concerning Cooperation in the Fight against Organized Crime, Bonn, 22 March 1991
- Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Kazakhstan concerning Cooperation in the Fight against Organized Crime, Terrorism and other Significant Offences, Almaty, 10 April 1995
- Agreement between the Government of the Federal Republic of Germany and the Government of the State of Qatar on Cooperation in the Field of Security, Doha, 22 January 2009
- Agreement between the Government of the Federal Republic of Germany and the Government of the Kyrgyz Republic concerning Cooperation in the Fight against Organized Crime and Terrorism and other Significant Offences, Bishkek, 2 February 1998
- Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Latvia concerning Cooperation in the Fight

against Organized Crime, Terrorism and other Significant Offences, Bonn, 30 March 1995

- Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Lithuania concerning Cooperation in the Fight against Organized Crime, Terrorism and other Significant Offences, Vilnius, 23 February 2001
- Arrangement between the Minister of the Interior of the Federal Republic of Germany and the Minister of Justice and the Minister for the Public Force of the Grand Duchy of Luxembourg concerning Police Cooperation in the Border Area between the Federal Republic of Germany and the Grand Duchy of Luxembourg, Bonn, 24 October 1995
- Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Poland concerning Cooperation between Police Authorities and Border Police Authorities in Border Areas, Berlin, 18 February 2002
- Agreement between the Government of the Federal Republic of Germany and the Government of Romania concerning Cooperation in the Fight against Organized Crime and Terrorism and other Significant Offences, Bucharest, 15 October 1996
- Agreement between the Government of the Federal Republic of Germany and the Government of the Russian Federation concerning Cooperation in the Fight against Significant Offences, Moscow, 3 May 1999
- Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Slovenia concerning Cooperation in the Fight against Significant Offences, Ljubljana, 2 March 2001
- Treaty between the Government of the Federal Republic of Germany and the Swiss Confederation concerning Cross-Border Police and Judicial Cooperation, Berne, 27 April 1999
- Agreement between the Government of the Federal Republic of Germany and the Government of Ukraine concerning Cooperation in the Fight against Organized Crime and Terrorism and other Significant Offences, Bonn, 6 February 1995
- Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Uzbekistan concerning Cooperation in the Fight against Organized Crime, Terrorism and other Significant Offences, Bonn, 16 November 1995

- Protocol on Cooperation between the Ministry of the Interior of the Federal Republic of Germany and the Ministry of the Interior of the Socialist Republic of Viet Nam on Preventing and Combating Crime, Hanoi, 28 February 1996
- Agreement between the Government of the Federal Republic of Germany and the Government of the State of Kuwait on Cooperation in the Field of Security, Berlin, 13 February 2007
- Agreement between the Government of the Federal Republic of Germany and the Government of the Kingdom of the Netherlands concerning Cross-Border Cooperation by Police and in Criminal Law Matters, Enschede, 2 March 2005
- Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Austria concerning Cross-Border Cooperation on Danger Prevention by Police and in Criminal Law Matters, Berlin, 10 November and 19 December 2003
- Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Poland concerning Cooperation to Combat Organized Crime, Wroclaw, 18 June 2002
- Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Tunisia concerning Cooperation in the Fight against Significant Offences, Tunis, 7 April 2003
- Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Turkey concerning Cooperation in the Fight against Significant Offences, in particular Terrorism and Organized Crime, Ankara, 3 March 2003
- Agreement between the Government of the Federal Republic of Germany and the Government of the United Arab Emirates on Cooperation in the Field of Security, Abu Dhabi, 24 September 2005
- Agreement between the Government of the Federal Republic of Germany and the Government of the United States of America on Enhancing Cooperation in Preventing and Combating Serious Crime, Washington, 1 October 2008
- Agreement between the Government of the Federal Republic of Germany and the Government of the Socialist Republic of Viet Nam concerning Cooperation in the Fight against Organized Crime, Berlin, 31 August 2006

Multilateral:

- Council of Europe Convention on Cyber Crime, Budapest, 23 November 2001
- First Additional Protocol to the Council of Europe Convention on Cyber Crime, concerning the Criminalization of Acts of a Racist and Xenophobic Nature Committed through Computer Systems, Strasbourg, 28 January 2003
- European Convention on the Suppression of Terrorism, Strasbourg, 27 January 1977
- Protocol Amending the European Convention on the Suppression of Terrorism, Strasbourg, 15 May 2003
- United Nations Convention against Transnational Organized Crime, New York, 15 November 2000
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, New York, 15 November 2000
- Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime, New York, 15 November 2000
- Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, New York, 31 May 2001
- United Nations Convention against Corruption, New York, 9 December 2003
- Convention on the Stepping Up of Cross-border Cooperation, Particularly in Combating Terrorism, Cross-border Crime and Illegal Migration, Prüm, 27 May 2005
- Agreement between the Government of the Federal Republic of Germany, the Government of the Kingdom of Belgium, the Government of the French Republic and the Government of the Grand Duchy of Luxembourg concerning the Establishment and Operation of a Joint Police and Customs Cooperation Centre in the Common Border Area, Luxembourg, 24 October 2008

Agreements on Nuclear Non-Proliferation, against Chemical and Biological Weapons and Conventional Weapons, as well as the Non-Proliferation of Ballistic Missiles

- Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods of Warfare, Geneva, 17 June 1925
- Treaty on the Non-Proliferation of Nuclear Weapons, 1 July 1968

- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, 10 April 1972
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, Paris, 13 January 1993
- Comprehensive Nuclear Test Ban Treaty, New York, 10 September 1996
- OSCE Document on Small Arms and Light Weapons, Vienna, 24 November 2000
- UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, New York, 20 July 2001
- International Code of Conduct against Ballistic Missile Proliferation, 25 November 2002
- International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, New York, 8 December 2005

The following Council of Europe conventions have been signed but have not yet been ratified:

- Council of Europe Convention on the Prevention of Terrorism (signed on 24 October 2006)
- Council of Europe Convention on Action against Trafficking in Human Beings (signed on 17 November 2005)

Agreements on Mutual Assistance and Extradition

Bilateral:

- Treaty of 14 April 1987 between the Federal Republic of Germany and Australia concerning Extradition
- Agreement of 10 June 1966 between the Government of the Federal Republic of Germany and the Government of the Republic of Ghana concerning the Extradition of Fugitive Offenders
- Extradition Treaty of 21 May 1962 between the Federal Republic of Germany and the Principality of Monaco
- Treaty of 21 May 1962 between the Federal Republic of Germany and the Principality of Monaco concerning Mutual Assistance in Criminal Matters

- Treaty of 26 May 1993 between the Federal Republic of Germany and the Kingdom of Thailand on the Transfer of Offenders and on Cooperation in the Enforcement of Penal Sentences
- Treaty of 19 July 1966 between the Federal Republic of Germany and the Republic of Tunisia concerning Extradition and Mutual Assistance in Criminal Matters
- Agreement of 31 January 1972 between the Federal Republic of Germany and the Republic of Austria to Supplement the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and to Facilitate its Application
- Treaty of 11 July 1977 between the Federal Republic of Germany and Canada concerning Extradition
- Supplementary Treaty of 13 May 2002 to the Treaty of 11 July 1977 between the Federal Republic of Germany and Canada concerning Extradition
- Treaty of 13 May 2002 between the Federal Republic of Germany and Canada on Mutual Assistance in Criminal Matters
- Agreement of 2 February 2000 between the Federal Republic of Germany and the Czech Republic to Supplement the European Convention on Extradition of 13 December 1957 and to Facilitate its Application
- Agreement of 2 February 2000 between the Federal Republic of Germany and the Czech Republic to Supplement the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and to Facilitate its Application
- Agreement of 13 July 2003 between the Federal Republic of Germany and the Republic of Poland to Supplement the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and to Facilitate its Application
- Agreement of 20 July 1977 between the Federal Republic of Germany and the State of Israel to Supplement the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and to Facilitate its Application
- Agreement of 24 October 1979 between the Federal Republic of Germany and the Republic of Italy to Supplement the European Convention on Extradition of 13 December 1957 and to Facilitate its Application
- Agreement of 24 October 1979 between the Federal Republic of Germany and the Republic of Italy to Supplement the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and to Facilitate its Application

- Agreement of 30 August 1979 between the Federal Republic of Germany and the Kingdom of the Netherlands to Supplement the European Convention on Extradition of 13 December 1957 and to Facilitate its Application
- Agreement (exchange of notes) of 10 December 2001/22 January 2002 between the Government of the Federal Republic of Germany and the Government of the Kingdom of the Netherlands to Amend the Agreement of 30 August 1979 between the Federal Republic of Germany and the Kingdom of the Netherlands to Supplement the European Convention on Extradition of 13 December 1957 and to Facilitate its Application as well as to Extend its Application to the Netherlands Antilles and Aruba
- Agreement of 30 August 1979 between the Federal Republic of Germany and the Kingdom of the Netherlands to Supplement the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and to Facilitate its Application
- Agreement (exchange of notes) of 10 December 2001/22 January 2002 between the Government of the Federal Republic of Germany and the Government of the Kingdom of the Netherlands to Amend the Agreement of 30 August 1979 between the Federal Republic of Germany and the Kingdom of the Netherlands to Supplement the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and to Facilitate its Application as well as to Extend its Application to the Netherlands Antilles and Aruba
- Agreement of 13 November 1969 between the Federal Republic of Germany and the Swiss Confederation to Supplement the European Convention on Extradition of 13 December 1957 and to Facilitate its Application
- Agreement of 8 July 1999 between the Federal Republic of Germany and the Swiss Confederation Amending the Agreement of 13 November 1969 between the Federal Republic of Germany and the Swiss Confederation to Supplement the European Convention on Extradition of 13 December 1957 and to Facilitate its Application in accordance with Article 3 (1)
- Treaty of 27 April 1999 between the Federal Republic of Germany and the Swiss Confederation concerning Cross-Border Police and Judicial Cooperation
- Agreement of 13 November 1969 between the Federal Republic of Germany and the Swiss Confederation to Supplement the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and to Facilitate its Application

- Agreement of 8 July 1999 between the Federal Republic of Germany and the Swiss Confederation Amending the Agreement of 13 November 1969 between the Federal Republic of Germany and the Swiss Confederation to Supplement the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and to Facilitate its Application in accordance with Article 3 (1)
- Agreement (exchange of notes) of 11 January 1971/22 July 1971 between the Federal Republic of Germany and the Kingdom of Denmark to Supplement the European Convention on Extradition of 13 December 1957 and the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and to Facilitate their Application
- Agreement (exchange of notes) of 27 August 1973/22 October 1973 between the Federal Republic of Germany and the Kingdom of Norway to Supplement the European Convention on Extradition of 13 December 1957 and the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and to Facilitate their Application
- Treaty of 20 June 1978 between the Federal Republic of Germany and the United States of America Concerning Extradition, in the version of the Supplementary Treaty of 21 October 1986
- Treaty of 27 June 2001 between the Federal Republic of Germany and the Republic of India concerning Extradition
- German-British Extradition Treaty of 14 May 1872; partly applied again and amended by the Agreement of 23 February 1960 between the United Kingdom of Great Britain and Northern Ireland and the Federal Republic of Germany for the Extradition of Fugitive Criminals; amended by the agreement (exchange of notes) of 25/27 September 1978; agreement (exchange of notes) of 5 July 1982/28 February 1983 on continued application
- Agreement of 26 May 2006 between the Government of the Federal Republic of Germany and the Government of the Hong Kong Special Administrative Region of the People's Republic of China for the Surrender of Fugitive Offenders
- Agreement of 26 May 2006 between the Government of the Federal Republic of Germany and the Government of the Hong Kong Special Administrative Region of the People's Republic of China concerning Mutual Legal Assistance in Criminal Matters
- Agreements on the continued application of the German-British Extradition Treaty were concluded with the following states:

Bahamas, Dominica, Fiji, Kenya, Jamaica, Lesotho, Malawi, Mauritius, Seychelles, Swaziland, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Tonga, Trinidad and Tobago, Uganda.

The following bilateral Agreements/Treaties have been signed but have not yet entered into force (the corresponding ratifying laws were concluded in October 2007; Federal Law Gazette 2007 II, p. 1618):

- Treaty of 14 October 2003 between the Federal Republic of Germany and the United States of America on Mutual Legal Assistance in Criminal Matters
- Supplementary Treaty of 18 April 2006 to the Treaty between the Federal Republic of Germany and the United States of America on Mutual Legal Assistance in Criminal Matters
- Second Supplementary Treaty of 18 April 2006 to the Treaty between the Federal Republic of Germany and the United States of America concerning Extradition

Multilateral:

- European Convention on Extradition of 13 December 1957
- First Additional Protocol of 15 October 1975 to the European Convention on Extradition
- Second Additional Protocol of 17 March 1978 to the European Convention on Extradition
- European Convention of 20 April 1959 on Mutual Assistance in Criminal Matters
- Additional Protocol of 17 March 1978 to the European Convention on Mutual Assistance in Criminal Matters
- Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union
- Protocol of 16 October 2001 to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union
- Convention of 8 November 1990 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime
- Convention of 10 March 1995 drawn up on the basis of Article K.3 of the Treaty on European Union, on Simplified Extradition Procedures between the Member States of the European Union

- Convention of 27 September 1996 drawn up on the basis of Article K.3 of the Treaty on European Union, relating to Extradition between the Member States of the European Union
- Framework Decision of the Council of Europe of 13 June 2002 on the European Arrest Warrant and on the Surrender Procedures between Member States. A Community Act which provides for a uniform, accelerated extradition process, also for own nationals, entered into force on 2 August 2006.

The following EU-US Agreements have been signed but have not yet entered into force (the German processes of approving an international agreement were concluded in October 2007; Federal Law Gazette 2007 II, p. 1618):

- Agreement of 25 June 2003 on mutual legal assistance between the European Union and the United States of America
- Agreement of 25 June 2003 on extradition between the European Union and the United States of America

(c) National measures, to include pertinent legislation, taken to implement the international agreements, conventions and protocols cited above

UN Security Council Resolutions 1267, 1333, 1363, 1373, 1390, 1452, 1455, 1526, 1566, 1617, 1624, 1699, 1730, 1735 and 1822, as well as the above-mentioned international agreements and protocols provide for anti-terrorism measures which Germany has implemented at national and European level. For example, as a result of 11 September 2001 various acts were adopted in Germany with the aim of facilitating the fight against terrorism in the spheres of internal security, European police and judicial cooperation, as well as the suppression of the financing of terrorism and international cooperation in the fight against terrorism. Furthermore, the tasks and powers of the intelligence services, as well as the penalties imposed in connection with the formation of terrorist organizations, were extended.

The EU drew up a comprehensive action plan. It includes a European arrest warrant, the freezing of terrorists' bank accounts and assets, enhanced police and judicial cooperation, as well as improved border controls.

Germany is complying with Resolution 1540 adopted by the UN Security Council on 28 April 2004 aimed at preventing non-State actors from gaining access to weapons of mass

destruction, relevant materials and their systems of delivery. The necessary country report and the national matrix were submitted on schedule.

Cooperation in criminal law

The Federal Republic of Germany meets its obligations under UN Security Council Resolutions 1267, 1333, 1390 and 1455, in so far as they have not already been implemented at EU level. The Federal Public Prosecutor General conducts a large number of preliminary investigations against suspected terrorists and relevant organizations. Furthermore, Germany has reported several suspected terrorists to the United Nations for listing, and has consistently met its obligation to submit a report on the implementation of its obligations to the UN.

With regard to Security Council Resolution 1373, Common Positions, a Regulation and a series of Council decisions have been adopted at EU level. This includes drawing up a list of persons and organizations which are classified as terrorist, as well as the establishment of the Council Working Party COCOP (formerly known as the “clearing house”) to prepare inclusions on this list. The list is updated continuously. Furthermore, EU member states have agreed on a uniform definition of terrorism and have thus made it easier to align the definitions of national terrorist offences and frameworks. Other measures taken at European level are: agreement on a European arrest warrant, enhanced cooperation and exchange of information between intelligence services (regular meetings of the heads of the national intelligence services), as well as the extension of police (Europol) and judicial (Eurojust) cooperation.

Safeguarding borders/entry into a country/stay

The states of the European Union have strengthened their joint measures in the field of border controls in order to restrict the freedom of movement of individual terrorists or terrorist groupings. This is intended to guarantee that persons who have taken part in acts of terrorism do not enter European Union member states, cannot stay there and that they are not granted asylum. Before a Schengen visa is granted, applicants from certain states are vetted by the security authorities of the various Schengen states in order to ensure that persons with a terrorist background cannot enter the Schengen area.

Suppression of the financing of terrorism

The EU uniformly implemented the United Nations Financial Sanctions against the Taliban/Osama bin Laden and al Qaida contained in UN Security Council Resolutions 1267, 1333 and 1390 by way of a Common Position (2002/402/CFSP) and a Council Regulation

(EC 881/2002). Regulation (EC) 881/2002 and the regulations subsequently amending it make it possible to freeze the accounts and other assets of the persons/organizations on the Security Council list.

Organized crime/drug trafficking

Also in view of possible ties with terrorism, Germany attaches great importance to the fight against transnational organized crime, illegal drug and arms trafficking as well as human trafficking and smuggling. At bilateral level, Germany has concluded agreements with a number of states, primarily in Central and Eastern Europe, on cooperation in the fight against organized crime.

(d) Information on national efforts to prevent and combat terrorism, including appropriate information on legislation beyond United Nations conventions and protocols (e.g., pertaining to financing of terrorist groups)

With its anti-terror policy, the Federal Government has reacted with vigour to the increased threat posed throughout the world by international terrorism since the attacks of 11 September 2001 and has taken a host of political, diplomatic, police, intelligence, justice, humanitarian, economic, financial and military measures aimed at combating this phenomenon. The Federal Government's strategy on fighting international terrorism is determined by five key objectives:

- destroy terrorist structures – considerable efforts to search and investigate
- stamp out terrorism before it has a chance to develop
- extend international cooperation
- protect the population, make provisions, reduce the country's vulnerability
- tackle the root-causes of terrorism

In the sphere of organization, the establishment of a Joint Counter-Terrorism Centre in December 2004 should be highlighted. In this Centre, all relevant security authorities are pooled in order to carry out continuous and intensive work, in particular on assessing risks, exchanging operative information, evaluating cases and analysing structures. This ensures the smooth flow of information between all relevant authorities and pools the expertise of all agencies in the Federal Republic of Germany which deal with security issues. In the light of the positive experience in the Joint Counter-Terrorism Centre, a Joint Internet Surveillance Centre was set up. There the specialist and technical expertise, including the language skills

and background knowledge, of all authorities involved is pooled and relevant websites are monitored with a view to spotting extremist and terrorist activities at an early stage.

Furthermore, a national situation and command centre “security in airspace” has been set up in which the tasks “air defence”, “flight safety” and “aviation security” are integrated in order to identify terrorist risks from the air in good time and to initiate countermeasures without delay. An integrative organization has also been established to guard the coasts. Moreover, there is a special unit at Federal level to tackle threats caused by offences involving radioactive materials in which interdisciplinary expertise as well as material resources of the Federation’s police forces and of radiation experts are integrated. Parliament has also improved the instruments used to combat terrorism by adopting a comprehensive strategic approach in a series of points, especially in the following legal spheres:

- Extension of criminal liability
 - *Thirty-Fourth Criminal Law Amendment* of 22 August 2002:
The crime of formation of terrorist organizations was extended to organizations abroad; at the same time, forfeiture and confiscation of unlawfully gained assets was facilitated and extended.
 - Act of 22 December 2003 Implementing the EU Framework Decision on Combating Terrorism:
The list of crimes which qualify a criminal organization as a terrorist one was extended, the sentencing range for supporters raised. The term terrorist organization was, in some aspects, broadened to include new criteria.

- Suppression of the financing of terrorism
 - *Thirty-Fourth Criminal Law Amendment* of 22 August 2002:
Extension of the list of predicate offences concerning money laundering to include support for terrorist organizations and offences committed by a member.
 - *Second Act Amending the Customs Administration Act (Zollverwaltungsgesetz)* of 31 October 2003:
Standard rules, in particular on freezing assets in the sphere of credit and financial services institutes.
 - *Money Laundering Act* of 8 August 2002:
Use of the instruments which have proved their worth in the fight against money laundering (obligations pertaining to identification, retainment and suspicious transaction

reports on the part of credit and financial institutes and others; responsibility of the central Financial Intelligence Unit for suspicious transaction reports) to combat the financing of terrorism.

- *Fourth Financial Market Promotion Act* (4. Finanzmarktförderungsgesetz) of 21 June 2002:
Automated retrieval system for specific data about accounts, in particular for freezing assets and prosecution.
- Implementation of the Third Directive on the Prevention of the Use of the Financial System for the Purpose of Money Laundering and Terrorist Financing (Third Money Laundering Directive) through the Act Supplementing the Act to Fight Money Laundering and Terrorist Financing, which entered into force on 21 August 2008 (first ever legal definition of terrorist financing; extension of existing instruments on combating money laundering to include combating terrorist financing, e.g. the widening of the obligation to report suspicious transactions).
- Extension of intelligence tasks/powers
- *Counter-Terrorism Act* of 9 January 2002:
New surveillance task for the Federal Office for the Protection of the Constitution and the Military Counterintelligence Service with regard to efforts directed against international understanding; new powers on information acquisition for the Federal Office for the Protection of the Constitution on post box holders, postal traffic and flight movements, as well as on financial transactions for the Federal Office for the Protection of the Constitution and the Federal Intelligence Service, and on telecommunication links and teleservices data for the Federal Office for the Protection of the Constitution, the Federal Intelligence Service and the Military Counterintelligence Service; enhanced cooperation between the Federal Office for the Protection of the Constitution on the one hand and the foreigners offices and the Federal Office for Migration and Refugees on the other (extended reporting obligations).
- Act on Joint Databases of 22 December 2006:
The central counter-terrorism database to be set up under this Act will make it possible to quickly locate information in the possession of the police and intelligence services on persons with connections to international terrorism and the extremism which feeds it. In addition to basic background information, the database will contain information which allows experts to assess the threat associated with persons on file. This “expanded background information” can be used in investigations. In case of emer-

gency, information contained in the database can be used to take immediate action in order to prevent terrorist attacks. As well as setting up the counter-terrorism database, the Act creates the legal basis for shared files related to specific projects (project files). The police and intelligence services may set up joint project files as needed for specific projects. The project files are temporary and are intended in particular to assist with analysis projects and working groups of the police and intelligence agencies in the Joint Counter-Terrorism Centre (GTAZ).

- Act amending the Counter-Terrorism Act (TBEG) of 5 January 2007:
The Act amending the Counter-Terrorism Act implements the conclusions drawn from an extensive evaluation of the Counter-Terrorism Act of 9 January 2002. The security authorities will keep their tried and tested powers for another five years, but these powers will be better adapted to practical needs and the current requirements of counter-terrorism. Following the entry into force of the Act on 10 January 2007, the Federal Office for the Protection of the Constitution is now entitled to use its rights of information also to investigate anti-constitutional activities which so far have not been recorded and which encourage the use of violence. It also facilitates the access of the Federal Office for the Protection of the Constitution to airline information about flights booked by suspicious persons.
- Thirty-Fourth Criminal Law Amendment of 22 August 2002:
Extension of telecommunications surveillance by the intelligence services within Germany to include foreign terrorist organizations.
- Other means of investigation
 - Telecommunications Act (TKG) of 22 June 2004:
Data collection and storage by companies for inquiries submitted by the security authorities, also in the case of prepaid products (where data is not required for operational purposes).
 - Act on Prevention by the Bundeskriminalamt of Threats from International Terrorism of 25 December 2008:
Granting of preventative powers to combat the dangers of international terrorism in cases where there is a nationwide threat, where there is no clear jurisdiction of one Land (federal state) police force or where the supreme Land authority requests the matter be dealt with by the Bundeskriminalamt. Within the scope of this task, the Bun-

deskriminalamt (Federal Criminal Police Office) may also take action to prevent certain crimes being committed.

- Law Governing Private Associations (Vereinsgesetz)
 - *First Act Amending the Law Governing Private Associations* of 4 December 2001: Abolition of the “privilege for religions” (previously the Law Governing Private Associations – including the regulations on bans – did not apply to religious associations).
 - *Counter-Terrorism Act* of 9 January 2002: Extension of the grounds for banning associations of foreigners and foreign organizations to prevent violent or terrorist organizations receiving organized support.
 - Act amending the Counter-Terrorism Act (TBEG) of 5 January 2007: The amendment of the Law Governing Private Associations will prevent extremist associations from getting round the consequences of a ban on an association, in particular the complete destruction of the organization and the loss of the association’s assets, by forming an incorporated company.

- Explosives legislation
 - Act amending the Explosives Act and other provisions of 23 June 1998: introduction of the compulsory marking of plastic explosives.
 - Third Act amending the Explosives Act of 15 June 2005: Adaptation of the background check of the holder of the permit to meet the requirements of the weapons law, standardized transfer document, tightening of the registration regulations.

- Weapons law
 - Act to Reform German Weapons Law of 11 October 2002: Widening of the circumstances in which a person may be deemed too unreliable to possess a firearm to include, for example, any actions contrary to the constitutional order or the concept of international understanding, in particular the peaceful co-existence of peoples.

- Foreigners law
 - Counter-Terrorism Act of 9 January 2002:

Enhanced prevention of the entry into Germany of terrorists by extending the ban on entry, statutory involvement of the security authorities in the examination of problematic visa cases and extended/enhanced measures to establish identity by way of the forthcoming introduction of biometric features (two fingerprints and one photograph) in passport substitute documents for foreigners as well as in Schengen visas (ten fingerprints in visa sticker); easier expulsion; improved central registration of visas.

- Immigration Act of 30 July 2004:

Tighter rules on regular expulsion on the grounds of support for a terrorist organization (not only “international terrorism”, less stringent rules on the evidence on which the expulsion is based); regular expulsion of heads of banned associations; expulsion of intellectual instigators made possible; deportation in cases of a terrorist threat made easier (deportation order without prior notice): inter alia, legal protection only in one court (Federal Administrative Court); in the case of an enforceable expulsion or deportation order due to a terrorist link, enhanced security by way of – in the event of repeated violations – an obligation to register (non-compliance being a punishable offence), restrictions on the freedom of movement and ban on using means of communication; regular inquiry to the security authorities before naturalization is approved.

- Enhanced protection against sabotage
 - Counter-Terrorism Act of 9 January 2002:

Background screening for employees in positions of relevance to security in vital institutions (Section 34 of the Security Clearance Check Act (SÜG) in combination with the Security Clearance Check Identification Ordinance (SÜFV) of 9 August 2003)
 - First Amendment of the Security Clearance Check Identification Ordinance of 17 October 2005 and
 - Second Amendment of the Security Clearance Check Identification Ordinance of 12 September 2007 extending the definition of vital spheres.

- Aviation security
 - *Regulations Governing Aviation Security Background Checks* of 8 October 2001:

Uniform tightening up of the background checks throughout Germany (including the security authorities).
 - Counter-Terrorism Act of 9 January 2002:

- Extension of background checks to include new occupations; presence of armed in-flight security officers from the Federal Police.
- Act on Aviation Security of 11 January 2005:
Legislative basis to deal with renegade cases (when an aircraft is used as a weapon – as on 11 September 2001; the regulations on the use of firearms against aircraft were repealed by the Federal Constitutional Court on 15 February 2006); obligation of the security authorities to carry out follow-up checks if information of relevance to security subsequently becomes known about those who have already undergone a background check.
 - Maritime security
 - Law of 22 December 2003 approving an international agreement and implementing law of 25 June 2004 on amendments to the SOLAS Convention of December 2002 (preventive protection of shipping from terrorist attacks: systematic assessment of risks; security levels; network of security alert systems; appointment of security officers; elaboration of security plans; exercises).
 - Regulation on security measures for sea-going ships (Verordnung zur Eigensicherung von Seeschiffen zur Abwehr äußerer Gefahren) of 19 September 2005, Federal Law Gazette I, p. 2787.
 - Germany is currently preparing the signing of the Protocol of 14 October 2005 to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation of 10 March 1988 as well as the Protocol amending the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf of 10 March 1988.

With regard to primary prevention which tackles the roots of radicalization processes, national action focuses on

- religious and interreligious dialogue with Islam,
- integration policy and
- civic education and the activation of civil society.

Germany's fight against terrorism includes civilian measures on preventing terrorism – also at bilateral level. At national level, the German Islam Conference should be highlighted. In this connection, the dialogue with reform forces in Islamic countries has been stepped up with the long-term aim of supporting the development of a civil society and democratic structures in Islamic countries at risk from terrorism. Germany has made a considerable commitment in

terms of personnel, funds and material to finding a lasting peace settlement in Afghanistan and to the consolidation of Afghanistan's civil society. In particular, this includes German assistance in the development of the police force in Afghanistan (cf. the answer to question 1 (e) which deals with Germany's engagement in Afghanistan).

(e) Roles and missions of armed and security forces in preventing and combating terrorism

Preventing and combating terrorism is primarily the task of the police, as well as of the intelligence services, in Germany. Their roles and missions are outlined in the answers to questions 3 (a) and (b).

The armed forces are a key element of German security policy. Within the scope of comprehensive prevention, the deployment of armed forces in the fight against terrorism can only be seen as complementary to effectively harmonized foreign, development, economic, financial and cultural policies, backed up by domestic and legal policies. The capabilities of the armed forces must be incorporated into an interdepartmental overall strategy, taking into account the provisions of the Constitution on deployment within Germany.

German armed forces are involved in the military fight against international terrorism together with the US and other nations within the framework of Operation Enduring Freedom on the basis of Article 51 of the UN Charter (right of individual and collective self-defence) and Article 5 of the North Atlantic Treaty (mutual defence clause), as well as the decision by the Bundestag (German Parliament) of 16 November 2001, a prerequisite for any deployment of German forces abroad. The aim of this operation is to eliminate the command and training facilities of terrorists, to combat, capture and prosecute terrorists, as well as to prevent third parties from supporting terrorist activities in the long term. Armed German forces are contributing their capabilities to help achieve this goal. This contribution also includes humanitarian assistance. The Federal Republic of Germany regards the fight against terrorism primarily as a political task and therefore sees Operation Enduring Freedom as the military component of an overall strategy. The mission, with a reduced personnel ceiling of 800 troops, was last approved by the German Bundestag for another 13 months on 13 November 2008. In contrast to previous years, OEF now only involves the deployment of marine personnel (OEF Marine) to suppress the activities of terrorist organizations, to control shipping by checking suspicious ships, as well as to ensure the protection of selected Coalition units.

The use of military force hinges on the deployment rules for the relevant deployment area based on international law and the decision by the German Bundestag. The deployment area is the area pursuant to Article 6 of the North Atlantic Treaty, as well as the Horn of Africa and the bordering maritime areas (the Red Sea, the Strait of Bab-el-Mandeb, the Gulf of Aden, the Arabian Sea, the Gulf of Oman with the Strait of Hormuz as far as 56°E Longitude, as well as the North Arabian Sea and parts of the Indian Ocean as far as Latitude 11°S, Longitude 68°E). This has no bearing on participation in leading the mission.

In Afghanistan, the integrated crisis prevention approach in the use of civilian and military measures has been consistently implemented by the international community since 2001. A milestone in the political process and the conclusion of the Bonn Process were the parliamentary and provincial elections held on 18 September 2005 and the first session of the Afghan Parliament on 19 December 2005. This process will be continued in the 2009 presidential elections which, for the first time, will be organized by the Afghans themselves and for which Germany will provide significant support. NATO continued its policy of helping to support the security and stabilization of Afghanistan on the basis of a UN mandate. On 16 October 2008, the German Bundestag extended the deployment of German troops in Afghanistan until 13 December 2009. With around 3600 troops (Bundestag mandate allows up to 4500), Germany is the third largest provider of troops at present and is playing a prominent role by assuming command for the northern region. Of the total of 26 (as of April 2008) Provincial Reconstruction Teams (PRTs) active in Afghanistan under NATO/ISAF command, five – including two German PRTs in Kunduz and Feyzabad as well as one German Provincial Advisory Team (PAT) in operation in Taloqan since 23 February 2008 – are in the northern region which is under German command. The PRTs serve to support the development of institutions of the Afghan central government in the provinces and are helping to create a climate of security. Economic reconstruction is backed up by development measures. The work of the PRTs is thus making an indirect contribution towards stamping out extremist and terrorist movements, thus helping to prevent Afghanistan from again becoming a safe haven for international terrorism.

2. Description of the national planning and decision-making process – including the role of the Parliament and Ministries – for the determination/approval of

Preliminary remarks

The tasks of the Bundeswehr are determined by the mandate and objectives of German security and defence policy in line with the provisions of the Constitution. According to the

Basic Law, the numerical strength and general organizational structure of the armed forces must be shown in the budget, which is set by way of an act by the German Bundestag. The basis for budgetary planning are the planning guidelines of the German Government and of the Federal Ministry of Defence.

(a) the military posture

In accordance with Article 87 (a) (1) of the Basic Law, the numerical strength of the German armed forces and their general organizational structure shall be shown in the budget, which is subject to approval by the Bundestag. This reflects the political primacy and democratic control of the armed forces. In addition, the Federal Government and the Federal Minister of Defence determine the necessary political and planning requirements through relevant documents, which are the binding basis for Bundeswehr planning. These documents, such as the Federal Government White Paper on the Security of the Federal Republic of Germany and the Situation and Future of the Bundeswehr, the Defence Policy Guidelines, the Conceptual Guideline or Departmental Concepts, do not take the form of a regular series or hierarchy, but are prepared or updated as required.

(b) defence expenditures

Apart from the Federation's general budgetary provisions, neither specific departmental nor other special rules apply to the defence budget. Just like any other individual plan within the Federal budget, it is drawn up annually under the auspices of the Federal Ministry of Finance, approved by the Federal Cabinet and subsequently adopted by the German Bundestag within the framework of the draft budget act. The volume of the Federal budget – and thus also of the defence budget – is ultimately determined by the Federation's expected revenue, if necessary taking into consideration the borrowing requirement which, in turn, is subject to constitutional limits – at most the sum of investments – as well as the stability criteria of the EU.

3. Description of

(a) constitutionally established procedures ensuring effective democratic control of the military, paramilitary and internal security forces, as well as intelligence services, and the police;

(b) constitutionally established authorities/institutions responsible for the democratic control of military, paramilitary and security forces;

The processes of parliamentary control are determined by the relevant acts relating to the institutions responsible for oversight. For the oversight of the intelligence services these are, above all, the Act Governing the Parliamentary Control of Intelligence Activities by the German Federation, the Act adopted by virtue of Article 10 of the Basic Law and the Data Protection Law. In addition to this, the Federal Intelligence Service is subject to the general legal and functional control of the Head of the Federal Chancellery, the Federal Office for the Protection of the Constitution to that of the Federal Minister of the Interior and the Military Counterintelligence Service to that of the Federal Minister of Defence.

Armed forces

In general, the German Bundestag exercises parliamentary control over the other state organs, in particular the Government. For example, Parliament has the right to demand the appearance of any member of the Federal Government (e.g. the Federal Minister of Defence) – (Article 43 (1), Basic Law). This includes an obligation to account for their actions in Parliament. Furthermore, the Bundestag can establish committees of inquiry (Article 44, Basic Law). Parliament's other rights are contained in the Rules of Procedure of the German Bundestag (e.g. minor or major interpellations).

Owing to historical experience, the Bundeswehr is subject to special constitutional control mechanisms. For example, Article 87 (a) of the Basic Law stipulates that the numerical strength and general organizational structure of the armed forces must be shown in the budget, which is set by way of an act by the German Bundestag (Article 110, Basic Law). Furthermore, the Bundestag determines the state of tension (Article 80 (a), Basic Law) and the state of defence (Article 115 (a), Basic Law). Parliamentary participation in defence planning is ensured through the Joint Committee (Gemeinsamer Ausschuss) (Article 53 (a), Basic Law). Any deployment of the armed forces ordered by the Federal Government in order to avert an imminent danger to the existence or free democratic basic order of the Federation or of a Land is to be discontinued if the Bundestag so demands (Article 87 (a) (4), Basic Law). The Bundestag has a Committee on Defence (Article 45 (a), Basic Law) which

supports and prepares Parliament and is intended to ensure greater parliamentary control of the armed forces and Government action in the military sphere. The Committee on Defence has the rights of a committee of inquiry. Furthermore, the Bundestag appoints a Parliamentary Commissioner for the Armed Forces (Wehrbeauftragter) in order to safeguard the fundamental rights of soldiers and to assist the Bundestag in exercising parliamentary control (Article 45 (b), Basic Law). The Parliamentary Commissioner for the Armed Forces is, for example, entitled to demand from the Federal Minister of Defence and all agencies under him information and access to documents and to request reports on the exercise of the disciplinary powers within the armed forces. He can visit Bundeswehr units, staff, offices and authorities at any time and without making a prior appointment. Every member of the armed forces is entitled to contact the Parliamentary Commissioner directly.

In accordance with the decision of the Federal Constitutional Court of 12 July 1994, the Federal Government shall, as a rule, seek the prior consent of the Bundestag for each deployment of the armed forces. The form and scale of the Bundestag's participation is now governed by the Parliamentary Participation Act of 18 March 2005 (Federal Law Gazette I, p. 775). Moreover, in its ruling of 7 May 2008 (2 BvE 1/03) in connection with the deployment of German troops for airspace surveillance in AWACS aircraft over Turkey in the spring of 2003, the Federal Constitutional Court laid down the criteria under which the deployment of German troops abroad always requires the prior approval of the German Bundestag.

Paramilitary forces

There are no paramilitary forces in the Federal Republic of Germany.

Internal security forces

Cf. the sections on the intelligence services and police.

Intelligence services

The Office for the Protection of the Constitution, the Federal Intelligence Service and the Military Counterintelligence Service are responsible for ensuring internal and external security in the Federal Republic of Germany at federal level, while the Länder Offices for the Protection of the Constitution, among others, are responsible at Land level. In Germany, intelligence services must not be affiliated to any police authority and must not exercise any police duties.

The Federal Office for the Protection of the Constitution is subordinate to the Federal Minister of the Interior and, in cooperation with the Länder Offices for the Protection of the Constitution, performs the tasks of a central agency at Federal level. Its main task is to collect and assess information on extremist activities by German nationals and foreigners which pose a security risk and are contrary to the concept of international understanding, as well as on the activities of hostile intelligence services. The legal basis is the Act Regulating the Cooperation of the Federal Government and the Länder in Matters Relating to the Protection of the Constitution and on the Federal Office for the Protection of the Constitution (BVerfSchG, originally contained in the Federal Law Gazette 1950 I, p. 682, now Federal Law Gazette 1990 I, p. 2954, 2970, most recently amended version contained in the Federal Law Gazette 2008 I, p. 2586).

The Federal Intelligence Service is subordinate to the Head of the Federal Chancellery. It gathers relevant information about other countries of importance to the foreign or security policy of the Federal Republic of Germany and evaluates it. The legal basis is the Act on the Federal Intelligence Service (BNDG, Federal Law Gazette 1990 I, p. 2954, 2979, most recently amended version contained in the Federal Law Gazette 2007 I, p. 2).

The Military Counterintelligence Service is subordinate to the Federal Minister of Defence. It is part of the armed forces; its task, similar to that performed by the Office for the Protection of the Constitution, is to help ensure the operational readiness of the armed forces. Its tasks and powers are regulated by the Act on the Military Counterintelligence Service (MADG, Federal Law Gazette 1990 I, p. 2954 and 2977, most recently amended version contained in the Federal Law Gazette 2007 I, p. 2).

All Federal intelligence services are subject to oversight by the Bundestag. To this end, the Parliamentary Control Panel was established by the Act Governing the Parliamentary Control of Intelligence Activities by the German Federation (PKGrG, Federal Law Gazette 1978 I, p. 453, most recently amended version contained in Federal Law Gazette 2001 I, p. 1254); it meets regularly and receives comprehensive information on the work of the intelligence services and on matters of special importance. Where infringements of the personal freedoms enshrined in Article 10 of the Basic Law are planned (privacy of correspondence, posts and telecommunications), the so-called G 10 Commission examines the reliability and necessity of the infringements in advance (G 10 Act 2001, Federal Law Gazette 2001 I, p. 1254, 2298, most recent amended version contained in Federal Law Gazette 2007 I, p. 3198). With regard to the collection and processing of personal data, control is exercised by the Federal

Commissioner for Data Protection and Freedom of Information (cf. the Data Protection Law – BDSG – Federal Law Gazette I 1990, p. 2954, most recently amended version contained in Federal Law Gazette 2009 I, p. 160). In addition, control of the activities of the intelligence services is exercised via the right to obtain information for those affected laid down by law and, in general, the courts. Oversight of the intelligence services at Land level is structured in a similar way.

Police

Under Article 30 of the Basic Law, the police and police law, including organizational matters, are in principle incumbent on the Länder. In all Länder, the Minister of the Interior (Senator for the Interior) of the Land is charged with administrative, functional and legal control over the police. The Basic Law grants the Federation prime responsibility for central areas of the police which is assumed by the Federal Police – known as the Federal Border Police until 2005 – and the Federal Criminal Police Office.

The Federal Police is a Federal organ subordinate to the Federal Ministry of the Interior. In accordance with an Act of 19 October 1994, most recently amended by Article 7 of the Act of 17 December 2008 (Federal Law Gazette I, p. 2586), it secures the borders of the Federal territory, assumes the tasks of the Railway Police, performs duties relating to aviation and maritime safety, protects constitutional organs and ministries, supports the Federal Criminal Police Office and the Land police forces, assumes certain tasks in emergencies or states of defence, takes part in police missions abroad and protects German diplomatic missions abroad.

The Federal Criminal Police Office is also subordinate to the Federal Ministry of the Interior. Pursuant to an Act of 7 July 1997 (Federal Law Gazette 1997 I, p. 1650, most recent amended version contained in Federal Law Gazette 2008 I, p. 3083), it is the central agency for police information and intelligence. It is also responsible for international cooperation, criminal prosecution in certain cases, the protection of members of the Federal constitutional organs and for witness protection in certain cases.

Due to the administrative, functional and legal control of the Interior Ministers/Senators of the Länder or of the Federal Ministry of the Interior, the Land police forces, the Federal Police and the Federal Criminal Police Office are answerable to the Land Parliaments and/or the Bundestag. Police action can be contested by citizens by way of general informal (remon-

strance, petition for administrative review, disciplinary complaint) and formal legal remedies (objection, lawsuit) either in the form of an internal investigation or review by a court.

(c) roles and missions of the military, paramilitary and security forces as well as controls to ensure that they act solely within the constitutional framework

Armed forces

The tasks and powers of the German armed forces are defined in the Constitution (Basic Law) of the Federal Republic of Germany. Accordingly, since the decision on rearmament and the corresponding amendment to the Constitution in 1956, the armed forces have had the constitutional mandate of territorial and alliance defence against a military attack (Article 87 (a), Basic Law). Once a state of defence (Article 115 (a), Basic Law) or a state of tension (Article 80 (a), Basic Law) has been determined by the Bundestag, the domestic tasks of the armed forces will be extended (Article 87 (a) (3), Basic Law): they will then have additional powers to protect civilian property against attacks by non-combatant provocateurs and to discharge traffic control functions to the extent necessary to accomplish their defence mission. Moreover, the armed forces may – on the basis of police law – support the police in protecting civilian property.

Due to a further amendment to the Basic Law as a result of the so-called emergency debate in 1968, in case of an “internal emergency” the armed forces may – upon decision of the Federal Government – also be deployed to support the police and the Federal Police in protecting civilian property and combating organized and militarily armed insurgents, if the police and the Federal Police numbers are insufficient to perform this task (Article 87 (a) (4) and Article 91, Basic Law). The prerequisite for this is any imminent threat to the existence of the Federal Republic of Germany, one of the Länder or its free democratic basic order. Whenever the Bundestag or the Bundesrat so demand, such a deployment of the armed forces must be stopped immediately.

Finally, based on a decision of the Federal Constitutional Court of 1994 (BverfGE 90, p. 286) which takes account of German unification and the changes in security policy following the end of the Cold War, armed forces may participate in international peace missions to the extent that these are implemented within the framework and according to the rules of a system of mutual collective security (United Nations, NATO) (Article 24 (2), Basic Law). The Basic Law obliges the Federal Government to obtain the prior consent of the Bundestag for any such participation.

In addition to these cases, upon request of one of the Länder (Article 35 (2) sentence 2, Basic Law), the armed forces, alongside other forces and institutions, may be deployed in the event of a natural disaster or an especially grave accident. In cases where a natural disaster or accident endangers a region larger than one Land, the Federal Government may, in so far as this is necessary to deal with the danger effectively, deploy armed forces to support the police. The deployment must be stopped immediately if the Bundesrat so demands or as soon as the danger is under control (Article 35 (3), Basic Law). Under Article 35 (1) of the Basic Law, all Federal and Land authorities render each other legal and administrative assistance. Based on this article, armed forces may lend assistance to other authorities on request, in so far as this assistance does not involve any powers of intervention (technical administrative assistance, e.g. accommodating the police in barracks).

Furthermore, under Article 20 (3) of the Basic Law, the executive shall be bound by law and justice.

Paramilitary forces

There are no paramilitary forces in the Federal Republic of Germany.

Security forces

(police and intelligence services)

The legal basis for the establishment of the Federal Criminal Police Office, the Federal Police, the Office for the Protection of the Constitution, the Federal Intelligence Service and the Military Counterintelligence Service is Article 87 (1) sentence 2 of the Basic Law (administrative competence) in conjunction with Article 73 numbers 1, 5 and 10 of the Basic Law (legislative competence).

(d) public access to information related to the armed forces

The main task of Government public relations work is to promote basic commitment to our democratic system of government and its underlying principles as set forth in the Basic Law. The public relations work of the Federal Ministry of Defence is designed to inform the public about German security policy and about the role and tasks of the Bundeswehr. The aim is to create confidence in Germany's national security policy. To this end, the Federal Ministry of Defence's public relations and information service makes use of the entire range of modern

means of communication and information. This includes regularly updated information on the Internet as well as the distribution free of charge of CD-ROMs.

Simply providing information, however, is not enough to ensure that the public is sufficiently informed. In addition, a critical debate and an open dialogue about security policy matters are indispensable for creating the necessary transparency and understanding. This includes personal contacts, especially between young people and the armed forces. The following means are used by the armed forces to promote a climate of openness and critical debate:

- an information hotline, excellent visitor services, individual replies to letters from the public;
- high-level seminars for opinion leaders;
- a trade-fair stand which provides information about security policy and the armed forces;
- exhibitions which are sent on tour throughout the country on a regular basis providing information on the Bundeswehr's tasks and equipment;
- an information service about security policy matters provided for schools by specially trained youth officers (Jugendoffiziere);
- opportunities for the public to visit the armed forces; open days in garrisons, naval bases and airfields;
- regional seminars and discussions organized by the Bundeswehr in the regions.

The Federal Ministry of Defence's public relations and information service is part of an integrated public information concept which includes media contacts, recruitment campaigns, regional contacts and information, and issues relating to the Bundeswehr corporate identity.

4. Stationing of armed forces on the territory of another participating State in accordance with their freely negotiated agreements as well as in accordance with international law

Foreign armed forces in the Federal Republic of Germany

Foreign forces require the agreement of the Federal Republic of Germany if they are to be stationed on German territory in conformity with international law. Basically, a differentiation is made in Germany between the following:

- not only temporary stationing of certain NATO forces with a right to be stationed guaranteed by international law
- temporary stationing of other NATO forces
- temporary stationing of armed forces from states participating in the NATO Partnership for Peace (PfP)
- temporary stationing of other forces

Some NATO member states (US, Britain, France, Canada, Belgium, the Netherlands, Denmark and Luxembourg) have a right under international law to have forces permanently stationed in the “old Länder” (Convention on the Presence of Foreign Forces in the Federal Republic of Germany of 23 October 1954). The legal status of the forces of these states is determined by the NATO Status of Forces Agreement (SOFA) of 19 June 1951, and for forces from the US, Britain, France, Canada, Belgium and the Netherlands also the Supplementary Agreement to the SOFA of 3 August 1959.

The area of application of the Convention on the Presence of Foreign Forces as well as of the SOFA and the SOFA Supplementary Agreement was not extended to the five “new Länder” when they acceded to the Federal Republic of Germany in 1990. Therefore the permanent stationing or transfer of foreign armed forces to this area is not permitted. However, this does not rule out temporary stationing in the new Länder, also for participation in military exercises. International agreements with the US, Britain, France, Canada, Belgium and the Netherlands were concluded via Exchanges of Notes for this purpose (Exchange of Notes on the status of forces stationed in Berlin and the new Länder of 25 September 1990). They provide that the troops of the sending states and their civilian component and dependants require the consent of the German Government in order to carry out their duties in the new Länder and in Berlin. However, the troops of the sending states and their civilian component and dependants have the same legal status in the new Länder as in the old Länder when stationed temporarily there.

Armed forces from NATO member states which are not parties to the Convention on the Presence of Foreign Forces may, with the approval of the German Government, stay temporarily in the Federal Republic of Germany. Their legal status is determined by the NATO Status of Forces Agreement (SOFA). Supplementary provisions were agreed upon for the NATO member states Denmark, Greece, Italy, Luxembourg, Norway, Portugal, Spain and Turkey in the Exchange of Notes of 29 April 1998. Furthermore, this Exchange of Notes affords the armed forces of these states the same legal status in the new Länder as in the old

Länder. Under Number 3, the agreement is, in principle, also open to new NATO member states. Moreover, the German Government is endeavouring to conclude bilateral visiting forces agreements with those new NATO member states whose armed forces are regularly stationed in Germany on a temporary basis in order to lay down supplementary provisions on the legal status of their armed forces. This has already been done in some cases, for example Poland, the Czech Republic and Estonia.

Armed forces taking part in the NATO Partnership for Peace may, with the approval of the German Government, stay temporarily in the Federal Republic of Germany. In principle, the legal status of such armed forces is based on the PfP Status of Forces Agreement of 19 June 1995. The German Government endeavours to conclude supplementary provisions concerning the legal status of these forces in bilateral agreements. One example of such an agreement is the German-Austrian Visiting Forces Agreement of 6 November 2007.

The German Government can, in individual cases, also approve the temporary stationing of armed forces of other states. This requires the legal status of these armed forces to be regulated under international law in advance. Article 1 of the Status of Visiting Forces Act of 20 July 1995 states that the German Government has the power to put into effect by statutory order agreements with foreign states on the entry into and temporary stay in the Federal Republic of Germany of their armed forces for exercises, transit by land or training of units. In Article 2, the Status of Visiting Forces Act contains a catalogue of regulations which must be included in the agreements, in so far as this is necessary in line with their object and purpose. Germany has concluded such agreements with New Zealand and with Singapore.

German armed forces in other OSCE member states

Armed forces of the German Bundeswehr are currently – as well as in other NATO member states within the scope of the fulfilment of Alliance obligations – permanently stationed in the OSCE member states Bosnia and Herzegovina, Georgia and Kosovo. The right to station troops in the case of NATO member states derives from their agreement. In other cases, it derives from UN Security Council Resolutions. The right to station troops (the legal status of the Bundeswehr) in NATO member states derives from the NATO Status of Forces Agreement (SOFA) of 19 June 1951, and in PfP states from the PfP Status of Forces Agreement of 19 June 1995. In other states it is derived from the relevant UN Resolutions. At national level, the deployment of armed forces abroad requires the prior approval of the Bundestag as a matter of principle (Section 1 paragraph 2 of the Parliamentary Participation Act of 18 March

2005). If the mission is unarmed and/or involvement in an armed action not expected, the approval of the German Bundestag is not required.

On the basis of UN Security Council Resolution 1244 of 10 June 1999, the Bundeswehr is participating in the NATO-led Kosovo Force (KFOR). KFOR works closely with the United Nations civilian administration (UNMIK), as well as the EU Rule of Law Mission (EULEX), and supports them in reconstructing Kosovo. At national level, the Bundeswehr mandate was last renewed by the decision by the German Bundestag of 5 June 2008.

The deployment of the Bundeswehr in Bosnia and Herzegovina within the scope of EUFOR is based on UN Security Council Resolution 1088 adopted on 12 December 1996 whose foundation is the Dayton Peace Agreement of 1995. Germany currently contributes a troop contingent of 140 to this mission, the European Union's largest military mission to date. The EUFOR mandate was extended for another year by Security Council Resolution 1845 of 20 November 2008.

Germany provides almost a dozen military observers and medical orderlies within the UN Observer Mission in Georgia (UNOMIG). This mission was established on 24 August 1993 by the UN Security Council with Resolution 858. The military observers' task is to monitor compliance with the cease-fire agreement of 27 July 1993. The UNOMIG mandate was extended until 15 June 2009 by UN Security Council Resolution 1866 of 13 February 2009.

5. Description of

(a) procedures for the recruitment or call-up of personnel for service in the military, paramilitary, or security forces, if applicable

Armed forces

The call-up procedure has several stages:

- **Registration:** Local civilian registration offices communicate personal data relevant to persons liable to military service to the district selection and induction offices. This may be done one year prior to a man attaining the age of 18 (Section 15, Compulsory Military Service Act).
- **Pre-induction examination:** Determines whether a person liable to military service can actually be called up. In addition, availability for basic military service is checked at different intervals. The person has to undergo a thorough medical examination. A psychological aptitude test may be carried out with

regard to future assignments in the armed forces. However, this does not apply to persons who have submitted an application to be recognized as a conscientious objector (Sections 16 and 17, Compulsory Military Service Act).

- Call-up for military service: Effected in the form of a draft notice stating the time and place at which the person concerned is to report for duty (Section 21, Compulsory Military Service Act). Service status begins at the scheduled time even if the conscript fails to comply with the draft notice (Section 2, Status of Military Personnel Act). The draft notice is to be issued four weeks prior to the beginning of the military service (Section 21, Compulsory Military Service Act).

Paramilitary forces

There are no paramilitary forces in the Federal Republic of Germany.

Security forces

In accordance with the provisions under the ordinary law (Federal Border Police Act of 1971), use is not made of the option, possible in principle under Article 12 (a) (1) of the Basic Law, of assigning conscripts to serve in the Federal Police.

(b) exemptions or alternatives to compulsory military service, if applicable

The following persons are never called up for military service:

- Conscripts unfit for military service (Section 9, Compulsory Military Service Act);
- Members of the active police force (Section 42, Compulsory Military Service Act).

Permanently excluded from military service are:

- Conscripts convicted of a crime and sentenced to a custodial sentence of at least one year;
- Conscripts who according to a court decision are unable to serve in a public office;
- Conscripts who are subject to measures of correction and prevention under Section 64 or 66 of the Penal Code until such measures have been completed (Section 10, Compulsory Military Service Act).

Permanently exempted from military service are:

- Persons officially employed as priests;
- Severely disabled persons (Section 11, Compulsory Military Service Act);
- Persons exempted for the duration of their employment in an international authority on the basis of an international agreement.

Exempted from military service on application are:

- Conscripts whose father, mother, brother or sister died from injuries sustained during military service or compulsory non-military national service;
- Conscripts two of whose brothers or sisters have completed
 - nine months of basic military service,
 - nine months of compulsory non-military national service,
 - civil defence or disaster relief,
 - development assistance,
 - a voluntary year in accordance with the legislation on promoting a voluntary social year or a voluntary ecological year of at least nine months' duration,
 - voluntary work in accordance with Section 15 (a) of the Act on Civilian Alternative Service (ZDG),
 - military service of a maximum of two years as a fixed-term volunteer.
- Conscripts who
 - are married or
 - are part of a registered partnership or
 - exercise parental authority together or as a single parent (Section 11, Compulsory Military Service Act).

Permanently exempted from military service under certain conditions:

- Conscripts who are committed to serving as a volunteer in a civil defence or disaster relief organization for a period of at least six years (Section 13 (a), Compulsory Military Service Act), for as long as their actual service lasts;
- Conscripts who are committed to at least two years' service in development assistance (Section 13 (b), Compulsory Military Service Act), for as long as they are preparing for, or actually performing, such service;

Exempted from military service are:

- Conscripts who for health reasons are temporarily unfit for military service;
- Persons, apart from those cases covered by Section 10 of the Compulsory Military Service Act, serving a prison sentence;
- Persons remanded on custody or detained in a hospital for mentally disordered people;
- Persons who will not be called up for the duration of their employment in an international authority on the basis of an international agreement;
- Conscripts preparing for the priesthood;
- Conscripts nominated as candidates for election to the Bundestag, state parliaments, or the European Parliament (Section 12, Compulsory Military Service Act).

Exempted from military service should be:

- Conscripts for whom military service would mean particular hardship on personal, and particularly domestic, economic or professional grounds (Section 12, Compulsory Military Service Act).

Exempted from military service may be:

- Conscripts awaiting trial on criminal charges or who are a serious threat to the military order or to the reputation of the Bundeswehr (Section 12, Compulsory Military Service Act).

Prevailing public interest (Section 13, Compulsory Military Service Act):

- In a state of tension situation or state of defence, conscripts liable to military service can be engaged in civilian activities in which there is a prevailing public interest.

Exempted from military service for special reasons are (Article 4, Basic Law):

- Persons recognized as conscientious objectors: the Constitution of the Federal Republic of Germany guarantees the right to refuse military service for reasons of conscience. Recognized conscientious objectors are not liable to military service, either in a state of defence or in peacetime. Instead, they are obliged to perform civilian alternative service. The alternative civilian service lasts as long as basic military service (Section 24 of the Act on Civilian Alternative Service).

(c) legal and administrative procedures protecting the rights of all forces personnel

No member of the armed forces, whether doing compulsory military service or serving voluntarily, functions in a legal vacuum. In principle, soldiers have the same civic rights as any other citizen. This is the essence of the German commitment to the “citizen in uniform” principle. Taking account of the extraordinary demands on persons doing military service, the Constitution merely allows laws relating to military service to include restrictions of the basic rights to freedom of opinion, freedom of assembly and to a collective petition (Article 17a (1) of the Basic Law). If recourse is made to an administrative court in legal proceedings relating to military service the preliminary procedure (objection) required in certain cases shall be replaced by a complaint procedure (cf. section after next).

Legal proceedings in an administrative court

Just like any other citizen, military personnel may take action against the Government concerning measures through which they feel treated unjustly by bringing forward their complaints to a general administrative court, in so far as another course of action is not prescribed by law (Section 82, Legal Status of Military Personnel Act – Soldatengesetz). This applies to governmental measures affecting their status as citizens, as well as measures affecting their status as military personnel, e.g. the beginning or termination of service, or promotion.

Military complaint

The military complaint provides military personnel with special protection under military law. The details are set out in the Military Complaints Regulations (Wehrbeschwerdeordnung). Military personnel may make use of this instrument if they believe they have been treated unfairly by Bundeswehr superiors or agencies or have been injured due to the conduct of fellow soldiers acting in breach of their duties. The soldier can, as a rule, make a formal complaint to his disciplinary superior for example to protest an order, which in principle, however, must initially be carried out. Nevertheless, military personnel are not required to obey orders which violate human dignity or lack official purpose. Orders which violate criminal law (including military and international criminal law) must not be complied with. If they are carried out then both the superior and the soldier are liable to prosecution. The competent disciplinary superior decides on the complaint. If he rejects the complaint, the complainant may make an additional complaint. If the complainant still does not succeed, he may apply to the Bundeswehr Disciplinary and Complaints Court. In administrative matters, the preliminary procedure is replaced by the complaint procedure, in so far as an official administrative act is contested or requested.

Report

Another form of legal action which military personnel may take is to report official or service-related matters to superiors. Such reports may be delivered orally or in writing; they do not have to be made in a specific form or within specific deadlines.

Remonstrance

Military personnel may submit a remonstrance suggesting that a superior or agency should reconsider a decision for reasons of its lawfulness or expediency. A remonstrance does not have to conform to any specific procedural rules.

Disciplinary Complaint

By a disciplinary complaint, military personnel may request a review of the personal conduct of a superior or of a specific measure with regard to its lawfulness or expediency. Such a complaint obliges the authority appealed to not only to accept the disciplinary complaint but also to review the facts and to inform the complainant in writing about the action taken.

Submission to the Parliamentary Commissioner for the Armed Forces

According to Section 7 of the Bundestag Act establishing the Parliamentary Commissioner for the Armed Forces, military personnel have the right to individually and directly appeal to the Commissioner without making use of official channels. A submission to the Commissioner is not tied to a specific time limit, and the applicant can express himself on all official and personal matters. Within the scope of his competence to make suggestions, the Commissioner can make recommendations to the competent authorities on how to settle matters. In addition, he can inform the Bundestag of any violations of basic rights or principles of military leadership and civic education in the framework of the annual report or individual reports.

Petition

In accordance with Article 17 of the Basic Law, military personnel – just like other citizens – have the right to address requests and complaints to the competent authorities and the parliaments. The Bundestag Petitions Committee deals with petitions filed there. The right to petition entitles the petitioner to have the petition accepted, have the facts examined by the competent authority, and to be notified of the results. In the case of collective petitions, the restriction under Article 17a (1) of the Basic Law must be complied with.

6. Instruction on international humanitarian law and other international rules, conventions and commitments governing armed forces included in military training programmes and regulations

The Legal Status of Military Personnel Act (Section 33) stipulates that Bundeswehr personnel have to be instructed on their rights and duties under international law in peacetime and war. The instruction on international humanitarian law and other international rules, conventions and commitments relating to armed conflicts envisaged in this Act is an integral part of the basic training programme for all military personnel in the German armed forces. Within the subsequent annual further-training programme for troops, instruction on international humanitarian law is one element of the curriculum and is intended to improve existing knowledge. The instruction is given by the responsible superiors or, where appropriate, by teachers in law and legal advisers.

Building on this basic knowledge, instruction in this field is taken further in the compulsory instruction and courses for the training of officers and non-commissioned officers. Preparatory courses for leadership and staff positions also deal with this topic. These courses enable superiors to instruct their military personnel in international humanitarian law within the framework of the above-mentioned curricula. This instruction for superiors is provided by teachers and lecturers in law at the Bundeswehr training centres, as well as by legal advisers.

In addition, the Internal Leadership Centre offers various courses and seminars on international law, particularly international humanitarian law, for legal advisers, teachers of law and staff officers. The purpose of these courses is to deepen and enhance knowledge of international humanitarian law in armed conflicts and to promote awareness of the importance of the law as an integral component of military operations. Legal advisers and teachers of law also have the opportunity to improve their knowledge in a tactics course specially designed for them at the Army Officers Academy and by taking part in courses and further training both in Germany and abroad.

Units selected for deployment abroad receive additional training with legal elements specifically relating to their mandate and area of operations. Military leaders and officers in staff positions are selected specially for such training.

Furthermore, a week-long seminar “The law in deployment” has been held at the Internal Leadership Centre several times since early 2008 for soldiers with leadership functions,

irrespective of an imminent deployment abroad. The training focuses on the international law aspects of deployment abroad as well as operational law in the narrower sense.

In addition to attending the abovementioned courses, legal advisers selected for deployment abroad can also prepare themselves by taking part in a special course at the Internal Leadership Centre.

Finally, both soldiers as well as teachers of law and legal advisers have access via the Bundeswehr Intranet to international law documents of relevance to their training.

The following regulations and training aids are available to instruct military personnel in international humanitarian law:

- Joint Service Regulation ZDv 15/1 “Humanitäres Völkerrecht in bewaffneten Konflikten – Grundsätze” (International Humanitarian Law in Armed Conflicts – Principles);
- Pocket Handbook “Humanitäres Völkerrecht in bewaffneten Konflikten – Grundsätze” (International Humanitarian Law in Armed Conflicts – Principles);
- Joint Service Regulation ZDv 15/2 “Humanitäres Völkerrecht in bewaffneten Konflikten – Handbuch” (International Humanitarian Law in Armed Conflicts – Manual);
- Joint Service Regulation ZDv 15/3 “Humanitäres Völkerrecht in bewaffneten Konflikten – Textsammlung” (International Humanitarian Law in Armed Conflicts – Anthology);
- “Einführung in das Kriegsvölkerrecht” (Introduction to the International Law of War), April 1983;
- “Schutz der Verwundeten, Kranken und Schiffbrüchigen” (Protection of the Wounded, Sick and Shipwrecked), September 1985;
- “Recht der Kriegsgefangenen” (Rights of Prisoners of War), March 1985;
- “Kampfführung und Schutz der Zivilbevölkerung” (Warfare and Protection of the Civilian Population), January 1991;
- “Völkerrechtliche Fallbeispiele für die Ausbildung zum Unteroffizier” (Examples in International Law for NCO Training), 1988;
- “Materialien zur Weiterbildung im Kriegsvölkerrecht, Zusatzprotokolle und Waffenübereinkommen” (Materials for Further Training in the International Law of War, Additional Protocols and Arms Agreements), 1991;

- “Unterrichtsmappe Wehrrecht, Soldatische Ordnung, Humanitäres Völkerrecht in bewaffneten Konflikten” (Training Materials on Military Law and Regulations and Humanitarian Law in Armed Conflicts) (This material is distributed down to the company level);
- “Handbuch für den Rechtsberater-Stabsoffizier in Auslandseinsätzen” (Handbook for senior military legal advisers in operations abroad) – (several volumes, regularly updated – most recently in October 2008);
- “Kommandantenhandbuch – Rechtsgrundlagen für den Einsatz von Seestreitkräften” (Commanding officers handbook – legal basis for the deployment of maritime forces);
- Intranet pages of the Working Group on Legal Instruction (regularly updated).