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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 FSC.EMI/42/11, am 08.04.2011 den Informationsaustausch der Bundesrepublik Deutschland zum „Verhaltenskodex zu politisch-militärischen Aspekten der Sicherheit“, in deutscher Sprache zu übermitteln. Eine englische Sprachfassung wird nachgereicht.

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, 29. Juni 2011

An

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

W i e n

Translation



Auswärtiges Amt

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

(FSC.DEC/02/09)

Report by the Federal Republic of Germany
for 2010

Berlin, 7 April 2011

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Section I: Inter-State elements

1. Account of measures to prevent and combat terrorism

Transnational terrorism is a global phenomenon which can only be successfully countered 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 of this.

Cooperation in multilateral bodies

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

United Nations

Germany believes that the UN is the central forum for tackling the global terrorist problem. We support the unconditional ratification and effective implementation of all 13 sectoral **counter-terrorist conventions**, as well as the relevant UN Security Council resolutions, especially Res. 1373 (2001), on which the EU counter-terrorism sanctions system is based, as well as Res. 1267 (1999) ff. as the basis for the work of the al-Qaida/Taliban Sanctions Committee (ATSC), whose mandate was last extended by Res. 1904 (2009). The new mandate, extended for 18 months, provides for substantial procedural changes which will increase the prospect of more effective protection of procedural fundamental rights with regard to listing/de-listing. In particular, it was decided to appoint an ombudsperson to whom individuals can turn with their request to be removed from the list. On 1 January 2011, Germany took over the chair of the ATSC for two years. Res. 1540 (2004) is intended to prevent the proliferation of weapons of mass destruction to terrorists.

The **Global Counter-Terrorism Strategy** adopted by the 60th session of the UN General Assembly in 2006, as well as its action plan, form a joint strategic framework for the activities of UN member states in the counter-terrorism sphere. Furthermore, the Strategy envisages the swift adoption of the UN's Comprehensive Convention on International Terrorism as a key objective. From the outset, we have supported the UN Strategy as an attempt to build consensus within the UN General Assembly on combating terrorism, as well as the stronger coordination among the UN bodies involved. The same applies to the **Task Force** (Counter-Terrorism Implementation Task Force, CTITF) established by the UN General Assembly to ensure coordination.

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 normative basis for its contribution towards the global fight against terrorism. Germany supports the OSCE in carrying out this task and is working to foster close cooperation and coordination with other international organizations.

In the development of the OSCE's normative acquis on fighting and preventing terrorism, Germany argues fervently in favour of granting adequate consideration for international law and human rights. At the Ministerial Council in Athens (2009) and at the OSCE Summit in Astana (2010), Germany expressly called for all 13 universally valid UN counter-terrorist conventions to be strengthened.

In two Ministerial Council decisions, Germany recognized transnational threats, and thus also terrorism, as one of the greatest challenges to security in the OSCE area. This issue plays a central role in the dialogue on pan-European security (Corfu Process). Thanks to a German initiative, moreover, a decision on enhancing document security was adopted which calls upon OSCE states to accede to the Public Key Directory of the International Civil Aviation Organization (ICAO), the authentication procedure for machine-readable documents. As the chair of the OSCE Security Committee, Germany plays a key role in coordinating the various instruments and initiatives within the framework of the OSCE.

Germany supports OSCE institutions and field missions through project funding and almost 50 experts financed by the Federal Foreign Office. The field missions make a substantial contribution towards preventing and combating terrorism through institution-building, above all the police, customs and border protection, anchoring rule-of-law principles, promotion of free elections, the repatriation of refugees, as well as the fight against arms and people smuggling, religiously motivated extremism, money laundering and the financing of terrorism. What is more, Germany supports the work of the OSCE Secretariat's Action against Terrorism Unit (ATU) and the Office for Democratic Institutions and Human Rights (ODIHR), which focuses on ensuring that human rights are respected in 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 multilateral projects on issues such as the stockpiling of conventional weapons and ammunition, as well as the destruction of surplus stockpiles.

EU

The EU has a comprehensive set of instruments to prevent and fight terrorism which is being 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.

Germany played an active and crucial role in the development and promotion of key EU measures aimed at combating and preventing terrorism:

Lisbon Treaty, in force since 1 December 2009, with enhanced sanctions instruments for the protection of fundamental rights;

Stockholm Programme (2010-2014) – An open and secure Europe serving the citizen with clear guidelines on counter-terrorism and data protection;

Incorporation of the Prüm Treaty into EU legislation (enhanced cross-border cooperation, especially on combating terrorism and cross-border crime), agreed upon politically during Germany's EU Presidency in 2007;

Incorporation of the Europol Convention into the EU's legal framework. Since 2010 Europol has been a genuine EU agency.

EU-US Passenger Name Records Agreement to combat terrorism (still to be ratified by the European Parliament);

Creation of the post of EU Counter-Terrorism Coordinator;

EU Counter-Terrorism Strategy, complemented by an action plan;

EU Strategy for Combating Radicalization and Recruitment to Terrorism;

German "Check the web" initiative, aimed at intensifying cooperation within the EU to prevent terrorists from using the Internet (information portal at Europol);

Green Paper on Bio-Preparedness;

European Programme for Critical Infrastructure Protection (EPCIP);

EC Directive on the identification and designation of European Critical Infrastructure (ECI) and the assessment of the need to improve their protection;

Incorporation of the Nine Special Recommendations of the Financial Action Task Force on Money Laundering (FATF) into EU law;

Payment Services Directive.

Council of Europe

Germany has ratified the European Convention on the Suppression of Terrorism of 27 January 1977 and signed the Amending Protocol to this Convention. The corresponding German ratifying law has already entered into force and the Amending Protocol will be ratified in the near future. Moreover, Germany signed the Council of Europe Convention on the Prevention of Terrorism and the Council of Europe Convention on Action against Trafficking in Human Beings, both of 16 May 2005. The ratification of these Conventions is being prepared. The German ratifying law on the Council of Europe Convention on the Prevention of Terrorism has already been adopted by the German Bundestag and the Bundesrat. The entry into force of the ratifying law and the ratification are imminent. Germany ratified the Convention on Cybercrime of 23 November 2001, the first international agreement on combating this new form of crime, on 9 March 2009. Moreover, it signed the Additional Protocol to this Convention. The German ratifying law on the Additional Protocol has already been adopted by the German Bundestag and Bundesrat. The entry into force of the ratifying law and the ratification are imminent.

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. At present, the protective measures of individual states are being compared and best practices drawn up in six working groups. By referring individual cases beyond the G8 sphere, especially to UN bodies, a contribution is to be made towards setting international norms with regard to counter-terrorism measures. The main focuses of the work done in the Rome-Lyon Group are regularly included in G8 summit declarations, most recently in the 2010 Declaration of Muskoka. Rome-Lyon pools expertise in combating terror and organized crime in a unique way; the entire spectrum of threats, including new trends (greater use of the Internet, new jihad fields of operation, changed *modi operandi*) are covered. Organizational and procedural adjustments are made regularly in order to ensure the efficiency of Rome-Lyon.

Within the framework of the Counter-Terrorism Action Group (CTAG) established during the Evian summit in 2003, the G8 and some other countries are closely coordinating their efforts with the relevant UN bodies to support third states in the fight against terrorism. Germany is also participating in the Global Counter Terrorism Forum initiated by the US.

NATO

As a member, Germany supports NATO efforts to help fight and prevent terrorism through civilian and military measures. In political terms, extending the cooperation with a growing number of partner countries and other international players is to the fore. In military terms, Operation Active Endeavour, which was established on the basis of Article 5 of the NATO Treaty to monitor shipping in the Mediterranean, 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.

The Terrorist Threat Intelligence Unit (TTIU) established by the Istanbul summit in 2004 provides NATO with its own structure for exchanging and evaluating intelligence from member states. The TTIU carries out thematic and regional, as well as situation-related, analyses of terrorist threats.

The Programme of Work for Defence against Terrorism (PoWDaT) carried out since 2004 under the aegis of the Conference of National Armaments Directors (CNAD) remains the key instrument for developing the Alliance's counter-terrorism capabilities. Divided at present into 11 thematic spheres for each of which a NATO member state has assumed responsibility as the Lead Nation, the Programme includes the development of technology which provides protection from terrorist activities and lessons the impact of terrorist attacks.

Enhancing defence capabilities against attacks with chemical, biological, radiological or nuclear substances (CBRN) continues to be a central task for NATO. With the Cyber Defence Management Authority (CDMA), since 2008 the Alliance has had a body to coordinate measures to combat cyber attacks and protect the critical IT infrastructure of the Alliance and partner countries.

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

There is regular counter-terrorism cooperation within the NATO-Russia Council.

Further expertise to prevent and combat terrorism in its various forms is provided by NATO's Joint CBRN Defence Centre of Excellence in the Czech Republic, the Defence Against Terrorism Centre in Turkey and the Cooperative Cyber Defence Centre of Excellence in Estonia.

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 nuclear security, preventing nuclear smuggling and combating the threats posed by nuclear terrorism was due to a German initiative. The German Government supported the implementation of these measures by providing experts free of charge and by contributing one million euro to the IAEA's Nuclear Security Fund between 2004 and 2006, as well as five million euro in 2009. The IAEA measures funded via the Nuclear Security Fund focus on activities aimed at enhancing the physical protection of nuclear plants, nuclear and radioactive material and preventing unauthorized persons from gaining access who could then use them for terrorist activities. In addition to this, there are measures aimed at making borders more secure, thus preventing nuclear smuggling.

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, which ratified the amended Convention in 2010, continues to push for its early entry into force as well as for its universalization, because it represents a major step towards diminishing the dangers posed by nuclear terrorism.

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.

Nuclear Security Summit

At the invitation of President Obama, Chancellor Merkel took part in the first Nuclear Security Summit, which took place in Washington on 12/13 April 2010. Participants from 47 states, as well as representatives of the UN, the IAEA and the EU discussed measures to strengthen nuclear security, prevent nuclear smuggling and counter the threats posed by nuclear terrorism.

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 arms and the related dual-use goods and technologies), which added the fight against terrorism to its list of tasks following 11 September 2001. The lists of dual-use goods under the Wassenaar Arrangement are updated regularly and then are incorporated into Germany's schedule of restricted exports. Furthermore, best practice

guidelines are drawn up within the framework of the Wassenaar Arrangement (e.g. control rules for man-portable air defence systems (MANPADS), controls on arms brokering). The Federal Republic of Germany continues within the Wassenaar Arrangement to actively engage in the fight against terrorism.

Furthermore, in the United Nations the German Government is an active supporter of efforts to conclude an international agreement on trade in conventional weapons (Arms Trade Treaty – ATT). In the course of 2011, further preparatory meetings will take place within the UN framework and on the basis of UN Resolution 64/49 of 2 December 2009 with a view to holding an international conference in 2012 at which such an Arms Trade Treaty is to be adopted.

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 strengthening nuclear safety, including the efforts to combat nuclear terrorism (Nuclear Security Fund).

1.1 To which agreements and arrangements (universal, regional, subregional and bilateral) related to preventing and combating terrorism is your State a party?

The Federal Republic of Germany has ratified all 13 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. (a) Convention on the Physical Protection of Nuclear Material (Vienna, 3 March 1980)
6. (b) Amended version of the Convention on the Physical Protection of Nuclear Material (Vienna, 8 July 2005)
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)

List of Agreements on Cooperation against 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 February 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 2003 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

Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Croatia concerning Cooperation to Combat Organized and Serious Crime, Berlin, 10 March 2009

Agreement between the Government of the Federal Republic of Germany and the Government of the Kingdom of Saudi Arabia on Cooperation in the Field of Security, Riyadh, 27 May 2009

Agreement between the Government of the Federal Republic of Germany and the Government of the Republic of Kosovo on Cooperation in the Field of Security, Berlin, 14 April 2010

Agreement between the Government of the Federal Republic of Germany and the Cabinet of Ministers of Ukraine on Cooperation in the Fight against Organized Crime, Terrorism and other Significant Offences, Berlin 30 August 2010

Multilateral:

Council of Europe Convention on Cybercrime, Budapest, 23 November 2001

First Additional Protocol to the Council of Europe Convention on Cybercrime, 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

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 Extradition of 13 December 1957 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 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

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 13 June 2002 on the European Arrest Warrant and the Surrender Procedures between Member States. An act which provides for a uniform, accelerated extradition process, also for own nationals, entered into force on 2 August 2006.

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

Agreement of 30 November 2009/15 December 2009 between the European Union and Japan on Mutual Legal Assistance in Criminal Matters

1.2 What national legislation has been adopted in your State to implement the above-mentioned agreements and arrangements?

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 the 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 obligations 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 (cf. also 1.1).

1.3 What are the roles and missions of military, paramilitary and security forces and the police in preventing and combating terrorism in your State?

Preventing and combating terrorism in Germany is primarily the task of the police, as well as of the intelligence services. Their roles and missions are outlined in the comments under II 2.2.

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.

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 was continued in the 2009 presidential elections which, for the first time, were organized by the Afghans themselves and for which Germany provided significant support. NATO continued its policy of helping to support the security and stabilization of Afghanistan on the basis of the UN mandate. On 28 January 2011, the German Bundestag extended the deployment of German troops in Afghanistan until 31 January 2012. With around 4500 troops (Bundestag mandate allows up

to 5350), 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.

NATO's Operation Active Endeavour (OAE) in the Mediterranean is an additional military contribution towards combating international terrorism. OAE consists of presence and surveillance operations in the entire Mediterranean in which non-NATO states, such as Ukraine or Israel, temporarily participate. Maritime presence and maritime operations within the scope of OAE demonstrate NATO's resolve to combat terrorism. The German Navy regularly participates in OAE.

1.4 Provide any additional relevant information on national efforts to prevent and combat terrorism, e.g. those pertaining inter alia to:

- **Financing of terrorism**
- **Border controls**
- **Travel document security**
- **Container and supply chain security**
- **Security of radioactive sources**
- **Use of the Internet and other information networks for terrorist purposes**
- **Legal cooperation including extradition**
- **Safe havens and shelter to terrorists and terrorist organizations**

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:

1. destroy terrorist structures – considerable efforts to search and investigate
2. stamp out terrorism before it has a chance to develop

3. extend international cooperation
4. protect the population, make provisions, reduce the country's vulnerability
5. tackle the root-causes of terrorism

In the sphere of organization, the establishment of a Joint Counter-Terrorism Centre (GTAZ) 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 Internet content 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:

Gesetz zur Verfolgung der Vorbereitung von schweren staatsgefährdenden Gewalttaten (GVVG – Act on prosecuting the preparation of serious acts of violent subversion) of 30 July 2009:

Certain concrete preparatory acts, for example training in terrorist camps, the production of weapons, the procurement of hazardous substances and the financing of attacks are punished if the perpetrator is preparing a serious act of violent subversion. Establishing or maintaining contact with a terrorist organization in order to train for a serious act of violent subversion was also made a punishable offence. Disseminating or commending texts which, due to their content, could provide instructions for a serious act of violent subversion is also punishable if such instructions are disseminated in such a way that they foster or provoke the readiness of others to commit such an act. Accompanying provisions: failure to report planned offences, criminal liability for money laundering, supplementary passport and foreigners' law sanctions.

34th Criminal Law Amendment of 22 August 2002:

The crime of formation of terrorist organizations was extended to organizations abroad; at the same time, the confiscation of unlawfully gained objects and 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:

34th 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 core data about accounts, in particular for freezing assets and prosecution.

Implementation of the Third EC 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).

Gesetz zur Verfolgung der Vorbereitung von schweren staatsgefährdenden Gewalttaten (GVVG – Act on prosecuting the preparation of serious acts of violent subversion) of 30 July 2009:

Criminal liability for gathering, accepting or making available substantial assets for the preparation of a serious act of violent subversion.

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 set up under this Act (Article 1) 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” is released on request by the authority which collated it on a case-by-case basis, taking into account the relevant provisions on transmission. Only in an emergency can it 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 support the 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.

34th Criminal Law Amendment of 22 August 2002:

Extension of telecommunications surveillance by the intelligence services within Germany to include foreign terrorist organizations.

First Act Amending the Act to Restrict the Privacy of Correspondence, Posts and Telecommunications (G10 Act) of 31 July 2009:

Adaptation of the provisions on security checks on the relevant personnel of telecommunications companies; adaptation in line with recent decisions by the Federal Constitutional Court on the core area of private life and on dealing with persons entitled to refuse to testify on the grounds of their profession; automatic comparisons between all recorded uses of means of telecommunication with telephone number/identification lists; rules on passing on information to foreign partner services; further adaptations in line with G10 measures; saving of data on minors under the age of 16 by the Federal Office for the Protection of the Constitution and the Federal Intelligence Service under special circumstances; obligation of tax offices to supply information to the Federal Office for the Protection of the Constitution on the non-profit status (with regard to taxes) of 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 internal 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 (Federal Criminal Police Office). Within the scope of this task, the Bundeskriminalamt may also take action to prevent certain crimes being committed.

Law Governing Private Associations:

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 better 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 their 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 weapons law, standardized transfer document, tightening of the registration regulations.

Fourth Act amending the Explosives Act of 17 July 2009:

Implementation of the amended Technical Annex to the Convention of 1 March 1991 on the Marking of Plastic Explosives for the Purpose of Detection.

Implementation of Directive 2008/43/EC of 4 April 2008 setting up, pursuant to Council Directive 93/15/EEC, a system for the identification and traceability of explosives for civil uses; further adjustment of the provisions to monitor reliability.

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.

The Act to Amend the Weapons Act and other Provisions of 26 March 2008:

Implementation of the 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 (UN Firearms Protocol), as well as of the UN Resolution of 8 December 2005 (A/RES/60/81) on the application of the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons.

Implementation of Directive 2008/51/EC amending Directive 91/477/EEC on control of the acquisition and possession of weapons.

Fourth Act amending the Explosives Act of 17 July 2009:

Obligation to create a National Weapons Register by 31 December 2012.

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 (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.

Gesetz zur Verfolgung der Vorbereitung von schweren staatsgefährdenden Gewalttaten (GVVG – Act on prosecuting the preparation of serious acts of violent subversion) of 30 July 2009:

Regular expulsion, in so far as the facts indicate that a foreigner is preparing, or prepared, a serious act of violent subversion, as defined by Section 89a of the Criminal Code.

Law regarding expelled persons:

Seventh Act amending the Federal Expellees Act of 16 May 2007 (Federal Law Gazette I, p. 748):

Involvement of the intelligence services in checking for potential reasons for refusal is provided for not only in the visa procedure but also once again after the entry into Germany of the repatriates and their families before the certificate confirming German nationality is issued.

Enhanced protection against sabotage:

Counter-Terrorism Act of 9 January 2002:

Background screening for employees in security-sensitive positions in vital and defence-relevant institutions (Section 34 of the Security Clearance Check Act (SÜG) in combination with the Security Clearance Check Identification Ordinance (SÜFV) of 9 August 2003).

1. 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 Security Background Checks including Criminal History 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:

Ratifying law of 22 December 2003 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 ratification 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.

Tax law:

New Section 51 (3) of the Fiscal Code through the 2009 Annual Tax Law of 19 December 2008 (Federal Law Gazette I, p. 2794):

Exclusion of tax concessions connected to the non-profit nature of an organization in the case of unconstitutional organizations.

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 at national and bilateral level. At national level, the German Islam Conference should be highlighted. The dialogue with reform forces in Islamic countries has thus 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

2. Stationing of armed forces on foreign territory

Provide information on stationing of your State's armed forces on the territory of other participating States in accordance with freely negotiated agreements as well as in accordance with international law.

Armed forces of the German Bundeswehr are currently stationed permanently in numerous NATO member states, for instance the US, France and the Netherlands within the framework of cooperation among NATO partners. The right to station troops is contingent upon the consent of the host country. 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, as well as from other agreements.

The armed forces of the German Bundeswehr are also stationed within the scope of multinational military missions in the OSCE member states Cyprus, Bosnia and Herzegovina and Uzbekistan. The right to station troops and the law governing the stationing of troops derive from UN Security Council resolutions, as well as from the corresponding arrangements under international law. Based in Limassol, Cyprus, a German liaison team is supporting the German units deployed in the UN operation UNIFIL. Cyprus entered into a visiting forces agreement with the UN on 25 February 2008 and with the Federal Republic of Germany on 16 October 2006. At national level, the deployment of armed forces abroad requires the prior approval of the German Bundestag as a matter of principle (Section 1 paragraph 2 of the Parliamentary Participation Act of 18 March 2005). Such a deployment of German armed forces exists when Bundeswehr soldiers are involved in armed actions or involvement in an armed action is to be expected.

The deployment of the Bundeswehr in Bosnia and Herzegovina within the scope of EUFOR ALTHEA is based on UN Security Council Resolution 1088 adopted on 12 December 1996 whose foundation is the Dayton Peace Agreement of 1995. As of 2 December 2004, the task of supporting implementation of the Dayton Agreement in Bosnia and Herzegovina passed from NATO to the European Union. Germany currently contributes a troop contingent of 110 to this mission, the European Union's largest military mission to date. The EUFOR ALTHEA mandate was extended for another year by UN Security Council Resolution 1948 of 18 November 2010. At national level, the Bundeswehr mandate was last renewed by the Bundestag decision of 2 December 2010. Furthermore, the Bundeswehr, together with the Austrian armed forces, has formed a reserve battalion consisting of around 600 troops for, among other things, deployment in Bosnia and Herzegovina, which can be deployed in that country on a temporary basis.

Based in Termez, Uzbekistan, a strategic air transport base is supporting the German forces deployed in the UN-mandated ISAF operation. On 13 April 2010, Germany concluded an agreement with Uzbekistan which, inter alia, governs for transit through Uzbekistan's territory as well as access and use of military infrastructure.

3. Implementation of other international commitments related to the Code of Conduct

3.1 Provide information on how your State ensures that commitments in the field of arms control, disarmament and confidence- and security-building as an element of indivisible security are implemented in good faith.

The importance of arms control to the Federal Republic of Germany is set forth in the 2006 White Paper on the Security of the Federal Republic of Germany and the Situation and Future of the Bundeswehr –

“Arms control, disarmament and non-proliferation, as well as a restrictive arms export policy remain key elements of Germany’s security policy, which is aimed at conflict prevention.”

Chapter 2.4 of this White Paper deals expressly with the OSCE and its importance vis-à-vis the role of confidence- and security-building as well as security in Europe. In order to underscore this engagement, Germany submits all OSCE reports requested in full each year.

To ensure that Germany fulfils its obligations, there are various interministerial task forces – mostly chaired by the Federal Foreign Office and with participants from the Federal Ministry of Defence and, if necessary, further ministries. Within the Federal Foreign Office, all disarmament and arms control issues are dealt with by the competent Directorate-General. Within the Federal Ministry of Defence, too, a division responsible for all issues connected with arms control is integrated into the Staff Department for Military Policy of the Armed Forces Staff.

Furthermore, Germany established the Federal Armed Forces Verification Centre in April 1991. In general, the Centre ensures that the Federal Republic of Germany’s rights and obligations under international agreements in the spheres of arms control, confidence-/security-building, disarmament and non-proliferation are respected and fulfilled. The Centre is charged with ensuring, under the guidelines of the Federal Foreign Office and under the leadership of the Federal Ministry of Defence, that binding international arms control agreements are given substance. Furthermore, the Centre’s inspectors carry out and support active inspections, both outside and within Germany. The Centre’s work plays an important role in Germany’s security policy.

3.2 Provide information on how your State pursues arms control, disarmament and confidence- and security-building measures with a view to enhancing security and stability in the OSCE area.

On 19 November 1990 Germany signed the CFE Treaty, which subsequently entered into force on 9 November 1992. The CFE Treaty’s legally binding limitation, information and verification regimes make a key contribution towards strengthening predictability, stability and mutual trust in Europe. The CFE Treaty has eliminated the capability to launch surprise attacks or large-scale offensives in Europe and has created a secure and stable balance of conventional armed forces in Europe at a low level. The CFE Treaty thus made a major contribution towards overcoming the division of Europe and fostered a structure of security

relations based on peaceful cooperation. As a result of the political changes in Europe, the CFE States Parties decided in 1999 to adapt the Treaty as necessary (Adaptation Agreement – ACFE). However, this Agreement has still not entered into force as the NATO member states have made ratification contingent upon the complete withdrawal of Russian troops from Moldova and Georgia. Russia responded in December 2007 by suspending the CFE Treaty. Despite the limited implementation as a result of Russia's suspension and the considerable need for modernization, Germany believes that the CFE Treaty remains the central element in a cooperative European security architecture. Germany therefore strongly supports the efforts to preserve and modernize a legally binding conventional arms control regime in Europe on the basis of the ACFE.

In 2010, as in previous years, Germany demonstrated its commitment to conventional disarmament and arms control in Europe by implementing all its obligations under the Treaty. Within the framework of tried and tested bilateral and multinational cooperation, Germany has assisted States Parties in implementing the CFE Treaty beyond the scope required by the Treaty by providing instructors and carrying out additional agreed inspections.

The Vienna Document 1999 (VD 99) on the negotiations on confidence- and security-building measures (CSBMs), is politically binding throughout the OSCE area and is aimed at regulating the military aspects of confidence and security, which Germany regards as an integral part of a European security concept. It is therefore very important to the Federal Republic of Germany that the provisions of this agreement are fully implemented. Also in 2010, Germany assisted the efforts of other OSCE participating states in implementing arms control measures through exchanges of experience, meetings of experts, as well as the training of verification personnel. Within the scope of bilateral cooperation with the US, for example, the personnel of a US unit were trained in the course of an inspection visit. Germany and Georgia carried out a mutual bilateral training inspection visit. The Franco-German Brigade was inspected by Switzerland within the scope of a trilateral training project. Furthermore, in 2010 Germany assisted the US in preparing and carrying out the presentation of a new type of principal weapon system and major end items in Germany.

Since entering into force on 1 January 2002, the Treaty on Open Skies (OS) signed in 1992 has proven its worth as a valuable instrument of cooperative arms control. It allows its 34 member states to conduct observation flights unhindered in its Northern Hemisphere area of application and defines the sensors to be used. The OS is thus the agreement with the largest geographical scope ever concluded in the field of verification and confidence- and security-building (from Vancouver to Vladivostok). It plays an important role in improving stability and security and the Federal Republic of Germany regards it as an integral part of cooperative arms control in the Euro-Atlantic area. In addition to gaining new military insights, the purpose of the OS is to further strengthen confidence and transparency by means of joint missions between the observing and the observed states (from Vancouver to Vladivostok). During the Second Conference of States Parties held in Vienna from 7 to 9 June 2010, all States Parties stressed the importance of the OS as a security policy instrument in Europe and reaffirmed their support for the Treaty. However, it also became clear that the States Parties, not least on budgetary grounds, are keen to achieve greater cost-saving synergies, especially in the joint use of observation aircraft and sensor technology. Germany does not have any OS observation aircraft of its own. However, it plays its part by renting

aircraft from other nations, as well as by carrying out missions with so-called share partners to implement the OS Treaty and is thus able to comply with its Treaty obligations in full. Moreover, the Federal Armed Forces Verification Centre provides support through training in the form of courses and training observation missions.

With a view to fostering regional arms control in South-East Europe, the Federal Government continues to support – both in the form of personnel and equipment – the implementation of the Dayton Peace Agreement (Annex 1-B “Regional stabilization”) of 21 November 1995 on the peace negotiated between the warring parties in the former Yugoslavia, inter alia by seconding personnel to the Personal Representative of the OSCE Chairman-in-Office for Article IV in Vienna.

Moreover, in 2010 the Federal Armed Forces Verification Centre carried out nine missions in support of inspections under the Article IV Agreement.

In accordance with Article V of Annex 1-B of the Dayton Peace Agreement, in 2001 a politically binding Final Document was concluded on regional stabilization which envisages confidence- and security-building measures on a voluntary basis for the states of the Balkan region. In 2010, Germany continued to support the implementation of the Final Document by states in the region, inter alia by cooperating on mutual inspection visits as well as by promoting (in terms of personnel and funding) the Regional Arms Control Verification and Implementation Assistance Centre (RACVIAC).

In 2010 crucial steps were taken towards handing over responsibility for RACVIAC to the countries in the region. On 14 April 2010, eight of the eleven states of the South-East Europe Cooperation Process (SEEC) signed a multilateral agreement which established RACVIAC as a regional dialogue forum on security issues within the SEEC framework. When it enters into force after the receipt of the fifth instrument of ratification, it will replace the German-Croatian bilateral agreement (to which Italy and Turkey subsequently acceded) as the legal basis for RACVIAC’s work.

The Convention on Cluster Munitions, which Germany ratified on 8 July 2009, is a milestone in the development of international humanitarian law. Germany led the way in the efforts to bring about an effective ban on cluster munitions and began to destroy its stocks back in 2001. From the outset, Germany played a key role in the diplomatic efforts and welcomes the Convention’s entry into force on 1 August 2010. Germany’s leading role became particularly visible when it declared immediate and unilateral renunciation of the use of cluster munitions one day before the adoption of the Convention text on 30 May 2008. Germany has implemented its obligations under the Oslo Convention. One exception to this is the destruction of national stockpiles, which – dependent on industrial and budgetary resources – is expected to be completed in 2015. This affects 12 munition types with around 440,000 containers and more than 50 million sub-munitions. In July 2010, representatives of the German Government took part in an event in Thailand to provide information on the Convention on Cluster Munitions at the invitation of the International Committee of the Red Cross (ICRC). The aim of the event was to inform the Thai Government about the obligations which would arise should it sign the Convention as well as about its implications, thus supporting the discussion there with a view to further universalizing the Convention. In November 2010, the German Government contributed both substantively and financially to

the First Meeting of States Parties to the Convention on Cluster Munitions in Vientiane/Laos and arranged with Indonesia, which holds the Chair of ASEAN and the ASEAN Regional Forum (ARF) in 2011, to support further efforts to universalize the Convention in the Asia-Pacific region.

In 2010, the control of small arms and light weapons, including their ammunition, continued to be another focus of the Federal Government's efforts in the conventional arms sphere. Small arms are responsible for more casualties than any other type of weapon, aggravate conflicts, destabilize societies and hinder development. Inter alia, Germany is actively involved in the normative work of the OSCE Forum for Security Co-operation, e.g. by working on the drafting of practical implementation guidelines for the OSCE Documents on Small Arms and Light Weapons and on Stockpiles of Conventional Ammunition, and participates on a regular basis in assessment visits, further training and other project activities in the OSCE area.

Section II: Intra-State elements

1. National planning and decision-making process

1.1 What is the national planning and decision-making process in determining/approving military posture and defence expenditures in your State?

Preliminary remark

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.

– Determination/approval of military posture

In accordance with the second sentence of Article 87a (1) of the Basic Law, the numerical strength of the German armed forces and their general organizational structure must be shown in the budget, which is approved by the German Bundestag as part of the Budget Act. This reflects the primacy of politics and the 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 2006 Federal Government White Paper on the Security of the Federal Republic of Germany and the Future of the Bundeswehr, the Defence Policy Guidelines or the Bundeswehr Concept do not take the form of a regular series or hierarchy, but are prepared or updated as required.

– Determination/approval of 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. In line with the European Stability and Growth Pact, the Basic Law provides that the budget must be balanced excluding revenue from loans and only allows a structural deficit of 0.35% of GDP.

1.2 How does your State ensure that its military capabilities take into account the legitimate security concerns of other States as well as the need to contribute to international security and stability?

With the obligation to maintain peace, to establish a united Europe (Article 23), to respect and strengthen international law, which is an integral part of German law (Article 59 (2) and Article 25), to settle disputes peacefully and to enter into a system of mutual collective security (Article 24 (2)), the Basic Law of the Federal Republic of Germany provides reference points of continued validity. Furthermore, Article 26 (1) of the Basic Law stipulates

that acts tending to and undertaken with intent to disturb the peaceful relations between nations, especially to prepare for a war of aggression, are unconstitutional. Moreover, Germany's security policy is multilateral in outlook and thus Germany protects its security interests first and foremost in international and supranational institutions.

2. Existing structures and processes

2.1 What are the constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces, intelligence services and the police?

(cf. 2.2 below)

2.2 How is the fulfilment of these procedures ensured, and which constitutionally established authorities/institutions are responsible for exercising these procedures?

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 German 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 87a (1) 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). Article 87a (2) of the Basic Law establishes a reservation under the constitution regarding the deployment of armed forces by stipulating that except for defence reasons they may be employed only to the extent expressly permitted by the Basic Law. Furthermore, the German Bundestag determines the state of tension (Article 80a, Basic Law) and, with the consent of the Bundesrat, the state of defence (Article 115a, Basic Law). Parliamentary participation in planning for the state of defence is ensured through the Joint Committee (Article 53a, 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 German Bundestag or the Bundesrat so demand (Article 87a (4), Basic Law). Under Article 45a (1) of the Basic Law, the German Bundestag is obliged to appoint a Committee on Foreign Affairs and a Committee on Defence at the start of each legislative term. These committees are permanent bodies and cannot be dissolved. In accordance with Article 45a (2) of the Basic Law, the Committee on Defence, which supports and prepares parliamentary action and is intended to ensure greater parliamentary control of the armed forces and Government activities in the military sphere, also has the rights of a committee of inquiry. Furthermore, the German 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 45b, 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 (BVerfGE 90, 286 ff.), the Federal Government must seek the prior consent of the German Bundestag for each deployment of German armed forces abroad. The form and scale of the German Bundestag's participation in the deployment of German armed forces abroad is governed by the Parliamentary Participation Act of 18 March 2005 (Federal Law Gazette I, p. 775). Moreover, in its rulings of 7 May 2008 (2 BvE 1/03) and of 13 October 2009 (2 BvE 4/08), the Federal Constitutional Court also refined the conditions under which the deployment of German troops abroad always requires the prior or, if necessary, renewed 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

All Federal intelligence services are subject to oversight by the German Bundestag. To this end, the Parliamentary Control Panel was established in accordance with Article 45d of the Basic Law; it meets regularly and receives comprehensive information on the work of the intelligence services and on matters of special importance. Details on membership, powers and information are contained in the Act Governing the Parliamentary Control of Intelligence Activities by the German Federation (PKGrG, originally contained in the Federal Law Gazette 1978 I, p. 453, most recently amended version contained in Federal Law Gazette 2009 I, p. 2346). If the personal freedoms enshrined in Article 10 of the Basic Law are to be restricted (privacy of correspondence, posts and telecommunications), the so-called G 10 Commission examines the reliability and necessity of the restrictions in advance (Article 10 Act, Federal Law Gazette 2001 I, p. 1254, 2298, most recently amended version contained in Federal Law Gazette 2009 I, p. 2499). 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 1990 I, 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.

2.3 What are the roles and missions of military, paramilitary and security forces, and how does your State control that such forces act solely within the constitutional framework?

Armed forces

The tasks and powers of the German armed forces are defined in the Basic Law of the Federal Republic of Germany. Accordingly, since the decision on rearmament and the corresponding amendment to the Basic Law in 1956, the armed forces have had the constitutional mandate of territorial and alliance defence against a military attack (Article 87a, Basic Law). Once a state of defence (Article 115a, Basic Law) or a state of tension (Article 80a, Basic Law) has been determined by the German Bundestag (in the case of Article 115a of the Basic Law with the consent of the Bundesrat), the domestic tasks of the armed forces will be extended (Article 87a (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 87a (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 German 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), armed forces may participate in multinational peacekeeping missions to the extent that these are implemented within the framework and according to the rules of a system of mutual collective security (e.g. United Nations, NATO) (Article 24 (2), Basic Law). The Federal Government is obliged to obtain the prior consent of the German Bundestag for any such participation. The details are governed by the Parliamentary Participation Act of 18 March 2005 (Federal Law Gazette I, p. 775).

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 sovereign powers of intervention (technical administrative assistance, e.g. accommodating the police in

barracks). In all cases of administrative assistance as defined in Article 35 of the Basic Law, the armed forces will take action on a subsidiary basis and only at the request of the authorities responsible for dealing with the threat (either at Land or Federal level).

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 2009 I, p. 2499).

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 2009 I, p. 2499).

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).

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 recently 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 by the Interior Ministers/Senators of the Länder or by 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 German Bundestag. Police action can be contested by citizens by way of general informal (remonstrance, 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.

3. Procedures related to different forces personnel

The following comments describe the current legal situation. As of 1 July 2011, the Federal Republic of Germany intends to suspend obligatory service until a state of tension or defence has been determined. The legislative process has not yet been completed.

3.1 What kind of procedures for recruitment and call-up of personnel for service in your military, paramilitary and internal security forces does your State have?

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 12a (1) of the Basic Law, of assigning conscripts to serve in the Federal Police.

3.2 What kind of exemptions or alternatives to military service does your State have?

It is envisaged that as of 1 July 2011 the following will apply:

Suspension of compulsory military service.

- The Federal Republic of Germany intends to suspend compulsory military service. A compulsory call-up for military service in line with the Compulsory Military Service Act will then only be possible in the event of a state of tension or defence. The corresponding legislative process has not yet been completed. In anticipation of the future arrangement and beginning with the call-up date 1 March 2011, those in question will not be called up for compulsory military service against their will.

The following persons are never called up for military service:

- Persons 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:

- Persons convicted of a crime and sentenced to a custodial sentence of at least one year;
- Persons handed down a custodial sentence of at least six months for a crime committed intentionally which is punishable under the provisions on crimes against peace, high treason, endangering the democratic state under the rule of law, treason against the external security of the state and endangering external national security;
- Persons who according to a court decision are unable to serve in a public office;
- Persons 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:

- Persons whose father, mother, brother or sister died from injuries sustained during military service or compulsory non-military national service;
- Persons two of whose brothers or sisters have completed
 - six months of basic military service,
 - six months of non-military national service,
 - civil defence or disaster relief,
 - development assistance,
 - another form of service abroad as defined by Section 14 (b) of the Act on Civilian Alternative Service (ZDG),
 - a voluntary service in accordance with the Jugendfreiwilligendienstgesetz (act on the promotion of youth voluntary services) of at least nine months,
 - 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;
- Persons 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:

- Persons who have undertaken to serve as a volunteer in a civil defence or disaster relief organization for a period of at least four years (Section 13 (a), Compulsory Military Service Act), for as long as their actual service lasts;
- Persons 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:

- Persons 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;
- Persons preparing for the priesthood;

- Persons nominated as candidates for election to the German Bundestag, Land parliaments, or the European Parliament (Section 12, Compulsory Military Service Act).

Exempted from military service should be:

- Persons for whom military service would mean particular hardship on personal, and particularly domestic, economic or professional grounds (Section 12, Compulsory Military Service Act);
- Persons who are essential for the survival and continuation of their parents' business or the business of their employer or have an essential position in a government agency (Section 12, Compulsory Military Service Act).

Exempted from military service may be:

- Persons 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).

3.3 What are the legal and administrative procedures to protect the rights of all forces personnel as well as conscripts?

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 German 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 German 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. Petitions to the Bundestag are dealt with by the Petitions Committee. 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.

4. Implementation of other political norms, principles, decisions and international humanitarian law

4.1 How does your State ensure that International Humanitarian Law and Law of War are made widely available, e.g. through 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 the knowledge gained, 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 a year 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 above-mentioned courses, legal advisers selected for secondment abroad can also prepare themselves by taking part in a special course at the Internal Leadership Centre/Central Training Facility for the Administration of Justice in the Bundeswehr.

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 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 15/2 “Humanitäres Völkerrecht in bewaffneten Konflikten – Handbuch” (International Humanitarian Law in Armed Conflicts – Manual);
- Joint Service Regulation 15/3 “Humanitäres Völkerrecht in bewaffneten Konflikten – Textsammlung” (International Humanitarian Law in Armed Conflicts – Anthology);
- “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 company level.
- “Handbuch für den Rechtsberater-Stabsoffizier in Auslandseinsätzen” (Handbook for senior military legal advisers in operations abroad) – (several volumes, regularly updated);
- “Kommandantenhandbuch – Rechtsgrundlagen für den Einsatz von Seestreitkräften” (Commanding officers handbook – legal basis for the deployment of maritime forces) 060406;
- Intranet pages of the Central Training Facility for the Administration of Justice in the Bundeswehr (regularly updated).

4.2 What has been done to ensure that armed forces personnel are aware of being individually accountable under national and international law for their actions?

Both within the scope of tuition on international humanitarian law and in the relevant Service Regulation (Joint Service Regulation 15/2 “Humanitäres Völkerrecht in bewaffneten

Konflikten – Handbuch” (International Humanitarian Law in Armed Conflicts – Manual), it is expressly pointed out that any member of the armed forces who has violated the rules of international humanitarian law can expect to be called to account via either criminal or disciplinary proceedings.

4.3 How does your State ensure that armed forces are not used to limit the peaceful and lawful exercise of human and civil rights by persons as individuals or as representatives of groups nor to deprive them of national, religious, cultural, linguistic or ethnic identity?

Ensuring that the armed forces are not used as a means of exerting power in domestic conflicts lies at the heart of the constitutional, legal and organizational regulations on the armed forces. Several principles address this:

- clear constitutional guidelines on the status of the armed forces and their functions;
- strict limitations on the deployment of the armed forces at home;
- effective, in particular parliamentary, control of the armed forces;
- guarantee of civilian leadership (primacy of politics).

Under Article 87a (2) of the Basic Law, apart from defence the armed forces may be employed only to the extent expressly permitted by the Basic Law. This rule is absolute. It is aimed at restricting the possibilities for a Bundeswehr deployment at home by using the principle of strict adherence to the text.

Deployment of the armed forces at home is limited to a few narrowly defined situations which are subject to judicial control. This applies to states of emergency (Article 87a (4) in conjunction with Article 91 (1) of the Basic Law), states of tension or defence (second sentence of Article 87a (3) in conjunction with Article 115a (1) of the Basic Law), an impending natural disaster or one which has already occurred, as well as an especially grave accident (Article 35 (2) and (3) of the Basic Law). Besides these special situations, the armed forces may not perform any duties of the police forces of the Federation or Länder, for a strict differentiation is made between military tasks and police tasks as well as responsibility for security plans.

The situations mentioned above which allow the deployment of the armed forces at home are all subject to parliamentary control. This must either take place in advance of the deployment (determination of a state of tension or defence, Article 80a and Article 115a of the Basic Law) or ensures that deployment of the armed forces is halted at any time at the request of the German Bundestag or Bundesrat. Furthermore, effective parliamentary control of the armed forces is guaranteed through the special rights of the Committee on Defence (Article 45a of the Basic Law), the Parliamentary Commissioner for the Armed Forces (Article 45b of the Basic Law) and the budgetary law of the German Bundestag, which has an impact on the organization of the armed forces (Article 87a (1) of the Basic Law).

Finally, command of the armed forces is vested in the Federal Minister of Defence (Article 65a of the Basic Law), who is subject to the democratic control of the German Bundestag as a member of the Federal Government. He cannot delegate his powers, in particular not to the Chief of Staff or other military entities. The armed forces are thus subordinate to the primacy of politics both in times of peace and during a deployment. This

means the instructions of political leaders take precedence over decisions made by military leaders.

Both through the incorporation of the armed forces as a parliamentary army in rule-of-law structures, as provided for by the Basic Law, and through the combination of the control mechanisms outlined, it can be ensured that the armed forces are not used as a means of exerting power – not only at home.

4.4 What has been done to provide for the individual service member's exercise of his or her civil rights and how does your State ensure that the country's armed forces are politically neutral?

The Legal Status of Military Personnel Act provides that armed forces personnel must be able to exercise their civic rights. It ensures that soldiers have the same civic rights as any other citizen. Only within the scope of the requirements of military service can individual rights be restricted by statutory duties. As already stated under item 3.3, comprehensive means of legal redress guarantee that soldiers are able to exercise their civic rights.

The guarantee of the political neutrality of the armed forces is also included in the Legal Status of Military Personnel Act. It provides that soldiers on duty cannot act to the advantage or disadvantage of any given political group. The right of soldiers to express their own opinions in conversations with colleagues is unaffected by this. Within service accommodation and facilities, soldiers may not canvass on behalf of political groups, not even when they are off-duty. (In particular, they are not permitted to make speeches, disseminate written material or work as representatives of political organizations.) Soldiers are not permitted to wear their uniforms at political events nor are they allowed to influence their subordinates in favour of or against a political view.

4.5 How does your State ensure that its defence policy and doctrine are consistent with international law?

International and constitutional law form the basis for the actions of the Federal Republic of Germany in the sphere of defence policy, as well as for all missions of German armed forces. Defence policy is firmly anchored in the rule-of-law structures of the Basic Law and is subordinate to the primacy of democratically legitimized politics.

The German Basic Law provides that the general rules of international law are part of Federal law and take precedence over all acts. Germany's security policy is guided by the values of the Basic Law and the goal of helping to ensure respect for human rights and strengthening the international order on the basis of international law. International humanitarian law and the rules laid down for missions on the use of military force are an integral element of the leadership process in the German armed forces.

Section III: Public access and contact information

1. Public access

1.1 How is the public informed about the provisions of the Code of Conduct?

The provisions of the OSCE Code of Conduct have a prominent place on the website of the Federal Foreign Office:

<http://www.auswaertiges->

[amt.de/DE/Aussenpolitik/Friedenspolitik/Abruestung/KonvRueKontrolle/OSZE-CoC_node.html](http://www.auswaertiges-amt.de/DE/Aussenpolitik/Friedenspolitik/Abruestung/KonvRueKontrolle/OSZE-CoC_node.html),
and are thus accessible to the public.

1.2 What additional information related to the Code of Conduct, e.g. replies to the Questionnaire on the Code of Conduct, is made publicly available in your State?

The questionnaire and answers are also published there.

In addition to the German, an English version is also available.

1.3 How does your State ensure public access to information related to your State's armed forces?

The information service of the Federal Ministry of Defence and the Bundeswehr provides information on the decisions and plans of the Ministry, as well as on the commitment, tasks and missions of the Bundeswehr. It fosters the general public's confidence in Germany's security and defence policy and in its armed forces. This information service highlights the Bundeswehr's integration in state and society, heightens the public's awareness of the necessity of the armed forces and makes it possible for citizens of the Federal Republic of Germany to take part responsibly in the forming of political will vis-à-vis security and defence issues. The information service encompasses press, public relations and media work, as well as central troop information.

Within the scope of the objectives outlined above, the press work focuses on journalists from all media (press, radio, television, news agencies, film, Internet, etc.) at home and abroad, with a view to reaching the general public.

Public relations work is aimed directly at the entire population of the Federal Republic of Germany. It fosters understanding for Germany's security and defence policy as well as for the commitment, tasks and missions of the Bundeswehr. To this end, the Federal Ministry of Defence's public relations work makes use of the entire range of modern means of communication and information.

The information is made available in the form of free brochures, leaflets and CDs/DVDs. This is complemented by an open dialogue on security issues through personal contacts between the population and the Bundeswehr by way of seminars and talks, trade fairs and exhibitions, as well as by visits to the armed forces. The public can receive information directly from public relations staff, in particular the youth officers, as well as directly through telephone inquiries and letters to the Federal Ministry of Defence and the Bundeswehr.

The websites www.bmvg.de and www.bundeswehr.de provide a wealth of information.

In addition, the media work makes use of overarching cooperation with media companies and organizations, as well as the media itself to foster the fundamental consensus on security policy among the general public.

The Federal Republic of Germany thus publishes comprehensive information on the Federal Ministry of Defence and the Bundeswehr and ensures that the public has adequate access to information on the armed forces.

In addition to the information service provided by the Ministry of Defence, there is the Act Governing Access to Information held by the Federal Government (Freedom of Information Act – Informationsfreiheitsgesetz) of 5 September 2005 (Federal Law Gazette I, p. 2722).

2. Contact information

Provide information on the national point of contact for the implementation of the Code of Conduct

Federal Foreign Office
Division 241-2
11013 Berlin;
241-2@auswaertiges-amt.de
Tel. +49 30 1817 0
and +49 30 1817 4279

Permanent Mission of the Federal Republic of Germany to the Organisation for Security and Co-operation in Europe, Vienna (OSCE)
Postbox 160
1037 Vienna
mil-5-osze@wien.auswaertiges-amt.de
Tel. +43 1 7 11 54 0
and +43 1 7 11 54 133

Additional information on the processing of the questionnaire

Division 241 at the Federal Foreign Office is responsible for answering the questionnaire on the OSCE Code of Conduct and initializes this process by requesting and coordinating contributions from other relevant divisions in the Federal Foreign Office, the Federal Ministry of the Interior, the Federal Ministry of Defence and the Federal Chancellery. It has drawn up this report based on this feedback.

Additional information on women, peace and security

Annex to the Report by the Federal Republic of Germany for 2010

I. Proportion of women in the armed forces

Under the Act on Equal Opportunities for Female and Male Military Personnel of the Bundeswehr, women are considered to be underrepresented in the armed forces if the percentage of female military personnel is less than 15% for the Bundeswehr as a whole and less than 50% in the Bundeswehr Joint Medical Service. Below these percentages, women are given preferential treatment in the case of equal suitability, professional achievement and aptitude unless there are preponderant reasons to give preference to another applicant.

The number or share of women in the armed forces among non-rated personnel (only with regard to fixed-term volunteers) is 3333 or 8.33%, among non-commissioned officers 11,334 or 10.18% and among officers 2829 or 7.54%.

349 women (5.31%) are serving with peacekeeping troops.

II. Fostering understanding for gender-specific issues

The German Government is doing more to ensure that a gender perspective is integrated into the instruction and training sphere. The target group encompasses national personnel in donor and partner countries as well as multipliers such as trainers and instructors of relevant organizations in the partner countries. In the field of strategic orientation, training and instruction are an integral part of developing individual competences as well as institutional capacities.

In concrete terms, the German Government's commitment to the integration of gender specific measures into crisis prevention and conflict management is, for example, part of the training for UN missions. This includes, in particular, attention to the role of women in resolving conflicts. This is of special importance to personnel deployed in field missions.

Gender issues play an increasingly significant role in Bundeswehr courses. From basic to officers' training, especially in the field of leadership, the demands of UN Security Council Resolution 1325 are adapted to and implemented in the training of the armed forces. The groundwork on awareness of the gender perspective is laid here. The aim is to heighten awareness among our soldiers on this issue and its importance, both in the sense of "women serving in the armed forces" and "the status of women in society". Furthermore, criminal liability for acts of violence against sexual self-determination is dealt with.

Moreover, the courses of the Internal Leadership Centre for the basic and further training of equal opportunity officers, for the training of equal opportunity representatives and personnel in the sphere of personnel management (introductory course, further training, short briefings, etc.) focus on the Act on Equal Opportunities for Female and Male Military Personnel of the Bundeswehr.

In addition, the Acts on Equal Opportunities for Female and Male Military Personnel of the Bundeswehr and on the Equal Treatment of Female and Male Military Personnel are discussed in two or three hour blocs in the following courses:

- Staff representation law for heads of units large enough to have a staff council,
- Drug prevention for company commanders, masters-at-arms and element leaders,
- Introductory course for teachers of law and legal advisors,
- Internal leadership for battalion commanders, commanders, deputies and future battalion commanders,
- Internal leadership with company commanders,
- Internal leadership with first sergeants and masters-at-arms.

The UN Secretary-General's bulletin of 9 October 2003 on "Special Measures for Protection from Sexual Exploitation and Sexual Abuse" is expressly dealt with in the Internal Leadership Centre courses "central leader training for missions abroad" and "the law in deployment". Moreover, the "rights and special needs of women" and "protective measures in the context of concrete mandate powers" are also discussed in these courses. This also applies to the relevant provisions on protection in the Geneva Conventions and their Additional Protocols (in particular, the protection of civilians, the onus on combatants to distinguish themselves from non-combatants, criminal law aspects of violations). During the preparatory training for a mission, the current situation of the population in the country in question is examined. The important role of women in settling conflicts is discussed in this context, as is the integration of women into regional institutions. In addition, questions concerning the correct country-specific treatment of women and conduct in the presence of the local female population in the country is discussed.

In addition to military capabilities, soldiers should develop social and intercultural skills for different deployment scenarios with a view to also reconciling hostile groups. To this end, participants are provided with information on the causes and the course of the conflict and on the social, political and cultural conditions as well as on relations between the sexes on the grounds.

Placing UN Security Council Resolution 1325 on the Intranet of the Bundeswehr will make the Resolution better known among the armed forces, independent of courses.

III. Implementation of UN Security Council Resolution 1325

There are no plans to draw up a national action plan to implement UN Security Council Resolution 1325. The German Government reports regularly to the German Bundestag on the progress made in implementation, most recently in the third implementation report of 3 December 2010.

(http://www.auswaertiges-amt.de/cae/servlet/contentblob/357668/publicationFile/131805/Frauen-BerichtRes1325_2007.pdf)

ANLAGE – Liste der völkerrechtlichen Übereinkünfte und Vereinbarungen

Bitte geben Sie an, ob Ihr Staat Vertragspartei der folgenden allgemeinen und regionalen Übereinkünfte über die Verhütung und Bekämpfung des Terrorismus und die damit zusammenhängende Zusammenarbeit in Strafsachen ist. Sollte Ihr Staat nicht Vertragspartei einer Übereinkunft sein, jedoch in Erwägung ziehen, Vertragspartei zu werden, so geben Sie bitte an, in welcher Phase sich die Erwägungen befinden (z. B. Phase der interministeriellen Koordination, von der Regierung beschlossen und dem Parlament vorgelegt, nach Zustimmung des Parlaments dem Präsidenten zur Inkraftsetzung vorgelegt, usw.).

	Bezeichnung der Übereinkunft	Vertragspartei durch Ratifikation VP (R) , Beitritt VP (B) , Staatennachfolge VP (S) , Annahme VP (A) , Genehmigung VP (G) oder keine Vertragspartei	Gesetz und Tag der Ratifikation, des Beitritts, der Staatennachfolge, der Annahme oder der Genehmigung
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Allgemeine völkerrechtliche Übereinkünfte

1	Abkommen über strafbare und bestimmte andere an Bord von Luftfahrzeugen begangene Handlungen (1963)	VP (R)	16. Dezember 1969
2	Übereinkommen zur Bekämpfung der widerrechtlichen Inbesitznahme von Luftfahrzeugen (1970)	VP (R)	11. Oktober 1974
3	Übereinkommen zur Bekämpfung widerrechtlicher Handlungen gegen die Sicherheit der Zivilluftfahrt (1971)	VP (R)	3. Februar 1978

4	Übereinkommen über die Verhütung, Verfolgung und Bestrafung von Straftaten gegen völkerrechtlich geschützte Personen einschließlich Diplomaten (1973)	VP (R)	25. Januar 1977
5	Internationales Übereinkommen gegen Geiselnahme (1979)	VP (R)	15. Dezember 1980
6	Übereinkommen über den physischen Schutz von Kernmaterial (1979)		6. September 1991
7	Protokoll zur Bekämpfung widerrechtlicher gewalttätiger Handlungen auf Flughäfen, die der internationalen Zivilluftfahrt dienen, in Ergänzung des am 23. September 1971 in Montreal beschlossenen Übereinkommens zur Bekämpfung widerrechtlicher Handlungen gegen die Sicherheit der Zivilluftfahrt (1988)	VP (R)	25. April 1994
8	Übereinkommen zur Bekämpfung widerrechtlicher Handlungen gegen die Sicherheit der Seeschifffahrt (1988)	VP (B)	6. November 1990
9	Protokoll zur Bekämpfung widerrechtlicher Handlungen gegen die Sicherheit fester Plattformen, die sich auf dem Festlandsockel befinden (1988)	VP (B)	6. November 1990
10	Übereinkommen über die Markierung von Plastiksprengstoffen zum Zweck des Aufspürens (1991)	VP (R)	17. Dezember 1998
11	Internationales Übereinkommen zur Bekämpfung terroristischer Bombenanschläge (1997)	VP (R)	23. April 2003
12	Internationales Übereinkommen zur Bekämpfung der Finanzierung des Terrorismus (1999)	VP (R)	17. Juni 2004

13	Internationales Übereinkommen zur Bekämpfung nuklearterroristischer Handlungen (2005)	VP (R)	8. Februar 2008
14	Änderung des Übereinkommens über den physischen Schutz von Kernmaterial (2005)	VP (R)	
15	Protokoll zum Übereinkommen zur Bekämpfung widerrechtlicher Handlungen gegen die Sicherheit der Seeschifffahrt (2005)		
16	Protokoll zum Protokoll zur Bekämpfung widerrechtlicher Handlungen gegen die Sicherheit fester Plattformen, die sich auf dem Festlandsockel befinden (2005)		
17	Übereinkommen über die Bekämpfung widerrechtlicher Handlungen mit Bezug auf die internationale Zivilluftfahrt (2010)		
18	Zusatzprotokoll zum Übereinkommen zur Bekämpfung der widerrechtlichen Inbesitznahme von Luftfahrzeugen (2010)		
19	Übereinkommen der Vereinten Nationen gegen die grenzüberschreitende organisierte Kriminalität (2000)	VP (R)	14. Juni 2006

Völkerrechtliche Übereinkünfte des Europarats

20	Europäisches Übereinkommen zur Bekämpfung des Terrorismus (1977) SEV-Nr.: 090	VP (R)	3. Mai 1978
21	Protokoll zur Änderung des Europäischen Übereinkommens zur Bekämpfung des Terrorismus (2003) SEV-Nr.: 190	Unterzeichnung	15. Mai 2003

22	Übereinkommen des Europarats zur Verhütung des Terrorismus (2005) SEV-Nr.: 196	Unterzeichnung	24. Oktober 2006
23	Übereinkommen des Europarats über Geldwäsche sowie Ermittlung, Beschlagnahme und Einziehung von Erträgen aus Straftaten und über die Finanzierung des Terrorismus (2005) SEV-Nr.: 198	Keine Vertragspartei	
24	Europäisches Auslieferungsübereinkommen (1957) SEV-Nr.: 024	VP (R)	2. Oktober 1976
25	Zusatzprotokoll zum Europäischen Auslieferungsübereinkommen (1975) SEV-Nr.: 086	Keine Vertragspartei	
26	Zweites Zusatzprotokoll zum Europäischen Auslieferungsübereinkommen (1978) SEV-Nr.: 098	VP (R)	8. März 1991
27	Europäisches Übereinkommen über die Rechtshilfe in Strafsachen (1959) SEV-Nr.: 030	VP (R)	2. Oktober 1976
28	Zusatzprotokoll zum Europäischen Übereinkommen über die Rechtshilfe in Strafsachen (1978) SEV-Nr.: 099	VP (R)	8. März 1991
29	Zweites Zusatzprotokoll zum Europäischen Übereinkommen über die Rechtshilfe in Strafsachen (2001) SEV-Nr.: 182	Unterzeichnung	8. November 2001
30	Europäisches Übereinkommen über die Übertragung der Strafverfolgung (1972) SEV-Nr.: 073	Keine Vertragspartei	
31	Übereinkommen über Geldwäsche sowie Ermittlung, Beschlagnahme und Einziehung von Erträgen aus Straftaten (1990) SEV-Nr.: 141	VP (R)	16. September 1998
32	Übereinkommen über Computerkriminalität (2001) SEV-Nr.: 185	VP (R)	9. März 2009

Bitte führen Sie nachfolgend alle **weiteren regionalen, subregionalen oder zweiseitigen Übereinkünfte oder Vereinbarungen** über die Verhütung und Bekämpfung des Terrorismus und die damit zusammenhängende Zusammenarbeit in Strafsachen auf, denen Ihr Staat als Vertragspartei angehört.

	Siehe S. 12 ff.		