

# Germany

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## **Section 1: Summary of Domestic Legislation**

German counter-terrorism strategy is based on using general criminal law statutes in conjunction with preventive measures to avert dangers; the distinction between repressive and preventive measures is given great importance. Germany has preferred to use the ordinary criminal law, such as the statutes on homicide, offences against public order, and offences against personal liberty to indict and punish terrorists for individual terrorist offences.

### *Terrorist Organisations*

- [Section 129a](#) of the [Criminal Code](#), interdicts membership, participation or formation of any organisation the objectives, or activity of which, are aimed at murder, manslaughter, hostage taking, inflicting serious physical or psychological injury, computer sabotage, arson, crimes involving firearms, certain serious environmental crimes or other serious criminal offences.
- However this is only applicable if the purpose of the criminal offence is to seriously intimidate the population, to force an authority or international organisation to act under duress by use of violence or the threat of violence, or to eliminate the basic political, constitutional, economic or social structures of a state or international organisation or interfere with them in such a way that the effects of the interference may cause considerable damage to the state or international organisation.
- [Section 129b](#) of the Criminal Code allows the German authorities to prosecute the founding, membership, support and recruiting members or supporters for, criminal or terrorist organisations abroad (and outside the European Union), where there is a domestic connecting factor, as set out in the law. Domestic connecting factors include the involvement of a German national, either as a perpetrator or as a victim, the suspect's activity is in Germany, or a victim or perpetrator is in fact in Germany.
- Where certain conditions are met a Court may order the forfeiture of items which have been obtained for, or as a result of, a criminal offence.

### **Anti-Terrorism Act 2002**

On 1 January 2002, the [Anti-Terrorism Act](#) (*Terrorismusbekämpfungsgesetz*) entered into force as a direct response to the terrorist attacks of 9 September 2001 in

America. It was focused on preventive measures, expanding the powers of the Federal Criminal Police Office (*Bundeskriminalamt*) and the Federal Office for Protection of the Constitution (*Bundesamt für Verfassungsschutz*) in the field of information gathering and sharing, and modifying provisions concerning foreigners and associations.

### **Anti-Terrorism Supplement 2007**

The provisions in the Anti-Terrorism Act 2002 had been limited to a duration of 5 years – extendable only after review. Following the review, which was carried out in 2006, the [Anti-Terrorism Supplement 2007](#) (*Terrorismusbekämpfungsgesetz*) was passed to prolong and amend the provisions in the Anti-Terrorism Act 2002. One of the most important amendments is the new competences for the internal intelligence agency (the Federal Office for Protection of the Constitution).

### **Joint Counter-Terrorism Centre**

In 2004 a new [Joint Counter-Terrorism Centre](#) was established bringing together analysts from the police and intelligence services. The Centre was not implemented through any formal act and therefore represents a more informal cooperation between the different organisations to enhance the exchange of information and analysis of the terrorism threat.

### **Joint Databases of Police Authorities and Intelligence Services**

The [Act on Joint Databases 2006](#) established for the first time a Counter-Terrorism Database as an information network for the cooperating intelligence and police services. The database is run by the Federal Police Office but other security services have online access and can feed in new data. The database collates many kinds of personal data, including names, addresses, date of birth, city of birth, email accounts, telecommunications and bank accounts.

## **Section 2: Relevant International Instruments and Obligations**

### **Anti-Terrorism Instruments**

Germany has ratified all 13 [UN Conventions on Terrorism](#).

### **Human Rights Instruments**

Germany is a state party to a number of international human rights instruments, full details of which can be found [here](#). The most important regional treaty is the [European Convention of Human Rights](#) (ECHR) 1950.

## **Section 3: Useful reports**

### **❖ CODEXTER Report**

An overview of the German counter-terrorism system has been collected by the [Council of Europe Committee of Experts on Terrorism \(CODEXTER\)](#) and can be

consulted [here](#). The report outlines Germany's anti-terrorist legislation, institutional framework and international cooperation instruments.

#### ❖ **UN Counter-Terrorism Committee Reports**

The German Government has submitted a number of reports to the [United Nations Counter-Terrorism Committee \(CTC\)](#) on the implementation of [Security Council Resolution 1373 \(2001\)](#).

- The [first report](#) (2001) summarises the legislative action taken by Germany to combat terrorism, with a particular focus on the financing of terrorism and criminalising anyone associated with terrorism.
- The [second report](#) (2002) which is a supplement to the first report answers the CTC's specific questions arising from the first report. Much of the supplement is an update on the progress between the first report, submitted in late December 2001 and the supplement submitted in October 2002.
- The [third report](#) (2003) focuses on answering technical questions from the CTC with specific reference to measures taken against the financing of terrorism.
- The [fourth report](#) (2004) centres around the effectiveness of the measures Germany has implemented in response to Resolution 1373.

In July 2006 Germany submitted a [report](#) to the CTC concerning the implementation of [Security Council Resolution 1624 \(2005\)](#).

#### ❖ **Interpol report**

A brief overview of German counter-terrorism law is provided by this [Interpol Report](#). The report focuses on the laws pertaining to membership of terrorist organisations, financing of terrorism, preventing terrorists from obtaining weapons, and bioterrorism.