# GERMANY'S STRATEGIC, LEGAL AND INSTITUTIONAL APPROACH TO FIGHTING TERRORISM

**Review Article** 

DOI: 10.5937/zurbezkrim2201021P	UDK 323.285:343.344(430)

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Abstract: This paper addresses Germany's strategic, legal and institutional approach to fighting terrorism. Specifically, the presence of a large number of manifestations of terrorist activities in the world has led to the fact that each country strives to develop the best approach to combating such forms of activities. The prevalence of violent extremism and radicalization leading to terrorism has led countries to make enormous efforts to develop different capacities to fight terrorism. This paper demonstrates how Germany counters terrorism. A detailed analysis of the existing capacities, which refers to the strategic documents, legal framework and entities involved in the fight against terrorism, clearly shows that Germany has very high quality resources intended for this purpose.

**Keywords**: radicalization, violent extremism, terrorism, strategy, law.

#### INTRODUCTION

Each country represents a complex and insufficiently harmonious system within which political, religious, ethnic and other interests clash between different groups. There may be such a level of exclusivity that some of these groups turn their extremist views into terrorist activities (Škrbić, 2011: 18-19). Specifically, terrorism poses a major challenge and problem presently (Galiješević, 2012: 5). This is a very complex phenomenon, which requires a multidisciplinary approach (Trifunović, 2007: 4; Popović, 2020: 51). In this regard, all countries are committed to providing protection against terrorist activities, which means placing special emphasis on the prevention of terrorism, which is reflected in their international legal and political obligations (OSCE, 2014: 36).

Like some other countries, Germany was a breeding ground for various terrorist activities in the past. This primarily refers to the activities of the extreme left-wing terrorist organization *Red Army Faction*, better known as the

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Baader-Meinhof Gang, which carried out numerous terrorist attacks not only in Germany but also in other countries, and their terrorist activities stopped in the 1990s (Martin, 2006: 242–243). After that, terrorist activities were undertaken by Islamic extremist groups, that is, terrorist organizations Al Qaeda and the Islamic State. These terrorist organizations participated in the commission of terrorist acts on German soil. However, nowadays, the Islamic State has primacy, whereby, in addition to committing terrorist acts on German soil, it also spreads radicalization, which is perhaps strategically and in the long run much more dangerous than the terrorist act itself (Selefizam, 2011). Terrorist acts on German soil are evidenced by terrorist acts that took place in 2016, first in Munich, where 10 people were killed and 21 injured, then in Berlin, where 12 people were killed and 56 injured (Popović, 2020a: 45).

Due to that, Germany has strengthened its capacities in the fight against terrorism with strategic documents, various programs and projects related to the prevention of radicalization, as well as rich legislation related to the mentioned area. It also has significant counter-terrorism institutions. Thus, the aim of this paper is to present the mentioned capacities of the Federal Republic of Germany regarding countering terrorism. A review of the literature revealed studies addressing the strategic, legal and institutional fight against terrorism (Picco, 2004; Kydd & Walter, 2006; Antoliš, 2009; Pietrasanta, 2015; El Difraoui & Uhlmann, 2015; Özbey, 2018; Popović, 2019; Popović, 2020.) The paper presents a strategic approach to fighting terrorism, legislation on fighting terrorism and the institutional aspect of the fight against terrorism in the Federal Republic of Germany.

## STRATEGIC APPROACH TO COUNTERING TERRORISM

The Federal Republic of Germany applies a strategic approach in the fight against terrorism. This country fully respects and implements the strategy and action plan of the European Union in the fight against terrorism. Further, it is important to mention the Federal Government Strategy to Prevent Extremism and Promote Democracy, which was adopted in 2016. The same strategy aims to achieve results, with the cooperation between the federal and local authorities, in preventing extremism and strengthening democracy. Here, in addition to adults, special emphasis is placed on the younger population. Its main goal and target groups are related to various measures and the scope of action: political education, intercultural learning and democracy promotion; engaging civil society; counseling, monitoring and intervention; media and the Internet; and research. Special emphasis is placed on preventing the radicalization of young Islamists who travel from Germany to Syria and Iraq to take part in conflicts as foreign terrorist fighters on the side of Islamic terrorist organizations, and now their return from foreign battlefields. Various education programs for children, adolescents and their parents are applied here, as well as the provision of ped-

agogical and counseling services in order to prevent extremism (Die Bundesregierung, 2016: 13).

In 2016, the Federal Government, in addition to the strategies for the prevention of extremism and the promotion of democracy, adopted the Plan of Action to Prevent Violent Extremism, which elaborates in detail the provisions of the same strategy. The mentioned documents focus on the implementation of the mentioned programs and various projects. For example, with the federal program Cohesion through Participation (funding volume: 6 million euros per year until 2015; 12 million euros as of 2016), the Federal Ministry of the Interior, in agreement with the Federal Government Commissioner, supports projects for democratic participation in the new federal states against extremism, especially in rural or underdeveloped areas, where extremist tendencies are most pronounced. As the target group, regular, honorary and active members of national associations are listed, including people from municipal structures and citizens, who are trained to become advisers for democracy, where they develop democratic attitudes, improve knowledge and point out the negative effects of conflict with extremist background. The projects focus on the potential that already exists at the regional level. This refers to amateur sports organizations, voluntary fire brigades, voluntary structures of the German Federal Agency for Technical Assistance and other civil society organizations. The aim is to use and develop them in order to strengthen democratic participation on the ground and counter the spread of extremist attitudes and prejudices. Thus, in this paper, the emphasis is placed on countering extremist, racist, and anti-democratic attitudes and slogans, and an offer of concrete assistance to civil society in the fight against extremist attitudes. Offers range from publications and online files, media projects and web video formats for young people, symposiums on preventive project financing regarding pilot projects, to publishing and supporting networks multipliers, professional training for professionals and support for science practice projects. In addition to developing one's own services. the emphasis is on promoting the recognized institutions of political education, especially those whose work focuses on promoting democracy and preventing extremism (Die Bundesregierung, 2016: 15–16).

In addition to the above program, it is important to mention other programs related to the prevention of radicalization:

The Federal Office for the Protection of the Constitution (German: BfV - Bundesamt für Verfassungsschutz) has created the program Hatif (meaning phone in Arabic) – *Leaving Terrorism and Islamic fanaticism*." The idea was to start a helpline service for people who are ready to give up jihad. So, their care included psychological support of the individual and his family, cooperation with the imams, assistance in finding a new home, professional training and a job. This program ended in 2014, due to the fact that there were very few calls. Most analysts believe that this failure is due to the fact that the program was directly managed by federal security services (El Difraui & Uhlmann, 2015: 172–173).

Furthermore, Hayat is one of the first programs of de-radicalization in civil society, launched by the Center for Democratic Culture (Zentrum für demokratische Kultur - ZDK) in Berlin, which has already contributed to the de-radicalization of far-right circles. *Hayat* (meaning life in Arabic and Turkish) is a program that includes former police officers and specialists in the area of combating radical Islamism, which advises and monitors radicalized youth and their families. The Federal Ministry of the Interior joined this initiative in 2012. A new organizational unit has been formed within the mentioned ministry – the Federal Office for Migration and Refugees, which coordinates the activities related to the fight against radicalization. In this regard, the program activities aimed at individuals who are in the process of radicalization or are already radicalized, but who have not left the territory of Germany, or who have returned from different regions, foreign battlefields, or are still in the land of jihad but they want to return are undertaken. This program is very important because the de-radicalization teams are constantly cooperating with the family of the radicalized person, providing support and, if necessary, psychological assistance to young radicalized people, and sending them to a non-radicalized community. while respecting basic human rights and freedoms (Hayat, 2020).

Also, the *Schnittmengen* project of the Islamic Center and the Gutersloh Police District is a youth program, which is marked as a joint initiative of the Islamic Center in the city of Gutersloh, the district police and the regional branch of the *Villigst* Academy against violence. This project involves mostly Muslim youth aged 15-25 and aims to raise their awareness of violence, highlight the needs and aspirations shared by the rest of society, foster tolerance and a sense of belonging among the participants, and improve their perception by the police and other government bodies through positive interactive action. Group meetings take place once a week (the group consists of 15 to 20 participants) to participate in sports activities and once a month in practical training on violence de-escalation. Through these activities, they acquire knowledge and develop social and communication skills that can help them in resolving complex situations and confronting various forms of violence (OSCE, 2014: 167-168).

It is also important to mention the activities of the German *Violence Prevention Network of* (VPN), whose work is supervised by the Hessian Information and Competence Center against Extremism (*HKE – Hessisches Informations und Kompetenzzentrum gegen Extremismus*). Within the mentioned network, de-radicalization programs are particularly being implemented in prisons. Thus, according to the programs, twenty radicalized prisoners are divided into two groups in which they are subjected to special supervision. Among them are prisoners convicted of belonging to terrorist groups (Al Qaeda and the Islamic State), or of attempted terrorist attacks in Germany. So, they are interviewed and given support to renounce extremist ideology. Further, the prisoners are encouraged to join the Muslim community and engage in social and sporting activities. Also, the prisoners' families, who often face difficulties, receive special support (El Difraui & Uhlmann, 2015: 174–175).

#### LEGISLATION ON COUNTERING TERRORISM

In addition to the strategic approach and implementation of the programs related to fight against terrorism, legislation regulating this area makes a great contribution. Thus, a large part of the legal provisions regulating this matter are contained in omnibus acts specifically focused on the fight against terrorism, primarily in the Counter-Terrorism Act (TBG) and the Act Supplementing the Counter-Terrorism Act – TBEG, because Germany does not have a single and comprehensive counter terrorism act. The Counter Terrorist Act came into force on January 1, 2002, as a response to the new circumstances resulting from the Al Qaeda attack on the United States. The reason for its enactment is the amendment of a number of security laws, including the law regulating cooperation between the federation and the federal states in matters related to the protection of the Constitution, the Act on the Military Counterintelligence Service (MADG), the Federal Act on the Protection of the Constitution (BverfSchG), the Federal Police Act (BpolG), the Federal Criminal Police Office Act (BKAG), the Federal Intelligence Service Act (BNDG) and the Aliens Act (AuslG), which was replaced in 2005 by the Residence Act (Lečić, 2014: 203).

Once the legal changes have taken effect, in practice it has been shown that the security authorities have been given the necessary legal powers and there has been a significant exchange of information between government authorities. Additionally, a number of cases of successfully preventing terrorist groups from entering Germany have been reported, as well as identifying extremist activities within Germany. Identity security has also been improved when issuing visas, and air traffic has become safer as permits have been issued to deploy armed police officers as air marshals on German commercial flights. Additionally, the following acts have been amended: the Passport Act (PassG), the Security Verification Act (SÜG), the Civil Aviation Act (LuftVG), the Identity Card Act (PersAusvG), the Private Associations Act (VereinsG), the Federal Central Criminal Registry Act (BZRG), Social Code – Book X, and the Energy Law (Security of Supply). Among other things, the mentioned changes enabled the performance of meaningful security checks of the suitability of personnel in facilities of vital importance or facilities subject to defense. Further, police officers were allowed to possess firearms on commercial flights, and many activities of foreign extremist organizations in Germany were prevented, mostly by enabling searches of their contacts and various content on social networks and websites. Also, in order to monitor the cash flows, the accounts owned by organizations and individuals suspected of extremist threats, including terrorism, the Federal Office for the Protection of the Constitution (Bundesamt fuer Verfassungsschutz - BfV) was given significant authority to control illegal activities in this area (Lečić, 2014: 204).

Furthermore, the 1950 Criminal Procedure Code of the Federal Republic of Germany, as amended in 2016, provides certain possibilities in the fight against terrorism. As the German legal system does not provide for exceptional

conditions for preventive detention in those situations where there is a risk of terrorist acts, there is a possibility to invoke the provisions of the same code in such situations (Article 129) (Ein Service des Bundesministeriums der Justiz sowie des Bundesamts für Justiz. 1950).

Also, in addition to this code, the Criminal Code of the Federal Republic of Germany is of great importance, which provides for the following criminal offenses: the offense of preparing a serious violent act endangering the state (Article 89a); the offense of preparing a serious violent act endangering the state (Article 89b); terrorist financing (Article 89c); guidelines and encouragement to commit serious violent offenses endangering the state (Article 91); the offense of creating a terrorist association (129a); forming criminal and terrorist associations outside Germany (129b) (Ein Service des Bundesministeriums der Justiz sowie des Bundesamts für Justiz, 1871). Terrorist training and joining a terrorist organization abroad is contained in Article 89a. Here, the emphasis is on maintaining contacts with a terrorist organization, and not on going abroad. The formal definition of the offense of terrorism and related offenses in the Legislation of the Federal Republic of Germany is given in the Articles 129a and 129b, which include recruitment, training, preparatory work and attempt (Bodrožić, 2016: 60).

#### INSTITUTIONAL ASPECT OF THE FIGHT AGAINST TERRORISM

In order to fight terrorism, institutions such as certain security services and judicial bodies also make a great contribution. Regarding security services, the following institutions make the greatest contribution to the fight against terrorism:

- Federal Intelligence Service (*Bundesnachrichtendienst BND*), which acts as an early warning system for the Government on threats to Germany's interests such as international terrorism, organized crime, money laundering, the proliferation of weapons of mass destruction and illegal technology transfer, weapons and drug trafficking, illegal migration and information warfare. It includes the Department for International Terrorism and Organized Crime (*Internationaler Terrorismus und Internationale Organisierte Kriminalitat TE*), which collects information on asymmetric threats posed by international terrorism and all other illegal activities within its competence, such as illegal migration, money laundering, drug trafficking, etc. (Deutscer, 2022);
- Military Counterintelligence Service (MAD), which has Department 2, is responsible for counter-extremism. Among other things, its competence extends to the detection of certain segments within the German armed forces which, for various reasons, most often due to ideological indoctrination or material gain, may potentially be perpetrators, organizers or facilitators of terrorist attacks on the units and infrastructure.

- of the German army (Innere Sicherheit for the Bundeswehr Der Militärische Abschirmdienst, 2022);
- Federal Office for the Protection of the Constitution (*Landesbehorden fur Verfassungsschutz- BfV*) is the German secret police located within the Ministry of the Interior and is responsible for gathering intelligence in the country. This body has eight departments, and the departments responsible for combating terrorism are the second one (combating right-wing and left-wing terrorism and extremism), the fifth (combating foreign extremism) and the sixth (counter-terrorism, that is, combating Islamism and Islamist terrorism) (Bundesamt22 für Verfass);
- The Federal Criminal Office (*Bundeskriminalamt BKA*), which coordinates the work of the federal and provincial criminal police services and is subordinate to the Federal Ministry of the Interior. Furthermore, his jurisdiction includes political crime, and thus terrorism. In this regard, out of a total of nine departments, the third division (Serious and Organized Crime SO) performs the work of eradicating the most serious forms of crime, such as organized crime and terrorism. Within this department is the Counter-Terrorism Unit composed of the Department for Analysis and Investigation, Data Collection and Research (Bundeskriminalamt BKA, 2022);
- The Joint Counter-Terrorism Center (*Gemeinsame Terrorismusabwehrzentrum GTAZ*), which was formed in response to the emergence of Islamic terrorism in the world and to terrorist threats that threaten Germany's national interests. Its priority is to ensure a quality exchange of information among all German security services, as well as to conduct a comprehensive analysis of targeted threats, including terrorism, which should lead to an agreement on the implementation of operational measures. Thus, the focus is on coordination, cooperation and communication (Bundeskriminalamt BKA, 2022).

In addition to the security services, judicial bodies, within their competence, deal with countering and combating terrorism. Thus, the Chief Federal Prosecutor of the Federal Court is the highest law enforcement body of the Federal Republic of Germany regarding state protection. Thus, he or she performs the duty of public prosecutor in serious criminal cases of state protection that particularly affect the internal or external security of the Federal Republic of Germany (Der Generalbundesanwalt beim Bundesgerichtshof, 2022). The Federal Republic of Germany is a country which probably has the best system regarding the fight against terrorism. Therefore, this primarily refers to developed institutions and their capacities, as well as to developed legislation, whose provisions, as we have seen, have a strong preventive and repressive character.

Due to the large representation of Islamic radical groups and movements on German soil, this country has developed significant resources in terms of countering terrorism. The mentioned capacities are reflected in strategic documents, various programs and projects related to the prevention of radicalization, legal regulations related to the mentioned area, including various institutions which combat terrorism within their competence.

Regarding the strategic documents, it is important to mention the Federal Government Strategy to Prevent Extremism and Promote Democracy, adopted in 2016, whose primary goal is to achieve results in preventing extremism and strengthening democracy with quality cooperation between federal and local authorities. where special emphasis is placed on the younger population in addition to adults. It is important to mention that its aims are achieved through the Plan of Action to Prevent Violent Extremism, which elaborates in detail the provisions of the same strategy. These documents focus on the implementation of certain programs and various projects related to the de-radicalization process. Thus, they focus on assisting citizens in combating extremist attitudes and preventing radical action in society. Also, the various entities comprising society (educational institutions, police departments, prisons, etc.) are involved in their implementation because their application requires a multidisciplinary approach.

In addition to the strategic documents, legislation is of great importance, which greatly contributes to the fight against terrorism. Germany does not have a single and comprehensive counter-terrorism act. What is specific here is reflected in the fact that a large part of the legal provisions related to this matter are contained in omnibus acts, primarily in the *Counter Terrorism Act — TBG* and *Act Supplementing the Counter-Terrorism Act — TBEG*. This act was enacted to supplement a number of security, including acts regulating other area, in order to improve the fight against terrorism (e.g. the Military Counterintelligence Service Act (MADG), the *Passport Act (PassG*, etc.)). Here it is important to mention the contribution of the *Criminal Procedure Code of the Federal Republic of Germany*, which is significant because its provisions provide special conditions for preventive detention, when there is a danger of committing a terrorist act. It is also important to mention the *Criminal Code of the Federal Republic of Germany*, which criminalizes all types of terrorist activities.

Further, the Federal Republic of Germany has quality institutions which can make a huge contribution to the fight against terrorism within the scope of their work and tasks. These are significant capacities that make a huge contribution to both preventive and repressive action. In addition to a wide range of security services (Federal Intelligence Service (Bundesnachrichtendienst-BND), Federal Criminal Police Office (Bundeskriminalamt-BKA), etc.), the Federal Prosecutor of the Federal Court of Justice, who serves as public prosecutor in

serious criminal cases pertaining to the internal and external security of the state.

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If we look at all the above, we can say that the Federal Republic of Germany has quality resources and huge capacities to combat all forms of terrorist activity. Despite that, certain terrorist acts took place on German soil, which, once again, confirms the fact that terrorism is a negative social phenomenon that is very difficult to control.

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Paper received on: 16/6/2022

Paper accepted for publishing on: 7/7/2022