

Federal Republic of Germany
Replies to the questionnaire on the use of legislation, including
criminal legislation, to regulate the activities and work of human
rights defenders

1. a) Please indicate if your country has a specific legal framework, laws or regulations that aim to facilitate or protect the activities and work of human rights defenders. Please cite the names of any such laws or regulations in full.
- b) Please indicate how these laws and regulations are in line with international human rights standards, including but not limited to, the Declarations on Human Rights Defenders.
- c) Please indicate also what legal or administrative safeguards are put in place to prevent baseless legal action against and/ or prosecution of human rights defenders undertaking their legitimate work.

In Germany, human rights defenders are protected by the guarantees provided in the Basic Law, the European Convention of Human Rights and the guarantees set out in the international human rights treaties to which Germany is a party. There are no specific laws concerning human rights defenders.

2. a) Please describe the measures taken, if any, to ensure that your country's national security-related laws (including laws on public order, public safety, respect for morals and counter-terrorism laws) are not used to unduly restrict the scope of activities of human rights defenders.
- b) Please indicate also in particular how these national security-related laws respect the human right to freedom of expression and opinion.

Germany has no specific counter-terrorism laws. Certain activities are penalized by the general criminal code, implementing the relevant UN Conventions where applicable. The Court system ensures that none of the criminal laws may be used to unduly restrict the work of lawyers and human rights defenders. Freedom of expression and opinion is one of the fundamental rights guaranteed in the Basic Law; all relevant Court decisions must take this right into account.

3. a) Please describe the measures taken, if any, to ensure that provisions of the criminal code, or other national laws, are not ambiguous or too broad to allow their arbitrary use, thereby restricting the activities of human rights defenders.

b) Please indicate what legal or administrative safeguards are in place in order to ensure that human rights defenders are not discriminated against in the administration of justice, be it through the handing down of disproportionate sentences, the unreasonable prolongation of criminal or other trials, or any other means.

The independent court system ensures that there is no arbitrary use of the law by the administration. Everyone has the right to apply to the Courts against any administrative act directed against him or her. Remedies against first instance court decisions are always available, apart from trivial cases. The Government is not aware of any cases where human rights defenders in Germany have raised complaints about discrimination or arbitrary decisions.

4. a) Please indicate if your country has specific laws or administrative rules governing the registration, functioning and funding of non-governmental organisations. Please cite the names of any such laws or regulations in full.

b) Please explain how these legal or administrative provisions comply with your country's international human rights obligations regarding the right to freedom of association.

There are no such specific laws or regulations.

5. a) Are there any criminal or other legal or administrative sanctions for human rights defenders who undertake activities on an individual basis or while the association they are members of is unregistered?

b) If such legal framework exists, does it restrict the type of activities that human rights defenders can undertake? If yes, please provide further details.

No.

6. Please indicate the measures taken, if any, to ensure that internal security and official secret-related laws are not used to deny freedom of information to human rights defenders and to prosecute them for their efforts to seek and disseminate information on the observation of human rights standards.

The Law on Access to Information (Gesetz zur Regelung des Zugangs zu Informationen, IFG) provides for general access to government information. The Law, which contains restrictions on certain types of information, is applicable to everyone, including human rights defenders.

7. a) Please indicate measures taken, if any, to avoid the use of defamation, slander or blasphemy laws to unduly restrict the right to freedom of opinion and expression of human rights defenders.

b) How is it ensured that such laws, as well as laws on printing, publication and censorship, comply with international human rights standards and do not target human rights defenders carrying out their legitimate work?

The German Government is not aware of any situations where the right to freedom and expression of human rights defenders was unduly restricted. Moreover there are no such laws in Germany.

8. Please indicate if any other type of legislation is used to regulate the activities of human rights defenders in your country and how the application of the legislation mentioned affects the activities of human rights defenders. Please cite the names of any such legislation in full.

There is no specific legislation to regulate the activities of human rights defenders.