



Permanent Mission  
of the Federal Republic of Germany  
to the United Nations  
New York

Note No. 193/2017

### Note Verbale

The Permanent Mission of Germany to the United Nations presents its compliments to the Office of Legal Affairs and, with reference to General Assembly resolution 71/149 of 18 December 2016, entitled "The scope and application of the principle of universal jurisdiction," has the honour to communicate the following:

The Criminal Code of the Federal Republic of Germany, which came into force on 30 June 2002 (Federal Law Gazette I p. 2254), made the gravest crimes against international law a criminal offence under German law. These include genocide (section 6 of the CCAIL), crimes against humanity (section 7) and war crimes (sections 8 - 12) and, since 1 January 2017, the crime of aggression (section 13). The CCAIL only applies to offences committed before 30 June 2002 are dealt with in accordance with the applicable legislation.

The Public Prosecutor General of the Federal Republic of Germany is prosecuting criminal offences under the CCAIL. Special permission is not required to instigate an investigation or a similar procedure.

According to the first sentence of section 1 of the CCAIL, the principle of unlimited universal jurisdiction applies to genocide (section 6), crimes against humanity (section 7) and war crimes (sections 8 to 12); the application of the CCAIL to crimes of aggression (section 13), on the other hand, is only possible if the offence bears a concrete relation to Germany (second sentence of section 1).

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According to section 12 (1) of the German Criminal Code, crimes are unlawful acts punishable by a minimum sentence of one year's imprisonment. That means that these

committed or the nationality of the perpetrator. However, this general applicability of German criminal law does not automatically lead to the prosecution of an offence, especially when the offence remains and the crime was not committed against a German national.

German legislation provides for finely graduated limits on prosecution in a number of different circumstances in section 153 et seq. of the Code of Criminal Procedure. It is primarily the responsibility of the state in which a crime was committed and the states of the perpetrator and victim to decide which court to prosecute. This is justified by the special interest of the home states of the perpetrator and victim in the criminal prosecution, as well as by the, as a rule, greater pro

There are no legal restrictions resulting from the absence of the accused from the territory of the Federal Republic of Germany; this applies in particular to cases in which a German national committed a

There have already been several c

On 28 September 2015, the Higher old Rwandan national Dr Ignace M. of leading a foreign terrorist organisation, the "Forces Démocratiques de Libération du Rwanda" (FDLR) and complicity in four war crimes as defined by year-old Rwandan national Straton M. was convicted of leading a foreign terrorist organisation, the FDLR, and sentenced to eight years' imprisonment. These convictions are not yet final

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On 12 July 2016, the Higher Regional Court in Frankfurt am Main convicted the 21-year-old Aria L. of a war crime against persons as defined by section 8 subsection (1) No. 9 of the CCAll in connection with the civil war in Syria and sentenced him to 10 years' imprisonment.

The court found that the accused travelled to Syria in spring 2014. He stayed there for at least three weeks with an acquaintance, Vedat V., who had been engaged as a "religious fighter" in the civil war in Syria against the Syrian army since 2012. One day sometime between [redacted] checkpoint near the Syrian city of Idlib and captured an officer and an ordinary soldier. Both were murdered with weights on the other end. The heads were then put on display to the public. The accused posed next to the severed heads and had himself photographed three times with the intent of ridiculing the deceased and [redacted] conviction is not yet final.

A similar case came before the Berlin Higher Regional Court. It was originally [redacted] with by the Federal Public Prosecutor General and was then passed on to the General Prosecutor's Office [redacted] Ann 2016. Following the liberation of the Iraqi city of Tikrit from the terrorist organisation "Islamic State" (IS) [redacted] officer of the Iraqi army, who applied for asylum [redacted] photographs in which he triumphantly held up the severed heads of two IS fighters. He saved the images on his tablet [redacted] again [redacted] and sentenced to one year and eight months' imprisonment to a suspended sentence. The conviction is not yet final.

In a further case before the Higher Regional Court in Frankfurt am Main, the 30-year-old German national Abdelkarim El B. was convicted on 8 November 2016 of war crimes against persons, membership of [redacted] in Iraq and Greater Syria" (ISIG) and violation of the [redacted] War Weapons Control Act. He was sentenced to eight years and six months' imprisonment. The court considered it proven that the accused travelled to Syria in September 2013 to join the ISIG there and [redacted]

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several assault weapons were placed at his disposal. On 7 November, the unit of which the accused was a member near the Syrian city of Aleppo where they found the corpse of a government soldier. The accused decorated the deceased by cutting off his nose and both ears while insulting and cursing him, kicked him in the face and finally shot him in the head. The accused took part in these acts over several minutes. This conviction is not yet final either.

Moreover, the trial against the Syrian national Suhaib Al-S. is currently taking place before the Higher Regional Court in Stuttgart. The 25-year-old is accused of taking part in the abduction of a Canadian UN worker as a member of the terrorist organization "Jabhat al-Nusra" and thus violating section 10(1) no. 1 of the CCaA II.

Furthermore, the trial against the 42-year-old Syrian national Ibrahim al-F. is expected to begin before the Higher Regional Court in Düsseldorf in May 2017. Among other things, al-F. is accused of war crimes against persons as defined in section 8 of the CCaA II. In particular, he is accused of detaining several persons arbitrarily over the course of a few months while leading a district militia in Aleppo, locking them up in makeshift prisons and torturing them in order to extract a ransom. At least one person is said to have died as a result of the torture.

The Permanent Mission of Germany to the United Nations avails itself of this opportunity to renew to the Office of Legal Affairs the assurances of its highest consideration.

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