

Scott Kloeck-Jenson Report
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Introduction:

The broad purpose of my research trip was to continue research completed in the U.S. that contrasted the role that history, culture, and politics has played in shaping Germany's anti-terrorism legislation. In contrast to the U.S., Germany has had an extensive history with terrorism and anti-terrorism legislation which has been primarily shaped by the government's attempts to deal with domestic groups such as the Rote Armee Fraktion in the 1970s and 1980s. The thesis that I began my trip with was that Germany's response to the September 11th tragedy, in particular, its decision to treat terrorism as a crime rather than as a war, stemmed largely from its experience with terrorism in the 1970s. During my trip I sought to gather preliminary evidence in support of my thesis from government policy makers, federal law enforcement officials, as well as German legal scholars.

Research Experience

Due to the efforts of Liane Wörner, a UW Law School Alumnae and research fellow and Dr. Arthur Kreuzer of the Justus-Liebig Universität in Giessen I was able to interview four legal scholars as well as the officials at the Ministry of Justice, Ministry of the Interior, and the Bundeskriminalamt (the German equivalent of the FBI) during my two-week trip to Germany. These discussions included interviews with Thomas Netz at Justus-Liebig Universität in Giessen whose research focuses on recent changes in Germany's anti-terrorism legislation including the addition of §129b to the German Criminal Code which enables Germany to prosecute terrorists who operate outside of the European Union. Mr. Netz also assisted me in locating copies of many primary source materials including the Bundestag committee reports and debate concerning the new legislation.

Following my interview with Mr. Netz, I journeyed to Köln to interview Dr. Frank Neubacher of the Universität-Köln whose research focuses on whether terrorism should be treated as a criminal act or an act of war. Dr. Neubacher underscored the respect that German lawyers and the German legal system has for international law and indicated to me that Germany had recently incorporated many international law crimes into its own criminal code. Mr. Neubacher also provided me with copies of several influential articles by German legal professors on the subject of terrorism as well as the European Union's directive on terrorism.

From Köln I traveled to a small town outside of Bonn where the anti-terrorism section of the German Bundeskriminalamt or BKA is located. Although for the most part, police jurisdiction in Germany lies in the sixteen states or Länder, the role of the BKA as a coordinating agency has become increasingly important with the rise of organized crime and terrorism. At the BKA I met with Marc Ohligschläger who is the division chief for international cooperation and two members of the anti-terrorism unit. My interview with these officials was both lively and informative. Mr. Ohligschläger

informed me that Germany has opened up ten investigations to date using §129b. It is too early to determine how many of these investigations will lead to the filing of criminal charges which would give me some indication as to whether police are using the new reach of their investigative powers to pursue investigations that are supported by sufficient evidence.

Following my interview at the BKA, I traveled to Bremen to interview Dr. Böllinger who is a psychiatrist, attorney, and member of the law faculty of the Universität Bremen. Dr. Böllinger participated in the student movement in the 1970s and has also completed research into the psychological profiles of member of the terrorists responsible for the domestic violence that Germany experienced in the 1970s and 1980s. My interview with Dr. Böllinger was a fascinating one as his theory about the profiles of terrorists is an interdisciplinary one crossing the boundaries of Germany history, psychology, as well as politics.

My final interview was conducted at the Ministry of Justice in Berlin in the former East German section of the city. At the Ministry of Justice I interviewed Dr. Angelika Schlunk Head of the Division for the International Suppression of Terrorism, Mr. Roy from the Ministry of the Interior, a former Berlin judge, as well as a lawyer on the staff of the Ministry of Justice. Perhaps more so than any interview, this interview underscored the differences between the American common law system and Germany's civil code system and how lawyers trained in a civil code system view the law from a vastly different perspective than common law lawyers. It is too early for me to articulate how these differences affect anti-terrorism legislation, but they have an impact that cannot be ignored.

This trip confirmed my interest in completing a dissertation in the field of comparative law and politics as it highlighted the vast differences in perspectives between the German and American legal systems.

Future Research Goals:

My trip to Germany highlighted the fact that in order to obtain a comprehensive assessment of Germany's anti-terrorism legislation, I will need to complete further research. This research may include:

1. Interviews of a number of Germany's defense attorneys who have represented individuals charged with terrorism.
2. Obtaining statistical data on the number of terrorism investigations, charges, and judicial outcomes.
3. Interviews of members of the German Bundestag.
4. Watching a terrorism trial and read the trial transcripts of the trials that have occurred to date.
5. Conducting a statistical study of different groups in German society to try and determine their attitudes towards international law.