

2008 Meeting
Geneva, 1-5 December 2008

Meeting of Experts
Geneva, 18-22 August 2008
Item 5 of the provisional agenda
**Consideration of national, regional and
international measures to improve biosafety
and biosecurity, including laboratory safety
and security of pathogens and toxins**

SECURITY VETTING OF PERSONNEL HANDLING DANGEROUS BIOLOGICAL MATERIALS

Submitted by Germany

Introduction

1. In accordance with the German Atomic Energy Act, the Ordinance on the Verification of Trustworthiness (Atomrechtliche Zuverlässigkeitsüberprüfungs-Verordnung)¹ has for years provided the legal basis for background vetting of personnel working in nuclear power plants or handling or transporting radioactive materials. In 2002 security vetting was extended under the Counter-Terrorism Act (Terrorismusbekämpfungsgesetz)² to additional personnel working in security-sensitive areas within a facility which is vital for public security.

2. According to the German constitution, security vetting is a responsibility shared between the Federal Government and the Federal States Governments. Relevant federal legislation covers all personnel working in an authority or any other public agency belonging to the Federal Government as well as personnel working in the private sector where so provided by law. Relevant Federal States legislation regulates the security vetting of personnel working in Federal States agencies and public services.

¹ http://www.bundesrecht.juris.de/atz_v/BJNR152500999.html

² <http://217.160.60.235/BGBL/bgb11f/bgb110203s0361.pdf>

Federal Legislation

3. The Security Vetting Act (Sicherheitsüberprüfungsgesetz – SÜG)³ regulates the requirements and procedures for vetting a person to be entrusted with a security-sensitive activity in an authority or any other public agency belonging to the Federal Government. In the past the SÜG was concerned primarily with the security vetting of personnel with access to classified material. With the amendments to the SÜG introduced by the Counter-Terrorism Act in 2002, the definition of security-sensitive activities was expanded to include security-sensitive positions within a facility vital for public security (protection against sabotage by personnel).

4. Facilities vital for public security are defined as facilities:

- (i) whose impairment, on the basis of their inherent operational risks, might represent a substantial threat to the health or life of large parts of the population, or
- (ii) that are indispensable for the functioning of the community, and whose impairment would result in a substantial unrest in large parts of the population and thus threaten public safety or order.

The Federal Government is authorized to regulate through an ordinance which authorities or other public agencies belonging to the Federal Government and private-sector entities as well as parts thereof are facilities vital for public security.

5. The Security Vetting Identification Ordinance (Sicherheitsüberprüfungsfeststellungs-Verordnung – SÜFV)⁴ pursuant to the SÜG identifies agencies, installations and functional areas within installations which are covered by the definition of facilities vital for public security. The facilities include, *inter alia*, entities working with and transporting highly toxic substances and pathogens.

Federal States legislation

6. In structure and content the Security Vetting Acts of the sixteen Federal States closely resemble the relevant Federal Act.

7. However, the definition of facilities vital for public security employed in the Identification Ordinances of the Federal States contains slight textual variations as far as installations of biological interest are concerned. The Ordinances focus either on pathogens in general, or more specifically, on highly pathogenic microorganisms as well as either on highly toxic substances in general or, more specifically, on warfare agents. To achieve full implementation of the Identification Ordinances of all Federal States further work is needed.

Procedures

8. Any person to be entrusted with a security-sensitive activity must undergo prior security vetting. In general this requires the consent of the person affected. Personnel working in facilities

³ http://www.gesetze-im-internet.de/s_g/BJNR086700994.html

⁴ http://www.gesetze-im-internet.de/s_fv/BJNR155300003.html

vital for public security who do not need to have access to classified materials are subject to the lowest of three possible levels of security checks.

9. The vetting procedure is initiated by the agency or private-sector entity planning to entrust a person with a security-sensitive activity. Persons applying to carry out such an activity are required to make a personal declaration providing data which will allow checks on their identity, references, qualifications, employment history and criminal record. The Federal Office for the Protection of the Constitution (Bundesamt für Verfassungsschutz)⁵ or the relevant Offices of the Federal States are routinely involved in the vetting process. Before the denial of a security clearance, the applicant should be given the opportunity to make a personal position statement on the facts relevant to the decision.

⁵ http://www.verfassungsschutz.de/en/index_en.html