

Member States capabilities in fighting tax crimes

Relevant legal definition(s) of tax-related offences

	Tax avoidance	Tax evasion	Money laundering
Germany	is understood as a legal act - unless deemed illegal by the tax authorities or, ultimately, by the courts - of using tax regimes to one's own advantage to reduce one's tax burden.	is defined as an illegal act of evading taxes by concealing income, earned either legally or illegally, from detection and collection by the tax authorities.	refers to acts involving the processing of proceeds of crime to conceal their illegal origin and bring them back into the legal economy.
Legal text	N/C	Section 370(1) of the Fiscal Code	Section 261 of the German Criminal Code
Nature of the offence	N/C	Criminal	Criminal
Objective element	N/C	Any person who deliberately furnishes the revenue authorities or other authorities with incorrect or incomplete particulars concerning matters of substantial significance for taxation or who fails to inform the revenue authorities of facts of substantial significance for taxation when obliged to do so and as a result understates taxes or derives unwarranted tax advantages for himself/herself or for another person.	Whosoever hides an object which is a proceed of a felony, a misdemeanours (list), conceals its origin or obstruct or endangers the investigation of its origin, its being found, its confiscation, its deprivation or its being officially secured.
Mental element	N/C	Intention	N/C
Sanction	N/C	<ul style="list-style-type: none"> • Fine or • Imprisonment up to 5 years 	Imprisonment from 3 months to 5 years
Other tax-related crimes		Tax crimes, illegal import, export or transit of goods, ...	
Aggravating / mitigating circumstances	N/C	Committed by organised criminal group	<ul style="list-style-type: none"> • Committed on a commercial basis • Committed by organised criminal group
Legal persons/natural persons		Natural persons	Liability of legal person: sections 30 and 130 of the Act on Regulatory Offences
Other information		Mandatory to prosecute tax crimes (legality principle)	Protection for whistle-blowers

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Statistical data on tax avoidance, tax evasion and money laundering							Comments
Germany	2010	2011	2012	2013	2014	2015	

MONEY LAUNDERING							
FIU: Zentralstelle für Verdachtsanzeigen Financial Intelligence Unit							<ul style="list-style-type: none"> • It is part of the Federal Criminal Police Office. • Its responsibilities includes collecting, analysing and enhancing STR, notifying federal and Länder prosecution authorities of any information concerning them and of any connections identified between criminal offences, keeping statistics • Publishes an Annual Report and cooperates with other countries' FIUs, with tax authorities, law enforcement (and intelligence services when necessary) authorities, namely the joint financial investigation groups of the Länder, as well as participating in the FIU Platform, the Egmont Group and FATF.
Human Resources							309 Includes all staff working analysing STRs (FIU/ joint financial investigation groups of the Länder cooperation). Including 84 tax specialists, to ensure tax aspects are adequately taken into account when analysing STRs related to money laundering.
Budget (€)							
Type of FIU							Police
Total number of reports disclosed							
Including Suspicious Activity Reports (SARs)							
Including Suspicious Transaction Reports (STRs)						29.108	
Including from revenue authorities						248	
Including Unusual Transaction Reports							
Including Cash Transaction Reports							
Including Currency Transaction Reports							
Including External Transaction Reports							
Audits conducted							
Court Cases							The public prosecution offices of the Länder are responsible for investigating and prosecuting cases of money laundering. Statistical data concerning tax-related money laundering offences are not available.
Total number of proceedings started						31.637	The statistical data only refer to the most severe offences.
Number of pending/unresolved court cases							
Total number of convictions						781	Only 2% of proceedings ended up in a conviction!
Including of natural persons convicted							
Including of legal persons							
Number of court cases resolved with an acquittal							
Number of court cases resolved in another way							

Customs Criminological Office (Zolkriminalamt)								<ul style="list-style-type: none"> • It is Directorate VIII of the Central Customs Authority. • It operates within the remit of the Federal Finance Ministry. • Its main task is to prosecute and prevent serious customs crime and organised customs crime. • It supports the customs administration in safeguarding tax revenue (customs and excise duties), monitors Community expenditure such as export subsidies, and conducts checks on foreign trade and uncovering breaches of prohibitions and restrictions (embargoes).
Human Resources							76	It is in charge of 8 customs investigation offices with a total of 24 field offices. In addition, there are 15 joint police/customs financial investigation groups as well as a federal joint investigation group in Wiesbaden. The 76 number relates only to the joint police/customs financial investigation groups (customs staff).
Budget (€)								
Number of cases investigated				3.810	4.740	5.757	6.137	
Taxes Debited on the basis of Audits								
Number of tax offences reported								
Court Cases								
Total number of proceedings started	16.673	14.967	14.683	15.224	16.097	13.799		
Number of pending/unresolved court cases	20.713	20.067	20.084	21.011	21.832	20.349		
Total number of convictions	13.244	15.631	14.640	13.888	15.193	15.269		
Including of natural persons convicted								
Including of legal persons								
Number of court cases resolved with an acquittal	75	71	82	93	92	93		
Number of court cases resolved in another way	11.182	13.464	12.280	11.666	13.183	13.258		
Number of court cases resolved in sentences	1.987	2.096	2.278	2.129	1.918	1.918		
Amount of seized financial means								
Including natural persons								
Including legal person								
Including fines								
Including imprisonment	1.823	2.121	2.341	2.154	2.214	2.037		
of which, conditional sentence								
of which, unconditional imprisonment								

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Germany	Interventions in response to the publication of the Panama Papers
Processing and analysing the Panama Papers data	<p>Following the publication of the Panama Papers in early April 2016, there were media reports later that month stating that all the documents would be published online in May 2016. This claim was made in the following article, to give just one example (in German): http://w-ww.zeit.de/news/2016-04/27/deutschland-panama-papers-werden-im-mai-komplett-veroeffentlicht-27164209</p> <p>In fact, however, not all the data were made available, as was reported in the following article (in German): http://www.faz.net/aktuell/wirtschaft/panama-papers/panairia-papers-journalistenkonsortium-stellt-rohdaten-online-14223913.html</p> <p>The information published relates only to the first shareholder level. In cases where the shareholders in question are shell companies or nominees, the information does not necessarily provide a link to Germany or allow identification of the true beneficial owner.</p> <p>The evaluation of the documents published on 9 May 2016 produced about 380 cases involving Germany.</p>

Supervisory activities	<p>Supervisory action by BaFin following the Panama Papers allegations consisted of off site reviews in the form of letters to 14 banks which were mentioned by name in newspaper articles written by the ICIJ journalists (ICIJ = International Consortium of Investigative Journalists) in April 2016. Eleven of these banks could not exclude the possibility that they or institutions belonging to their group had contacts to the law firm Mossack Fonseca or referred customers to the law firm Mossack Fonseca.</p> <p>These eleven banks were requested in May 2016 to provide all documents relating to contacts or business relationships entertained by them or institutions belonging to their group of institutions with the law firm Mossack Fonseca, with companies and foundations incorporated in Panama or in other countries with the involvement of the law firm Mossack Fonseca, or with companies or foundations incorporated or domiciled in Panama where these business relationship existed between 1 January 2010 and 31 March 2016. Furthermore, these banks were asked to compare the names of their customers with the database published by the ICIJ on the Internet and to submit any relevant documentation in case of a hit. The requested documentation has been delivered by the banks with a high data volume (around 600 gigabytes).</p> <p>In some cases, banks were not permitted to produce or submit client and bank employee information and documentation because of national criminal or data protection law provisions. For this reason, BaFin sent cooperation requests to ten supervisory authorities of EU Member States in order to obtain information about several foreign subsidiaries and branches of German banks. The authorities were requested to forward a letter to several branches and subsidiaries of German banks and to pass the answers and documents received on to BaFin. Six supervisory authorities have not yet provided any information. Additionally, the supervisory authority of a third country was contacted as well. In this country, an onsite visit with access to a limited number of a random sample of documents has been granted by the authority. BaFin is in the process of preparing this onsite visit.</p> <p>In light of the high data volume submitted by the banks, BaFin needs support to scrutinise the documentation. To this end, it published a public, European-wide tender online in December 2016. The focus of the scrutiny will be on compliance with national AML rules, especially group-wide compliance with due diligence standards, the know your customer (KYC) process and beneficial ownership. BaFin will not have any results or a report available prior to spring 2017.</p>
Investigations initiated	<p>The investigations are still in their early stages, as they are highly complex and the progress made varies depending on the circumstances of the specific case in question.</p> <p>The 380 cases involving Germany have been forwarded to the tax offices responsible. No information is available on the status of each individual investigation.</p>
(Pre) trial proceedings initiated	
Fines and sentences	
Other information	<p>The Panama Papers are being evaluated by the prosecution authorities of the Lander.</p> <p>Germany has responded to the Panama Papers by drafting legislation to combat tax evasion (Steuerumgehungsbeikiimpfingswesetz, bill of 30 December 2016). The aim of the bill is to give revenue authorities better ways of identifying cases where illegal domiciliary companies that serve no actual function are founded or administered. In most cases, these companies are located abroad.</p>