

International Association of Judges – Third Study Commission 2024
Questionnaire
Answers for Germany

1. Yes:

- 1) BtMG (Betäubungsmittelgesetz; transl.: Narcotics Act)
- 2) NPSG (Neue-psychoaktive-Stoffe-Gesetz; transl: New Psychoactive Substances Act)
- 3) ArzneimittelG (Arzneimittelgesetz; transl.: Medicinal Products Act)
- 4) GÜG (Grundstoffüberwachungsgesetz; transl: Basic Substances Monitoring Act)

2. Yes:

GÜG- (Basic Substances Monitoring Act) (entered into force on 11.03.2008 and last updated on 12.12.2023)

3. § 19 GÜG (Basic Substances Monitoring Act) regulates the criminal provisions for trafficking, diversion, etc. The usual criminal procedural standards, including judicial reservations apply here.

4. Since § 19 GÜG concerns “normal” criminal offenses, the respective existing legal assistance regulations between the police and the judiciary apply.

5. Yes, the GÜG is a federal law.

6. It is not regulated by law, but analogous to the established case law on narcotics offenses, the limit of criminal liability can also extend to various preparatory acts. Equipment can generally be confiscated as an instrument of crime (with corresponding proof) in accordance with § 74 StGB (Strafgesetzbuch; transl.: German Criminal Code).

7. Basically no; without corresponding proof of the offense, the presumption of innocence applies/ there is no imputation.

8. If the specific substance is not mentioned in the annexes to the criminal provisions, then the police can only take action in the context of averting danger (in this case, no jurisdiction of the criminal justice system).

9. There is hardly any practical scope of application, because either the acts involving the individual substances (as these are listed in one of the annexes) are a criminal offense or they are not.

10. In principle, no action except possibly confiscation as an offense. However, a list or register of current substances could be helpful.

11. The general standards of legal assistance apply.

12. Suspicions in connection with precursors hardly play a role in judicial criminal prosecution.