



PRESIDENCY OF THE
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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

in co-operation with

THE PRESIDENCY OF THE GOVERNMENT OF TUNISIA

Regional seminar for senior public officials

UniDem Med

**“ PERFORMANCE, MERIT AND EQUALITY
IN THE CIVIL SERVICE ”**

**Hotel Dar el Marsa
La Marsa, Tunisia**

27 - 30 March 2017

**EVALUATION OF THE PERFORMANCE AND RULES OF ETHICS
IN THE CIVIL SERVICE**

by

Mr Holger SPERLICH

(Government Director, Federal Ministry of the Interior, Germany)



Regional Seminar for Senior Public Officials

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“PERFORMANCE, MERIT AND EQUALITY IN THE CIVIL SERVICE”
27 – 30 March 2017, Tunis

***Holger Sperlich, Government Director,
Federal Ministry of the Interior, Germany***

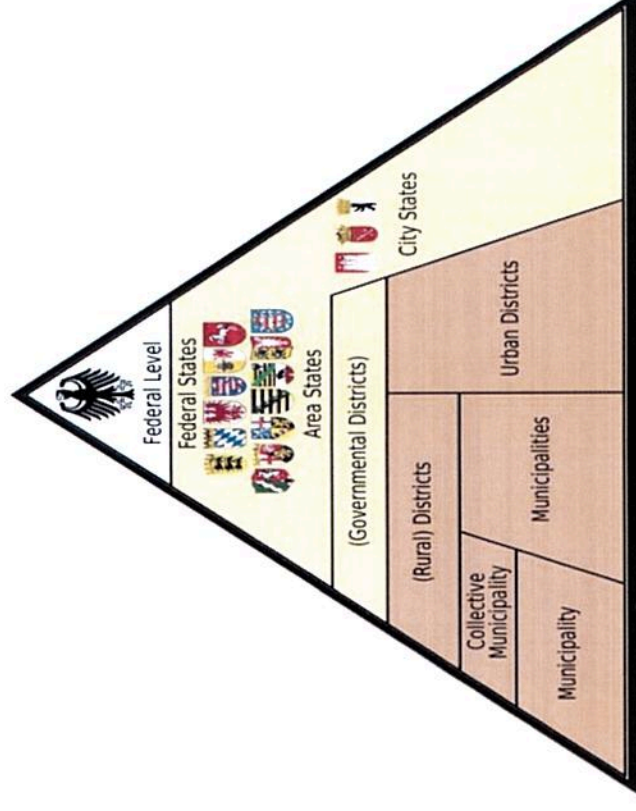


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Public Administration in Germany

3 independent levels of PA
in Germany:

- federal administration,
- administration of the federal states (*Länder*),
- administration of the local authorities (local self-government).



In principle, each of these administrative levels has a distinct set of functions. Federal, state and local government do not constitute a hierarchy.

The Public Service in Germany

(as at 30 June 2015)



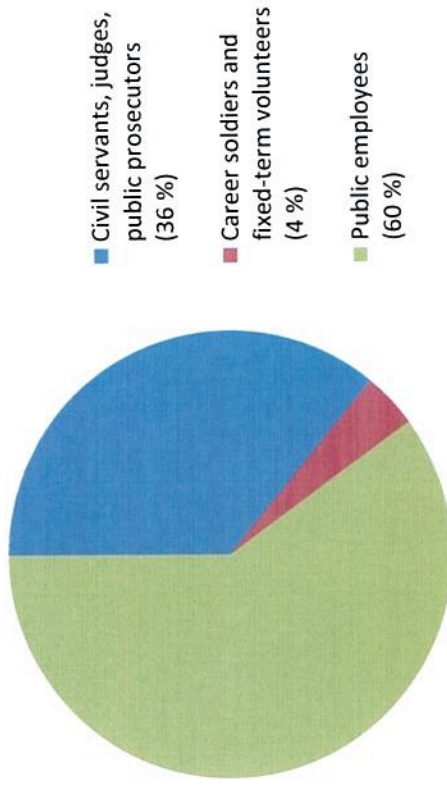
Public service staff (federal level,
Länder, local authorities, military)

Source: Federal Statistical Office

total	4.65 million
male	2.05 million
female	2.60 million

staff/population ratio 5.7 %

Groups of public service staff





Public Service Values in Germany

- Any person entering the public service must declare publicly/swear an oath of office that he/she will **behave according to the spirit and letter of the German Constitution.**
- No separate written “code of ethics” for public service staff in Germany.
- However, binding codes of conduct
 - in the German Constitution (**Basic Law**),
 - in **various other legal provisions** (e.g. in the Federal Civil Service Act and the respective *Länder Civil Service Acts*).

General Rules of Conduct for Public Service Staff in Germany



- Loyalty to the fundamental values and human rights laid down in the German Basic Law
- Impartiality (no discrimination in the exercise of office)
- Duty to promote the public interest
- Certain restrictions on publicly expressed private opinions
- Duty of remonstrance (for civil servants)
- Obligation to participate in professional training



Criminal Law Provisions and Disciplinary Measures

- **Sections 331 to 335** of the German **Criminal Code**: Bribery and acceptance of advantages are criminal offences.
- **Disciplinary measures** (e.g. fine, reduction of salary, removal from office) for **civil servants** in case of disciplinary offences.
- Provisions aim at protecting public confidence in the **impartiality** and **incorruptibility** of public service staff.

Corruption Prevention in Germany



- Federal Government Directive Concerning the Prevention of Corruption in the Federal Administration
- Assessment of corruption risks:
 - Every workplace (task, not person) in the federal administration has to be fully assessed for corruption risks at least every five years.
 - Positive assessment leads to specific prevention measures.



Corruption Prevention Toolbox (1)



- Careful selection and management of staff
- Rotation of staff
- If staff rotation not feasible, compensation measures must be taken, e.g.
 - rotation of tasks/shifting responsibilities within a unit,
 - enhanced scrutiny and supervision.
- Multiple eyes principle
- Mandatory information courses for newly employed staff

Corruption Prevention Toolbox (2)



- Compulsory training measures (e-learning, seminars etc.)
- Unit for corruption prevention in each federal authority
- Independent contact person for corruption prevention in each federal authority
- Reviews by the internal audit units
- Awareness-raising (e.g., by circulars) and counselling

All measures taken have to be reported to the German parliament annually. The reports are made public.

Rules for (Potential) Conflicts of Interest

- Provisions can be found in different legal instruments (e.g. Federal Civil Service Act/Länder Civil Service Acts, administrative regulations and circulars)
- Specific rules on
 - gifts or rewards (principle ban),
 - secondary employment,
 - revolving door/cooling-off periods,
 - sponsoring.



International Obligations and Activities

- UNCAC ratified by Germany in Nov. 2014
- Participation in GRECO (5th GRECO evaluation round recently started)
- Participation in the relevant OECD Working Parties and other international fora such as G20, G7, EU
- Participation in the Open Government Partnership (currently preparation of 1st National Action Plan)

Transparency: Times have changed...

Otto von
Bismarck,
Chancellor of
the German
Reich (1871-
1890):



*"The less
people know
about how
sausages
and laws are
made, the
better they'll
sleep at
night."*



Angela Merkel,
Federal
Chancellor of
Germany (2005
onwards), in her
speech of 15
November 2010:



*"I want to make it very
clear: I am in favour of
citizens' participation, I
am in favour of
transparency."*

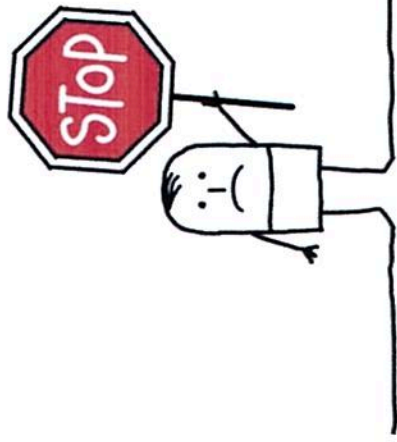


Further Information

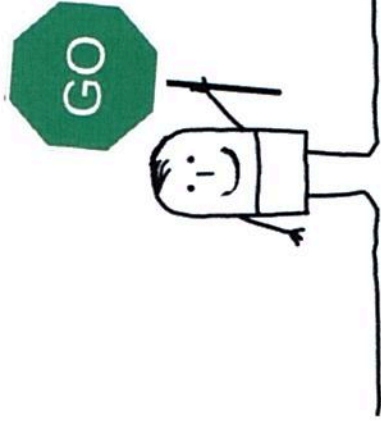
[www.bmi.bund.de/EN/Topics/ Administrative-Reform/Integrity/ integrity_node.html](http://www.bmi.bund.de/EN/Topics/Administrative-Reform/Integrity/integrity_node.html)

[www.bmi.bund.de/SharedDocs/Downloads/EN/Broschueren/2014/rules-on-integrity.pdf? __blob=publicationFile](http://www.bmi.bund.de/SharedDocs/Downloads/EN/Broschueren/2014/rules-on-integrity.pdf?__blob=publicationFile)

Thank you for your attention!



Corruption/
unethical
behaviour



Integrity/
ethical
behaviour