



Federal Ministry
of the Interior

The federal public service

An attractive and modern employer



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An attractive and modern employer



The public service in the Federal Republic of Germany is crucial to the functioning of our state. It also makes Germany an attractive place to conduct business and research. The public service is made up of people who are loyal and committed to their work. They are the link between society and government at every level: federal, state and local. In recent years, the public's expectations of government have radically changed, and citizens want to be able to communicate securely and more rapidly with the public administration. So the demands on those who work for the government have also changed. As a result, government at every level has taken far-reaching measures to increase productivity and update working conditions.

In the future, demographics will require public administration to make further changes, also to staffing structures, at federal, state and local level. Public employers will have to prepare for ageing workforces and larger waves of staff retirement in order to maintain high-quality, modern services for the public also in the future. Skilled and productive staff and good working conditions are essential to ensure strong and effective public administration.

Demographic change also offers an opportunity to achieve these goals for the future. In its demographic strategy, the Federal Government has described its options for action, emphasizing the legal and actual conditions of employment in the public service and how to adapt them to personal, age-related staff needs. This is why flexible working hours, work-life balance and the promotion of good health at work are so important for the entire federal administration.

This brochure explains the legal terms of employment for the federal public service. Most of the statistics on staff numbers were updated most recently on 30 June 2013.



Dr Thomas de Maizière, Member of the German Bundestag
Federal Minister of the Interior

Berlin, December 2014

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The Federal Republic of Germany



Area	357,000 km ²
Total population	80.3 million
– male	39.2 million (48.8%)
– female	41.1 million (51.2%)
of whom foreigners	6.3 million (7.8% of the total population)
of whom EU citizens	2.8 million (3.5% of the total population)

Source: Federal Statistical Office, Specialist Series 1, Series 1.3 and 2, 2011

I. The public service at a glance

(As at 30 June 2013)

Gainfully employed population: ¹ 40.1 million

- male 21.7 million
- female 18.5 million

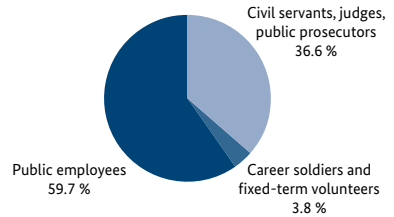
Public service staff: ² 4.64 million

- male 2.08 million
- female 2.56 million

of whom:

Civil servants, judges, public prosecutors	1,694,500
Career military and fixed-term volunteers	174,200
Public employees	2,766,600

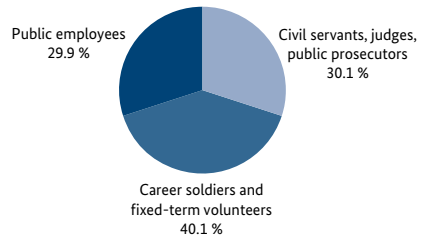
Groups of public service staff



Of whom at federal level:

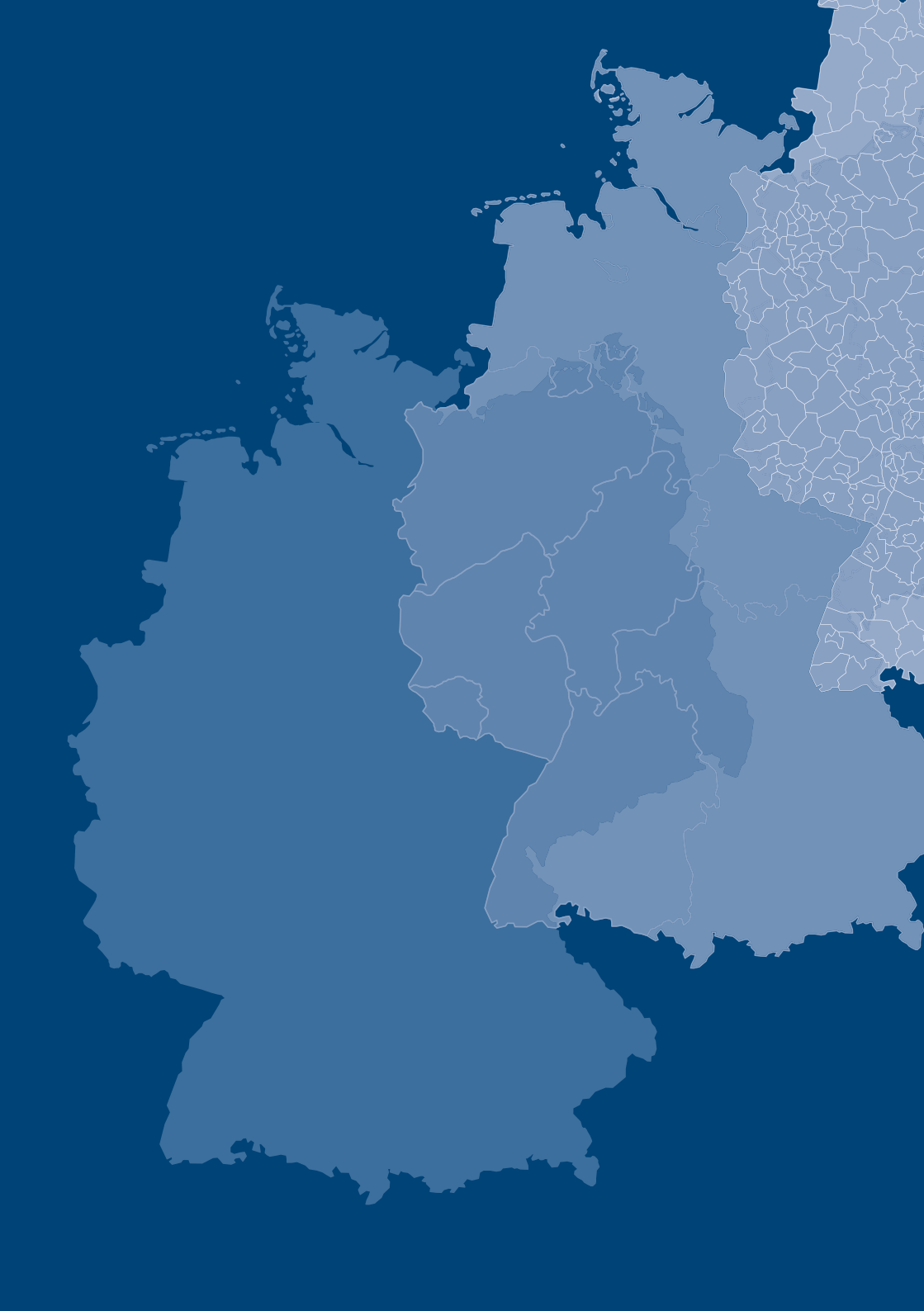
Civil servants, judges, public prosecutors	130,600
Career military and fixed-term volunteers	174,200
Public employees	129,800

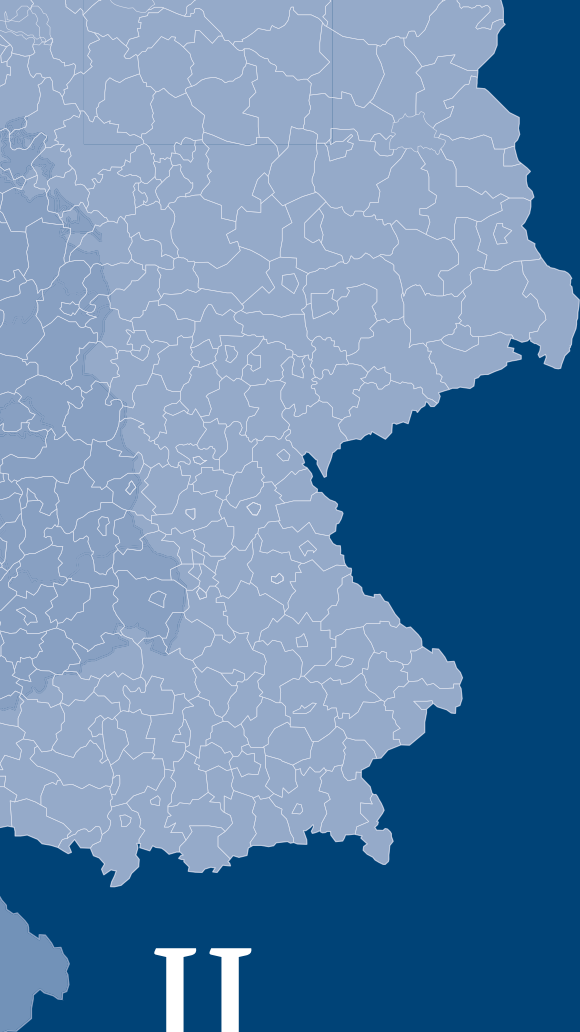
Staff in the direct federal service



1 Source: Federal Statistical Office, Specialist Series 1, Series 4.1.1, 2012

2 Source: Federal Statistical Office, Specialist Series 14, Series 6, 2013





II.

The structure of
government and
public administration
in Germany

1. Levels of government and public administration

In the Federal Republic of Germany, the state is governed by the Basic Law of 23 May 1949. The state is rooted in the principle of the rule of law, which governs the relationship between the state and its citizens.

Three principles enshrined in the Basic Law are especially important for the structure of the government and public administration, namely:

- separation of powers,
- federal system of government,
- self-government for local authorities.

The separation of powers is a fundamental principle of the Basic Law. In order to safeguard the interests of citizens relative to the state and to prevent the state from becoming all-powerful, state power is divided into three functions – legislative, executive and judicial – which are each assigned to special bodies. The principle of the separation of powers is intended to allow these state functions to limit and control each other.

Germany was constituted as a federal republic on the basis of the Basic Law. The Federal Republic is a confederation of federal states (*Länder*) in one country with a federal government (Federation). As members of the Federation, the federal states have sovereign rights and responsibilities which are not devolved from the Federation but are granted to them by the Basic Law.

State power is divided between the Federation and the states according to tasks and functions. As a basic rule, the Basic Law stipulates that exercise of state powers is a matter for the states. The Federation has administrative and legislative power only in those areas laid down by the Basic Law. In practice, the legislative function falls mainly within the responsibility of the Federation, whereas the states focus on administration. As a rule, the public administration of the states carries out federal law.

At federal and state level, administrative functions are carried out by the “direct state administration”, i.e. by federal and state authorities. However, there are also legally independent administrative bodies which form the “indirect” public administration. The legally and organizationally independent institutions of the “indirect” administration are subject only to limited state supervision or are completely independent, as is the case with Germany’s central bank, the Bundesbank.

Through the Bundesrat, the states exert influence on federal legislation and on matters concerning the European Union.

Responsibility for the public administration, however, does not lie with the Federation and the states alone. Under the Basic Law, local matters are dealt with independently by the bodies of local self-government (local authorities). In addition, local authorities also perform state functions on behalf of other levels of government.

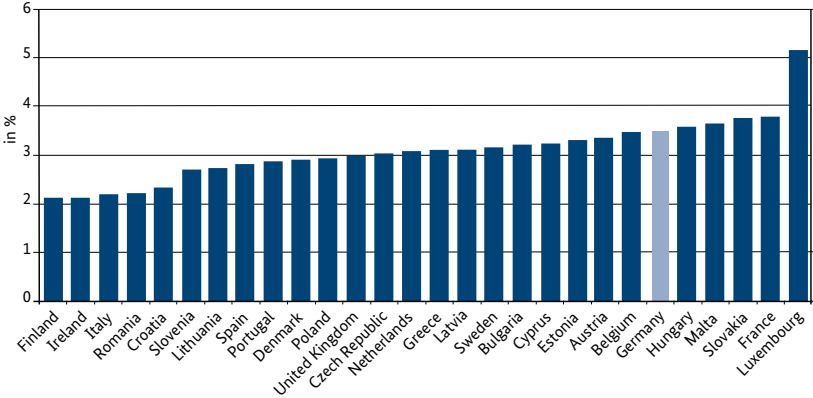
Public administration in Germany is divided into three independent levels:

- the federal administration,
- the administration of the states,
- the administration of the local authorities.

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

Public service staff at federal, state and local level make up 3.5 % of the total population. This figure is only slightly above the EU average of 3.0 % (see Figure 1).

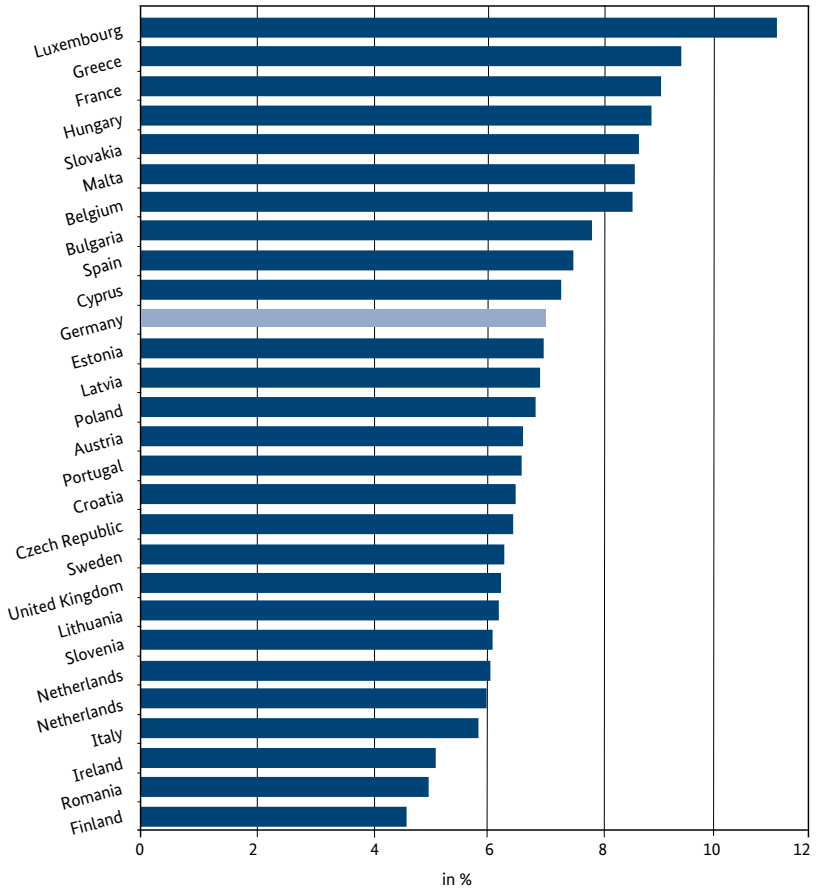
Figure 1: Public service staff as a proportion of the population of the EU Member States in 2013 in %



Source: Eurostat online database, statistics based on economic sector classification (only for sector 75 “Public Administration”)

Figure 2 shows administrative staff in Germany as a proportion of the total working population as compared to other countries of the European Union. In Germany, this share is 7%, only slightly above the EU average of 6.9%.

Figure 2: Public service staff as a proportion of the gainfully employed population of the EU Member States in 2013 in %



Source: Eurostat online database, statistics based on economic sector classification (only for sector 75 "Public Administration")

2. Federal administration

The direct federal administration with some 260,400 public service staff (excluding military personnel) performs those public tasks which are assigned to the Federation by the Basic Law.

The federal administration includes the Federal Government in its policy-making role and federal authorities which carry out federal administrative functions. Accordingly, we distinguish between the supreme federal authorities and the subordinate federal administration.

2.1 Supreme federal authorities

The Federal Government consists of the Federal Chancellor and the federal ministers. Three independent federal authorities report directly to the Federal Chancellor:

- the Federal Chancellery,
- the Press and Information Office of the Federal Government, and
- the Federal Government Commissioner for Culture and the Media.

According to Article 65 of the Basic Law three principles guide the work of the Federal Government:

- The Federal Chancellor determines and is responsible for general policy guidelines.
- Within these limits federal ministers conduct the affairs of their respective portfolios independently and on their own responsibility.
- The Federal Government decides as a collegial body on important matters, particularly concerning differences of opinion between federal ministers.

The Federal Chancellor has a central role in organizing the Federal Government and assigning government posts. She proposes the federal ministers to be appointed and dismissed by the Federal President. The Federal Chancellor is thus entitled to form a cabinet. She also has the power to determine the basic portfolios of the individual federal

ministries on the basis of her right to set general policy guidelines. This organizational power may not be restricted by the parliament.

Each federal minister is in charge of one federal ministry. The number of federal ministries has ranged between 13 and 20 since the founding of the Federal Republic of Germany. The Federal Government has about 18,600 staff. The federal ministers decide whether a task can be performed in the ministry itself or assigned to federal executive agencies. As a rule, a federal ministry deals only with matters of policy, in particular preparing bills and drafting ordinances and other general regulations. Another task of the federal ministries is to provide expert oversight of federal executive agencies.

Generally the federal ministries have no supervisory powers over state-level authorities, unless these authorities are acting on behalf of the federal administration, for example in the area of civil use of atomic energy, where the Federation retains responsibility. It can supervise and intervene to ensure that tasks are performed in accordance with the law and the principle of usefulness.

In addition to the Federal Government, the other constitutional bodies – the Federal President, the German Bundestag, the Bundesrat and the Federal Constitutional Court – have their own administrative apparatus.

The Bundesrechnungshof (German Supreme Audit Institution) and the German Bundesbank are also among the supreme federal bodies. The Bundesrechnungshof is independent of the Federal Government. As a supreme audit institution, it is responsible for ensuring that the federal administration manages its budget properly and cost-effectively. The Bundesbank, which is also independent, is the central bank of the Federal Republic of Germany and thus part of the European System of Central Banks.

2.2 Tasks of the federal administration

The Federation possesses administrative authority only if explicitly provided for by the Basic Law by virtue of a specific context or of the nature of a matter. The scope of the direct federal administration is hence strictly controlled. These matters are closely linked to the ability of the government as a whole to take effective action.

Under the Basic Law, the federal administration deals with the following administrative areas:

- **Foreign Service:** The Foreign Service employs some 11,300 staff, including local staff, in Germany and in the 228 representations abroad (embassies, consulates and permanent representations at international organizations).
- **Federal financial administration:** The supreme authority for the federal financial administration is the Federal Ministry of Finance. Under its aegis, several higher federal authorities perform specific tasks for which the Federation is responsible (for example: Federal Central Tax Office, Federal Office of Central Services and Unresolved Property Issues). Intermediate authorities include the federal finance offices and the Customs Criminological Office. The main customs offices (including customs offices and customs investigation offices) are responsible at local level. The federal financial administration has some 42,600 staff in this area. The Federal Ministry of Finance also oversees corporations under public law, such as the Federal Financial Supervisory Authority (BaFin).
- **Federal armed forces (Bundeswehr) and the defence administration:** The armed forces are not counted as part of the administration because of their military functions. However, the administration of the Bundeswehr, whose functions include personnel and resource management, is included. The armed forces are made up of 174,200 military personnel (career soldiers and fixed-term volunteers; not including conscripts). The Bundeswehr employs about 80,100 civilian staff.
- **Federal waterways and shipping administration:** The federal waterways and shipping administration consists of the Federal Waterways and Shipping Agency, with seven field offices, 39 local offices for waterways and shipping and seven offices for new waterway construction; it employs about 14,000 staff.
- **Federal Police authorities, Federal Criminal Police Office:** The Federal Police and the Federal Criminal Police are federal police forces. In accordance with the Basic Law, the Federation performs only certain specific police tasks. The main tasks of the 38,900 Federal Police staff include border management and surveillance, railway policing and aviation security at larger airports; they may also assist the states at

their request. The Federal Criminal Police Office is a higher federal authority responsible for cooperation with the states and for certain police detective tasks. It has about 5,400 staff.

- The intelligence services of the Federation are the Federal Intelligence Service (BND), the Federal Office for the Protection of the Constitution (BfV) and the Military Intelligence Service (MAD).

The railways, postal and telecommunications services and air traffic control were previously part of the federal administration; except for their regulatory and supervisory functions, they have been privatized. The privatized enterprises still employ civil servants on the basis of interim provisions; these civil servants are not counted in the statistical information on overall employment in the public service.

3. Administration of the federal states

In addition to the local authorities, the federal states constitute the main level of public administration in Germany with a total of 2.35 million public service staff (including indirect state administration and institutions under public law). In Germany, the 16 states can be divided into

- territorial states: Baden-Württemberg, Bavaria, Brandenburg, Hesse, Mecklenburg-Western Pomerania, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Saxony, Saxony-Anhalt, Saarland, Schleswig-Holstein and Thuringia; and
- city-states: Berlin, Bremen and Hamburg.

The basic distinction between making policy, which is done by the state governments, and performing administrative tasks also applies at state level. In contrast to the federal administration, however, the focus is on administrative tasks. As the highest state-level authorities, the state min-

istries are much more involved than the federal ministries in the actual implementation of policies. The organization of the state administration is up to each individual state.

4. Local administration

The local authorities – municipalities/towns and rural districts (local authority associations) – are part of the states, which have exclusive responsibility for regulating the structure of local administration and the territorial borders of the local authorities and districts in accordance with state legislation. Roughly 1.4 million persons are employed in local administration (including institutions under public law).³

Local authorities are subject to the supervision and – where they carry out state tasks – to the instructions of the state authorities. The municipalities deal with local matters on their own responsibility. This local self-government is protected under Article 28 of the Basic Law and relevant provisions in the states' constitutions. It is a major element of Germany's system of government.

Local authority administrations make up the third pillar of administration in Germany. Their tasks include above all the administration of town planning, road building and housing, social and health services, and public facilities (swimming pools, libraries, day-care centres and sports facilities). Local authorities are also responsible for providing local public transport and refuse disposal and for ensuring the supply of water, gas, electricity and community heating. These utilities are largely operated as enterprises organized under private law.

³ Source: Federal Statistical Office (as at 30 June 2013)

5. Indirect public administration

Institutions with special tasks constituted under public law which are not incorporated into the direct state or local authority administration are part of the indirect public administration.

These are largely the social insurance institutions. They are part of the public service because they are bodies and institutions under public law and provide their services in accordance with federal law. They are, however, autonomous institutions with self-government whose honorary bodies are in most cases equally composed of representatives of the employers and the insured. The group of insured is represented by the unions in almost all cases.

Specifically, the social insurance institutions are

- the agencies responsible for the statutory pension scheme, that is, the general system of pensions, disability and surviving dependants insurance in Germany (at federal level: Deutsche Rentenversicherung Bund and the Deutsche Rentenversicherung Knappschaft, Bahn, See; at regional level: Deutsche Rentenversicherung Regional),
- the labour administration, carried out by the Federal Employment Agency,
- the agencies responsible for the statutory health insurance and long-term care insurance (for example, local health insurance funds, substitute health insurance funds, guild's health insurance funds, company insurance funds),
- the agencies responsible for the statutory accident insurance for accidents at work (for example, employers' liability insurance associations and, in the public sector, accident insurance funds).

About 371,000 people are employed in social insurance institutions.

6. Non-public institutions

Many services for citizens, in particular social and health services, are provided also by non-public institutions. These include church and other charitable organizations, and to a lesser extent commercial organizations. Examples of such services include youth welfare, hospitals, private schools and private universities.

7. The judiciary

Courts and public prosecutor's offices are part of the public service. However, they do not belong to the executive branch of government, but to the judicial branch. Civil servants and public employees within the administrative bodies of the judiciary carry out traditional administrative duties, and their terms of employment are no different from those of others in the public service. Special conditions apply only to judges.

In order to protect the judiciary's ability to function independently and without bias, judges are accorded independence (Article 97(1) of the Basic Law). This means that they are not subject to directives in exercising their judicial office. Any wrong decisions judges may make in carrying out their official duties may be corrected only through the proper means of legal appeal. Apart from that, judges are subject to disciplinary supervision for their personal behaviour. However, disciplinary measures have no effect on court rulings made in the context of judicial independence.

For each of the five areas of jurisdiction (ordinary civil and criminal jurisdiction, administrative, social, labour and financial jurisdiction), there is a supreme federal court which is responsible only for reviewing the application of federal law; in doing so, the court is bound by the rulings of the lower court(s) on the matter. Only the judges of the supreme federal courts are employed in the federal public service; all other judges are employed in the public service of the state in which their court is located.

Federal judges are appointed by a committee made up of the Federal Minister of Justice and Consumer Protection, all state ministers of justice and an equal number of members elected by the Bundestag (Article 95(2) of the Basic Law). Although judicial office in the state public service is usually decisive for determining suitability, qualification and professional achievement, it is not a formal prerequisite for appointment as a federal judge. Lawyers, too, are occasionally appointed as federal judges.

Every court is at the same time a public authority responsible for dealing with administrative matters related to the court itself (staff, organization and budget). In addition, courts carry out judicial tasks such as maintaining public registers and keeping last wills. Due to their administrative activities, the courts of the states are incorporated into the administrative structure of the states. So they are subordinate to superior courts and, in most cases, a state ministry of justice.

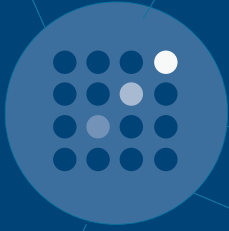
At the federal level, the Federal Court of Justice, the Federal Administrative Court and the Federal Finance Court come under the responsibility of the Federal Ministry of Justice and Consumer Protection, while the Federal Labour Court and the Federal Social Court come under the responsibility of the Federal Ministry for Labour and Social Affairs.

Public prosecutor's offices exist at every regional court and the offices of the public prosecutor general at the upper regional courts as part of the state judiciary. At federal level, the Office of the Federal Public Prosecutor (Public Prosecutor General at the Federal Court of Justice) lies within the remit of the Federal Ministry of Justice and Consumer Protection. Public prosecutors are not accorded judicial independence. They are civil servants and thus subject to instructions.

The Federal Constitutional Court has a unique status. It is a constitutional body at federal level and is engaged solely in reviewing compliance with the Basic Law. It is therefore not the final court of appeal, but rather a court with a special watchdog function. Special provisions apply to Federal Constitutional Court judges and procedures. In particular, justices of the Federal Constitutional Court are appointed for a term of 12 years with no possibility of renewal (Section 4 of the Act on the Federal Constitutional Court). Most of the states have their own constitutional courts.

There are 436 federal judges and 77 public prosecutors in the federal service.⁴

⁴ Source: Federal Statistical Office, Specialist Series 14, Series 6 (as at 30 June 2013)





III.

Modernization of the
federal administration

Our stable, reliable system of public administration provides the backbone for Germany's position as a global economic leader. Our citizens rightly expect reliable, rapid, simple and secure public services. To provide them, public administration must face the challenges arising from technological and social change.

The rapid development of information technology is both a challenge and an opportunity. At the heart of the federal administration's modernization efforts is the expansion of e-government in order to make administration more responsive to the needs of businesses and the public and to update internal administrative processes so they are electronic from start to finish and thus more efficient. In order for all to benefit, electronic services must be trustworthy, secure and accessible. To achieve these goals, acceptance by public service staff is key: Their commitment, competence and willingness are needed to bring about the necessary changes.

1. The government programme “Digital Administration 2020”

In its coalition agreement, the Federal Government set the goal of creating a “digital Germany” at the service of its citizens. The government programme “Digital Administration 2020” is the federal administration's contribution to this project. The programme is intended to create binding standards for digitizing the entire federal administration, using the potential offered by the E-Government Act, which entered into force in August 2013. The aim is to ensure efficient electronic federal administration and seamless government services for businesses and individuals. Starting in 2020, it should no longer be necessary in most cases to visit government agencies in person; it should be possible to access administrative services anywhere, any time. The Federation is working closely with the states to digitize administrative services.

Shared technical infrastructures are to be built and used at federal level. These technical infrastructures include the De-Mail gateway for secure electronic communications, the eID service to verify one's identity online

and the e-payment platform to pay via the Internet. By 2020, the federal administration should have completely switched to electronic records, which will enable it to work more efficiently with fewer resources. It will be possible to send invoices electronically. Existing public law will be reviewed to further reduce legal obstacles to the use of e-government, such as requirements for original signatures or to appear in person at government offices. The public administration will make it easier to access government data (open data). With georeferencing solutions, the public will be able to get more use out of existing data without compromising data protection.

2. Changing the administrative culture

Adapting to new challenges is not only a question of structures but also a question of administrative culture. For German public administration, which for decades has largely been oriented on rules and regulations, the transition to a more results-oriented administration represents a fundamental change. All those within and outside the federal administration must act with an eye to the future and create an atmosphere of change.

3. Human resources development

The performance of public administration mainly depends on the commitment of its staff. Employment conditions have constantly changed in recent years: Job cuts, information technology, rising average age of staff and public expectations all pose new challenges. Staff must update their skills and prepare for new tasks. Life-long learning has become a key priority, also with a view to demographic change. Supervisory staff have a special responsibility. Only qualified and dedicated supervisors can moti-

vate staff and ensure that the necessary changes to the daily work routine are made. New developments such as mobile working, balance between work and family life, systematic health promotion and performance-related pay help make public service employment more attractive.

4. Organization

Successful transformation requires precise planning and systematic implementation. The first step should always be a critical analysis of existing institutional structures and tasks and of organizational and procedural rules. Such analysis is necessary to provide a solid basis for modernization measures. In addition, new forms of organization are available which take into account recent developments and tasks, such as service centres and new forms of cooperation with the private sector. Benchmarking and an interministerial exchange of experience provide important information for new solutions.

5. Reducing bureaucracy

The Federal Government has declared its goal of reducing unnecessary administrative burdens for businesses, citizens and administration. Since 2006, it has made major progress in this area with its programme “Bureaucracy Reduction and Better Regulation”, cutting unnecessary bureaucracy and rules by 25%. With its programme for better regulation of 4 June 2014, the Federal Government also decided to pay greater attention to the practical experience of stakeholders in future. Administrative burdens caused by new regulation are to be kept to a minimum.

Administrative burdens are monitored using the information provided by the federal ministries in the explanatory memorandum that accompanies all legislative proposals of the Federal Government. The federal ministries compile this information using the procedures introduced in 2011 to identify and present the costs of compliance arising from new

legislation proposed by the Federal Government. This procedure is now established in all federal ministries with the aim of providing decision-makers with the greatest possible transparency and a realistic picture of the expected impacts of new regulation on individuals, business and public administration. Special attention is paid to the growth of administrative costs and the administrative cost index.

Public administration also needs to be freed of unnecessary bureaucracy. Up-to-date IT applications enable streamlined, rapid and cost-effective administrative procedures. The federal E-Government Act significantly helps reduce bureaucracy.

More information on administrative modernization can be found at **www.verwaltung-innovativ.de**.



IV.

Employment in the
public service:
General information



Article 33 of the Basic Law

- (1) Every German shall have in every *Land* the same civic rights and duties.
- (2) Every German shall be equally eligible for any public office according to his aptitude, qualifications, and professional achievements.
- (3) Neither the enjoyment of civil and political rights, nor eligibility for public office, nor rights acquired in the public service shall be dependent upon religious affiliation. No one may be disadvantaged by reason of adherence or non-adherence to a particular religious denomination or philosophical creed.
- (4) The exercise of sovereign authority on a regular basis shall, as a rule, be entrusted to members of the public service who stand in a relationship of service and loyalty defined by public law.
- (5) The law governing the public service shall be regulated and developed with due regard to the traditional principles of the professional public service.

1. Employment in the public service

1.1 Status groups of the public service

The Basic Law stipulates that the exercise of sovereign authority should, as a rule, be entrusted to members of the public service who stand in a relationship of service and loyalty defined by public law (Article 33(4) of the Basic Law), that is, civil servants. In addition, public service tasks are performed by public employees without civil servant status.

Judges and military personnel also stand in a special relationship to the Federation.

The Basic Law does not define what “sovereign authority” means. Article 33(4) of the Basic Law is therefore not seen as rigidly restricting the exercise of sovereign authority to civil servants. The professional civil service is intended to guarantee sound administration based on expertise, professional ability and loyal fulfilment of duties, and ensure that essential tasks are carried out without interruption. Civil servants are mainly employed in core areas of administration, in particular in supervisory positions and in areas involving the exercise of sovereign authority (police, fire brigades, prison service, financial administration), but also in many areas of benefits administration. By contrast, positions in health and social services and in technical professions are largely held by public employees.

Given the relation between rule and exception defined in Article 33(4) of the Basic Law, the distinction between civil servants and public employees in terms of functions is fluid in practice. Each authority has a certain scope for action and may decide whether to employ civil servants or public employees.

The legal status of civil servants is governed by laws and ordinances. The German Bundestag has the right to determine the rights and duties of civil servants as well as their salaries and pensions by law.

The employment of judges and military personnel, like that of civil servants, is also governed by public law: the German Judiciary Act (*Deutsches Richtergesetz*) and the Act on the Legal Status of Military Personnel (*Gesetz über die Rechtsstellung der Soldaten*).

Public employees are employed on the basis of a contract under private law. General labour law applies to them as to all employees in Germany. However, specific working conditions are set out in collective agreements negotiated between the public employers at federal, state or local level and the responsible unions (see p. 63).

Public employees and civil servants have equal status. However, in addition to the restriction imposed by Article 33(4) of the Basic Law, there are significant differences between the two groups. In particular, only civil servants are subject to special obligations such as serving in a relation-

ship of loyalty. The obligations of public employees, on the other hand, are based on their function as specified in the work contract and the collective agreements. Only civil servants are prohibited from striking, as a sign of their special loyalty to the state and ensuring that the core responsibilities of the public service are performed reliably without interruption.

1.2 Members of the Federal Government

Members of the Federal Government, i.e. the Federal Chancellor and the federal ministers, are not civil servants; their office is governed by public law and aimed at exercising governmental functions. However, the official relationship under public law has developed out of employment as a civil servant and is governed by law. With regard to members of the Federal Government, this is the Act on Federal Ministers.

As office-holders who report directly to the parliament, the federal ministers manage their portfolios independently and on their own responsibility in the framework of the general policy guidelines determined by the Federal Chancellor. They are not bound by instructions in individual cases and are not subject to any disciplinary power.

Depending on the extent of the business carried out by their department, the members of the Federal Government are assigned up to three parliamentary state secretaries; those assigned to the Federal Chancellery and Federal Foreign Office often use the title “Minister of State”. Parliamentary state secretaries must be members of the German Bundestag. Only those within the immediate remit of the Federal Chancellery may assume this function even if they are not members of the German Bundestag. Parliamentary state secretaries represent and support the federal minister in fulfilling policy and technical tasks, in particular in the Bundestag plenary and committees, in the Federal Cabinet and in public. The office of Parliamentary State Secretary is also governed by public law.

1.3 Staff numbers at federal level

The number of public service staff on the territory of the former West Germany grew significantly until 1990, and German reunification on 3 October 1990 resulted in another major increase. Since 1991, the number of staff has steadily shrunk as a result of consolidating tasks, using information technology and ending compulsory military service.

Figure 3 shows the number of federal public service staff between 1991 and 2013:

Figure 3: Total federal staff, 1991–2013

	1991	1995	2000	2005	2010	2013
Federal staff*	652,000	546,300	502,000	481,400	457,300	434,600
of which						
civil servants, judges	115,300	134,100	132,600	130,600	129,600	130,600
public employees	279,400	217,900	182,900	165,700	142,000	129,800
career military and fixed-term volunteers	257,300	194,300	186,600	185,100	185,700	174,200
of which						
full-time	628,800	521,600	465,600	427,500	405,200	388,300
part-time	23,200	24,700	36,400	53,800	52,000	46,300

* excluding the privatized railway and postal services

Source: Federal Statistical Office

2. Employment relationship between public employer and civil servant

2.1 History

The German public service has its roots in the 18th century when the servants of the ruler became servants of the state and the personal attachment to the monarch or ruler was expanded to include the good of the state. This additional obligation which focuses on the common good and the idea of an objective legal order governing the monarch, and later the political parties, parliament and the government, contributed at an early date to the public service's particular self-image and professional role model. The foundations for today's public service were laid with the professionalization of public administration in the early 19th century.

After the end of the monarchy, the Weimar Constitution of 1919 ensured the impartial public service and the civic rights of civil servants with life tenure in its Article 130: "Civil servants are servants of society, not of a party. All civil servants are guaranteed freedom of political views and freedom of association". Precisely these rights and freedoms were violated in the National Socialist state between 1933 and 1945.

The Basic Law of 1949 ensures the basis of the professional public service, in particular by reserving the exercise of state authority to civil servants in Article 33(4) and by upholding the traditional principles of the professional civil service in Article 33(5).

2.2 The authority to adopt regulations applying to civil servants

The authority to pass legislation relating to civil servants is divided between the federal and state levels. The Federation has the authority to adopt legislation concerning federal civil servants and the (concurrent) authority to adopt legislation determining status rights and obligations of

civil servants at state and local level. These uniform federal status provisions in particular ensure mobility between states. The Federation applied its power by adopting the Act on the Status of Civil Servants (*Beamtenstatusgesetz*) of 17 June 2008 and introduced uniform rules for the basic structures of civil servants law at state and local level. The states, where personnel expenditures account on average for more than 40% of public budgets, are responsible for specifying the details of civil service employment at state level, including salaries and pensions.

2.3 Traditional principles of the professional civil service

Article 33(5) of the Basic Law stipulates that the traditional principles of the professional civil service, i.e. the ranks of professional civil servants as opposed to public employees without civil servant status, should be taken into account when adopting law. They are the standard for all federal and state provisions on civil servants. The principles have emerged in the course of the development of the public service. They are a core of structural principles of the professional civil service which were acknowledged as binding by the Weimar Constitution and which have been respected ever since. Hence, some of the structural principles of the current German public service law date back to 1919. The traditional civil service principles are constantly being refined by decisions of the Federal Constitutional Court. They are the basis on which the court examines the legality of amendments to public service law. The constitutional reform of 2006 revised Article 33(5) of the Basic Law to read that the law governing the public service “shall be regulated and developed with due regard to the traditional principles of the professional civil service”. The previously applicable principles of civil service law continue to apply and determine the core values of the professional civil service. A provision under civil service law cannot violate these principles, but legislators have some discretion to adjust the provisions of civil service law to new challenges and developments in society. The traditional civil service principles include the principle of life tenure, the maintenance principle, the principle of merit, the career principle, neutrality on party politics, the prohibition of strikes and the employer’s duty of care.

2.4 Eligibility for the public service

According to Article 33(2) of the Basic Law, every German is eligible for any public office on the basis of aptitude, qualifications, and professional achievements.

This applies equally to long-term employment of civil servants and public employees. The principle of merit as defined by constitutional law means:

- Promotions are granted in accordance with aptitude, qualifications and professional achievements.
- In order to become a civil servant, the applicant must have completed the relevant traineeship or possess the relevant qualification for a specific occupation (such as occupational training or education).
- In order to become a public employee, the applicant must possess the qualification required for the specific function.

This also applies to applicants from Member States of the European Union, the state parties to the Convention on the European Economic Area (Iceland, Liechtenstein, and Norway) and Switzerland. In accordance with the Community regulations on freedom of movement, they are equally eligible for the German public service if they are suitable and qualified. Accordingly, the Act on Federal Civil Servants provides that eligibility for the public service may also be acquired on the basis of Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications and on the basis of professional qualifications acquired in non-EU countries. Only a few functions may be performed by German nationals only.

Nationals of Member States of the European Union are in principle afforded equal treatment to Germans for appointment as civil servants within the meaning of Article 116 of the Basic Law. As an exception to this fundamental rule, only Germans are eligible for positions requiring the exercise of public functions which, because of their specific content, must be performed by Germans only. In individual cases and in relation to the function in question it is necessary to decide whether the function must be performed by German nationals. The Federation and the states have agreed on recommendations for applying the law in relation to functions reserved for Germans that would permit nationals of other EU Member States to be employed in areas which, in accordance with rulings of the European Court of Justice, could be reserved for Germans.

The eligibility requirements to be followed when hiring civil servants are largely the same for all areas of administration. In addition to the general requirements, such as loyalty to the Basic Law and personal integrity, civil servants must also fulfil the requirements for admission to the individual career paths.

The law on public service employees provides neither for a career system nor for formal eligibility requirements other than job-related education credentials. Applicants are hired on the basis of their individual knowledge and abilities alone. Suitability for the specific job is the deciding factor.

Recruitment to the public service generally requires a vacancy announcement in order to guarantee the right of equal access to public office. Suitable candidates for the announced vacancy are chosen by means of a selection process. Each authority is responsible for conducting its own recruitment and hiring, i.e. there are no generally binding rules for the form of the selection procedure and there is no central authority responsible for the selection of federal staff, because each federal ministry is responsible for its own staffing. This responsibility is derived from the principle that each federal ministry manages its remit independently and on its own responsibility.

Recruitment to the public service requires a vacant position. In the framework of their budgetary authority, parliaments at federal, state and local level have the right to decide on the number and distribution of

public service posts. In accordance with budgetary law, human resources are not managed according to the available funds, but according to established posts. In principle, the budgetary authority must approve each post before someone can be hired into that post.

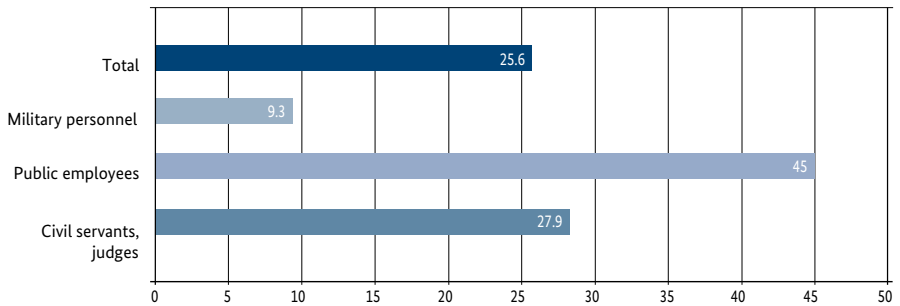
This specific budgetary procedure arose from the special status enjoyed by civil servants under German public service law. The basic impossibility of dismissal and the public employers' duty of care as well as the payment of pensions give rise to payment obligations over several decades. The recruitment of a civil servant therefore has a considerable financial impact. Establishing a post creates the necessary authorization to spend money over the entire period of employment. This procedure applies to public employees accordingly, since they are, as a rule, also permanently employed, and the parliament is able to control staff numbers and composition by managing the number and distribution of posts.

2.5 Equal treatment of women and men in the public service

Germany has well-developed institutional and legal instruments to guarantee the equal treatment of women and men. Article 3(2) of the Basic Law stipulates that the state is to promote the actual implementation of equal rights of women and men and take steps to eliminate existing disadvantages. In 2013, a total of 434,600 persons were employed in the federal public service (excluding military personnel: 174,200), of whom 111,000, or 25.5%, were women (excluding military personnel: 42.6%).

The share of women varies among the individual groups of staff as follows (see Figure 4)

- Civil servants and judges: 27.9%
- Public employees: 45.0%
- Military personnel: 9.3%

Figure 4: Percentage of women in the direct federal public service

Source: Federal Statistical Office, Specialist Series 14, Series 6, 2013

Further action is needed to achieve the socio-political aim of increasing women's participation in decision-making processes. In particular the number of women in executive positions should be increased.

The Federal Government has acknowledged the equal treatment of women and men as a guiding principle. At the same time, it agreed to promote this effort known as "gender mainstreaming" in all federal ministries and agencies. According to the Joint Rules of Procedure of the Federal Ministries (Gemeinsame Geschäftsordnung der Bundesministerien), all federal ministries must comply with this guiding principle in all political, legislative and administrative activities.

Gender mainstreaming is an internationally recognized term for taking into account the gender perspective in all decision-making processes. According to the principle of gender mainstreaming, men's and women's different positions in society and the resulting consequences must be identified and taken into account. Just as costs, for example, are an important factor for all public measures, the impacts of socio-cultural gender roles must be taken into account. It is crucial to note that apparently neutral measures affect women and men in different ways.

Gender mainstreaming reveals socially conditioned gender roles and the different realities of the lives of women and men. The gender

perspective is an important criterion for assessing whether a measure is appropriate and of good quality.

But gender mainstreaming is more than just a political appeal. When the Amsterdam Treaty entered into force on 1 May 1999, it made the implementation of gender mainstreaming legally binding upon the Member States of the European Union. Article 2 and Article 3(2) of the Treaty establishing the European Community oblige all Member States to pursue an active and integrated policy aimed at achieving equality between men and women.

Gender mainstreaming does not replace the targeted promotion of women but expressly adds to specific measures for achieving equal rights and treatment of men and women.

The Federal Act on Gender Equality (*Gesetz zur Gleichstellung von Frauen und Männern in der Bundesverwaltung und in den Gerichten des Bundes*) of 30 November 2001 aims at implementing equality in all areas of the federal public service. This law replaces the Act on the Promotion of Women (*Frauenförderungsgesetz*) which was adopted in the framework of the Second Equal Rights Act (*Gleichberechtigungsgesetz*) of 1994. For example, the law requires every agency to have an officer for gender equality, elected by secret vote of female staff members. This officer has the task of promoting and monitoring the implementation of the Federal Act on Gender Equality and all related measures taken by the employer. In order to actually enforce equality, the law provides that women who are equally suitable, qualified and capable as men are to be given preferential treatment in areas where they are under-represented. This applies to training, recruitment, employment and promotion. The law expressly prohibits indirect discrimination during selection processes or application interviews. The states have adopted similar rules for their administrations.

Further information at: www.gender-mainstreaming.net (in German)

2.6 Types of civil servants

Civil servants stand in a special relationship of service and loyalty governed by public law. Because of Germany's federal structure, public employers are the local and regional authorities, i.e. the Federation, the states and the municipalities. In addition, civil servants may also work for public law corporations, institutions or foundations under state supervision.

The civil servant with life tenure represents the standard type, requiring the successful completion of a defined probationary period. There are also civil servants with a set tenure if the sovereign function is assigned only for a limited period of time. During preparatory service, civil servants are employed subject to revocation.

Special provisions apply to individual groups of civil servants with a special legal status. These are

- elected local government civil servants who act on the basis of an election by the people or a local authority representation body (local authority council) as senior civil servants with a set tenure (e.g. mayors, commissioners of the local authorities). This is therefore a small group of people at the highest level of local government. The legal status of local government officials elected for a limited period is influenced both by law on civil servants and by local authority policy. It is primarily determined in accordance with the state statutes relating to civil servants, but is affected also by local provisions on appointments, positions and functions;
- political civil servants who hold an office in which they must permanently agree with the fundamental political aims of the government, and hence can be placed in temporary retirement at any time without having to give reasons. The number of political civil servants at federal level is set by law and is relatively small. Overall, they account for less than 0.5% of all federal civil servants. In the federal administration these include state secretaries and directors general in the ministries, high-ranking civil servants in the Foreign Service and in the intelligence services (Office for the Protection of the Constitution, Federal Intelligence Service, and Military Counter-Intelligence Service) and the presidents of the Federal Criminal Police Office and the Federal Police Headquarters.

2.7 Rights and duties

The public administration plays a key role in securing the present and future existence of the state by carrying out essential public tasks. For this reason, the authors of the Basic Law assigned this task to the professional civil servants who ensure, based on their expertise and loyal service, the stability of administration and thus serve as a counterweight to the political powers shaping the state.

Civil servants stand in a special relationship of service and loyalty. A civil servant's primary duty is to work for the good of citizens and the state as a whole. Since civil servants commit themselves to public service for their entire working life, they must demonstrate a high level of professional achievement, a sense of responsibility and commitment to the common good.

The rights and duties shaping the employment relationship of civil servants ensure that public interest takes priority over the interests of specific groups or their own interests. The Basic Law sees this special employment relationship as guaranteeing that the democratically determined will of the body politic is actually enforced.

Civil servants must perform the following duties:

- Civil servants must fulfil their tasks impartially and fairly, and consider the general good in exercising their office. In particular, they must avoid any appearance of seeking their own advantage.
- They are not allowed to accept rewards or gifts.
- Civil servants are to advise and support their superiors. They must carry out their orders and follow their general guidelines. Their duty of obedience does not release them from full personal responsibility.
- Civil servants must examine the lawfulness of each official act. They must report any reservations as regards the lawfulness of an official order to their immediate superiors without delay (duty of remonstrance). If the order is upheld without the reservations being remedied, the civil servant is to turn to the next higher level. If the order is confirmed, it must be carried out. In this case, the civil servant is released from any personal responsibility. The duty to obey ceases to apply

in any case if it violates human dignity or constitutes a criminal or administrative offence. The duty of obedience and the duty of remonstrance ensure the public administration's ability to function, which otherwise would be impaired if civil servants were able to refrain from carrying out an official act because of their reservations.

- Through their whole conduct, civil servants must affirm the free, democratic basic order within the meaning of the Basic Law and work to uphold it. They may engage in political activities as allowed by the Basic Law, but must not express any political opinions when performing the duties of their office. When engaging in political activities, they must exercise the moderation and reservation emerging from their position in society and in consideration of the duties of their office.
- Civil servants have no right to strike. The Basic Law provides that, because of their special obligations, civil servants are entrusted to secure and safeguard the functions of the public administration. A strike would be incompatible with this and would be directed against the parliament, the democratically elected body which adopts laws governing civil servants' remuneration and working conditions and in doing so takes into account the reciprocal relationship of service and loyalty. Like all citizens, civil servants have the basic right to form associations and societies and thus the unrestricted possibility to organize and defend their interests together.

The ban on strikes does not mean that concerns of civil servants regarding employment conditions are ignored. Their concerns are represented by umbrella organizations of public service unions as part of their role in preparing general rules for the public service.

The fulfilment of their constitutional task requires not only that civil servants are bound in a particular way by their duties but also that they are granted rights which place them in a position of legal and financial independence enabling them to fulfil the duties of their office according to the principles of the rule of law and unaffected by party interests, without fear of threat to their livelihood.

Their rights include:

- **Appointment for life:** It ensures that civil servants fulfil their constitutional task and guarantees the neutrality of public administration and the legal and economic independence of civil servants. Only under exceptional circumstances explicitly defined by law is it possible to leave the public service, for example upon reaching the statutory retirement age, removal from public service upon the civil servant's own application, or dismissal from service as a disciplinary measure.
- **Maintenance principle:** Civil servants are entitled to salaries and pensions appropriate to their office. Salaries must ensure an appropriate standard of living taking into account the grade, significance and responsibility of the office so that civil servants may fully commit themselves to the public service as a life profession.
- **The right to an appropriate position:** This means that civil servants may not be employed below their career qualification. This ensures that tasks are performed independently.
- **Principle of care and protection:** Civil servants and their families are entitled to care and protection from their employer, also after their active career as ended. The scope of care and protection is based on the individual case and may include assistance and advice, financial benefits and protection against attacks from third parties.

2.8 Disciplinary law

Disciplinary law deals with the consequences of service violations. While the duties of civil servants are defined in the statutes governing the rights and duties of civil servants, disciplinary law stipulates the consequences of violations and the procedures for determining penalties.

Disciplinary considerations are always based on the Act on Federal Civil Servants, according to which an intentional or negligent breach of duties constitutes a disciplinary offence. If there is evidence of a breach, the employer must initiate disciplinary proceedings and establish the facts in question. After the investigation it is necessary to decide whether the proceedings should be closed or disciplinary action should be taken against the civil servant.

Disciplinary law provides five disciplinary measures which may be imposed depending on the seriousness of the offence:

- reprimand,
- fine,
- salary reduction,
- demotion, and
- dismissal from service.

However, dismissal from service as the most severe disciplinary measure is imposed only if the civil servant has lost the confidence of the employer or of the general public following a serious violation of duty.

The law provides for only two disciplinary measures applicable to retired civil servants: reduction or deprivation of pensions.

Using what is known as a disciplinary order, superiors themselves may impose a reprimand, a fine or a reduction of pensions. A disciplinary order is an administrative act which may be legally contested via objection, action for a rescission, or, under certain conditions, appeal on questions of fact or of law.

Employers considering demotion, dismissal from service or deprivation of pensions appropriate may not impose this measure themselves. They must bring a disciplinary action before the competent administrative court which will then rule on the disciplinary measure. The court decision may be appealed on questions of fact and, under certain conditions, on questions of law only.

Depending on the individual circumstances, it may be necessary to suspend a civil servant from official duties before a final decision has been taken in the disciplinary procedure to prevent harm. In addition to the possibility provided by law to temporarily suspend the civil servant from official duties, a civil servant may be temporarily removed from service on disciplinary grounds once the disciplinary action has been initiated. Such a measure should be considered if, after a preliminary evaluation of the case, the disciplinary process is likely to result in the civil servant concerned being dismissed from service. Under such circumstances, depending on the financial situation of the civil servant concerned, a certain amount not to exceed 50% may be withheld from the monthly salary.

2.9 Career paths

The career system reflects possible career paths of civil servants. The law on public service careers contains generally binding rules applicable to personnel decisions in all branches of public administration; they make personnel policies objective and guarantee a uniform minimum standard of professional performance.

The many functions of the public administration require qualified staff, who can only be obtained by means of systematic previous training and in-service training. The different tasks require staff with the appropriate training, either within the public administration or by a suitable external provider. In order to perform public service tasks correctly and effectively, an appropriate career structure has been developed which covers a wide range of functions. The career system is intended to enable civil servants to assume not only individual tasks but all tasks of a particular career path. The manifold possibilities to deploy civil servants in line with their qualification also ensure flexible staff assignment.

Training for typical administrative careers is often provided as preparatory in-service training. In other cases, admission to a career path requires an occupational qualification acquired elsewhere and a full-time occupation providing the necessary skills for the career path.

Even without the necessary qualification for a specific career path, an applicant may become a civil servant under certain conditions. Such applicants must demonstrate the ability to perform the duties required in the career path as acquired by life or work experience within or outside the public service, as determined by a special independent body, the Federal Personnel Commission.

Training and examination codes, in the form of ordinances, contain regulations relating to training in the preparatory service. They determine the admission requirements, the selection procedure, training content and the career examination procedure.

At federal level, career paths may be assigned to one of the following career groups: the ordinary service, the intermediate service, the higher intermediate service or the higher service. Affiliation to a class of service depends on the entry-level position in the public service.

Figure 5 shows the number of civil servants in each career group in the federal administration. Most civil servants work in the intermediate and higher intermediate service.

Figure 5: Career groups

Career groups					
Federal civil servants and judges (as at 30 June 2013)					
	Higher service	Higher intermediate service	Intermediate service	Ordinary service	Total
Number	19,500	49,200	59,700	2,200	130,600
%	14.9	37.7	45.7	1.7	100.0

Source: Federal Statistical Office, Specialist Series 14, Series 6, 2013

The conditions for admission to the preparatory service are

- in the intermediate service, completion of secondary technical school or successful attendance of a secondary modern school and completed occupational training or training in the public service or a recognized equivalent;
- for the higher intermediate service, school education qualifying for admission to a university or recognized equivalent;
- for the higher service, successful completion of a masters degree or equivalent degree (for example diploma at a university).

The preparatory service provides practical and theoretical training and ends with a career examination. Civil servants are in most cases employed subject to revocation during the preparatory service, which lasts

- in the intermediate service: at least one year, usually two years;
- in the higher intermediate service: usually three years;
- in the higher service: at least 18 months, usually two years.

As a rule, the preparatory service for careers in the higher intermediate service is carried out at universities of public administration. For the federal administration this is the Federal University of Applied Administrative Sciences, which has several departments (general internal administration, foreign affairs, Federal Police, administration of the federal armed forces, finance, criminal police, agricultural social insurance, intelligence services, social insurance and meteorological service).

After passing the career examination, civil servants must successfully complete a probationary period.

Currently there is no preparatory service for the ordinary service at federal level. Employment requires successful completion of a secondary modern school or recognized equivalent and completed occupational training.

2.10 Opportunities for professional development

Promotions are granted according to aptitude, qualifications and professional achievements, that is, performance. In most cases, they entail a change of post. Before the promotion is granted, the civil servant works in the higher post on probation. Since civil servants are assigned to established posts, promotion requires that a suitable higher post is available.

Performance appraisals of civil servants include an assessment of professional achievements, aptitude and qualifications. In order to gain an informative, objective and consistent picture of civil servants' performance, criteria for performance appraisals are set out in guidelines. Performance appraisals are carried out regularly at least every three years or on specific occasions. In order to improve the consistency of performance appraisals, guidelines for assessment grades were established in the federal service in 1997 (quota arrangement). Appraisals serve as the basis for proper personnel decisions and personnel development measures; they thus constitute an important instrument of human resources management.

In the framework of defined promotion procedures, qualified civil servants have the possibility to move up to the next career path. To this end, they must successfully pass the selection procedure.

In order to ensure a modern, effective and efficient public administration it is essential to choose the right people for leadership positions. For this reason, the various public employers initially assign executive posts for a probationary period, making selection and assignment more performance-oriented. If the wrong person has been chosen for the job (e.g. someone whose lack of managerial skills becomes apparent only later), this can be corrected. This mechanism also increases the mobility of executive staff, motivation and competition for executive posts.

The public service particularly depends on the knowledge of its staff. They must be willing to constantly acquire new knowledge to be able to deal with ever changing laws and regulations. The public service faces two challenges in the area of education: It must both possess and convey the necessary knowledge. So training and qualification are essential to keep public administration up to date. Advanced training is provided by both external and internal institutions. The Federal Academy of Public Administration in Brühl is the central advanced training institution for the federal administration. In addition, each ministry has tailored strategies for advanced training and personnel development.

2.11 Mobility

Public administration is characterized by rapidly changing tasks. This requires greater employee mobility in terms of subject areas and locations so that human resources of the public service can be deployed to best effect, particularly in view of changing personnel needs. Public service law provides for several possibilities as regards mobility.

For work reasons or upon application civil servants may be

- temporarily or permanently moved to another post within the same agency,
- temporarily seconded to another authority within the remit of their employer or of another employer (e.g. from a federal to a state agency), or
- permanently transferred to another agency within the remit of their employer or of another employer.

As long as they take place within the remit of the same employer, these measures do not affect salaries and pensions (but possibly certain allowances) and may be taken without the consent of the civil servant. Because the states have been responsible for salaries and pensions of their civil servants since the first stage of the reform of Germany's federal structure, individual provisions may be different when changing from a federal to a state authority or from one state to another.

The civil servant's consent is necessary for

- secondment of more than two years to a function not corresponding to the current office, in particular if it pays less, or to another employer for more than five years,
- a transfer to a lower office, unless this transfer is necessary due to major changes in the functions, structure or of existence of the previous agency, or
- temporary secondment to another public institution which is not a German employer (e.g. international and intergovernmental organizations), or to a non-public institution.

Transfers entailing a change in location, secondments for more than three months and transfers generally require the approval of the staff council (see p. 76). If no agreement is reached, the highest service authority is responsible for the final decision.

The consent of the civil servant is not required if the previous agency is fully or partly converted to an institution organized under private law. The approval of the staff council is required for such assignments. The civil servants concerned work for the institution to which they have been assigned. However, the previous employer continues to pay their salaries.

2.12 Hearing of umbrella organizations

The Federal Government is required to consult the umbrella organizations of the unions and professional associations of civil servants and judges when preparing provisions relating to civil servants and judges (the details of the consultation procedure are governed by an administrative regulation related to Section 118 of the Act on Federal Civil Serv-

ants). This enables the trade and labour unions to take an active part in preparing statutes, ordinances, administrative regulations and directives by means of comments and own proposals. Proposals by the umbrella organizations which are not incorporated in the final version are listed in a supplement to the draft regulation, so their comments and suggestions remain transparent during the legislative process. But legislators always have the final say on the regulatory content.

The umbrella organizations at federal level are the German Civil Service Association (dbb), the German Trade Union Federation (DGB), the German Judges Association (DRB), the Federation of German Administrative Judges (BDVR) and the Christian Trade Union Association (CGB). The German Federal Armed Forces Association (DBwV) is involved in regulations relating to military personnel.

2.13 International assignment

In order to steadily increase the German presence at international level, also in comparison to other EU Member States, the federal administration is interested in having employees accept temporary assignments to public intergovernmental or supranational institutions, public institutions of other EU Member States and in the field of development cooperation. The federal administration also supports and encourages such assignments.

In practice, leave is granted for up to five years and may be extended under certain conditions. The legal status of employees during such temporary leave remains unchanged. They are, however, not obliged to render services, and thus no duty of maintenance is incumbent on the employer. The time of unpaid leave may be taken into account for pensions if the leave serves public or service interests.

Details are compiled in the guidelines on the international assignment of federal employees to public intergovernmental or supranational institutions, to the administration or public institution of an EU Member State or to assume tasks of development cooperation (*Entsendungsrichtlinie Bund*, EntsR) of 15 April 2011, which includes extensive answers to questions frequently asked by federal agencies and civil servants regarding international assignment (available in German on the Internet at www.bmi.bund.de).

An annex lists the public intergovernmental and supranational organizations and institutions, organizers of development services, organizers of international assignments and developing countries.

In a Europe which is increasingly integrated, the mobility of civil servants in EU Member States has become especially important. The free movement of workers provided for in the EU Charter of Fundamental Rights (Article 15(2)) also applies to the public service, except in certain key areas.

To promote mobility, EU Member States set up a database which provides basic information on the national public services, on EU and bilateral programmes and on specific job openings as well as links to information on Member States' administrations. This database has been integrated into the portal for online European and national public services "Your Europe" and can be found at http://europa.eu/youreurope/citizens/index_de.htm.

The website of the Federal Foreign Office also has information about working for international organizations: www.auswaertiges-amt.de.

For more information on job openings in the EU Member States visit the EURES website: www.europa.eu.

2.14 Social security

Civil servants, judges and military personnel are not included in the statutory social insurance. As a rule, civil servants are not obliged to be insured with the statutory pension insurance scheme (Social Code (SGB) VI), the statutory accident insurance scheme (SGB VII), the statutory unemployment insurance scheme (SGB III) or the statutory health insurance scheme (SGB V).

Instead of these statutory social insurance schemes, civil servants, judges and military personnel are covered by an independent social security system specifically for civil servants based on their special employment relationship. Pensions (see p. 108) are paid by the employer and are one of the basic principles of the professional civil service. The employer is also required to pay occupational accident benefits. Civil servants do not need

to pay into the system of unemployment benefits since they are generally employed for life after completing a probationary period.

Civil servants are also required to take out statutory or private health and long-term care insurance to cover the risk of illness and the need for long-term care. The long-term care insurance must be the same type as the health insurance. The scope of benefits in the case of the need for long-term care is subject to the relevant provisions in the Social Code, Book XI (SGB XI).

Figure 6 gives an overview of social security schemes for civil servants.

Figure 6: Statutory social insurance

	Statutory pension insurance (Social Code, Book VI)	Statutory accident insurance (Social Code, Book VII)	Unemployment benefits (Social Code, Book III)	Statutory health insurance (Social Code, Book V)	Long-term care insurance (Social Code, Book XI)
Civil servants, judges, military personnel	Exemption from statutory social insurance; however, like all other residents of Germany, civil servants are required to have health and long-term care insurance				
	old-age pension paid by employer	accident compensation paid by employer	since employed for life	private insurance plus allowances from employer	remaining risks covered by allowances from employer

Civil servants are required to insure themselves and their families against the risk of illness and the need for long-term care. Generally, this requirement is met by taking out a private insurance policy. Premiums must be paid from salaries and pensions. However, this private health and long-term care insurance has to cover only part of the costs incurred in the case of illness or the need for long-term care. Civil servants are additionally entitled to allowances from their employer. As a result of employers' obligation to take care of their civil servants and their families, employers refund a certain percentage of the necessary and appropriate costs incurred in the case of illness, need for long-term care and birth as well as costs for vaccinations and early detection of diseases in accordance with assessment rates expressed in percentage points. The same holds true for pensioners.

In the federal public service, active civil servants receive a 50% allowance (with two entitled children 70%) and retired civil servants a 70% allowance to partially cover their illness-related costs. The civil servants' insurance covers 70% of spouses' and 80% of children's health care costs. If entitled dependants are already covered by the statutory health insurance as the primary insured (e.g. because they are in employment which requires compulsory social insurance), these insurance benefits pre-empt the right to allowances.

Persons who were covered by the statutory health insurance before becoming civil servants can opt to continue their coverage under the statutory health insurance scheme instead of changing to a private insurer. However, in this case they must pay all contributions themselves. In contrast to public employees they are not entitled to a subsidy from their employer.

Since 1 January 2005, civil servants who opted for continuing coverage for themselves and their families under the statutory health insurance scheme have had the possibility to change to a private health insurance scheme more easily.

Figure 7 shows federal expenditure on allowances between 1992 and 2012.

**Figure 7: Annual federal public spending on allowances
(excluding the postal and railway services)**

Year	Expenditure on allowances in million €		
	Staff	Pensioners	Total
1992	257.4	376.6	634.0
1993	261.7	412.5	674.2
1994	259.1	460.7	719.9
1995	261.1	516.9	778.0
1996	268.2	560.7	829.0
1997	265.0	594.8	859.8
1998	261.5	624.2	885.6
1999	266.5	653.8	920.3
2000	269.6	677.0	946.6
2001	279.5	727.6	1,007.1
2002	288.1	763.4	1,051.5
2003	293.1	787.9	1,081.0
2004	295.7	804.1	1,099.8
2005	279.4	807.6	1,086.9
2006	298.2	830.0	1,128.2
2007	305.7	843.9	1,149.6
2008	315.9	897.5	1,213.4
2009	320.0	922.0	1,242.0
2010	326.3	944.9	1,271.2
2011	333.1	979.5	1,312.6
2012	325.9	979.5	1,305.4

Source: Federal Ministry of Finance

2.15 Termination of civil servants

Civil servants with life tenure may end their employment only in cases permitted by law.

As a rule, active employment of civil servants ends on retirement. By law, civil servants must retire upon reaching the statutory retirement age. The same age limit applies to women and men.

The Act to Restructure Civil Service Law (Dienstrechtsneuordnungsgesetz) extended the provisions raising the retirement age for the statutory pension insurance scheme also to the law on federal civil servants. Starting in 2012 for staff born in 1947, the retirement age is gradually being raised from 65 to 67 years; the process will not be finished until 2029.

The following table shows the individual steps:

Year of birth	Increase in months	Retirement age	
		Year	Months
1947	1	65	1
1948	2	65	2
1949	3	65	3
1950	4	65	4
1951	5	65	5
1952	6	65	6
1953	7	65	7
1954	8	65	8
1955	9	65	9
1956	10	65	10
1957	11	65	11
1958	12	66	0
1959	14	66	2
1960	16	66	4
1961	18	66	6
1962	20	66	8
1963	22	66	10
1964	24	67	0

As before, civil servants may apply to retire at the age of 63. The age limit for retirement upon application of severely disabled civil servants is gradually being raised from 60 to 62 years.

Special retirement ages apply to certain groups of civil servants: the Federal Police service and the fire brigade of the Federal Armed Forces. The special retirement age is also gradually being raised from 60 to 62 years. The states are responsible for determining the retirement age for their civil servants.

Civil servants must retire if they are permanently unable to perform their official duties for health reasons and are no longer able to fully or partly perform other work, even after retraining. In cases of early retirement, pension benefits are reduced. Measures taken under public service law in recent years aim to reduce the number of staff taking early retirement. The number of persons retiring because of inability to work dropped after introducing pension cuts, carrying out more targeted medical checks and promoting alternative work instead of early retirement (see Figure 8).

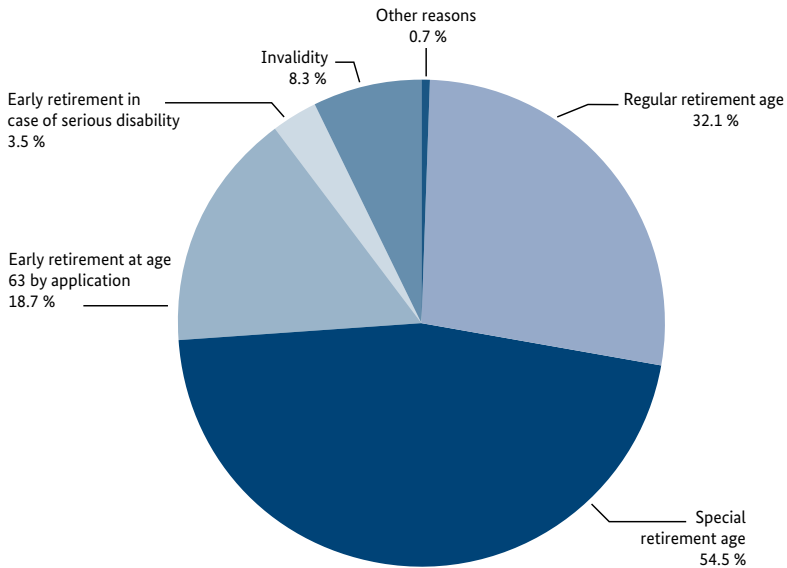
Figure 8: Early retirement in the federal administration

Year	Early retirement in the federal administration	
	Number	%
1998	861	16.3
1999	1,145	31.7
2000	1,170	26.2
2001	854	18.8
2002	547	13.3
2003	426	9.1
2004	392	7.9
2005	449	8.8
2006	366	6.7
2007	431	8.4
2008	374	7.0
2009	450	8.5
2010	499	9.8
2011	485	10.7
2012	396	8.2

Civil servants who are no longer able to perform all their official duties but who can work at least half the normal working hours may opt for an arrangement known as “partial capacity to work”. Civil servants with a partial capacity to work continue to work as much as possible and receive a salary in proportion to their reduced working hours (Section 72a(1) in conjunction with Section 6(1) of the Federal Civil Servants’ Remuneration Act (*Bundesbesoldungsgesetz*)). In addition to their salary, civil servants with a partial capacity to work receive a non-pensionable allowance in line with Section 72a(2) of the Federal Civil Servants’ Remuneration Act. Details on the allowance and its amount are governed by the Ordinance on Allowances for Civil Servants with a Limited Capacity to Work (*Begrenzte Dienstfähigkeit Zuschlagsverordnung, BDZV*). It strengthens the principle of “rehabilitation before retirement”. Civil servants who have already retired may be reactivated even if they regain their capacity to work only to a limited extent.

Figure 9 shows reasons for retirement.

Figure 9: Reasons for retirement in the direct federal public service, 2012



Source: Federal Statistical Office, Specialist Series 14, Series 6.1, 2013

3. Employment relationship between public employer and public employee

3.1 Collective agreements

Like their counterparts in the private sector, employees in the public service who are not civil servants are employed on the basis of an employment contract under private law. This employment contract is based on the general rules of German labour law and on the specific rules of the relevant collective agreements. The law governing collective agreements for the public service specifies almost all major terms of employment.

White-collar employees in the public service were initially refused the right to form associations and societies with the right to conclude collective agreements, which was granted only to blue-collar workers. After the general right to form associations and societies was recognized expressly also for “civil servants and state workers” and enshrined in Article 159 of the 1919 Weimar Constitution, the way was open for collective agreements on terms of employment. The Reich Office Workers Collective Agreement (*Reichsangestellentarifvertrag*) of 2 May 1924 served as a model for subsequent collective agreements in the public service. The Collective Agreement Act (*Tarifvertragsgesetz*) has applied also to the public service since it was first adopted in 1949.

Collective agreements applying to the public service are negotiated between the public employers on the one hand and the unions represented in the public service on the other. The federal level is represented by the Federal Minister of the Interior, who works closely with the Federal Minister of Finance.

The states conclude their own collective agreements with the unions. They are represented by their employers’ association, namely the employers’ association of the German states (*Tarifgemeinschaft deutscher*

Länder, TdL) whose elected chair is generally a state minister of finance. Only Hesse does not currently belong to this association.

The public service at local level is represented by an employers' association at federal level, the Local Authorities Employers' Association (VKA). Its member associations are organized at state level and comprise the local authority territorial communities (local authorities, towns, districts, etc.) as well as local authority and local authority-influenced enterprises such as hospitals, airports and savings banks.

Some of the major unions represented in the public service include:

- dbb beamtenbund und tarifunion, and
- ver.di, the United Services Union.

The collective bargaining agreement for the public service (TVöD) of 1 October 2005 covers all federal and local public employees who belong to a member association of the VKA at state level. Employees of the states (except for Hesse) are covered by the collective bargaining agreement for the public service of the states (TV-L), which went into effect on 1 November 2006.

3.2 Rights and duties

Generally, public employees have the same rights and duties resulting from their employment relationship as private-sector employees.

In addition to the main duty of working, a series of additional duties exists (e.g. confidentiality and refraining from competition). In addition, federal and other employees performing sovereign tasks have the duty of political loyalty. This means that public employees have the duty to conduct themselves in a way that reflects their commitment to the constitutional principles of the Federal Republic of Germany. The extent of the duty of loyalty, however, depends on the function performed so that individual requirements may vary for different functions.

A public employer may punish a public employee's breach of duty set down in the employment contract in the same way as a private employer: Employers may reproach the employee for certain behaviour, express

disapproval of certain behaviour and warn or reprimand the employee. Reprimand means that the employer complains about a lack of performance in a manner understandable to the employee and at the same time indicates that the employee risks being assigned other tasks or even dismissed if the situation is not remedied.

The severest punishment is termination of employment by dismissal. There is no provision comparable to the disciplinary law applying to civil servants for employees in the public service.

Since employees in the public service are employed on the basis of an employment contract under private law, the labour courts are responsible for resolving legal disputes. Employees may appeal a dismissal before a labour court by means of a dismissal protection action. They may also make claims arising from employment before the labour court, such as to be moved to a higher pay group because work performed meets the criteria of this pay group as set out in the collective agreement.

Public employees have the right to strike in order to enforce their demands in the framework of collective negotiations. Strikes must be organized by the unions and must not have any other purpose than improving the working conditions or enforcing demands in collective agreement negotiations. They are only permitted as a last resort after all available means of reaching an agreement have been exhausted (see p. 47) on the prohibition of strikes by civil servants.). Political strikes are prohibited in Germany.

3.3 Career advancement

In contrast to civil servants, public employees are not recruited to a particular career path, but to a specific function. The function is assessed in accordance with criteria set out in the collective agreement and is the sole basis for placing the employee in a specific pay group. For advancement to a higher pay group the employee must be assigned a higher-ranking function.

In practice employees may be assigned to a higher function initially on a temporary basis. This helps fill short-term and temporary replacement needs and vacancies while testing the employee's suitability for

the higher function. In addition, the TVöD provides an option to assign executive functions for a trial period of up to two years.

3.4 Mobility

Employees may be permanently transferred or temporarily seconded and assigned under the existing employment contract. Transfers are allowed only between agencies or services of the same employer. It is not possible to transfer an employee to another public service employer; in this case, a new employment contract would have to be concluded. However, employees may be seconded to another employer applying the TVöD.

An assignment is a temporary employment with a third party in Germany or abroad (e.g. private businesses, international or intergovernmental organizations) to which the German collective agreements do not apply.

Another possibility is permanent employment with a third party following a transfer of tasks to the third party. In all cases, the existing employment relationship continues.

The human resources development instrument known as interim management has increased mobility among executive positions, which no longer have to be assigned permanently but may be limited to a maximum of twelve years. This is also intended to promote personnel exchange between the public and private sectors.

3.5 Changes in terms of employment

An employer may not unilaterally change the contractual terms of employment to the disadvantage of the employee, such as assigning him or her to a lower-paid job. Doing so requires that the employment contract be changed by mutual agreement or by terminating the contract with the option of altered conditions of employment. If working conditions are regulated by a collective agreement, amendments may be adopted by the parties to the collective agreement, even to the disadvantage of the employee.

3.6 Social security

Public employees are obliged by law to be insured in the statutory social insurance. They are members of the statutory health, long-term care, accident, pension and unemployment insurance schemes. Public employers and employees each pay half of the social insurance contributions; the applicable contribution rate is a defined percentage of the gross income. The costs of accident insurance are borne by the employer alone.

The contributions to be paid to the social insurance depend on the salary up to a certain limit; income exceeding this limit is not taken into account in calculating contributions. The contribution rates and the income limits for the assessment of contributions are recalculated every year.

Public employees are also covered by a supplementary occupational pension scheme (see p. 112).

3.7 Termination of employment

Like any other employment, the employment of public employees may be ended by dismissal. The staff council must be consulted (see p. 76). A dismissal without such consultation is invalid. Employees may be dismissed with or without due notice, depending on the reason and the period of notice.

Routine dismissals are subject to a defined notice period. During the six-month probationary period, notice must be given two weeks before the end of the month. After the six-month probationary period, notice must be given one month before the end of a month. This notice period increases with the length of employment to a maximum of six months before the end of a calendar quarter. After 15 years of employment, but not before the employee has reached the age of 40, employment of public employees in the territory of the former West Germany can no longer be terminated with due notice. Ordinary termination by the employer requires a cause justifying dismissal from a social point of view. Termination is socially justified only if it is based on reasons inherent in the character or conduct of the employee, or on urgent operational needs that make further employment impossible.

Exceptional termination for serious reasons is permitted without due notice, if circumstances would make it unacceptable for employment to continue to the end of the notice period. Even employees whose contract may not be terminated with due notice can be dismissed without notice, in particular on grounds of conduct.

Conscripts, pregnant women, severely disabled staff and staff representatives as well as federal employees who, on the basis of collective agreements, have taken on other work in the context of rationalization measures are under special legal protection against dismissal.

Other grounds for termination are

- **Attainment of retirement age:** Employment is terminated at the end of the month in which the employee reaches the legal retirement age. If employees wish to leave employment earlier because they are entitled to early pensions from the pensions insurance or the supplementary pension scheme (see p. 112), employer and employee must conclude a contract of annulment.
- **Reduced working capacity:** Employment is terminated if a reduced working capacity is established and the employee has been granted a permanent pension. In the case of partially reduced working capacity, the employee has the right to continue employment if a suitable position is available.
- **Expiry:** Temporary employment ends on the date specified in the employment contract. Temporary employment is allowed if there is sufficient reason. A first-time hire may be given a two-year temporary contract without specifying a reason.

4. General terms of employment for civil servants and public employees

4.1 Hours and forms of work

Federal civil servants are required to work an average of 41 hours per week.

Public employees at federal level are required to work 39 hours per week.

The start and end of the work day are established in service agreements between the respective employer and the staff council. Flexitime is also widely practised: Apart from a specific “core time”, staff may determine their daily working hours themselves; time credits or hours owed must be used or made up within certain periods.

In addition to a variety of flexible working hours and part-time models, different instruments are offered to help employees balance work and family life:

- Telecommuting, in which employees alternate working from home with working in the office. The employer provides the technology to ensure communication with employees when working at home as agreed in their individual working time model. Employees must apply for a telecommuting work station; approval depends on certain personal and service conditions and is always a long-term arrangement.

- Mobile working: In contrast to telecommuting, employees are not restricted to a particular place when working outside the office. Employees must apply to participate in mobile working, which depends on certain work and life situations. This form of work enables employees to respond flexibly to certain working and life situations, especially in the short term.

4.2 Overtime

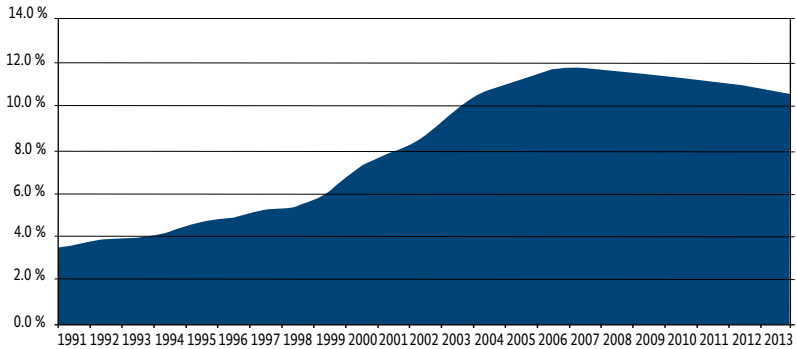
Staff are required to work overtime or at night or on public holidays or shifts where necessary.

Different regulations apply for civil servants and public employees as regards compensation for overtime. Both groups are supposed to take compensatory leave in exchange for extra hours worked. However, civil servants are entitled to compensatory leave only if they worked more than five additional hours. Payment for overtime is permitted only in certain areas and is based on a fixed hourly salary without allowances.

Public employees may receive an allowance instead of compensatory leave (depending on the pay group, 30% or 15% of the hourly scheduled pay for their pay group and level, not to exceed level 4). Under the collective agreement, only full-time employees are obliged to work overtime (and to be on stand-by/on-call duty and work additional hours). For part-time employees, this requires an individual agreement. The staff council has a say in what time of day employees must work overtime and how it is to be distributed. If overtime cannot be compensated by leave, then public employees are to be paid.

4.3 Part-time work

Part-time work is promoted in the public service because it offers employees the opportunity to balance work and family life. Figure 10 shows the development of part-time work at federal level.

Figure 10: Part-time staff as a proportion of total staff, 1991–2013

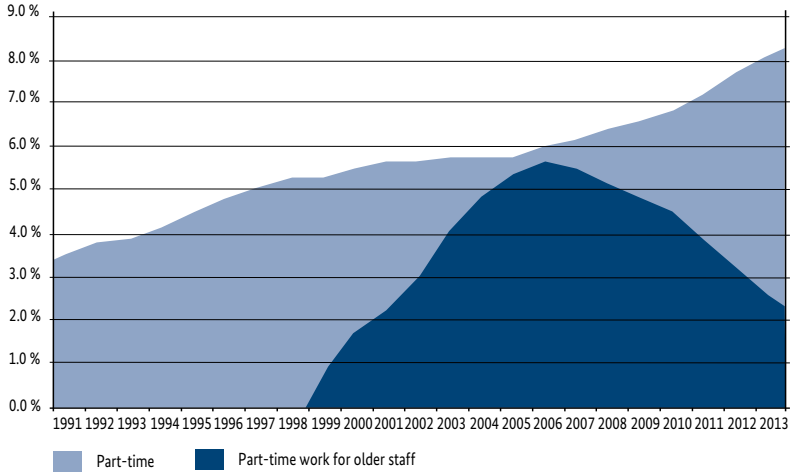
Source: Federal Statistical Office, Specialist Series 14, Series 6, 2013

Part-time workers accounted for 10.7% of all federal staff in 2013 (17.5% if not counting military personnel). For women the part-time rate was 30.1%. The public service thus plays a pioneering role in comparison to private industry.

Rates of part-time work differ between civil servants and public employees: The proportion of civil servants working part-time was 12.8% (32.8% among female civil servants only), while the share of public employees working part-time was 22.2% (35.4% among female employees only).

The overall percentage of staff in part-time work has fallen slightly as the result of a drop in part-time work for older employees; the percentage of other employees in part-time work has continued to rise.

Figure 11: Younger and older staff in part-time work as a proportion of total staff, 1991–2013



Source: Federal Statistical Office, Specialist Series 14, Series 6, 2013

The possibility for federal civil servants to work part-time has developed gradually. Since 1997 civil servants, upon request, may be employed part-time with no particular preconditions and with no limit in terms of hours, if this does not interfere with operational interests. If civil servants apply for part-time employment in order to care for children or relatives in need of care, they have a right to work part-time, which may be refused only in rare exceptions. In case of such family reasons, civil servants may also work less than 50% of the regular weekly working hours, while in other cases civil servants must work a minimum of 50%.

The Act on Part-time Work and Limited Employment (*Teilzeit- und Befristungsgesetz*) gives public employees the right to work part-time if the employer is able to accommodate the employee’s desire to work fewer hours. The employer may turn down such a request only for operational reasons.

In addition to the law, the Collective Agreement for the Public Service grants a right to part-time work for employees looking after children under 18 or relatives in need of care if this does not conflict with urgent official duties.

Employees working part-time receive payment proportionate to the working hours of a full-time employee. Part-time workers may not be excluded from certain benefits altogether.

A brochure on part-time work and leave in the federal public service (*Teilzeit und Beurlaubung im öffentlichen Dienst des Bundes*) provides information on the individual conditions. It can be found in German on the Internet at **www.bmi.bund.de**.

4.4 Leave

All civil servants and public employees working five days per week receive 30 days of leave per year.

Leave entitlement is adjusted accordingly for those working more or fewer than five days per week.

Based on special leave regulations, employees may also receive paid leave at short notice for special reasons, such as for certain family events, for a relocation for occupational reasons, to carry out civic duties or to care for sick relatives at short notice.

Unpaid long-term leave may be granted on request

- to care for family members,
- for other important personal reasons if operational circumstances permit, or
- to perform a different task in the interest of the agency, for example in public intergovernmental or international organizations or in the field of development aid.

Public employees performing work which is recognized as being more stressful (working in shifts or alternating shifts) are granted an additional leave of up to six working days per calendar year.

4.5 Maternity and parental leave

Just as in the private sector, women in the public service are released from their duties for six weeks before and eight weeks after birth (twelve weeks in the case of premature and multiple births; in the case of premature births, also any of the six weeks not used before the birth). Female civil servants continue to receive their salaries, whilst female employees receive a combination of maternity benefit from the statutory health insurance and an allowance from the employer up to the amount of their salary.

After the birth of a child, the parents may take a total of three years of parental leave until the child has reached the age of three. Parents may share or split this leave, or either parent may take the full three years alone. Up to twelve months of the leave may be taken until the child's eighth birthday; the employer must be notified sufficiently in advance. In Germany all employees are entitled to this legal right.

Parental leave is unpaid. Like all other employees, civil servants and public employees caring for a child receive statutory, income-based parental allowance. This allowance currently amounts to between 65% and 100% of the average monthly net adjusted income, but is at least €300 and not more than €1,800 per month. Additional benefits may be paid under certain conditions (multiple births or additional siblings).

4.6 Continued payment of salary in case of illness

In case of illness, civil servants continue to receive a salary for an unlimited period of time. In case of long-term illness, the early retirement procedure should be initiated. This is in line with the special nature of employment as a civil servant with life tenure and the duty of the employer to ensure the maintenance of such civil servants.

Public employees who are not able to work continue to receive their salaries for up to six weeks. If the illness continues for longer than six weeks, employees receive "sick pay" as a benefit from the social insurance fund of their health insurance from the seventh week onwards, not to exceed 90% of the net salary. In addition to the sick pay from health insurance, the employer pays an allowance for up to 13 weeks (if employed in the

public service for more than one year) or 39 weeks (if employed in the public service for more than three years). The allowance is based on the scheduled pay and pay components designated in monthly rates as well as on an average value of the last three months for pay components not designated in monthly rates. Overtime pay received during this period is not included. If the illness recurs, previous illnesses with the same medical cause must be counted subject to specified periods.

4.7 Service anniversaries

After service of 25, 40 and 50 years, civil servants receive an “anniversary bonus” of € 307, € 410 or € 512, respectively, and a day off.⁵

Public employees receive a day off and a bonus of € 350 after 25 years and of € 500 after 40 years of employment with the public service. Part-time employees receive the anniversary bonus in full.

4.8 Additional employment

Civil servants may take up additional employment only to a limited extent. The possibilities of additional employment depend on the type of activity:

- Before taking up additional employment, the permission of the superior is required (with a few exceptions specified by law). Permission is to be refused if there is a risk that the outside position might interfere with operational interests, for example, if the additional employment influences the civil servant’s impartiality or takes up more than eight hours per week.
- Additional employment which, by its very nature, is unlikely to cause conflicts, such as all private activities but also literary, scientific, artistic or lecturing activities do not require prior approval. Paid additional employment must be reported to the superior in advance. However, the superior may prohibit such activities regardless of whether they must be reported if they compromise official duties.

⁵ Under the planned revision of the federal ordinance on anniversary bonuses for federal civil servants and judges, these amounts are to increase to € 350, € 500 and € 600.

Activities outside the public service may be carried out only outside working hours and away from the workplace.

At the request of their employer, civil servants may be obliged to accept additional employment. Outside positions held at the employer's request, or voluntarily on behalf of the employer or another public entity, institution or foundation under public law, are considered "additional employment within the public service". In such cases, compensation is paid only if the additional activity must be carried out without a reduction in the duties of the main position. In cases where compensation is paid, it must comply with annual ceilings scaled according to pay grades or otherwise is subject to the obligation to surrender earnings. Certain types of outside positions which are expressly named in the relevant federal and state ordinances are excluded from the compensation limit and the obligation to surrender earnings.

Federal employees do not need permission to take up additional employment. However, paid employment must be reported in writing well in advance. The employer may prohibit or impose conditions on such additional employment if it conflicts with the employee's duties under the employment contract or the employer's legitimate interests. In the case of additional employment for the same employer or elsewhere in the public service, the employer may require the employee to surrender earnings in line with provisions for federal civil servants.

4.9 Staff representation

Each agency in the public administration has a staff council for its employees. The tasks of staff councils are similar to those of works councils in the private sector. The rights of staff councils are governed by staff representation legislation: The Federal Personnel Representation Act (*Bundespersonalvertretungsgesetz*) applies to federal agencies, while the states have their own laws on staff representation.

The staff council and agency work together on the basis of trust for the good of the employees and to carry out the agency's required tasks. The participation of staff councils is intended to ensure that the protected interests of public service staff are properly taken into account. In all agencies staff elect local staff councils. In line with the multi-level administra-

tive structure, higher-level authorities also have district and central staff councils, which are elected by the staff of the respective authorities.

The size of the staff councils depends on the size of the agencies. Here, the different groups of staff, i.e. public employees and civil servants, must be proportionally represented.

Number of members on staff councils in accordance with the Federal Staff Representation Act

Number of staff	Size of staff council
5 to 20 eligible staff	→ one member
21 to 50 eligible staff	→ three members
51 to 150 eligible staff	→ five members
151 to 300 eligible staff	→ seven members
301 to 600 eligible staff	→ nine members
601 to 1,000 eligible staff	→ eleven members

In agencies with 1,001 to 5,000 employees, the number of members increases by two for every 1,000; with 5,001 or more employees, by two for every 2,000. The maximum number is 31.

The district or central staff councils are involved when the higher-level agency takes action affecting the employees of its executive agencies or its entire remit.

Staff councils have various rights of involvement such as rights of co-decision, participation, initiative, hearing, advising and notification.

The local staff council must be involved in decisions on measures exclusively affecting their agency. If measures affect executive agencies or the entire remit of the higher-level agency, the district or central staff council must be involved.

Staff councils must approve all measures subject to co-decision, such as hiring, transfer, promotion, assessment guidelines and workplace design. If no agreement is reached at local level, the higher-level agency, and ultimately the highest authority (ministry) may be called upon,

which involves its central staff council (district staff council, central staff council). If no agreement can be reached here either, a conciliation panel composed of an equal number of representatives from the parties concerned takes a decision. However, its decision is only a recommendation if it touches on the parliamentary accountability of the central administration, This includes, for example, personnel matters and organizational decisions.

If the staff council has only the right of participation (for example in decisions concerning the merger of agencies, early retirement, termination of employment with due notice), it must be consulted in advance and in detail. If no agreement is reached, the matter can be submitted to the highest service authority, as is the case with co-decision. The latter then takes a final decision after negotiating with the central staff council.

Staff councils may also ask the agency to take certain measures. The agency must inform the staff council comprehensively and on time and provide it with all the necessary documents to carry out its duties effectively.

5. Occupational health and safety

Generally there is no difference between the public and private sectors with regard to occupational health and safety regulations. Occupational health and safety regulations, which are generally based on European Community legislation, also apply to the public service. Exceptions are permitted if the public interest so requires (for example for certain activities of the police, fire brigades and the Bundeswehr). The occupational health and safety agencies of the states monitor compliance with occupational health and safety regulations. The central office for occupational health and safety at the Federal Ministry of the Interior is the responsible agency for the federal public service. The federal accident insurance fund (Unfallkasse des Bundes; from 1 January 2015 Unfallversicherung Bund und Bahn) acts on its behalf.

Under the provisions of the public accident insurance, public employees (like their counterparts in the private sector) are insured against occupational accidents and occupational illness. The public employers pay the contributions to the accident insurance funds.

Civil servants are not insured with the statutory accident insurance fund (see p. 57).

6. Occupational health management

In view of demographic change, occupational health management is very important for staff and to ensure the productivity of the federal administration.

All federal ministries and agencies are required to introduce a long-term, measurable programme to manage employee health as part of their personnel and organizational development. An important element of occupational health management is disability management, which helps employees return to work after long illness. Occupational health management is also preventive, helping keep health problems from occurring.

Progress on health promotion in the direct federal administration is presented in an annual report available on the Internet at www.bmi.bund.de (in German only).





V.

Payment schemes
in the federal public
service

1. Civil servants

1.1 Legal basis

The remuneration of civil servants, judges and military personnel is governed by the Federal Civil Servants' Remuneration Act (*Bundesbesoldungsgesetz*, BBesG). Remuneration in state and local authorities as well as other corporations, institutions and foundations under public law supervised by a state is governed by the Federal Civil Servants' Remuneration Act in the version applicable until 31 August 2006 until relevant state law is adopted. Amendments of the Act adopted at a later date, for example through the Act to Restructure Civil Service Law (*Dienstrechtsneuordnungsgesetz*), apply only to federal civil servants.

Remuneration is based on the principle of maintenance, one of the constitutional principles of the professional civil service (Article 33(5) of the Basic Law): The employer is obliged to provide maintenance commensurate to the office assigned if active civil servants become disabled or reach retirement age. Remuneration is intended to ensure that civil servants are able to devote themselves entirely to their duties. Only a financially independent civil service is able to fulfil its constitutional functions. Unlike employees, civil servants are not paid for individual work done but compensated for their service as a whole, i.e. for making their entire working capacity available to the state for life and carrying out their duties to the best of their ability.

However, legislation does provide considerable scope in determining which remuneration is appropriate. In this respect, the maintenance principle sets a general standard to be individually adapted to current needs.

1.2 Elements of remuneration

Remuneration, which is paid monthly in advance, consists primarily of the basic salary. Additional elements include family allowance and other allowances as applicable. Performance bonuses or performance allowanc-

es may also be paid. Civil servants assigned abroad may receive additional allowances. Further, capital-forming benefits are paid.

1.3 Basic salary

The basic salary is the main element of remuneration. It is based on the pay grade of the assigned office and therefore does not depend on what function the civil servant actually performs. The offices and pay grades are specified in four federal pay scales:

Federal pay scales A and B govern the remuneration of civil servants with life tenure and soldiers, federal pay scale W that of professors at higher education institutions, and federal pay scale R that of judges and public prosecutors.

Federal pay scale A includes several steps for each pay grade, while federal pay scale B does not. Federal pay scale B applies to high-ranking positions such as state secretaries, directors-general, directors, heads of division, generals and presidents of higher federal authorities. Federal pay scale R contains both pay grades with steps (pay grades R 1 and R 2) and without (R 3 to R 10).

Federal pay scale A assigns the following pay grades to the different career paths for civil servants:

- ordinary service: → pay grades A 2 to A 6;
- intermediate service: → pay grades A 6 to A 9;
- higher intermediate service: → pay grades A 9 to A 13;
- higher service: → pay grades A 13 to A 16.

The highest grade of a lower career path is usually the starting grade of the next highest career path. In pay grades with different steps, the civil servant advances to the next step by demonstrating satisfactory performance within certain periods of service. If performance is not satisfactory, the civil servant may remain at the same step. The required length of service to move to the next step starts at two years, then increases to three and four years. This takes into account the fact that experience is gained more rapidly at the beginning of a career. Civil servants who have professional experience within and outside the public service and additional qualifications may start at a higher step.

If performance is permanently outstanding, the civil servant may be paid at a higher step in pay scale A before serving for the required length of time (performance step).

1. Federal pay scale A

valid from 1 March 2015

Pay grade	Basic salary (monthly amounts in €)							
	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
A 2	1,974.72	2,018.71	2,063.88	2,097.74	2,132.74	2,167.73	2,202.71	2,237.70
A 3	2,050.34	2,096.61	2,142.88	2,180.14	2,217.39	2,254.62	2,291.89	2,329.12
A 4	2,093.25	2,148.53	2,203.84	2,247.86	2,291.89	2,335.90	2,379.91	2,420.56
A 5	2,109.02	2,177.87	2,233.17	2,287.37	2,341.56	2,396.87	2,451.03	2,504.08
A 6	2,154.17	2,234.33	2,315.58	2,377.66	2,442.00	2,504.08	2,572.94	2,632.76
A 7	2,261.41	2,332.52	2,426.23	2,522.14	2,615.83	2,710.65	2,781.76	2,852.86
A 8	2,392.34	2,478.13	2,598.89	2,720.81	2,842.70	2,927.35	3,013.14	3,097.80
A 9	2,581.96	2,666.62	2,799.82	2,935.26	3,068.43	3,158.96	3,253.15	3,344.99
A 10	2,763.68	2,879.94	3,048.14	3,217.08	3,389.16	3,508.93	3,628.66	3,748.44
A 11	3,158.96	3,336.85	3,513.57	3,691.46	3,813.53	3,935.62	4,057.70	4,179.79
A 12	3,386.86	3,597.29	3,808.89	4,019.32	4,165.83	4,309.99	4,455.33	4,602.99
A 13	3,971.66	4,169.32	4,365.80	4,563.45	4,699.49	4,836.69	4,972.70	5,106.41
A 14	4,084.44	4,339.05	4,594.85	4,849.46	5,025.01	5,201.76	5,377.31	5,554.05
A 15	4,992.48	5,222.70	5,398.24	5,573.81	5,749.38	5,923.78	6,098.17	6,271.40
A 16	5,507.53	5,774.96	5,977.25	6,179.56	6,380.70	6,584.18	6,786.48	6,986.46

Increases in pay grades A 5, A 6, A 9 and A 10

In the pay grades A 5 and A 6 for civil servants of the intermediate service and for non-commissioned officers, basic pay increases by €20.66; in the pay grades A 9 and A 10 for civil servants of the higher intermediate service and for officers, it increases by €9.01.

2. Federal pay scale B

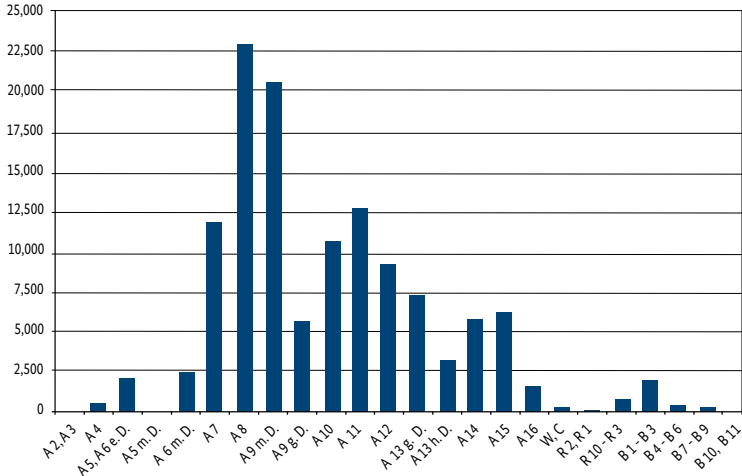
valid from 1 March 2015

Pay grade	Basic salary (monthly amounts in €)
B 1	6,271.40
B 2	7,285.26
B 3	7,714.27
B 4	8,163.05
B 5	8,678.13
B 6	9,167.62
B 7	9,639.65
B 8	10,133.77
B 9	10,746.50
B 10	12,649.78
B 11	13,141.59

Function	Title / Rank	Pay grade
Courier	Oberamtsgehilfin/ Oberamtsgehilfe	A 2
Driver	Hauptgefreiter	A 4
Clerical worker	Sekretärin/Sekretär	A 6
Squad leader	Stabsunteroffizier	A 6
Police officer	Polizeimeisterin/ Polizeimeister	A 7
Administrative officer	Inspektorin/Inspektor	A 9
Police officer	Polizeikommissarin/ Polizeikommissar	A 9
Platoon leader	Stabsfeldwebel	A 9
Police officer	Polizeioberkommissarin/ PolizeiKommissar	A 10
Engineer (university of applied sciences)	Technische Oberinspek- torin/Technischer Ober- inspektor	A 10 (entry level)
Company commander	Hauptmann	A 12
Police officer	Polizeihauptkommis- sarin/Polizeihauptkom- missar	A 12
Policy officer in a federal ministry	Regierungsrätin/ Regierungsrat	A 13
Commander of a battalion	Oberstleutnant	A 14
Division head in a federal ministry	Ministerialrätin/ Ministerialrat	A 16 / B 3
Head of an embassy	Botschafterin/ Botschafter	A 16 / B 3
Commander of a brigade	Brigadegeneral	B 6
Director in a federal ministry	Ministerialdirigentin/ Ministerialdirigent	B 6
Commander of a division	Generalmajor	B 7
Director-general in a federal ministry	Ministerialdirektorin/ Ministerialdirektor	B 9
State secretary in a federal ministry	Staatssekretärin/ Staatssekretär	B 11

The number of active civil servants and judges at the various pay grades is as follows:

Figure 12: Distribution of civil servants by pay grade (as at 30 June 2013)



Source: Federal Statistical Office, Specialist Series 14, Series 6, 2013

1.4 Remuneration of professors

The remuneration of professors at federal universities (in particular the Bundeswehr universities in Hamburg and Munich and the Federal University of Applied Sciences) is governed by pay scale W introduced in 2002.⁶ Individual remuneration comprises the basic salary and additional variable salary components. New legislation on the remuneration of professors (*Professorenbesoldungsneuregelungsgesetz*) divides basic salaries for professors in pay grades W 2 and W 3 into steps and provides for significant raises starting in 2013 (as at 1 March 2015: W 2: € 5,422.44 – € 6,060.38; W 3: € 6,060.38 – € 6,910.95). The amount of variable salary elements depends on the assessment of performance. Ordinances and internal statutes of the individual universities specify the details of performance-related pay.

1.5 Family allowance

The family allowance (previously: local cost-of-living allowance, which was originally intended to compensate for the differences in the cost of living of civil servants in various locations) is a part of remuneration. The amount depends on the family situation of the civil servant, and in step 1 also on the pay grade. In line with the maintenance principle, the family allowance also takes account of the additional burdens typically involved with having a family in comparison with single civil servants without children.

The family allowance at step 1 (“married persons’ allowance”) is paid to married, widowed and divorced civil servants (where there is a duty of maintenance resulting from the marriage). In the lower pay grades up to A 8 it is € 126.70, from A 9 upwards it is € 133.04 per month.

For the first and second entitled child, the family allowance increases by € 113.74, from the third child onwards by € 354.38 per month. For the lower pay grades (A 2 to A 5) the child-based family allowance increases by € 5.37 for the first entitled child, and for the third and any further child

⁶ The reform replaced pay scale C with pay scale W for new staff. Pay scale C still applies to professors hired before 2002.

- by €26.84 in pay grades A 2 and A 3,
- by €21.47 in pay grade A 4 and
- by €16.10 in pay grade A 5.

In addition to the family allowance, civil servants are also entitled to the general statutory child benefit upon application.

1.6 Allowances

Allowances are paid in addition to the basic remuneration (basic salary/ family allowance) in recognition of specific requirements and achievements. Allowances include the following:

- **Functional allowances:** These serve to differentiate between the offices, are issued in the remuneration schemes of the offices themselves and are considered an element of the basic salary. They are included in general salary increases and are also taken into account in calculating pensions. Thus, for instance, in the top pay grade of the intermediate service – pay grade A 9 – up to 30% of civil servants may receive a functional allowance if they perform functions exceeding the general level of this pay grade.
- **Post allowances:** They are paid for outstanding positions, for example police allowance (approx. € 134), security allowance (depending on the pay grade between approx. € 121 and € 201) and allowance for company sergeant majors (approx. € 80). Post allowances are not pensionable.
- **Hardship allowances:** This is remuneration for work carried out either outside normal working hours or under difficult conditions (e.g. € 3.20 per hour for work on Sundays or public holidays, € 1.51 per hour for work at night, allowances for alternating shifts and shift work as well as allowances for divers and certain military and police tasks). Extra pay for difficult working conditions is not pensionable.
- **Compensatory allowances for transfers to federal service:** State civil servants are regularly assigned to work in certain areas of the federal administration. These allowances are intended to make up for any differences in pay between the federal and state levels, so that state-level civil servants continue to be willing to work in the federal public service.

- Overtime pay: Overtime is paid only in certain areas (e.g. police, customs, and fire brigade) and for specific service schedules. It is paid as a set proportion of the hourly salary.

1.7 Performance bonuses and performance allowances

In addition to performance steps for the basic salary, civil servants and military personnel paid according to pay scale A may receive performance bonuses and performance allowances for outstanding special achievement. These performance-based pay instruments are intended to reward outstanding performance and increase motivation and productivity.

The performance bonus is a one-off payment rewarding special achievements. It may be granted up to the amount of one month's basic starting salary.

Example:

In pay grade A 13 a performance bonus in the form of a one-off payment of up to one month's basic starting salary of pay grade A 13, i.e. € 3,971.66 (as at 1 March 2015), may be paid.

The ongoing performance allowance is dependent on a positive performance forecast, is limited to a maximum of twelve months and 7% of the basic starting salary, and may be revoked.

Example:

In pay grade A 13 a performance allowance in the form of a monthly payment not exceeding 7% of the basic starting salary of pay grade A 13 ($€ 3,971.66 \times 7\% = € 278$) may be paid for up to twelve months, for a total of € 3,336 (as at 1 March 2015).

The annual budget of €31 million for performance-related pay is specified in the Civil Servants' Remuneration Act. Public employers are obliged by law to use the money to reward outstanding performance.

1.8 Recruitment allowance

The recruitment allowance makes it possible to respond to staff shortages in a targeted way and recruit for specific skilled positions. Within the lines set by law and the limited budget explicitly for this purpose, federal agencies may determine the allowance and payment conditions as needed. For example, an entry-level employee in pay grade A 13 may receive a maximum allowance of €750 per month for up to eight years.

1.9 Remuneration for work abroad

Civil servants, judges and military personnel under general assignment who live and work abroad receive the following remuneration for work performed abroad, in addition to their domestic remuneration:

- a bonus for work performed abroad,
- a rent subsidy.

The bonus for work abroad is paid according to Annex VI.1 of the Civil Servants' Remuneration Act (BBesG). It depends on the basic salary range (table heading) and into which of 20 zones the assigned workplace falls. The additional material effort as well as workplace-related and general hardships are summarized in these zones. There is also a bonus for eligible children according to Annex VI.2. Others who may be taken into account include spouses, registered civil partners and persons as defined in Section 53 (4) no. 3 of the Civil Servants' Remuneration Act. The bonus increases by 40% for the first such person; for each additional person, the bonus increases as given in Annex VI.2.

Persons receiving foreign service allowances to which the Act on the Foreign Service applies are paid a higher bonus under Section 53 (6) of the Civil Servants' Remuneration Act.

If purchasing power abroad differs from the purchasing power in Germany, the salary may be increased or reduced. These arrangements also apply to public employees.

Persons on special assignment to humanitarian or support measures carried out by the decision of the Federal Government on the basis of an agreement with a foreign country also receive a mission subsistence allowance which provides a per diem to cover all extra material expenses and non-material hardship. There are six levels of per diem; no additional amounts are paid to compensate for differences in cost of living.

Remuneration for work abroad, whether a routine or a special assignment, is tax-exempt.

2. Public employees

2.1 Legal basis

Remuneration of public employees is governed by collective agreements negotiated between the public employers at federal, state and local level and the responsible unions. Unlike civil servants who are paid in line with the maintenance principle, public employees are compensated by the employer for work performed.

Remuneration of federal employees is governed by the collective bargaining agreement for the public service (*Tarifvertrag für den öffentlichen Dienst*, TVöD). The TVöD also applies to public employees of local authorities. Except for Hesse, public employees of the states are paid in accordance with the collective bargaining agreement for the public service of the states (TV-L).

Public employees receive monthly scheduled pay. The relevant tables can be found in the annexes to the TVöD. Raises were agreed in the most recent negotiations with the unions in 2014. The next negotiations will take place in spring 2016.

The following salary tables apply starting 1 March 2015:

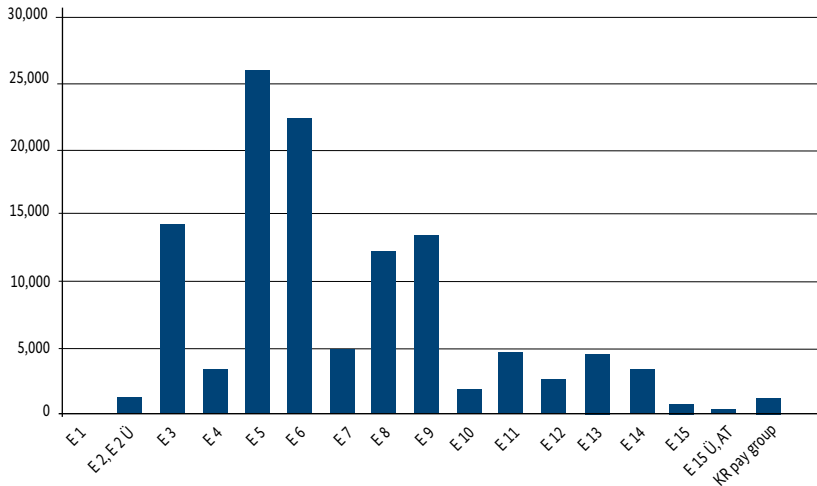
Pay group	Basic pay		Advanced pay level			
	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
15	4,179.74	4,637.42	4,807.81	5,416.39	5,878.91	
14	3,785.38	4,199.21	4,442.64	4,807.81	5,367.72	
13	3,489.62	3,870.59	4,077.52	4,479.14	5,039.05	
12	3,129.17	3,468.92	3,955.78	4,381.80	4,929.53	
11	3,022.81	3,347.23	3,590.64	3,955.78	4,485.25	
10	2,916.44	3,225.48	3,468.92	3,712.37	4,174.88	
9b	2,586.77	2,857.36	2,999.18	3,383.71	3,688.02	
9a	2,586.77	2,857.36	2,904.65	2,999.18	3,383.71	
8	2,427.23	2,680.10	2,798.30	2,904.65	3,022.81	3,097.26
7	2,278.35	2,514.67	2,668.29	2,786.48	2,875.10	2,957.82
6	2,235.78	2,467.40	2,585.57	2,697.84	2,774.66	2,851.47
5	2,145.97	2,366.97	2,479.23	2,591.49	2,674.21	2,733.30
4	2,044.34	2,254.70	2,396.50	2,479.23	2,561.95	2,610.38
3	2,012.46	2,219.23	2,278.35	2,372.87	2,443.79	2,508.77
2	1,863.54	2,053.80	2,112.89	2,171.99	2,301.94	2,437.87
1		1,670.94	1,699.30	1,734.76	1,767.82	1,852.91

The table covers 15 pay groups. Unlike civil servants whose salary is based on their office, public employees are assigned to certain pay groups according to the tasks they perform.

The criteria for assigning employees to pay groups are defined in the collective agreement. They include personal requirements such as a university degree. Federal job descriptions were comprehensively updated in the pay schedule that went into effect on 1 January 2014. In view of the shortage of skilled labour, the pay schedule moved certain groups of skilled workers into higher pay groups.

Figure 13 shows the number of public employees in the various pay groups.

**Figure 13: Distribution of public employees by pay group
(as at 30 June 2013)**



Source: Federal Statistical Office

Each pay group has six steps. At federal level, no amounts have been agreed for step 6 in pay groups 9a to 15, so step 5 is the final step in these groups. New staff without relevant professional experience are assigned to step 1. To ensure that staffing needs are met, experience working for a different employer may be taken into account when assigning new hires to steps within a pay group.

Progression to the next step is based on professional experience and performance. Professional experience is reflected by qualification periods, i.e. periods of uninterrupted employment with the same employer and within the same pay group. According to the TVöD, step 2 is usually reached after one year in step 1, step 3 after two years at step 2, step 4 after three years at step 3, step 5 after four years at step 4 and step 6 after five years at step 5. Certain interruptions of the qualification periods do not affect progression (e.g. protection periods pursuant to the Maternity Protection Act (*Mutterschutzgesetz*)). To advance to the next regular step, at least average performance is required. If performance is significantly above average, the usual length of time spent at steps 4 to 6 may be re-

duced; the period may be extended if performance is significantly below average.

Examples of scheduled pay according to tasks:

Activity	Pay group	Starting salary in € (step 1/step 2)*	Final salary in € (step 5/step 6)*
Work requiring a university-level degree. such as policy officer at a ministry	13	3,489.62 / 3,870.59	5,039.05
Administrative officer – human resources	10	2,916.44 / 3,225.48	4,174.88
Certified technician	8	2,427.23 / 2,680.10	3,097.26
Clerk who has completed occupational training	6	2,235.78 / 2,467.40	2,851.47
Registry staff with specialized knowledge	5	2,145.97 / 2,366.97	2,733.30
Couriers and doormen	3	2,012.46 / 2,219.23	2,508.77
Library, archives or museum worker with simple tasks	2	1,863.54	2,437.87

* valid from 1 March 2015

2.2 Performance-related pay

Performance-related pay is intended to improve the quality of public services by strengthening motivation and individual initiative and the management culture in the public service. It is granted in addition to the scheduled pay depending on the employee's individual performance. Since Section 18 of the TVöD for the federal level was amended effective 1 January 2014, federal employers have two options regarding performance-related pay.

Section 18 of the TVöD (federal level) offers one option for performance-related pay. The framework and details of the performance-related pay system for federal employees are specified in a separate collective agreement on performance-related pay for federal employees (*LeistungsTV-Bund*). However, the agreement is not final but may be supplemented by service agreements in the individual agencies. The service agreements specify the instruments of performance appraisal and pay. As an alternative, based on the performance-related pay elements for civil servants, bonuses and allowances may be paid to recognize special achievement.

2.3 Other salary elements

Under the TVöD allowances are paid to compensate employees performing more stressful work (e.g. working in shifts, at night or on weekends) or working under more difficult conditions (e.g. noise, dirt).

3. Special payments

There are various annual payments in the public service, in addition to regular salaries.

3.1 Civil servants

Effective 1 July 2009, the annual special payment (2.5% of the annual salary, € 125 for pay grades A 2 to A 8) has been incorporated into the monthly salary. Accordingly, since 1 January 2012 the proportion of the annual special payment which had been frozen between 2006 and 2011 (2.5% of the annual salary) has been included in the monthly salary. The annual special payment has thus ceased to be a separate element of the salary.

3.2 Public employees

The TVöD provides for an annual special allowance which is paid with the November salary. In the western German states, the individual pay groups receive the following proportion of the average monthly salary:

- in pay groups 1 → to 8, 90%
- in pay groups 9a → to 12, 80%
- in pay groups 13 → to 15, 60%

In the eastern German states, the annual special allowance amounts to 75% of the allowance paid in the western states.

In accordance with the general Act on Capital Formation (*Vermögensbildungsgesetz*) civil servants and public employees also receive capital-forming benefits amounting to €6.65 per month, which must be invested in accordance with the provisions of this act (such as for savings plans with a building society or capital formation plans).

4. Salary adjustment

In Germany, salaries are not adjusted automatically, for example in accordance with the development of labour productivity. In the public service, too, any increase in nominal salaries must be agreed on separately.

4.1 Civil servants

The adjustment of civil servants' salaries is regulated by law.

Section 14(1) of the Civil Servants' Remuneration Act

(1) Remuneration shall be regularly adjusted by law taking into account the development of the general economic and financial situation and the responsibility associated with official functions.

The procedure to increase remuneration for civil servants is generally initiated once a collective agreement has been concluded for public employees. Before the Federal Government adopts the draft legislation to increase salaries, the Federal Minister of the Interior discusses the matter with the unions' umbrella organizations. However, the parties do not negotiate but merely exchange views.

As a rule, the salary increase proposed to the parliament is based on the collective agreement because the relevant aspects of the economic and budgetary situation have been examined in detail during collective bargaining.

As a result of the procedure outlined above, salaries in the federal public service generally develop along the same lines for all public service staff. However, the salary adjustment for civil servants has been reduced by 0.2% since 1999 and will continue to 2017 on the basis of the 1998 Pensions Reform Act (*Versorgungsreformgesetz*). This reduction used to fund the pension reserves was suspended in 2003 and was reinstated in 2010.

4.2 Public employees

As in the private sector, salary increases for public employees are negotiated between the unions and the public employer in a new collective agreement.

At the end of the agreed term, unions usually terminate the previous agreement on salaries and state their demands. They may even call on employees to strike to enforce their aims during negotiations. Civil servants are not allowed to strike. If negotiations are initially unsuccessful, conciliation proceedings may be initiated. To this end, a commission of representatives of the parties to the collective agreement draft and adopt a recommendation under an impartial chairperson. The recommendation is not binding, but does oblige the parties to re-negotiate without delay.

No strikes may be held during the conciliation procedure. The new collective agreement is binding on the employers and union members for the period of their agreed minimum term.

The current pay tables under the TVöD cannot be terminated before 29 February 2016.

The unions and the Federation have regularly negotiated appropriate pay increases. Since the TVöD was introduced in 2005, pay has increased by about 23% to 30%, depending on the pay group and including the increases that will go into effect from March 2015.

Figure 14 shows the growth of salaries from 1998 to 2013 in the federal public service as compared to the economy as a whole and to the cost of living in Germany.

Figure 14: Salary increases in the public service as compared to the private sector and the consumer price index

Year	Collective agreements for the public service	Average increases in the private sector ⁷ in %	Increase in the consumer price index ⁸ in %
1998	1.5 % from 1 January	2.0	1.0
1999	3.1 % from 1 April (civil servants 2.9 % from 1 June, in higher pay grades from 1 January 2000) plus a one-off payment of DM 300	3.1	0.6
2000	2.0 % from 1 August, plus a one-off payment of DM 400 (civil servants in pay grades A 1 to A 11, four one-time payments of DM 400 for the months of September to December)	2.5	1.4
2001	2.4 % from 1 September (civil servants: 1.8 % from 1 January and 2.2 % from 1 January 2002)	2.3	2.0
2002		3.2	1.4
2003	2.4 % from 1 January, in higher pay grades from 1 April (for civil servants, except B 11, from 1 April or 1 July) and one-off payment of 7.5 % not exceeding € 185	2.4	1.1
2004	1.0 % from 1 January and 1 May (for civil servants, except B 11, from 1 April and 1 August) and one-off payment of € 50	1.9	1.6
2005	One-off payment of € 300 (€ 100 in April, July and October)	1.9	1.6
2006	One-off payment of € 300 (€ 150 in April and July)	2.1	1.5
2007	One-off payment of € 300 (€ 150 in April and July)	2.7	2.3
2008	Increase of the scheduled pay and basic salary by € 50 and 3.1 % from 1 January	2.7	2.6
2009	2.8 % from 1 January and a one-off payment of € 225	2.7	0.3
2010	1.2 % from 1 January	1.8	1.1
2011	0.6 % from 1 January 0.5 % from 1 August (0.3 % for civil servants) and a one-off payment of € 240	2.5	2.1
2012	3.5 % from 1 January (3.3 % for civil servants)	2.9	2.0
2013	1.4 % from 1 January (1.2 % for civil servants) 1.4 % from 1 August (1.2 % for civil servants)	2.8	1.5
2014	3.0 % from 1 March (2.8 % for civil servants), at least € 90	not available	not available
2015	2.4 % from 1 March (2.2 % for civil servants)	not available	not available

7 Source: Federal Ministry of Labour and Social Affairs, Results of important collective agreements for public service staff, 2013

8 Source: Consumer price indices for Germany, Federal Statistical Office, Specialist Series 17, Series 7, and Specialist Series 18, Series 1.2

5. Remuneration of members of the Federal Government and of parliamentary state secretaries

5.1 Remuneration

Members of the Federal Government and parliamentary state secretaries are paid for their work while in office.

The main components of this remuneration are the official salary and the local cost-of-living allowance. Further components include an official expense allowance (since 1950 it has been the equivalent of € 12,270.96 annually for the Federal Chancellor, € 3,681.36 for federal ministers and € 2,760.96 for parliamentary state secretaries) and a family separation allowance (since 1974 it has been an annual lump sum equivalent to € 1,840.65), if applicable. The official salary and cost-of-living allowance are subject to taxation; the family separation allowance is subject to taxation only under certain circumstances.

5.2 Basis for calculating salaries and cost-of-living allowances

The salary is the component of remuneration which takes into account the requirements and responsibilities of the office. Because all members of the Federal Government are at the highest level of the executive branch, their remuneration is based on the pay structure of civil servants. Under the Federal Ministers Act (*Bundesministertgesetz*),

- the Federal Chancellor is paid $1\frac{2}{3}$
- the federal ministers are paid $1\frac{1}{3}$

times the basic salary of the highest pay grade of civil servants, plus $1\frac{1}{3}$ times the local cost-of-living allowance for that level (B 11).

Based on the Act governing the Legal Status of Parliamentary State Secretaries, they are paid 75 % of the official salary of a minister plus $1\frac{1}{3}$ times the local cost-of-living allowance for the highest pay grade of civil servants (B 11).

5.3 Level of salaries and cost-of-living allowances

Because they were left out of the general pay increases in the years 1992–1994, 2003–2004, 2008–2009 and 2010–2011, current salaries and local cost-of-living allowances are much lower than the Federal Ministers Act allows.

As a result, remuneration for members of the Federal Government lags behind the overall salary development for the public service by more than 25 %. By accepting these cuts in their remuneration, the members of the Federal Government hoped to help balance the federal budget and demonstrate their solidarity with ordinary citizens affected by cuts in wages, salaries and benefits.

Moreover, the annual special payment known as the Christmas bonus was discontinued for members of the Federal Government in 2006.

The current monthly salary plus local cost-of-living allowance for a married member of the Federal Government and parliamentary state secretary with no children, spouse/registered partner not employed in the public service would be as follows:

Office	Official salary	General allowance	Local cost-of-living allowance
Federal Chancellor	€ 16,922.67	€ 30.68	€ 1,069.79
Federal minister	€ 13,538.17	€ 30.68	€ 1,069.79
Parliamentary state secretary	€ 10,153.63	€ 30.68	€ 1,069.79

effective 1 March 2015

5.4 Pensions

When they leave office, members of government receive a transitional allowance and a pension if they fulfil the necessary requirements.

The transitional allowance is paid immediately upon leaving office for six months to two years, depending on the length of time spent in office. In the first three months, the amount of the allowance equals the official salary and the local cost-of-living allowance; for the remaining period the allowance is half of that amount.

Pensions, salaries from current or past deployment in the national or international public service and, starting with the second month, also income from employment in the private sector are deducted in full from the transitional allowance. The transitional allowance is no longer paid from the second month onwards to members of the German Bundestag who are still receiving compensation in that capacity.

The amount of the pension depends on the length of time spent in office; as a rule, only those who served at least four years in office receive a pension, starting when they have reached the retirement age for federal civil servants. The pension benefit for those who have served four years is 27.74% of the salary received while in office. For each additional year as a member of the Federal Government, the pension benefit increases by about 2.39% to a maximum of 71.75% of the last salary received. Salaries and pensions from current or past employment in the public service are deducted in full from this pension. The same applies to pensions and income from work in the private sector. Persons receiving compensation as members of the German Bundestag receive only partial payment of pensions.

6. Personnel expenditure at federal level

Figure 15 shows the development of total and personnel expenditure at federal level and personnel expenditure as a share of total expenditure:

Figure 15: Total expenditure and personnel expenditure at federal level in billion

Year	Federation Total	Personnel expenditure	Share in %
1970	45.0	7.4	16.5
1980	110.3	16.4	14.9
1990	194.4	22.1	11.4
2000	244.4	26.5	10.8
2005	259.8	26.4	10.2
2010	303.7	28.2	9.3
2014	307.8	28.6	9.3

Source: Federal Ministry of Finance

Personnel expenditure as a proportion of total federal expenditure was 9.3% in 2013 and has thus been steadily reduced.





VI.

Pension systems in the
federal public service

1. Civil servants

1.1 General information

Old-age pensions for civil servants are financed through a separate social insurance scheme. Unlike the statutory pension insurance, which serves only as the basic insurance system, the old-age pension system for civil servants includes the supplementary insurance. For this reason, civil servants' old-age pensions are said to be "bi-functional".

The government's obligation to pay civil servants' pensions is based on the principle of maintenance anchored in Article 33(5) of the Basic Law. The old-age pensions of federal civil servants are governed by the Federal Act Governing Civil Servants' Pensions and Allowances (*Beamtenversorgungsgesetz*, *BeamtVG*). The Act also covers federal judges. Pensions for professional military personnel are governed by the same principles under the Military Pensions Act (*Soldatenversorgungsgesetz*, *SVG*).

1.2 Finances

In principle, old-age pensions for civil servants are tax-funded.

It would violate the principle of maintenance for civil servants to belong to the social insurance systems. According to the maintenance principle, the government itself and its administration must ensure long-term funding for civil servants and appropriate subsistence in line with overall economic conditions. Maintenance is the government benefit provided by the employer as set by law that continues in the form of an old-age pension when civil servants retire. The employer may not shirk its legal obligation to directly provide this benefit itself. This also means that pensions cannot be delegated to a social insurance institution.

1.2.1. Federal special fund

Since 1999, 0.2 percentage points of every salary increase have been diverted into a special pension fund managed by the Bundesbank. From 2018, this capital is supposed to cover part of the government's pension expenditures. Contributions to this fund reduce remuneration by an estimated 2% in total. As a result, these contributions constitute remuneration of active and retired federal civil servants that is withheld without formal acknowledgement.

In addition, a pension fund has been established for all civil servants hired since 1 January 2007. This fund is also managed by the Bundesbank. Starting in 2020, the pensions for this group of civil servants are to be financed from this fund. With this in mind, their employers regularly contribute a certain percentage of their pensionable remuneration to the fund, reflecting the future costs of pensions for these civil servants.

1.2.2 Retroactive insurance and old-age benefits

If civil servants leave the public service without being entitled to a pension, contributions are subsequently paid into the statutory pension insurance scheme (but not into the additional old-age and dependants' benefits scheme).

Federal civil servants have the option of claiming old-age benefits instead.

Federal civil servants and judges may claim these benefits if they have asked to be released from public service employment and there is no service-related reason to deny their request. They must have served at least seven years, at least five of them at federal level. The amount of benefits is based on what they would have received with a civil servants' old-age pension depending on their last salary and time spent in the public service, minus 15%. Old-age benefits are paid only upon reaching the retirement age. Reduced old-age benefits may be paid before reaching the retirement age in case of serious disability or reduced earning capacity.

1.3 Pension benefits for civil servants

Pension benefits for civil servants include a pension, survivors' benefits and accident insurance.

To be entitled to a pension, a civil servant must have served a minimum of five years or must have become disabled due to an accident at work.

Civil servants are entitled to a pension upon retirement, Civil servants may retire

- when they reach the regular retirement age of 67 years (the regular retirement age is gradually increasing from currently 65 years to 67 years by 2029);
- if they are members of the Federal Police or fire fighting services of the Bundeswehr and have reached a special retirement age (gradually increasing from 60 to 62 years);
- on request after their 63rd birthday (benefits will be reduced up to 14.4 %);
- on request when they reach 60 years of age if they have a disability (this age limit is gradually increasing to 62 years), with benefits reduced by up to 10.8 %;
- if they have been found unfit to work, with benefits reduced by up to 10.8 %; or
- if they are temporarily suspended.

The amount of pension benefits is based on the total pensionable remuneration and pensionable length of service; it amounts to 1.79375 % of pensionable remuneration for every year of pensionable service up to a maximum of 71.75 % for 40 years of pensionable service.

Basic salary, level 1 family allowances and other pensionable remuneration and performance bonuses are pensionable. Benefits are calculated on the basis of remuneration from the most recent post held at least two years before retirement.

Like remuneration, pension benefits are adjusted by means of federal legislation in line with general developments in the economy and in income.

Pensions are income from employment and are thus subject to income tax.

1.4 Pension deductions

If pensioners receive other benefits from statutory pension systems or from additional old-age and dependants' benefits for public employees, these are deducted from the pension if the total amount of benefits exceeds a certain threshold. Benefits from private supplementary pensions are not counted.

This means that the portion of the total amount of pensions and other benefits exceeding the maximum amount is "frozen". Thus, the civil servant continues to receive the retirement benefit in addition to the pension while the pension is reduced by the amount exceeding the maximum.

The same applies in the case of wages, salaries or compensation: Pension benefit amounts in excess of the legal maximum are not paid out.

1.5 Surviving dependants

In addition to one-off payments (salary for the month of death and a funeral payment), surviving dependants receive a widow's or widower's benefit, an orphan's benefit or subsistence payments as a pension.

The surviving spouse receives 55% of the deceased civil servant's pension as a widow's or widower's benefit.

The orphan's benefit amounts to 12% for the loss of one parent, 20% for the loss of both parents and 30% for children who have become orphans as a result of an accident.

2. Public employees

The pensions of employees (including disability pensions and pensions for surviving dependants) are based on three pillars:

- statutory pensions insurance,
- supplementary insurance (occupational pension scheme),
- private, fully funded pension scheme eligible for tax benefits.

Under the collective agreement for public employees, surviving dependants (spouses, registered civil partners or children) of active public employees receive a death benefit upon the death of that employee. This one-off benefit consists of the pay for the month in which the employee died and two additional months' pay.

2.1 Statutory pension insurance

Public employees are insured in the general statutory pensions insurance, just like employees in the private sector. Employees and employers each pay half of the contribution.

2.2 Supplementary insurance

The supplementary insurance for public employees at federal and state level is a compulsory occupational pension scheme based on the collective agreement on the occupational pension scheme for public employees (*Tarifvertrag über die betriebliche Altersversorgung der Beschäftigten im öffentlichen Dienst, ATV*). Federal employees are insured with the Federal and State Government-Service Supplementary Pension Agency (*Versorgungsanstalt des Bundes und der Länder, VBL*) in Karlsruhe. It is also the most important institution providing supplementary old-age and dependants' benefits, covering federal and state employees as well as employees of the approximately 1,700 public employers at local level, 80 social insurance institutions and about 3,600 public-sector employers. Roughly €4.6 billion in pension benefits was paid out to 1.2 million retired employees in 2013. Most employees in the local authority services

as well as churches and other institutions are insured in local authority or church supplementary pension schemes (in 2012: 3.1 million employees; 1.1 million pensions amounting to about € 4 billion in annual benefits paid).

The new collective agreement on the occupational pension scheme for public employees consists of the following main elements:

- The former comprehensive pension system was discontinued retroactively on 31 December 2000 and replaced by an actuarial model of pension credits.
- This model is based on occupational pension schemes typically offered by private employers.
- In this model, benefits are calculated as if contributions of 4% of the employee's pay eligible for the supplementary pension scheme were being paid into a fully funded system.
- The amount of benefits resulting from the model of pension credits reflects the employee's actual career. The determining factor for the total amount of benefits is now lifetime income. Each employee receives pension credits for each year of employment. They are determined on the basis of an employee's individual annual income by measuring the individual annual income against a reference income of € 1,000.
- Then the pension credits are multiplied by an age factor: The younger the employee, the more each pension credit is worth and the more pension credits are added to the pension account.
- Upon retirement, pension benefits are determined by multiplying the sum of all acquired pension credits by € 4.

The insurance events correspond to those of the statutory pension insurance: old-age pension, invalidity pension, pension for surviving dependants. If the occupational pension is claimed before the employee reaches the retirement age, benefits will be reduced by 0.3% for each month the pension is paid out early, with a maximum reduction of 10.8%, as in the statutory pension insurance scheme.

For invalidity pensions and pensions for surviving dependants, pension credits will be added for each year before the age of 60.

If employment is temporarily suspended because of parental leave, pension credits will be accrued for each child for whom the parent is entitled to take parental leave. The number of pension credits is based on a virtual income of € 500.

Occupational pensions are indexed and increase by 1% annually. Since the new supplementary pension system is no longer linked to the amount of statutory pensions, any increase in statutory pensions will no longer be deducted from occupational pensions, but will be paid out in full to retired employees.

Replacing the comprehensive pension system with an ordinary occupational pension scheme enables public employees, like employees in the private sector, to make their own contributions to private, fully funded pensions eligible for tax benefits pursuant to Section 10a and Section 82 of the Income Tax Act (*Einkommensteuergesetz*).

2.3 Funding of the supplementary insurance

Until late 1998 only public employers contributed to the supplementary pension scheme on behalf of their insured employees (for the VBL the last rate was 5.2% of taxable gross income). Since 1999 public employees have also paid into the supplementary pension scheme. Since 1 January 2002 the contribution rate for the VBL has been 7.86% in the states of the former West Germany: Employers pay 6.45%, while employees pay 1.41%. In addition, employers pay a tax-free flat rate of 2% to cover the cost of converting the pension system to the pension credit model.

The VBL in the states of the former East Germany introduced full capital cover on 1 January 2008. Contributions amount to 4% split equally between the employer and the employee. The employer also pays an additional contribution of 1%.

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Publication data

Published by:

Federal Ministry of the Interior
Public Relations Division
Alt-Moabit 101 D
10559 Berlin
www.bmi.bund.de

English translation:

Language Services Division, Federal Ministry of the Interior

Design and production:

MediaCompany – Agentur für Kommunikation GmbH

Printed by:

Zarbock GmbH & Co. KG, Frankfurt am Main

Last updated:

October 2014

Print run:

2,500 copies

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