



Federal Ministry
of the Interior

The Federal Public Service



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The Federal Public Service

The Federal Republic of Germany



Foreword

The public administration in the Federal Republic of Germany is essential for a functioning state and thus also for Germany as a centre of business and research. In recent years, public administration at federal, *Länder* and local level has undergone extensive modernization to strengthen its capacities and to help it face future challenges.

The first stage of the reform of federalism which went into effect on 1 September 2006 streamlined Germany's federal structure. The reallocation of legislative competence between the Federation and the *Länder* has improved their capacity to act and to take decisions, provided a clearer delineation of political responsibilities and increased the expedience and efficiency of administrative action in the public interest. In terms of public service law this means that, basically, the *Länder* are responsible for their personnel and the Federation for its personnel.

First and foremost, the public service is staffed by dutiful, loyal and dedicated people. They are the link between the state and society at all administrative levels. Hence, great effort is put into defining their legal and actual conditions of employment. The keywords here are balance between work and family life, flexible working hours, health promotion and responses to demographic change.

With the 2009 Act to restructure civil service law the Federation created up-to-date legislation on civil servants, salaries and pensions which puts more emphasis on individual performance, facilitates flexible staff assignment and increases the effectiveness of the public service.

This brochure provides information on the public service at federal level and reflects the new legal framework. Most statistical data reflect the situation as at 30 June 2007.

Berlin, May 2009

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The public service at a glance

(as at 30 June 2007)

Gainfully employed population¹: **38.2 million**

■ men 20.9 million

■ women 17.3 million

Public service staff²: **4.49 million**

■ men 2.11 million

■ women 2.38 million

of whom:

Civil servants, judges, public prosecutors 1,640,200

Career soldiers and fixed-term volunteers 185,000

Public employees 2,667,200

of whom at federal level:

Civil servants, judges, public prosecutors 131,000

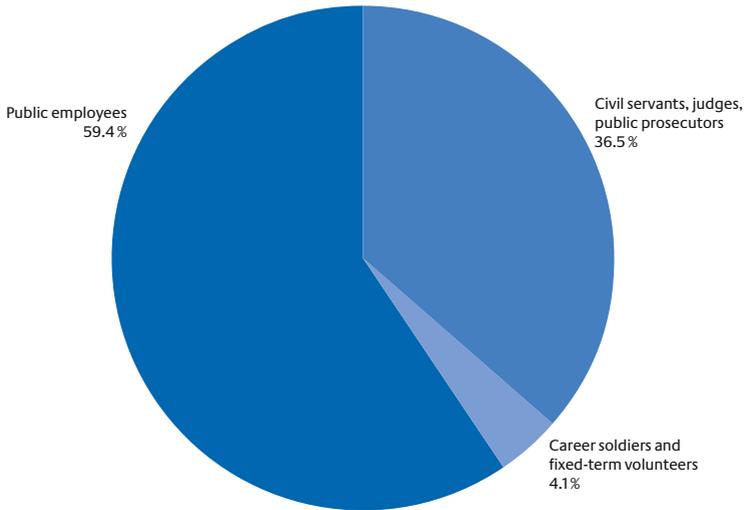
Career soldiers and fixed-term volunteers 185,000

Public employees 158,500

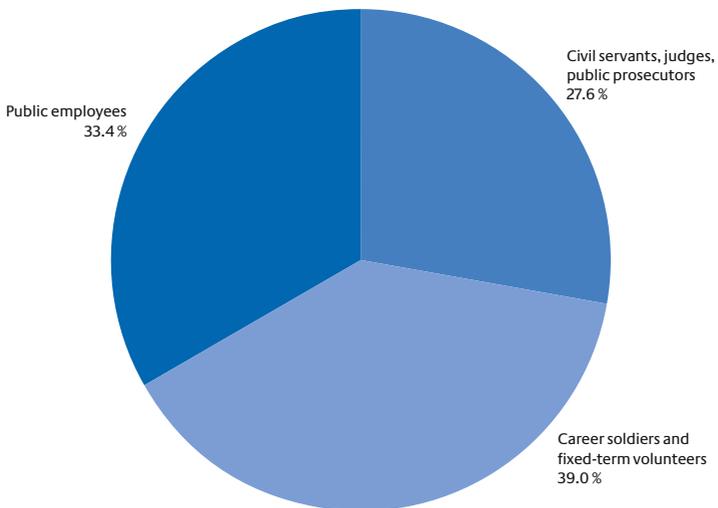
¹ Source: Federal Statistical Office, Specialist Series 1, Series 4.1.1, 2007

² Source: Federal Statistical Office, Specialist Series 14, Series 6, 2007

Groups of public service staff



Groups of public service staff at federal level



I. The structure of the state and public administration in Germany

1. Tiers of state governance and administration

In the Federal Republic of Germany, the state is governed by the constitution, 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 of particular significance for the structure of the state and the administration, namely:

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

The separation of powers is at the core of the rule of law. In order to safeguard the interests of citizens vis-à-vis 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 made up of states (*Länder*) within a Federation (*Bund*). As constituents of the Federation, the *Länder* are states with 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 *Länder* according to tasks and functions. As a basic rule, the Basic Law stipulates that exercise of state powers is a matter for the *Länder*. The Federation has administrative and legislative power only in those areas laid down by the Basic Law. For example, the Federation may adopt laws in areas which in the public inter-

est require uniform regulation at national level. In practice, the legislative function falls mainly within the responsibility of the Federation, whereas the *Länder* focus on administration. As a rule, the public administration of the *Länder* carries out federal law.

At federal and *Länder* level, administrative functions are carried out by the “direct state administration”, i. e. by federal and *Land* 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 *Länder* 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 *Länder* 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 the federal and *Länder* governments.

Administration in Germany is organized in three independent levels:

- the administration of the Federal Government,
- the administration of the *Länder*,
- the administration of the local authorities.

In principle, each of these administrative areas has a distinct set of functions. There is no hierarchy from local authority through a *Land* to the Federal Government.

Public service staff at federal, *Länder* and local level make up 3.5 percent of the total population. This Figure is only slightly above the EU average of 3.2 percent (see Figure 1).

Figure 1:
Public service staff as a proportion of the population of the EU Member States in 2007 in percent

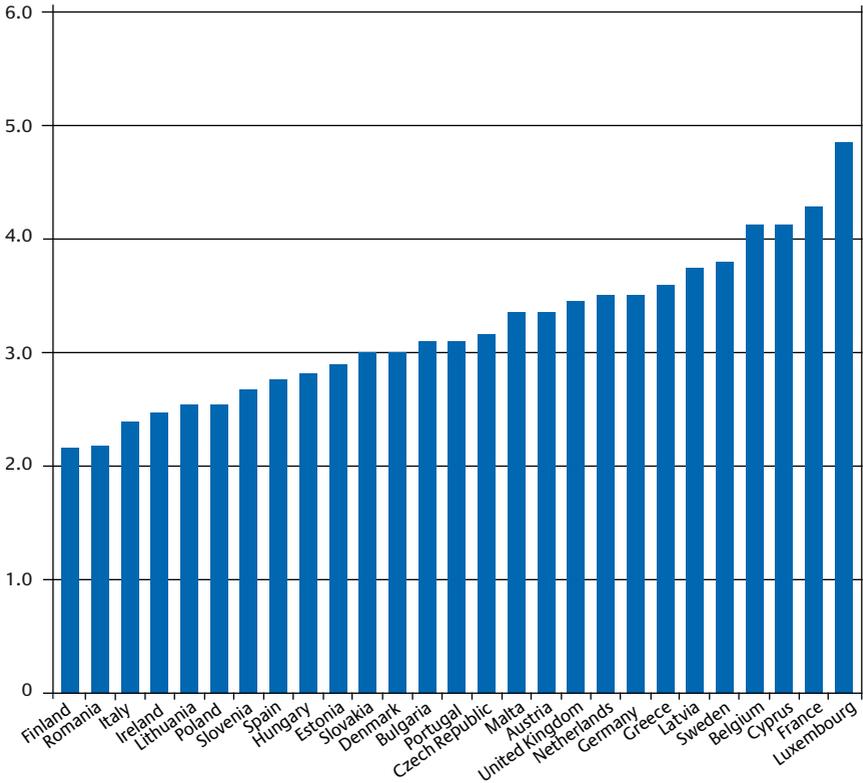
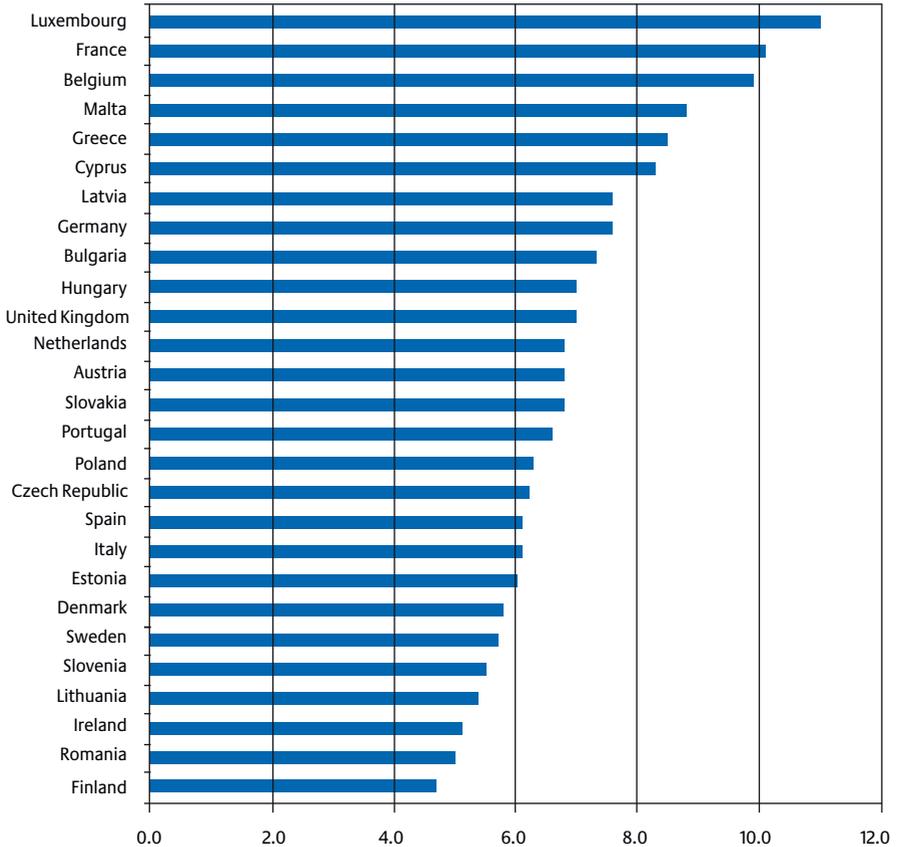


Figure 2 shows administrative staff in Germany as a proportion of the total working population as compared to other countries of the European Union. In Germany, the proportion is 7.6 percent, only slightly above the EU average of 7.0 percent.

Figure 2:
Public service staff as a proportion of the gainfully employed population of the EU Member States in 2007 in percent



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 289,400 public service staff (excluding military personnel) performs those public tasks which need to be carried out at federal level because doing so is necessary or expedient in the interest of the state as a whole.

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:

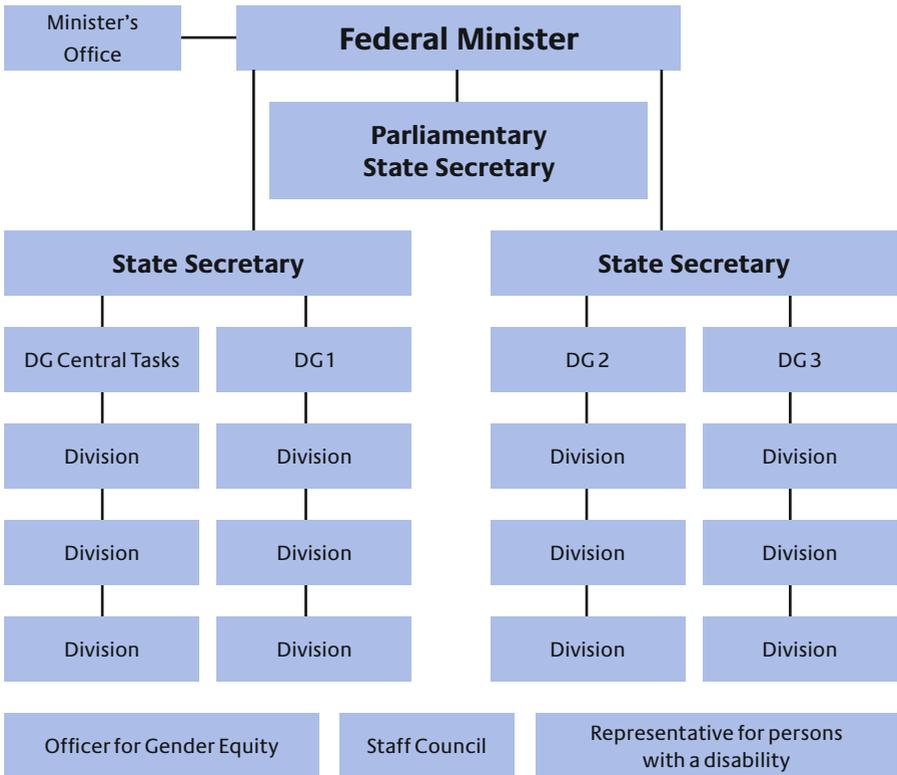
- The Federal Chancellor determines and is responsible for general policy guidelines.
- Within these limits federal ministers conduct the affairs of their respective portfolio independently and on their own responsibility.
- The Federal Government decides as a collegial body on important matters, particularly concerning differences of opinion between the 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 hence 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 some 19,200 staff. The federal ministers decide whether a task can be performed in the ministry itself or assigned to subordinate federal authorities. As a rule, only matters of political significance, in particular preparing bills, drafting ordinances and other general regulations, are carried out by a federal ministry. Another task of the federal ministries is to supervise subordinate federal authorities.

In principle, the federal ministries have no supervisory powers over *Land* 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 for the matter. It can supervise and intervene to ensure that tasks are performed in line with the law and the principle of usefulness.

Example of the organization of a federal ministry*:



* Other forms of organization are possible (Directorates-General may be divided into Directorates; working units may take the form of a section, a working group or a project group).

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 Deutsche 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 Bun-

desbank 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 expressly 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 are matters which are closely linked to the ability of the state as a whole to act.

Under the Basic Law, the following administrative areas are dealt with by the federal administration:

- **Foreign Service:** The Foreign Service employs some 12,850 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. In addition, there are several higher federal authorities performing 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 43,000 staff in this area. Other corporations under public law within the remit of the Federal Ministry of Finance include for example 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 185,000 military personnel (career soldiers and fixed-term volunteers; not including conscripts). The number of civilian staff in the federal armed forces is about 109,000.

- Federal waterways and shipping administration: The waterways and shipping administration, with a staff of some 12,200, constitutes a separate federal administration with intermediate authorities (waterways and shipping directorates) and sub-authorities (local offices for waterways and shipping).
- Federal Police authorities, Federal Criminal Police Office: The Federal Police and the Federal Criminal Police are federal police forces. The Federation performs police tasks as needed at the federal level. The main tasks of the 39,900 Federal Police staff include border management and surveillance, railway policing and aviation security at larger airports as well as assistance to the *Länder* at their request. The Federal Criminal Police Office is a higher federal authority responsible for cooperation with the *Länder* and for certain police detective tasks. It has some 5,500 staff.
- The national intelligence services 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, as well as air traffic control, which previously were part of the federal administration, have been privatized, with the exception of regulatory and supervisory functions. The privatized enterprises still employ civil servants on the basis of interim provisions. The latter have not been counted in the statistical information on overall employment in the public service.

3. Administration of the Länder

In addition to the local authorities, the *Länder* are the major administrative level in Germany with a total of 1.95 million public service staff. In Germany, the 16 *Länder* can be divided into:

- territorial *Länder*: 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 fundamental distinction between political activities which are exercised by the *Land* governments and the exercise of administrative tasks also applies at *Land* level. In contrast to the federal administration, however, the focus is on administrative tasks. The *Land* ministries, as the highest *Land* authorities, are hence much more involved than the federal ministries in the actual implementation of policies. The organization of the *Land* administration is up to each individual *Land*.

4. Local administration

The local authorities – municipalities/towns and rural districts (local authority associations) – are parts of the *Länder*, which have exclusive responsibility for regulating the structure of local administration and the territorial borders of the local authorities and districts in accordance with *Land* legislation. There are 429 counties (313 rural districts and 116 towns not belonging to a country) and 12,243 politically independent municipalities (including 2,077 towns).³ The municipalities, local authorities and local joint authorities employ some 1.29 million staff. Enterprises organized under private law employ some 376,400 staff.⁴ Local authorities are subject to the supervision and – where they carry out state tasks – to the instructions

³ Source: Federal Statistical Office (as at 31 March 2008)

⁴ Source: Federal Statistical Office (as at 30 June 2007)

of *Land* authorities. Municipalities deal with local matters on their own responsibility. This local self-government is protected under Article 28 of the Basic Law. It is a major element of Germany's political system.

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 supplying the population with water, gas, electricity and community heating. These utilities are largely operated as enterprises organized under private law.

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, these are

- the agencies responsible for the statutory pension scheme (i. e. of the general system of pensions, disability and surviving dependants insurance in Germany), namely Deutsche Rentenversicherung Bund and the Deutsche Rentenversicherung Knappschaft, Bahn, See at federal level and the Deutsche Rentenversicherung Regional at regional level,⁵
- the labour administration 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).

Additionally, other legally independent institutions are part of the indirect public administration. The indirect public service employs a total of 779,400 staff.

6. Non-public institutions

Many services for citizens, in particular social and health services, are provided also by non-public institutions. This includes 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.

⁵ With the Act on the organizational reform of the statutory pension insurance all pension insurance agencies merged into one organization. These agencies were: the Federal Insurance Institute for Employees (*Bundesversicherungsanstalt für Angestellte*), the 22 Land Insurance Institutes (*Landesversicherungsanstalten*), the Federal Miners' Insurance Fund (*Bundesknappschaft*), the Railway Insurance Institute (*Bahnversicherungsanstalt*) and the Sea Insurance (*Seekasse*) and the Association of German Pension Insurance Agencies (*Verband Deutschen Rentenversicherungsträger*). Since 1 October 2005 they all go under the name of German Pension Fund (*Deutsche Rentenversicherung*)

7. The judiciary

Courts and public prosecutor's offices are part of the public service; they do not belong to the executive branch of government, however, 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 instructions 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 *Land* in which their court is located.

Federal judges are appointed by a committee made up of the Federal Minister of Justice, all *Land* 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 *Land* 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 *Länder* are incorporated into the administrative structure of the *Länder*. Thus, they are subordinate to superior courts and, in most cases, a *Land* ministry of justice.

At the federal level, the Federal Court of Justice, the Federal Administrative Court and the Federal Finance Court fall under the responsibility of the Federal Ministry of Justice, while the Federal Labour Court and the Federal Social Court fall 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 *Land* 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. 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, judges 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 *Länder* have their own constitutional courts.

There are 444 federal judges and 56 public prosecutors in the federal service.⁶

⁶ Source: Federal Statistical Office, Specialist Series 14, Series 6 (as at 30 June 2007)

II. Modernization of the federal administration

The state and its administration must meet the growing challenge of international competition in a globalizing world. Citizens and businesses increasingly expect better and faster public services. Demographic change not only influences the social and economic development but also affects the tasks, structures and budgets of public administration. In particular the rapid development of information technology and the situation of public budgets require fundamental reforms in government and public administration.

1. Government programme “Focused on the Future: Innovations for Administration” including the E-Government 2.0 programme

The sustainable modernization of the state and its administration including the reduction of unnecessary bureaucracy is at the core of the programme “Focused on the Future: Innovations for Administration” including the E-Government 2.0 programme. In 2006 the Federal Government adopted a comprehensive strategy for further modernizing the federal administration. According to the programme, administrative work should not only be lawful and reliable but also efficient, responsive, cost-effective and innovative. Therefore, measures are being taken in the fields of human resources, management, organization and e-government. This includes 32 pilot projects such as

- combining administrative services (Shared Services),
- implementing the EU Services Directive,
- establishing 115 as a single telephone number for government information and services, and
- expanding information and knowledge management in the federal administration.

The Federal Government has tasked the Federal Ministry of the Interior with reporting to the Cabinet each year on the implementation (progress report) and progress of the government programme (implementation plan). The implementation plans are work programmes. They specify the individual projects of the government programme and define the relevant project aims for the current year. Each implementation plan systematically builds on the results of the previous year.

In the federal administration, projects are developed on a voluntary basis, i. e. certain government agencies take the lead in developing model solutions which can be used by others as needed. In this way, the ministries' different starting situations and structural specificities can be taken into account.

2. Changing the administrative culture

Adapting to new challenges is not only a question of structures but to a large extent also a question of administrative culture. For German administration with its decades of tradition and its orientation on rules and regulations, the transition to a more process- and 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. The Federal Government would like to initiate a cross-level process which leads to an open dialogue on the common goal of making German administration fit for the future.

3. Personnel 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 the 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 special responsibility. Only qualified and dedicated supervisors can take forward the necessary changes in the daily work routine and motivate staff. New developments such as mobile working, balance between work and family life, systematic health promotion and performance-related pay ensure the attractiveness of public service employment.

4. Organization

Successful transformation requires precise planning and systematic implementation. The first step should always be a critical analysis of existing institutional and functional structures and of organizational and procedural rules. In 2007 the focus was on status analyses to provide a solid basis for modernization. In addition, new forms of organization taking into account recent developments and tasks have been developed including service centres and new forms of cooperation with the private sector. Experiences from Germany and abroad have been evaluated. 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. Its programme on bureaucracy reduction and better regulation includes extensive measures in these areas. Unnecessary bureaucratic requirements and administrative obligations are being reduced. In addition, deregulating, simplifying and weeding out legislation help reduce regulatory complexity and increase transparency.

For a sustainable and targeted reduction of administrative burdens the Federal Government introduced the Standard Cost Model used in the Netherlands and established a National Regulatory Control Council as an independent expert board. The Council examines whether proposed legislation is necessary and which administrative costs it entails. All federal ministries have initiated measures to reduce administrative burdens for businesses.

However, the administration must be freed of excessive bureaucracy as well. Up-to-date IT applications facilitate streamlined, rapid and cost-effective administrative procedures. Previous investment must be ensured for the long term, and IT should be used also to improve administrative processes between the federal, *Länder* and local levels. Against this background, tasks are being critically reviewed and structures and working methods updated to provide services to citizens and businesses in a timely, efficient and cost-saving manner.

For more information on Federal Government measures to reduce bureaucracy visit www.verwaltung-innovativ.de (in German).

6. Deutschland-Online

The quality of IT use and the availability of administrative services online make the individual *Länder* and municipalities and Germany as a whole a more attractive place to do business. Taking full advantage of the latest information technology requires administrative processes to be integrated effectively, even across levels. For good e-government, media use must be consistent within and among the individual administrative levels. At all three levels, e-government significantly helps modernize administration. An obstacle to achieving this aim is the heterogeneous IT environment at federal, *Länder* and local level.

Deutschland-Online links the activities of all three levels through specific e-government projects. The necessary standards are set and the strengths of federalism put into practice: Individual partners lead the way with model solutions which also benefit others (the “one or some for all” principle).

In the 2009 Deutschland-Online action plan the Federation and the *Länder* specified important projects and defined necessary management mechanisms for cross-level implementation. Two projects address the general topics of IT infrastructure and standardization. Other projects have to do with organizing motor vehicle registration, address registration and civil status matters in a way that directly addresses public needs.

From late 2009 electronic administrative services will simplify and accelerate procedures to start up and provide services. In this way, German public administration is implementing the EU Services Directive.

III. 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 Two status groups of the public service

The constitution 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 (Art. 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 stand in a special relationship to the federal level.

The Basic Law does not define what “sovereign authority” means. Therefore, Article 33(4) of the Basic Law is not considered 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 continuously. 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. In contrast, public employees are employed in health and social services and in technical professions.

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 legal acts (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.

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, *Land* or local level and the responsible unions (p. 59).

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 relationship 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.

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, this office under public law has developed out of employment as a civil servant and is governed by law, specifically the Act on Federal Ministers.

As office-holders who directly report 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 size of their portfolios, the Cabinet members are assigned one to three parliamentary state secretaries; at the Federal Chancellery and the Federal Foreign Office they hold the title “Minister of State”. They must be members of the German Bundestag. Only direct assistants to the Federal Chancellery may assume this function even if they are not members of parliament. They represent and support the federal minister in fulfilling political and technical tasks, in particular in the plenary and in the Bundestag committees, in the Federal Cabinet and in public. The office of Parliamentary State Secretary is also governed by public law.

1.2 Development of staff numbers at federal level

The number of public service staff in the former West Germany grew significantly until the beginning of the 1990s. The reunification of Germany resulted in a considerable increase after 3 October 1990. Since 1991, however, the number of staff has declined continuously. Reasons include the pooling of tasks and the use of information technology.

Figure 3 shows the number of federal public service staff between 1991 and 2007:

Figure 3:

	1991	1993	1995	1997	1999
Federal staff*	652,000	602,900	546,300	526,400	510,200
of whom civil servants, judges	115,300	131,600	134,100	134,600	133,200
public employees	279,400	240,300	217,900	200,000	187,200
military personnel	257,300	230,900	194,300	191,800	189,800
of whom full-time staff	628,800	579,300	521,600	499,500	479,100
part-time staff	23,200	23,600	24,700	26,900	31,100

* excluding the privatized railway and postal services

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. The personal attachment to the monarch or ruler was now 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 as regards the monarch, and also later as regards 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, Article 30 of the Weimar Constitution of 1919 ensured the impartial public service and the civic rights of civil servants: “Civil servants are servants of society, not of a party. All civil servants are guaranteed freedom of political views and freedom of association”. It was these rights and freedoms in particular which were disregarded in the National Socialist state between 1933 and 1945.

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

2001	2002	2003	2004	2005	2006	2007
493,800	490,300	491,100	492,700	481,400	477,000	474,200
131,100	130,000	131,300	132,300	130,600	131,100	130,900
178,200	175,000	172,900	172,700	165,700	161,800	158,500
184,600	185,200	186,900	187,700	185,100	184,100	184,800
454,900	447,600	443,000	440,200	427,500	421,300	418,900
38,900	42,700	48,100	52,500	53,800	55,700	55,300

2.2 The authority to adopt regulations applying to civil servants

Before the Basic Law was amended during the first stage of the reform of federalism in 2006, the authority to adopt legislation regarding the federal, *Land* and local public service mainly rested with the Federation.

The Federation was responsible not only for arranging the legal situation of civil servants, judges and military personnel in the service of the Federation and the direct federal bodies under public law, but also for issuing framework regulations to arrange the legal situation of all other civil servants and judges at *Land* and local level. These framework provisions contained guidelines for *Land* legislation and were specified and implemented by *Land* law. Not least because of these framework provisions and the distribution of competences, the conditions of civil servants' employment were largely equivalent at federal and *Land* level, even though there are another 16 statutes relating to civil servants and judges at *Land* level, apart from the Act on Federal Civil Servants (*Bundesbeamtengesetz*) and the German Judiciary Act (*Deutsches Richtergesetz*).

The Federation also had the authority to adopt legislation on salaries and pensions of federal and *Land* civil servants and judges. This is why the Civil Servants' Remuneration Act (*Bundesbesoldungsgesetz*) and the Act Governing Civil Servants' Pensions and Allowances (*Beamtenversorgungsgesetz*) also applied directly (not only as framework provisions) to civil servants employed by *Länder* and local authorities. These laws had to be approved by the Bundesrat.

The first stage of the reform of Germany's federal structure, which went into effect on 1 September 2006, modernized Germany's federal system. The reform aimed at improving federal and *Land* authorities' ability to act and make decisions and at assigning political responsibilities more clearly.

The *Länder* have been granted the authority to adopt legislation on civil servants. Thus, the *Länder* now have greater say in organizational and personnel matters since personnel expenditure amounts to about 40 percent of the *Länder* budgets. The Federation was assigned the (concurrent) power to pass legislation determining status rights and obligations of civil servants in the *Länder* and municipalities. These uniform federal status provisions in particular ensure mobility among the *Länder*. 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 *Land* and local level.

The Federation has ceded its authority to adopt legislation on salaries and pensions of *Land* civil servants and judges. It is now responsible only for its own civil servants. Thus, the distribution of competences applicable until 1971 has been restored.

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 *Länder* 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 the time after 1919. The traditional civil service principles are constantly being enhanced by jurisdiction of the Federal Constitutional Court. They are the basis on which the court examines the legality of amendments to public service law. As part of the 2006 constitutional reform, Article 33, (5) of the Basic Law was amended as follows: "The law governing the public service shall be further developed with due regard to the traditional principles of the professional public service." This means that 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 must not violate these principles, but legislators have some discretion to adjust the provisions of civil service law to new challenges and societal developments. 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 shall be eligible for any public office on the basis of aptitude, qualifications, and professional achievements.

This applies in the same way to long-term employment of civil servants or public employees. The principle of merit as defined by constitutional law means:

- In order to become a civil servant, the applicant must possess the necessary qualification for the desired career path.
- 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. 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. In individual cases and in relation to the function in question it must be decided whether the function must be performed by German nationals. The Federation and the *Länder* have agreed on recommendations for the application of the law in relation to functions reserved for Germans permitting employment of nationals of other Member States of the European Union reaching far into areas which, in accordance with rulings of the European Court of Justice, could be reserved for Germans.

The eligibility requirements to be adhered to in 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 admission requirements for the individual career paths.

The law on public service employees provides neither for a career system nor, as a rule – apart from job-related education credentials – for formal eligibility requirements. 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 is generally conditional on a vacancy announcement so that the right of equal access to public offices is guaranteed. 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. The reason is that in the federal administration 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, *Land* 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.

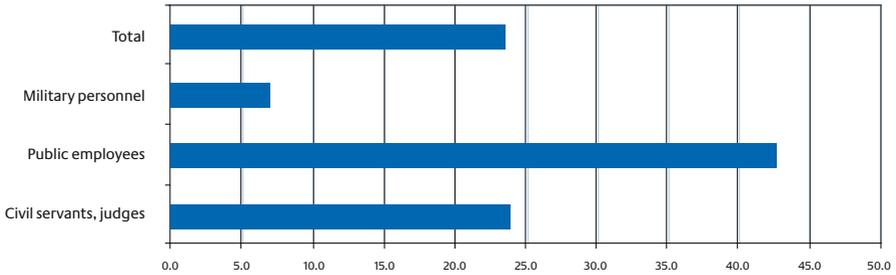
2.5 Equal treatment of women and men in the public service

Germany has adequate institutional and legal instruments to guarantee the equal treatment of women and men. Article 3(2) of the Basic Law stipulates that the state shall promote the actual implementation of equal rights of women and men and take steps to eliminate existing disadvantages. The federal public service employed a total of 474,200 staff in 2007 (289,400 excluding military personnel), of whom 112,200, or 23.7 percent, were women (38.8 percent excluding military personnel).

The share of women in the individual groups of staff is different. They are distributed as follows (see Figure 4):

■ Civil servants and judges	23.9 percent
■ Public employees	42.7 percent
■ Military personnel	7.1 percent

Figure 4:
Female staff at federal level in 2007 in percent



Source: Federal Statistical Office, Specialist Series 14, Series 6, 2007

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 are obligated to 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 Act on the enforcement of equality between men and women in the federal administration and at the federal courts (*Gesetz zur Durchsetzung der 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 Advancement of Women (*Frauenfördergesetz*) which was adopted in the framework of the Second Act Ensuring Equal Rights for Women (*Gleichberechtigungsgesetz*) of 1994. For example, the law requires every agency to have an officer for gender equity, elected by secret vote by the female staff. 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 shall be given preferential treatment in areas where they are underrepresented.

This applies to training, recruitment, employment and promotion. The law expressly prohibits indirect discrimination during selection processes or application interviews. The *Länder* 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, federal, *Länder* and local authorities are public employers. In addition, civil servants may work for public law corporations, institutions or foundations under state supervision.

The civil servant with life tenure represents the standard type. There are also civil servants with a set tenure if the sovereign function is assigned only for a limited period of time. Civil servants in the preparatory service who have not completed their training are employed as civil servants subject to revocation. At the beginning of their employment civil servants are employed on probation.

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 top level of local authority administrations. The legal status of local government officials elected for a limited period is influenced both by civil servants law and by local authority policy. It is primarily determined in accordance with the *Länder* statutes relating to civil servants, but is affected also by local provisions on appointments, positions and functions.

- Politically appointed civil servants who hold an office in which they must be permanently in agreement with the fundamental political aims of the government, and hence can be placed in temporary retirement at any time without stating reasons. The number of political civil servants at federal level is set by law and is relatively small. Overall, they account for well under 0.5 percent 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. Above all it is this special employment relationship of civil servants which the Basic Law sees as a guarantee 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 are to avoid any suspicion of seeking their own advantage.
- They must not 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 serve to ensure the public administration's ability to function, which otherwise would be impaired if every civil servant 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 legally and economically autonomous position 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 expressly 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 means that civil servants must not be employed below their career qualification. This ensures that tasks are performed independently.
- In addition, civil servants and their families are entitled to care and protection from their employer. This right continues to apply even after their active career. The scope of the employer's duty of care 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 provision of the Act on Federal Civil Servants, according to which federal civil servants commit a disciplinary offence if they breach their duties intentionally or negligently. If there is evidence for a breach, the employer is obliged to institute disciplinary proceedings and to establish the facts in question during this procedure. After the investigation it has to be decided 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 applying 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 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 already 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 provisionally be 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 economic situation of the civil servant concerned, a certain amount not to exceed 50 percent 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. 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 a preparatory in-service training. In other cases, admission to a career path requires a full-time occupation suited to convey the qualification for the career path.

Even without the necessary qualification for a specific career, an applicant may become a civil servant under certain conditions. In the case of these “other applicants”, the ability to perform the duties of an office must be acquired by experience in life and at work inside or outside the public service, as established 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 contents 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 career group depends on the entry grade.

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 – Federal civil servants and judges (as at 30 June 2007)

	Higher service	Higher intermediate service	Intermediate service	Ordinary service	Total
Number	18,300	44,900	65,000	2,700	130,900
Percent	14.0	34.3	49.7	2.1	100.0

Source: Federal Statistical Office, Specialist Series 14, Series 6, 2007

The requirements 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 non-technical service is carried out at internal colleges for public administration. For the federal administration this is the Federal College for Public Administration 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 governed by the principle of merit. They are granted on the basis of aptitude, qualifications and professional achievements. 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 established posts, promotion requires that an adequate higher post is available.

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. They serve as the basis for proper personnel decisions and personnel development measures, and constitute an instrument of personnel management.

In order to improve the consistency of performance appraisals, guidelines for assessment grades were established in the federal service in 1997 ("quota arrangement").

In the framework of defined promotion procedures, qualified civil servants have the possibility to step 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. Therefore the various public employers assign executive posts only for a probationary period, making selection and assignment more achievement-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 reinforces 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. Hence, training and qualification are essential to keep public administration up to date. Advanced training is provided both by 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 advanced training and personnel development concepts.

2.11 Mobility

Public administration is characterized by rapidly changing tasks. This requires greater employee mobility in terms of subjects 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 *Land* 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 *Länder* 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 *Land* authority or from one *Land* 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 considerable changes in the functions, structure or of existence of the previous agency, or
- temporary secondment to another public institution which is not one of the German employers (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 (p. 73). 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 umbrella organizations of the unions and professional associations of civil servants and judges are to be involved when the Federal Government prepares provisions relating to civil servants and judges (Section 118 of the Act on Federal Civil Servants). As a certain compensation for the lack of power to negotiate collective agreements, this right of participation goes beyond a mere right to be heard. It gives the unions the opportunity to take an active part in the preparatory phase of statutes, ordinances, administrative regulations and directives by submitting comments and own proposals. Proposals not taken into consideration are listed as the umbrella organizations' counterproposals in a supplement to the draft regulation, and are thus brought to the legislator's attention. The decision on the final content of the regulation, however, is always the prerogative of the legislator.

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

It is in Germany's interest that federal staff work in public intergovernmental or international organizations and institutions and in the field of development aid. The guidelines on secondment and leave issued by the Federal Ministry of the Interior list relevant organizations and institutions, specify provisions on unpaid special leave and offer practical legal information (on the Internet in German at: www.bund.de).

In practice, leave is granted for up to five years for work at an international organization. Under certain conditions, the unpaid leave may be extended.

The legal status of civil servants during special leave remains unchanged. They are, however, not obliged to render services, and no duty of maintenance is incumbent on the employer. The time of unpaid leave may be taken into account in civil servants' pensions if it serves public or service interests. In the same way, civil servants may be given leave on full or partial pay in certain cases if the purpose of the leave also benefits the service.

In a Europe which is increasingly integrated, the mobility of civil servants in Member States of the European Union has become particularly important. The free movement of workers provided for by EU legislation (Article 39 of the EC Treaty) also applies in 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 to online European and national public services "Your Europe" and can be found at <http://ec.europa.eu/youreurope/nav/en/citizens/working/public-employment/index.html>.

For more information on job openings in the EU Member States visit the EURES website at: <http://ec.europa.eu/eures>.

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 (p. 99) are paid by the employer and are one of the basic principles of the professional civil service. Moreover the employer is liable 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.

They are only obliged to take out statutory or private long-term care insurance to insure themselves against the risk of 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 XI (SGB XI).

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

Figure 6:
Statutory social insurance

	Statutory pension insurance (SGB VI)	Statutory accident insurance (SGB VII)	Unemployment benefits (SGB III)	Statutory health insurance (SGB V)	Long-term care insurance (SGB XI)
Civil servants, judges, military personnel	exemption from compulsory insurance				Compulsory (partial insurance))
	pensions 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 on their own responsibility. Generally, this requirement is met by taking out private health insurance. Premiums have to 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, assessment rates are graded on the basis of personal criteria. According to this grading, active civil servants receive a 50-percent allowance (with two entitled children 70 percent) and retired civil servants a 70-percent allowance to partially cover their illness-related costs. The civil servants' insurance covers 70 percent of spouses' and 80 percent of children's health care costs. As far as entitled dependants are already covered by the public health insurance as the primary insured (e. g. because they are in employment which obliges them to compulsory social insurance), these insurance benefits pre-empt the right to allowances.

Civil servants who were covered by the statutory health insurance until they achieved the status of civil servant 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 2007.

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

Expenditure for allowances in million euros			
Year	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

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 equally.

The Act to restructure civil service law (*Dienstrechtsneuordnungsgesetz*) extended the provisions raising the retirement age for the statutory pension insurance scheme also to federal civil servants law. The age limit will be gradually raised from 65 to 67 years starting in 2012 with staff born in 1947; the process will not be finished until 2029.

The following table shows the individual steps:

Year of birth	Raise 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 will be gradually increased from 60 to 62 years.

Special age limits apply to certain groups of civil servants: the Federal Police service and the fire brigade of the Federal Armed Forces. The special age limit will also be gradually raised from 60 to 62 years. The *Länder* determine the age limits for their civil servants on their own responsibility.

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 re-training. The pension is reduced in case of early retirement (p. 102). Measures taken under public service law in recent years aim to reduce the number of applications for 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).

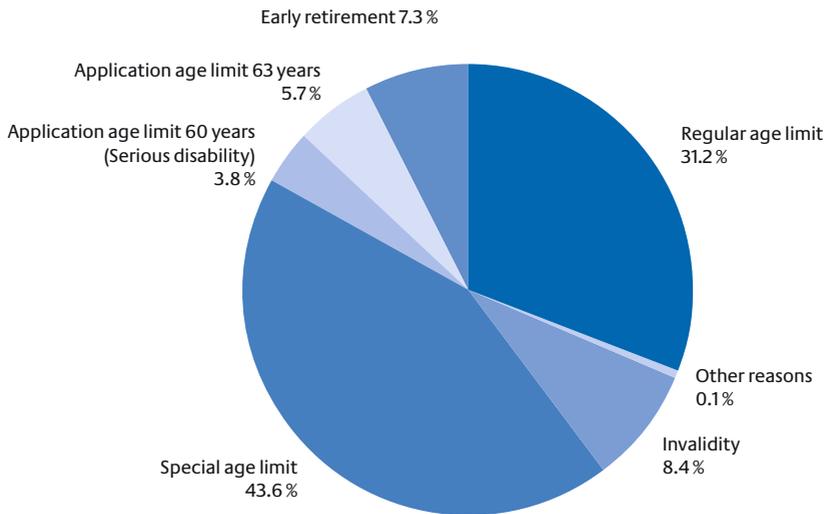
Figure 8:

Year	Early retirement in the federal administration	
	Number	Percentage
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

Civil servants who are no longer able to fully perform their official duties but can work for at least half the normal working hours may opt for a regulation known as “partial capacity to work” introduced in 1999. Civil servants with a partial capacity to work continue to work as much as possible and receive a salary in accordance with the reduced working hours (Section 72a(1) read together with Section 6(1) of the Federal Civil Servants’ Remuneration Act). 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*) effective since 1 January 2008. It strengthens the principle of “rehabilitation before retirement”. Civil servants who already have retired may be reactivated even if they regain their capacity to work only to a limited extent.

Figure 9 illustrates reasons for retirement.

Figure 9:
Reasons for retirement at federal level in 2007



3. Employment in the public service: General information

3.1 Collective agreements

Like employees in the private sector, employees in the public service are employed on the basis of an employment contract under private law. This employment contract is subject to the general rules of German labour law and the specific rules of the relevant collective agreements. The law governing collective agreements for the public service specifies almost all major terms of employment.

The right to form associations and societies with the right to conclude collective agreements was initially refused to white-collar employees in the public service, being reserved for 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 1949 Collective Agreement Act (*Tarifvertragsgesetz*) from the outset applied also to the public service.

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 and seeks the consent of the Federal Cabinet in important matters.

The *Länder* conclude their own collective agreements with the unions. They are represented by their employers’ association, namely the employers’ association of the German *Länder* (*Tarifgemeinschaft deutscher Länder, TdL*) whose elected chair is generally the *Land* minister of finance. Only Hesse and Berlin do not currently participate in this association.

Local authorities are represented at federal level by the local authorities’ employers’ association *Vereinigung der kommunalen Arbeitgeberverbände* (VKA). Its member associations are organized at *Land* level and comprise

municipalities, towns, and districts as well as local companies wholly or partially owned by public authorities (e. g. hospitals, airports and savings banks).

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

- dbb tarifunion affiliated to the German Civil Service Federation, and
- ver.di, the United Services Union.

The collective bargaining agreement for the public service (TVöD) of 1 October 2005 and the supplementary collective agreements (e. g. agreements on the transfer of federal and local public service employees to the TVöD and the provisions of the transitory law – TVÜ-Bund/TVÜ-VKA) cover all federal and local public employees who belong to a member association of the VKA at *Land* level. Employees of the *Länder* (except for Berlin and Hesse) are covered by the collective bargaining agreement for the public service of the *Länder* (TV-L), which went into effect on 1 November 2006, and the collective agreement to transfer *Länder* employees to the TV-L and to regulate transitory law (TVÜ-L).

Two years of intensive reform preceded the entry into force of the TVöD: In 2003 public service employers and unions agreed on an extensive reform of the law governing collective agreements for the public service. The aims of the reforms were set in a process agreement. It was intended to create a state-of-the-art, performance-oriented and transparent collective agreement for an increasingly service-oriented and competitive administration. In spring 2004, the employers' association of the German *Länder* TdL withdrew from the reform negotiations. Federal and local employers continued the reform process together with the unions. Negotiations were successfully concluded in the framework of collective bargaining in 2005. In February 2005 the parties decided to introduce the collective bargaining agreement for the public service (TVöD).

The TVöD is based on the following principles:

- The distinction between white-collar employees and blue-collar workers has been abandoned. The TVöD equally applies to all public employees.
- Pay is no longer based on age, marital status and number of children but on individual merit and professional experience.
- An improved salary structure makes public service more attractive for employees at the beginning of their career.
- Up to eight percent of public employees' pay should be available for performance-related pay (starting with one percent in 2007).
- Promotion based on seniority which did not take performance into account has been abolished.
- Christmas and holiday allowances have been replaced by a lower annual special allowance based on socially equitable assessment rates.
- Temporary and probationary executive functions have been introduced.
- Personnel exchange between the public and the private sector has been simplified.
- The provisions for placing employees in certain pay groups have been simplified.

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 enforce claims emerging from employment, e. g. for a higher pay group because work performed meets the criteria of this pay group as set out in the collective agreement, before the labour court.

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 negotia-

tions. They are only permissible as a last resort after all available means of reaching an agreement have been exhausted (see p. 43 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 forms the sole basis of 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 the provision of personnel, i. e. permanent employment with a third party following a transfer of tasks to the third party. In all cases, the existing employment relationship is continued.

A new personnel development instrument called interim management is intended to increase the mobility of executive staff. Executive positions 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 sector.

3.5 Changes in terms of employment

An employer may not unilaterally order an alteration of the contractual terms of employment to the disadvantage of the employee, e. g. assignment to a lower-paid job. Doing so requires that the employment contract be changed by mutual agreement or by way of termination of contract with the option of altered conditions of employment. If working conditions are regulated by a collective agreement, amendments – also to the disadvantage of the employee – may be adopted by the parties to the collective agreement.

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 share the costs of social insurance in accordance with the applicable contribution rate, which 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. Contributions are to be paid only up to a certain limit. Income exceeding this limit is not taken into account in calculating contributions. Generally the contribution rates and the income limits for the assessment of contributions are recalculated every year.

In addition, an occupational pension scheme is available to public employees (p. 108).

There is an exception to obligatory membership of statutory social insurance in the case of health insurance: If the regular annual salary exceeds the annual salary limit and has done so in three subsequent years, public employees are exempted from the insurance obligation. They may either insure voluntarily with the statutory health insurance scheme or take out private health insurance. Employer subsidies for contributions to the individual health insurance scheme are governed by Section 157 of the Social Code – Book V.

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 (p. 73). A dismissal without such consultation is invalid. The dismissal may be with or without due notice. These options differ in the reason and the period of notice.

Dismissals with due notice are subject to a defined period. This period is two weeks prior to the end of the month during the six-month probationary period. After six months, the notice period increases to one month prior to the end of a month and rises – depending on the length of employment – up to six months prior to 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 old *Länder* 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 lying in the character or conduct of the employee, or on urgent operational needs that make further employment impossible.

Exceptional termination for serious reasons is permissible without adhering to a notice period. There must be circumstances making continued employment until expiry of the notice period unacceptable for the employer. 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:

- **Contract of annulment:** The employment contract may be ended at any time by mutual consent.
- **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 (p. 108), 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, provided an adequate position is available.
- **Expiry:** Temporary employment ends at 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.
- **Termination during the probationary period:** During a (usually) six-month probationary period at the beginning of employment, simplified rules of termination apply.

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

4.1 Working hours

On average, federal civil servants are required to work 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 practised in many cases: Apart from a specific “core time”, staff may determine their daily working hours themselves; time credits or hours owed must be compensated within certain periods.

4.2 Overtime

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

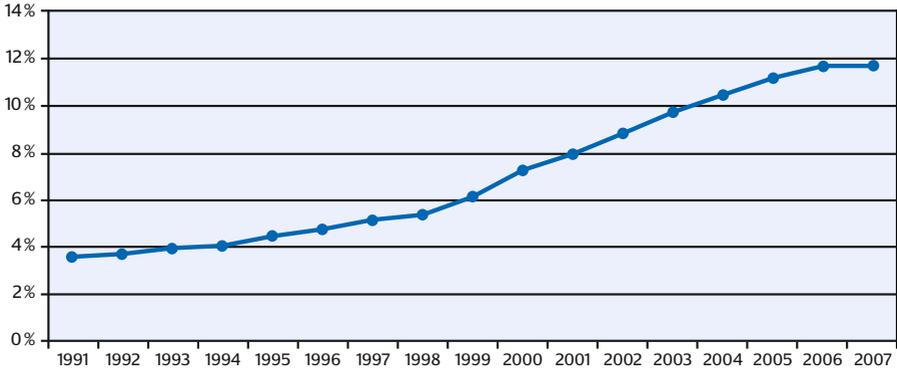
Different regulations apply for civil servants and public employees as regards compensation for overtime. Basically, both groups should compensate additional hours worked by taking compensatory leave. However, civil servants are entitled to compensatory leave only if they worked more than five additional 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 (depending on the pay group 30 percent or 15 percent of the hourly scheduled pay) instead of compensatory leave. 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, public employees receive payment.

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, 1991–2007



Source: Federal Statistical Office, Specialist Series 14, Series 6, 2007

The proportion of part-time workers in the public service was 11.7 percent in 2007 (19.0 percent excluding military personnel). For women the part-time rate was 30.4 percent. Hence, the public service plays a pioneering role in comparison to private industry.

Differences exist between civil servants and public employees. The proportion of part-time civil servants was 13.0 percent (female civil servants 33.9 percent); among employees, on the other hand, it was 24.0 percent (female employees 37.0 percent).

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 part-time employment is applied for in order to care for children or relatives in need of care, the civil servant has 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 percent of the regular weekly working hours, whilst in other cases civil servants must work a minimum of 50 percent.

The Act on part-time work and limited employment (*Teilzeit- und Befristungsgesetz*) which entered into force on 1 January 2001 grants public employees the right to part-time work assuming that the parties to the employment contract agree on part-time employment. The employer's legitimate interests are respected by giving employers the right to reject the application for part-time work on operational grounds.

Employees working part-time receive payment proportionate to the working hours of a full-time employee. It is not permitted to exclude part-time employees 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 Telework

Telework as a modern form of work is becoming increasingly important in Germany's public service. Both civil servants and public employees may conclude individual telework agreements with their employer if the duties related with their function can be fulfilled this way.

In order to remain integrated in workplace processes and retain a feeling of identification with the employing authority, teleworkers usually alternate between working at home and at the office.

4.5 Leave

All public service staff have 26 working days of paid leave up to the age of 30, 29 days between the ages of 30 and 40 (30 working days from the A 15 pay grade upwards for civil servants), and 30 working days from the age of 40 onwards (based on a five-day working week, this therefore corresponds to a total of six weeks).

In addition, paid short-term leave is granted on special occasions, for certain family events, to relocate for occupational reasons, to carry out civic duties, and for short-term care of sick relatives.

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 and in the field of development aid.

Public employees performing work which is more stressful in terms of occupational health (working in shifts or alternating shifts) are granted an additional leave of up to six working days.

4.6 Maternity and parental leave

In the public service, women are released from their duties for six weeks before and eight weeks after birth (twelve weeks in the case of premature and multiple births; with premature births additionally the time of the six weeks prior to birth not used) just as in the private sector. 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 the child, either both parents together or the mother or father alone may take parental leave until the child has reached the age of three. For each child, up to twelve months of parental leave may be taken with the consent of the employer until the child's eighth birthday. In Germany all employees are entitled to exercise this right.

Parental leave is unpaid. However, within the first 14 months of the child's birth one parent may receive a child-raising benefit which is a social benefit granted by the state depending on the parents' income. It amounts to 67 percent of the average monthly net income, but does not exceed 1,800 euros per month. In case of multiple births or older siblings this child-raising benefit may increase.

4.7 Continued payment of salary in case of illness

Civil servants continue to receive their salaries in case of illness with no time limit. In case of long-term illness, the early retirement procedure may be initiated. This is in line with the special nature of employment as a civil servant with life tenure with 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 percent of the net salary. In addition to the sick pay of the health insurance, the employer pays an allowance which is granted for a maximum of 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.

4.8 Service anniversaries

Civil servants receive an “anniversary bonus” of 307, 410 and 512 euros and a day off after service of 25, 40 and 50 years, respectively.

Employees receive a day off and a bonus of 350 euros after 25 years and of 500 euros after 40 years of employment with the public service.

4.9 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, due to 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.

Activities outside the public service may on principle be exercised 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, shall be deemed as "additional employment within the public service". In such cases, compensation is paid only if this additional position has to be held without corresponding relief from 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 *Länder* ordinances are excluded from the compensation limit and the obligation to surrender earnings.

Federal employees do not require 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 is likely to compromise fulfilment of the employee's duties under the contract of employment 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 impose an obligation to surrender earnings in line with provisions for federal civil servants.

4.10 Staff council

Similar to the Act Governing Labour Relations at the Work Place (*Betriebsverfassungsgesetz*) applicable to the private sector, the Federal Personnel Representation Act (*Personalvertretungsgesetz*) governs the right of all public service staff to have a say in all matters affecting their interests.

In accordance with the distribution of responsibilities under the Basic Law, rights of participation are governed by the federal and *Länder* staff representation statutes, which are largely identical.

The participation of staff councils is intended to ensure that the protected interests of public service staff are taken into account. Participation is restricted to internal affairs. In all agencies staff elect local staff councils. Corresponding to the multi-level administrative structure, in addition to the local staff council, there is a district staff council at the superior authority of the intermediate level, and a central staff council at the highest authority (e. g. a ministry). These staff councils are elected by the staff of the respective agencies.

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 the central staff councils are involved not only in matters concerning employees of the intermediate authority or of the ministry itself but also in matters of the respective subordinate authorities or the entire remit.

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

The local staff council must be involved in decisions on measures exclusively affecting the respective agency. If measures affect subordinate authorities or the entire remit of the highest authority, the district or central staff council must be involved.

Measures subject to co-decision (such as recruitment, transfers, promotions, employment beyond the retirement age, establishment and dissolution of social institutions, assessment guidelines, workplace design and measures to prevent accidents at work) may be taken only with the consent of the staff council. If no agreement is reached at local level, the superior agency, and finally 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 con-

cerned takes a decision. Its decision is however 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 merely contributes to decisions (e. g. 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.

The weakest rights of involvement are the rights of hearing, advising and notification (e. g. fundamental changes in procedures and workflows, passing on personnel requirements, new buildings, conversions and extensions, advisory participation in examinations, and termination of employment without due notice). These rights neither include the right of veto nor the right of appeal to superior authorities.

It is particularly important that the staff council is involved in case of dismissals because it is a precondition for the validity of these measures under labour law. If the staff council raises certain objections against a dismissal with due notice, the agency is obliged to continue to employ the person in question until dismissal protection proceedings have been concluded.

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 permissible if the public interest so requires (for example for certain activities of the police, fire brigades and the federal armed forces). Compliance with these regulations is monitored by occupational health and safety agencies of the *Länder*. The central office for occupational health and safety at the Federal Ministry of the Interior is the competent agency within the federal public service. The federal accident insurance fund acts on its behalf.

Like employers' liability insurance associations in the private sector, special accident insurance institutions exist for public employees; they have the status of autonomous accident insurers of local authorities and the *Länder*. Like their private counterparts, they adopt regulations on accident prevention and monitor compliance with these regulations. The Federal Ministry of the Interior or, more precisely, the central office for occupational health and safety, is responsible for the federal public service, with exceptional regulations for some federal ministries.

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 with the accident insurance institutions. Contributions are paid by the public employers to the accident insurance funds.

Civil servants are not insured with the statutory accident insurance fund (p. 52).

6. Health promotion

In the direct federal service, health promotion is becoming increasingly important also in view of ageing staff as part of larger demographic trends.

The 2008 plan for implementing the government programme "Focused on the Future: Innovations for Administration" provides for introducing systematic health promotion in the public service. All federal agencies are required to introduce a long-term and assessable programme for promoting employee health as part of their personnel and organizational development. Progress on health promotion is evaluated in an annual report providing an inventory and assessment of health promotion measures and sick leave taken in the direct federal administration.

The report on health promotion and sick leave can be found on the Internet at: www.bmi.bund.de

IV. 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*). For the remuneration of *Länder* and local authorities as well as other corporations, institutions and foundations under public law supervised by a *Land*, the Federal Civil Servants' Remuneration Act in the version applicable until 31 August 2006 continues to apply until a relevant law is adopted by the *Land*. 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.

The basis for remuneration is the “maintenance principle” which is one of the constitutional principles of the professional civil service (Article 33(5) of the Basic Law). This means that 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 an economically 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 suitable. In this respect, the maintenance principle sets a general standard which is 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. It is supplemented by the family allowance and other allowances, if applicable. Performance bonuses and performance allowances as well as special allowances may also be paid depending on the labour market situation. Additional expatriation allowances apply to assignments abroad. 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. It is therefore not a matter of which function the civil servant actually performs, but of the pay grade of the assigned office. The offices and pay grades are specified in the federal pay scales.

There are four pay scales. Pay scales A and B govern the remuneration of civil servants and military personnel, pay scale W that of professors and lecturers at higher education institutions, and pay scale R governs the remuneration of judges and public prosecutors.

Salaries in pay grades A 2 to A 16 are incremental, salaries in pay grades B 1 to B 11 fixed. Pay scale B applies to outstanding positions such as state secretaries, directors-general, directors, heads of division, presidents of higher federal authorities, and generals. Pay scale R contains both incremental and fixed salaries (pay grades R 1 and R 2 incremental, R 3 to R 10 fixed salaries).

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 contrast to fixed salaries, with incremental salaries the basic salary within a certain pay grade is measured in steps. Progression is achieved through step increases within certain periods of service (experience periods) subject to satisfactory performance. If performance is not satisfactory, the civil servant may remain at the previous step of the basic salary. Experience periods – starting with two years, later three and four years – take into account the fact that experience is gained more rapidly at the beginning of a career. Civil servants who have professional experience inside and outside the public service and additional qualifications may start their service at a higher step.

If performance is permanently outstanding, the civil servant may be paid the basic salary of the next step in pay scale A until this step is reached (performance step). The early basic salary increase is irrevocable. Each year, up to 15 percent of the civil servants and military personnel of pay scale A in employment on 1 January may progress to the next performance step.

Pay scale A

valid from 1 July 2009

Pay grade	Basic salary (Monthly salaries in euros)							
	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
A 2	1,668	1,707	1,747	1,777	1,808	1,839	1,870	1,901
A 3	1,735	1,776	1,817	1,850	1,883	1,916	1,949	1,982
A 4	1,773	1,822	1,871	1,910	1,949	1,988	2,027	2,063
A 5	1,787	1,848	1,897	1,945	1,993	2,042	2,090	2,137
A 6	1,827	1,898	1,970	2,025	2,082	2,137	2,198	2,251
A 7	1,922	1,985	2,068	2,153	2,236	2,320	2,383	2,446
A 8	2,038	2,114	2,221	2,329	2,437	2,512	2,588	2,663
A 9	2,206	2,281	2,399	2,519	2,637	2,717	2,798	2,877
A 10	2,367	2,470	2,619	2,767	2,915	3,018	3,121	3,224
A 11	2,717	2,870	3,022	3,175	3,280	3,385	3,490	3,595
A 12	2,913	3,094	3,276	3,457	3,583	3,707	3,832	3,959
A 13	3,416	3,586	3,755	3,925	4,042	4,160	4,277	4,392
A 14	3,513	3,732	3,952	4,171	4,322	4,474	4,625	4,777
A 15	4,294	4,492	4,643	4,794	4,945	5,095	5,245	5,394
A 16	4,737	4,967	5,141	5,315	5,488	5,663	5,837	6,009

Increase in pay grades A5, A6, A9 and A10

In pay grades A 5 and A 6 the basic salary of civil servants in the intermediate services and of non-commissioned officers increases by 17.79 euros. In pay grades A 9 and A 10 the basic salary of civil servants in the higher intermediate service and of commissioned officers increases by 7.76 euros.

Pay scale B

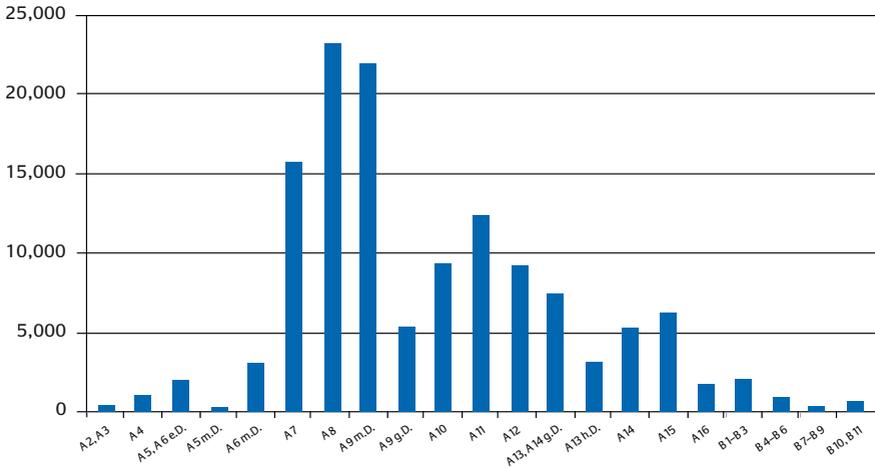
Pay grade	Basic salary (Monthly salaries in euros)
B 1	5,394
B 2	6,266
B 3	6,635
B 4	7,021
B 5	7,464
B 6	7,885
B 7	8,291
B 8	8,716
B 9	9,243
B 10	10,880
B 11	11,303

Examples for the allocation of certain functions at specific pay grades

Function	Title/Rank	Pay grade
Courier	Oberamtsgehilfin/ Oberamtsgehilfe	A 2
Driver	Hauptgefreiter	A 4
Clerk	Sekretärin/Sekretär	A 6
Squad leader	Stabsunteroffizier	A 6
Police officer	Polizeimeisterin/Polizeimeister	A 7
Assistant desk officer	Inspektorin/Inspektor	A 9
Police officer	Polizeikommissarin/ Polizeikommissar	A 9
Platoon leader	Stabsfeldwebel	A 9
Police officer	Polizeioberkommissarin/ Polizeioberkommissar	A 10
Engineer (university of applied sciences)	Technische Oberinspektorin/ Technischer Oberinspektor	A 10 (starting office)
Company commander	Hauptmann	A 12
Police officer	Polizeihauptkommissarin/ Polizeihauptkommissar	A 12
Desk officer in a federal ministry	Regierungsrätin/ Regierungsrat	A 13
Commander of a battalion	Oberstleutnant	A 14
Head of division 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 11:
Staff distribution by pay grade (as at 30 June 2007)



Source: Federal Statistical Office, Specialist Series 14, Series 6, 2007

1.4 Remuneration of professors

The remuneration of professors at federal universities (university of the federal armed forces in Hamburg and Munich, Federal College) is governed by pay scale W introduced in 2002.⁷ The individual salary is composed of the basic salary (e. g. W 2: 4,281 euros; W 3: 5,187 euros) and additional variable salary elements, the performance-related pay. 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.

⁷ The reform replaced pay scale C with pay scale W for new staff. Pay scale C still applies to professors hired before 2002.

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 at 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 108.92 euros, from A 9 upwards it is 114.38 euros per month.

For the first and second entitled child, the family allowance increases by 97.83 euros, from the third child onwards by 304.81 euros per month. For the lower pay grades (A 2 to A 5) the child-based family allowance increases by 5.24 euros for the first entitled child, and for the third and any further child

- by 26.20 euros in pay grades A 2 and A 3,
- by 20.96 euros in pay grade A 4, and
- by 15.72 euros in pay grade A 5.

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

1.6 Allowances

Allowances are additional payments made in all areas of work, and hence also in the public service, in addition to the basic remuneration (basic salary/family allowance) in order to pay for specific requirements and services. There are three groups of allowances:

- **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 percent 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. 130 euros), security allowance (depending on the pay grade between approx. 120 euros and 200 euros) and allowance for company sergeant majors (approx. 77 euros). Post allowances are not pensionable.
- **Extra pay for difficult working conditions/overtime pay:** This is remuneration for work which is carried out either outside normal working hours or under difficult conditions (e. g. approx. 2.80 euros per hour for work on Sundays or public holidays, approx. 1.30 euros per hour for work at night, between approx. 36 euros and 102 euros per month for alternating shifts and shift work as well as allowances for divers and certain military and police tasks). 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. Extra pay for difficult working conditions and overtime pay is not pensionable.

1.7 Performance bonuses and allowances

In addition to performance steps, the 1997 Act to Amend the Public Service Law (*Dienstrechtsreformgesetz*) introduced bonuses and allowances for outstanding performance. The Ordinance on Performance bonuses and allowances (*Leistungsprämien- und -zulagenverordnung*) is the legal basis. Performance-related pay is a management instrument to reward outstanding staff performance and increase motivation. Section 42a of the Civil Servants' Remuneration Act governs quotas, amounts and modes of payment. On the basis of a progress report on the 1997 reform of public service law, the provisions were improved in particular as regards the quota of awarded allowances (increased from 10 percent to 15 percent of total staff) and the possibility to reward team performance.

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

For example:

In pay grade A 13 a performance bonus in the form of a one-off payment of up to a maximum of the basic starting salary of pay grade A 13, i. e. 3,416 euros (as at 1 July 2009), may be paid.

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

For example:

In pay grade A 13 a performance allowance in the form of a monthly payment not exceeding seven percent of the basic starting salary of pay grade A 13 (3,416 euros x 7 percent = 239.12 euros) may be paid for at most twelve months, for a total of 2,869.44 euros (as at 1 July 2009).

The Act to restructure civil service law introduced an annual budget of 31 million euros for performance-related pay in the Civil Servants' Remuneration Act. Public agencies are obliged by law to use the money for rewarding outstanding performance.

1.8 Special allowances to ensure functionality and competitiveness

In case of acute staff shortage, special allowances may be paid in line with budgetary rules. The special allowance may not exceed ten percent of the basic starting salary of the pay grade of the civil servant or military staff. The basic salary and the special allowance together must not exceed the final basic salary. The responsible highest service authority decides on awarding special allowances. Details are laid down in Section 72 of the Civil Servants' Remuneration Act.

1.9 Expatriation allowances

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

- an expatriation bonus for work performed abroad,
- an expatriation child allowance, and
- a rent subsidy.

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.

2. Public employees

2.1 Legal basis

Remuneration of public employees is governed by collective agreements negotiated between the public employers at federal, *Land* 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 the work performed.

Since 1 October 2005 remuneration of federal employees has been governed by the collective bargaining agreement for the public service (TVöD). The TVöD replaced the Federal Employees' Collective Agreement (BAT/BAT-O), the Collective Agreement for Workers of the Federation and the *Länder* (MTArb/MTArb-O) and the Collective Agreement for Workers in Local Authority Administrations and Companies (BMT-G/BMT-G-O). The TVöD also applies to public employees of local authorities. Except for Berlin and Hesse, public employees of the *Länder* have been paid in accordance with the collective bargaining agreement for the public service of the *Länder* (TV-L) since 1 November 2006.

The remuneration system of the TVöD differs from previous regulations in important respects. Salaries for employees and wages for workers were replaced by a single pay schedule for all public employees. Marital status, number of children and age no longer determine remuneration, and promotion based on seniority was abolished. The TVöD is the first collective agreement to introduce performance components. On the basis of employment contracts, it also applies to public employees who are not union members.

Employees subject to the TVöD receive a monthly salary according to pay schedules. The relevant tables can be found in the annexes to the agreement. As a result of the collective bargaining negotiations in 2008, scheduled pay was increased by 50 euros on 1 January 2008 and subsequently by 3.1 percent. Another increase by 2.8 percent followed on 1 January 2009. Since 1 April 2008 public employees in the old and new *Länder* have received the same scheduled pay.

The following salaries have been paid since 1 January 2009:

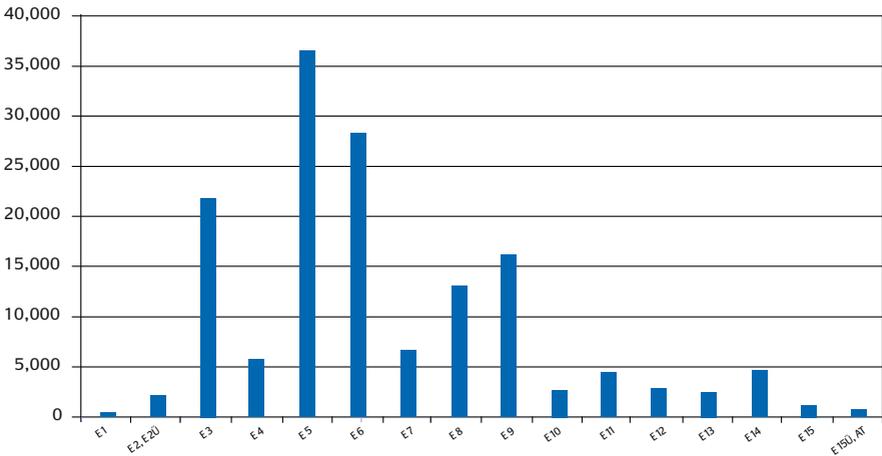
Table TVöD/federal level						
Pay group	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
15	3,639.58	4,038.10	4,186.48	4,716.41	5,119.16	
14	3,296.19	3,656.54	3,868.52	4,186.48	4,674.02	
13	3,038.64	3,370.38	3,550.56	3,900.31	4,387.85	
12	2,723.86	3,020.62	3,444.57	3,815.52	4,292.47	
11	2,628.47	2,914.64	3,126.61	3,444.57	3,905.62	
10	2,533.08	2,808.65	3,020.62	3,232.60	3,635.35	
9	2,237.38	2,480.09	2,607.28	2,946.43	3,211.40	
8	2,094.30	2,321.11	2,427.10	2,522.49	2,628.47	2,695.24
7	1,960.76	2,172.73	2,310.51	2,416.50	2,495.99	2,570.19
6	1,922.60	2,130.33	2,236.32	2,337.01	2,405.90	2,474.80
5	1,842.05	2,040.25	2,140.93	2,241.63	2,315.82	2,368.81
4	1,750.90	1,939.56	2,066.74	2,140.93	2,215.12	2,258.58
3	1,722.29	1,907.76	1,960.76	2,045.55	2,109.14	2,167.44
2	1,588.74	1,759.38	1,812.37	1,865.37	1,981.95	2,103.84
1		1,415.99	1,441.42	1,473.22	1,502.89	1,579.20

The table has 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. Whereas pay group 1 for the most basic tasks has already applied since the TVöD entered into force on 1 October 2005, the criteria for pay groups 2 to 15 are still being negotiated with the unions concerned. The criteria will be specified in a pay regulation. Until the adoption of the pay regulation, the previous criteria of the pay schemes for employees and workers and the previous central provisions on the assignment to pay groups continue to apply unless otherwise provided by the TVöD.

Figure 12 illustrates the number of public employees in the various pay groups.

Figure 12:
Staff distribution by pay group (as at 30 June 2007)



Source: Federal Statistical Office

Each pay group has six steps. At federal level, no amounts have been agreed for pay groups 9 to 15 so that step 5 is the final salary in these groups. New staff without relevant professional experience are assigned to step 1, employees with professional experience of at least one year to step 2. To cover personnel requirements, the employer may consider previous periods of professional activity in part or in full when assigning new staff to a certain step, where such activity corresponds to the tasks to be performed. Thus, new staff may start at step 3 or higher.

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 at 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*) or parental leave). To advance to the next regular step, at least average performance is required. If performance is significantly better than average, the regular periods at steps 4 to 6 may be reduced, whereas the period may be extended if performance is significantly below average.

Examples of scheduled pay according to tasks:

Tasks	Group	Starting salary (step 1/step 2)	Final salary (step 5/step 6)
Tasks requiring a university degree, e. g. desk officer at a ministry	13	€ 3,038.64/ € 3,370.38	€ 4,387.85
Assistant desk officer – human resources	10	€ 2,533.08/ € 2,808.65	€ 3,635.35
Assistant desk officer performing the relevant tasks	6	€ 1,922.60/ € 2,130.33	€ 2,474.80
Registry staff with specialized knowledge	5	€ 1,842.05/ € 2,040.25	€ 2,368.81

Tasks	Group	Starting salary (step 1/step 2)	Final salary (step 5/step 6)
Library staff with difficult tasks	3	€ 1,722.29/ € 1,907.76	€ 2,167.44
Basic tasks, e. g. courier	1	€ 1,415.99	€ 1,579.20

2.2 Performance-related pay

Since 1 January 2007 federal employees have been receiving a variable performance-related bonus or allowance in line with the TVöD. 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.

The framework and details of the performance-related pay system for federal employees were specified in a separate collective agreement on performance-related pay for federal employees, the *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. The respective superiors decide who will receive performance-related pay.

Currently, the budget available for performance-related pay amounts to one percent of the regular monthly pay of the previous year of all employees subject to the collective agreement of the respective employer. The parties to the collective agreement seek to gradually increase this amount to eight percent in the following years.

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

In line with the Act to restructure civil service law, the annual special payment (2.5 percent of the annual salary, 125 euros for pay grades A 2 to A 8) has been incorporated into the monthly salary since 1 July 2009. Accordingly, from 1 January 2011 the proportion of the annual special payment which had been frozen between 2006 and 2010 (2.5 percent of the annual salary) will be included in the monthly salary. The annual special payment will then cease 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 old *Länder*, the individual pay groups receive the following proportion of the average monthly salary:

■ in pay groups 1 to 8	90 percent
■ in pay groups 9 to 12	80 percent
■ in pay groups 13 to 15	60 percent

In the new *Länder*, the annual special allowance amounts to 75 percent of the allowance paid in the old *Länder*.

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

4. Salaries in the new Länder

Special conditions applied regarding the public service salaries in the new *Länder* (i. e. the territory of the former East Germany). Taking into account the lower productivity and cost of living in the new *Länder*, on 1 July 1991 public service salaries were fixed at 60 percent of the corresponding salaries in the old *Länder*. Since then, they have been gradually adjusted based on the economic and financial situation. The salaries of staff at federal level are now fully aligned, regardless of the place of service. For the lower and intermediate salaries (up to pay group E 9/pay grade A 9) the adjustment has applied since 1 January 2008, for higher salaries since 1 April 2008.

5. Salary adjustment

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

5.1 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 federal 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. The position of the unions is communicated in the annex to the draft submitted to the parliament.

As a rule, the salary increase proposed to the parliament is in 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 groups of public service staff. However, the salary adjustment for civil servants has been reduced by 0.2 percent between 1999 and 2017 on the basis of the 1998 Pensions Reform Act (*Versorgungsreformgesetz*). This reduction used to fund the pension reserves was suspended in 2003 and will probably be reinstated in 2010 (p. 105).

Figure 13 illustrates salary adjustments between 1998 and 2007 in the federal public service as compared to the economy as a whole and to the development of the cost of living in Germany.

Figure 13:
Salary development in the public service as compared to the private sector and developments of the consumer price index

Year	Collective agreements for the public service	Average increases in the private sector ⁸ in percent	Increase of the consumer price index ⁹ in percent
1998	1.5% from 1 January	2.0	0.9
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 and one-off payment of DM 400 (for civil servants from A 1 to A 11 a one-off payment of 4 x DM 100 from August 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

⁸ Source: Federal Ministry of Labour and Social Affairs, Results of important collective agreements for public service staff, 1993–2007

⁹ Source: Consumer price indices for Germany, Federal Statistical Office, Specialist Series 17, Series 7

Year	Collective agreements for the public service	Average increases in the private sector ⁸ in percent	Increase of the consumer price index ⁹ in percent
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, respectively)	1.9	2.0
2006	One-off payment of € 300 (€150 in April and July)	2.1	1.7
2007	One-off payment of € 300 (€150 in April and July)	2.7	2.2
2008	Increase of the scheduled pay and basic salary by € 50 and 3.1% from 1 January	n/a	n/a
2009	2.8% from 1 January and special payment of € 225	n/a	n/a

5.2 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, but must not be put to work as “strike-breakers” in jobs held by striking public employees either. 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 currently applicable scheduled pay under the TVöD may be terminated on 31 December 2009 at the earliest.

6. Remuneration of government members

6.1 Remuneration

Members of the Federal Government 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 euros for the Federal Chancellor and 3,681.36 euros for federal ministers) and a family separation allowance (an annual lump sum of 1,840.65 euros), if applicable. All but the last two components are subject to taxation. The separation allowance may be subject to taxation under certain conditions.

6.2 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 (*Bundesministergesetz*),

- the Federal Chancellor is paid 1 2/3, and
- the federal ministers are paid 1 1/3

times the basic salary of the highest level of civil servants, plus 1 1/3 times the local cost-of-living allowance for that level (B 11).

6.3 Level of salaries and cost-of-living allowances

Due to the Act on Non-Adjustment of Salaries and Local Cost-of-Living Allowances for Members of the Federal Government and for Parliamentary State Secretaries from 1992 to 1994, current salaries and local cost-of-living allowances are lower than foreseen by the Federal Ministers Act. Another long-term decoupling from the general increases in remuneration resulted from the Act Exempting Remuneration and Civil Servants' Pensions and Allowances from 2003 / 2004 Income Adjustments and the Act on the Adjustment of Remuneration and Pensions at Federal Level 2008 / 2009.

Moreover, the annual special payment (known as the Christmas bonus) was discontinued for members of the Federal Government with the amendment of the Federal Act on Special Payments (Article 1 of the 2006 Ancillary Budget Act).

As a result, remuneration for members of the Federal Government lags behind the overall salary development for the public service by 21 percent. 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.

For example, the current monthly salary plus local cost-of-living allowance for a married member of the Federal Government with no children would be as follows:

Position	Marital status	Gross	Net*	Net**
Federal Chancellor	married	€ 15,832.79	€ 9,889.10	€ 9,072.43
Federal minister	married	€ 12,860.29	€ 8,346.14	€ 7,529.37

^{*)} Tax bracket III, solidarity surcharge and church tax (9 percent)

^{**)} Tax bracket IV, solidarity surcharge and church tax (9 percent)

Members of government have to pay contributions to health insurance from their net salary.

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

- The transitional allowance is paid immediately after the official leaves office for a period ranging from at least six months to a maximum of two years, depending on the 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 50 percent 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 fully deducted from the transitional allowance. It will no longer be paid from the second month onwards as long as compensation for members of the German Bundestag is paid.

- The amount of the pension depends on the term of office. It amounts to 27.74 percent for four years of office. Salaries from current or past employment in the public service are fully deducted from pensions. The same applies to pensions and income from work in the private sector. Persons receiving compensation as members of the German Bundestag will receive only partial payment of pensions.

7. Development of personnel expenditure at federal level

Figure 14 shows the development of total and personnel expenditure at federal level and the share of personnel expenditure in the total expenditure:

Figure 14:
Total expenditure and personnel expenditure at federal level in billion euros

Year	At federal level		
	Total	Staff	Share in percent
1970	45.0	7.4	16.5
1980	110.3	16.4	14.9
1990	194.4	22.1	11.4
1991	205.4	24.9	12.1
1992	218.4	26.3	12.1
1993	233.9	26.9	11.5
1994	240.9	26.9	11.2
1995	237.6	27.0	11.4
1996	232.9	27.0	11.6
1997	225.9	26.8	11.9
1998	233.6	26.6	11.4
1999	246.9	26.9	10.9
2000	244.4	26.5	10.8
2001	243.1	26.8	11.0
2002	249.3	27.0	10.8

Year	At federal level		
	Total	Staff	Share in percent
2003	256.7	27.2	10.6
2004	251.6	26.8	10.7
2005	259.8	26.4	10.2
2006	261.0	26.1	10.0
2007	270.4	26.0	9.6

Source: Federal Ministry of Finance

Personnel expenditure as a proportion of total federal expenditure was 9.6 percent in 2007 and has thus been steadily reduced.

V. Pension systems in the federal public service

1. Civil servants

Pensions for federal civil servants and judges are governed by the Federal Act Governing Civil Servants' Pensions and Allowances (*Beamtenversorgungsgesetz*, BeamtVG). Pensions for military personnel are governed by the same principles under the Military Pensions Act (*Soldatenversorgungsgesetz*, SVG).

Pensions are a part of personnel expenditure and are paid exclusively by public employers and directly from the current budgets. Civil servants' entitlement to an appropriate pension is one of the traditional principles of the civil service and is protected by the Basic Law. When calculating the gross salary it is taken into account that civil servants are exempted from contributions to the pension insurance.

Civil servants are entitled to a pension upon retirement

- when they have reached the regular retirement age or a special age limit (e. g. police, fire brigade, Federal Armed Forces),
- on request from age 63, or
- if permanent invalidity has been established.

Special rules apply to severely disabled civil servants (p. 56)

The Act to restructure civil service law (*Dienstrechtsneuordnungsgesetz*) applied the provisions of the statutory pension insurance scheme on gradually raising the retirement age also to federal civil servants law. The retirement age is being raised from 65 to 67 years (p. 55)

On 1 January 2008 there was a total of 202,318 pensioners (persons receiving a retirement benefit and surviving dependants) at federal level. With the former Deutsche Bundesbahn there are approx. 205,648, with the former Deutsche Bundespost approx. 271,811 and in the indirect public service approx. 28,871 beneficiaries.

Civil servants are not protected under the general statutory accident insurance but entitled to occupational accident benefits in the framework of the civil servants' pension system. If civil servants are injured by accidents at work, the employer reimburses them for the necessary and appropriate medical and nursing care and provides compensation for a reduced capacity to work, if applicable. If civil servants retire because of an accident at work, they receive an accident pension. In case of death after an accident at work, the widow or widower and orphans are entitled to accident pensions for surviving dependants.

Like salaries, pensions are adjusted by federal law to general developments in the economy and in income (p. 92).

Pensions are income from employment and are thus subject to income tax. The Retirement Income Act (*Alterseinkünftegesetz*) provides for gradually deferring taxation of retirement income since 2005, i. e. taxation of contributions to pension schemes is gradually reduced while taxation of pensions is gradually increased. At the end of the transitory phase (2040) civil servants and public employees will pay the same tax on their pensions. Therefore, the tax allowance for both civil servants' and public employees' pensions as well as the tax allowance for additional income of persons over the age of 65 will be gradually reduced for persons who have retired since 2005, while taxation of pensions from the statutory pension scheme will be increased proportionately.

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).

1.1 Calculating pensions

Pensions are calculated on the basis of pensionable years of service and pensionable remuneration.

- Pensionable years of service are in particular times in employment as a civil servant, in the professional or non-professional military service and, under certain conditions, immediate previous employment in the public service under private law.
- Times of unpaid leave are generally not pensionable. They are pensionable only if it was recognized in writing that the leave was also in the interest of the public service (p. 69).
- For part-time work, only the respective share of full working hours is counted as pensionable years of service (p. 69).
- For times of child-raising – as is also the case in the statutory pensions insurance – a supplement to the pension is paid under certain conditions.
- Pensionable remuneration includes the last basic salary for at least two years, and, where appropriate, the family allowance (step 1) and certain allowances expressly referred to in the law as being pensionable. These are functional allowances which can be paid for the permanent performance of more demanding activities, but do not include post allowances, extra pay for difficult working conditions or allowances for expenses and overtime.

Since 2003 the pension level has been reduced in the course of pension adjustment in eight equal steps (0.54 percent each) by a total of 4.33 percent. The maximum pension level has thus dropped from 75 percent to 71.75 percent. Together with the adjustments amounting to a total drop of 0.6 percent between 1999 and 2002 used to build a pension reserve, the pension level has been reduced by a total of approx. 5 percent. Half of the savings are being used to fund the pension reserve. While the pension increase is gradually reduced, the reduction by 0.2 percent and the funding of the pension reserve with the savings have been suspended.

The pension is reduced by 3.6 percent for each year the civil servant retires before reaching the regular retirement age (up to a maximum of 14.4 percent from the age threshold for applications, according to the new provisions of the Act to restructure civil service law).

The following conditions apply in the event of early retirement because of inability to work:

- If the civil servant becomes incapable of working before reaching the age of 60, two-thirds of the time until the age of 60 is added to the pensionable years of service to calculate the pension.
- If the civil servant has become incapable of working as a result of an accident at work, the accident pension is at least 66.7 percent of the pensionable salary.

Retired civil servants receive a minimum pension if this is more beneficial to them. It amounts to 35 percent of the pensionable salary (including family allowance), but at least 1,400.87 euros (as at 1 January 2009).

As for active civil servants (p. 91), the special payment and the part of the special payment suspended between 2006 and 2010 will be included in the monthly pensions from 1 July 2009 and 1 January 2011, respectively. A factor guarantees that the applicable amount of the special payment is included (2.085 percent of the annual pensions frozen at the level of 2004).

The pension of federal pensioners was reduced by the same amount as contributions to be paid by retired employees to the social long-term care insurance increased. The reduction is limited to the maximum amount in the social long-term insurance.

1.2 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 where the total amount of benefits exceeds a certain threshold.

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.

If civil servants have an additional income outside the public service, they may keep this income or substitute income. Until they reach the regular retirement age, the additional income is deducted from the pension if both together exceed the last salary received during active service.

If civil servants applied for retirement because of inability to work or severe disability, income additionally earned until reaching the regular retirement age is not deducted from the pension until the difference between the actual pension and an amount based on an assumed maximum pension rate and an additional amount of 400 euros per month is reached. It is permissible to exceed this monthly threshold for additional income twice a year up to an amount of 400 euros.

For income earned outside the public service, deduction is suspended when the civil servant reaches the regular retirement age. Income earned inside the public service is always deducted.

1.3 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 percent of the deceased civil servant’s pension as a widow’s or widower’s benefit. On account of transitional provisions, survivors’ benefits may amount to 60 percent in individual cases.

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

On 1 January 2008, at federal level 74,448 widows and widowers and 4,028 orphans were receiving survivors’ benefits.

1.4 Special groups

Special provisions apply to political civil servants at federal level (p. 41) who were sent into temporary retirement. They continue to receive their salary for three months and then are paid an (increased) pension for at least six months but no longer than three years depending on the years of service. The amount is calculated on the basis of the maximum pension rate and the pensionable salary of the last pay grade. After this period, their pension is subject to the general rules. They receive a permanent pension only if they have been in service for at least five years. If additional income earned outside the public service and the pension together exceed the maximum threshold (former pensionable salary), only half of the excess is deducted from the pension.

1.5 Pension expenditure at federal level

In 2007 a total of 4.9 billion euros was spent on pensions. Figure 15 shows the development since 1970.

Figure 15:
Development of pension expenditures from 1970 to 2007 – federal level

Year	Pension expenditure in billion euros
1970	1.7
1980	3.3
1990	3.6
1995	4.6
2000	4.8
2001	4.9
2002	5.0
2003	5.0
2004	4.8
2005	4.9
2006	4.8
2007	4.9

1.6 Reforms of the civil servants' pension system

To ensure sustainable and affordable civil servants' pensions, the relevant provisions have been amended several times since the 1990s. Cost-containing reform measures introduced for the statutory pension insurance have been introduced accordingly for the pension system of civil servants. In addition, elements of a fully funded pension system were introduced by creating pension reserves in 1999 and a pension fund in 2007. The latter benefits all civil servants employed from 1 January 2007.

The 1992 amendments to the Act Governing Civil Servants' Pensions and Allowances, the 1997 Act to Amend the Public Service Law and the 1998 Act to Reform the Pension System contained comprehensive new regulations. The pension scale was extended from 35 to 40 years, the minimum age for pension applications was increased from 62 to 63 years, the inclusion of training periods was restricted, the pension in case of invalidity was further reduced, reductions were introduced in the event of early retirement, and the regulations on additional income were tightened. All of these measures aim at ensuring sustainable pensions for federal civil servants.

A core item of the 1998 pension reform was the introduction of a provision to create pension reserves at federal and *Länder* level. Between 1999 and 2002 an amount of 0.2 percent of salary and pension adjustments was retained and paid into the pension reserves. At federal level, these contributions have gone into a special reserves fund managed by the Deutsche Bundesbank and the Federal Ministry of the Interior. These reserves, which yield interest and may not be used for other purposes, will be available for pension payments from 2018.

Because of early retirements, pensions are paid for increasingly longer periods. For this reason – as in the statutory pension insurance – pensions have been reduced by 3.6 percent for each year of early retirement (but not exceeding 10.8 percent), also for early retirement because of invalidity or severe disability, as from 1 January 2001.

The 2001 Act to Reform the Pension System (*Versorgungsänderungsgesetz*) applied the 2001 pension reform with the same effect to the civil servants' pension scheme. The main elements of the reform of the civil servants' pension scheme, which entered into force on 1 January 2002, include:

- From 2003 onwards, the rate of increase for pensions is reduced by 0.54 percent annually for the following eight years. As a result, the maximum pension rate of currently 75 percent will be gradually reduced to 71.75 percent.
- Half of the savings resulting from these reductions in public spending will be added to the pension reserves and will thus continue to be used for the civil servants' pension scheme.
- Those civil servants who provide for old age by putting aside additional savings on a voluntary basis will receive specific allowances or tax benefits by the state as from 1 January 2002, similar to public employees under the statutory pension insurance scheme.
- To avoid any double burden, the 1998 Act to Reform the Pension System stipulates that the 0.2 percent contribution of civil servants and pensioners to the pension reserves be suspended for eight adjustment steps from 2003.

Further federal measures include

- reducing the annual pensions by reducing the annual special payment;
- applying the provisions of social long-term care insurance to retired federal civil servants. From 1 April 2004 pensioners must pay half of the statutory contribution to the social long-term care insurance (1.7 percent, from 1 July 2008 = 1.95 percent).

The following additional measures under the Act on restructuring civil service law aim at applying measures of the statutory pension insurance to civil servants while taking into account the differences between the two pension schemes:

- Training periods are no longer fully taken into account for calculating pensions because the scope of university training considered as a pensionable service period has been limited; at the same time the reduction of pensions has been limited to the maximum amount of about 60 euros permissible under pension law (as at 1 July 2008).

- A revision clause has been introduced to ensure a uniform development of pension schemes.
- Civil servants may apply for a preliminary calculation of their future pension.
- The retirement age will be gradually increased from 65 to 67 years while
 - retirement without pension deductions is possible after 45 years of compulsory contribution payments under pension law;
 - retirement may still be applied for at the age of 63 with a maximum pension deduction of 14.4 percent.

1.7 Funding of pensions of federal civil servants

Pensions of civil servants and military personnel are personnel costs paid from the budgets of public employers.

On the basis of the 1998 Pensions Reform Act, pension reserves have been built since 1999. The linear salary adjustments on 1 June 1999, 1 January 2001 and 1 January 2002 were therefore 0.2 percent below the rate set in the collective agreement for public employees. The difference is paid into the pension reserves.

According to the 2001 Act to Reform the Pension System, the adjustment of salaries for the pension reserves has been suspended while pension increases have been gradually reduced (for the eight adjustments after 31 December 2002). Half of the savings from the reduction of pensions are being used to fund the pension reserve. After the eighth adjustment, salary adjustments will again be reduced by 0.2 percent until 2017 and the difference paid into the pension reserves.

Following the entry into force of the First Act amending the Pension Reserves Act (*Erstes Gesetz zur Änderung des Versorgungsrücklagengesetzes*), the funding of pensions for civil servants and military personnel will be gradually transformed into a full capital-cover system through the pension fund created in 2007. Contributions to the pension fund are paid for all federal civil servants, judges and military personnel who have entered the public service since 1 January 2007. Pensions for persons included in the fund will be fully paid from this special asset from 2020. The amount

of contributions to the pension fund is based on the respective career path and actuarial calculations in terms of percentages of the respective pensionable salary; it is reviewed every three years. The amount of contributions is regulated in the Ordinance on Contributions to the Pension Fund (*Versorgungsfondszuweisungsverordnung*).

Unlike the pension reserve which is funded through reduced adjustments of civil servants' salaries, reserves for the pension fund are built from the budget. The funds are provided through the individual budget procedure. An initial share has been provided by extending weekly working hours without increasing salaries. From 2020 the ministries are entitled to annually increasing refunding from the pension fund.

2. Public employees

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

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

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 *Länder* 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 *Länder* Government-Service Supplementary Pension Agency (*Versorgungsanstalt des Bundes und der Länder*, VBL).

The most important institution providing supplementary old-age and dependants' benefits is the Federal and *Länder* Government-Service Supplementary Pension Agency (VBL) in Karlsruhe. It insures federal and *Länder* employees as well as some employees of local authorities and other public sector employers (2006: approx. 1.8 million employees). Some 1.1 million retired employees received pensions amounting to a total of approx. 4.1 billion euros. Most employees in the local authority services as well as churches and other institutions are insured with local authority or church additional old-age and dependants' benefits funds (in 2006: 3.1 million employees; 1.1 million pensions amounting to a total of approx. 4.0 billion euros).

Until 31 December 2000, the supplementary pension was based on an overall pension which was intended to supplement the statutory pension up to a maximum of 91.75 percent of the net salary of a comparable active employee. The aim was to bring the pensions of public employees into line with those of civil servants. Because of demographic developments (the increasing number of pensioners in relation to the number of active employees in the statutory pension scheme), the development of pay systems (civil servants' law, statutory pensions and taxes) and because of a ruling by the highest court, the funding of the supplementary pension scheme came under increasing pressure. The VBL alone faced a projected deficit of 7.7 billion euros by 2008, which would have threatened the very existence of the supplementary pension scheme. For this reason, the collective bargaining partners thoroughly overhauled the supplementary pension scheme of the public service.

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 of pension credits is based on occupational pension schemes typically offered by private employers.
- In this model, benefits are calculated as if contributions of four percent 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 euros.
- Then the pension credits are weighed against an age factor. The younger the employee, the more pension credits he/she accrues, i. e. the pension account will be credited with more pension credits.
- Upon retirement, the benefit is determined by multiplying the sum of all acquired pension credits by four euros.

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 prematurely, benefits will be reduced by 0.3 percent for each month the pension is paid out prematurely, with a maximum reduction of 10.8 percent, 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 euros.

Occupational pensions are indexed and increase by one percent 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 gives public employees – similar to employees in the private sector – the opportunity to make their own contributions to set up a private, fully funded pension 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 percent 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 percent for the old *Länder*. Employers pay 6.45 percent, while employees pay 1.41 percent. In addition, employers pay a tax-free flat rate of 2 percent for the costs of converting the pension system to the pension credit model.

The VBL in the new *Länder* introduced full capital cover on 1 January 2008. Contributions amount to four percent paid in equal shares by the employer and the employee. In addition, the employer pays a contribution of one percent.

2.4 Taxes and social security contributions imposed on the supplementary pension

Occupational pensions are subject to health and long-term care insurance contributions. Since 1 January 2004, retired employees have paid not only half but all of the contributions from the occupational pension scheme.

As from 2002, employers must pay taxes on contributions to the VBL (for the old *Länder*) up to an amount of 92.03 euros per month at a flat rate of 20 percent. Taxes on contributions to other insurers will have to be paid at a flat rate up to an amount of 89.48 euros per month. For any amount going beyond this limit employees must pay taxes individually.

As for pensions from the statutory pension insurance, deferred taxation has been introduced also for occupational pensions from the supplementary pension scheme. Contributions to the capital-cover procedure have already been exempted from taxation, and other contributions will be

gradually exempted from taxation (currently, contributions of one percent are tax-free). The exemption from taxation will be gradually increased up to contributions of four percent.

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