



For WP2 Stakeholder Checkpoint and Current Situation Paper

*European Career Counselling Guidelines for Staff Working in Criminal
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Current situation paper GERMANY (Bremen)

Pre-Face

The performance of public administration, and therefore the penitentiary, mainly depends on the commitment of its staff. Employment conditions have constantly changed in recent years: Job cuts, information technology, rising average age of staff and public expectations all pose new challenges. Staff must update their skills and prepare for new tasks. Life-long learning has become a key priority, also with a view to demographic change. Supervisory staff have a special responsibility. Only qualified and dedicated supervisors can motivate staff and ensure that the necessary changes to the daily work routine are made. New developments such as mobile working, balance between work and family life, systematic health promotion and performance related pay help make public service employment more attractive.

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

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



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

Article 33(5) of the Basic Law stipulates that the traditional principles of the professional civil service, i.e. the ranks of professional civil servants as opposed to public employees without civil servant status, should be taken into account when adopting law.

They are the standard for all federal and state provisions on civil servants. The principles have emerged in the course of the development of the public service. They are a core of structural principles of the professional civil service which were acknowledged as binding by the Weimar Constitution and which have been respected ever since. Hence, some of the structural principles of the current German public service law date back to 1919.

The traditional civil service principles are constantly being refined by decisions of the Federal Constitutional Court. They are the basis on which the court examines the legality of amendments to public service law. The constitutional reform of 2006 revised Article 33(5) of the Basic Law to read that the law governing the public service “shall be regulated and developed with due regard to the traditional principles of the professional civil service”.

The previously applicable principles of civil service law continue to apply and determine the core values of the professional civil service. A provision under civil service law cannot violate these principles, but legislators have some discretion to adjust the provisions of civil service law to new challenges and developments in society. The traditional civil service principles include the principle of life tenure, the maintenance principle, the principle of merit, the career principle, neutrality on party politics, the prohibition of strikes and the employer’s duty of care.

The German word **Beamter** means civil servant, correctional officers and the majority of the other occupations employed in prison are civil servants (**Beamte**).

Civil servant is a status that comes with a range of privileges. These include a special health plan, which covers 50% of most health care expenses, an index-linked pension of at most 71.25% of final salary, paid directly by the state rather than by the usual public pension provider; and most importantly, near-ironclad job security - the state may transfer civil servant who do not perform well to other, often less desirable (but not less paid), posts, but may terminate their



employment entirely only in cases of serious felonies. It is a common feature of most governments that civil servants are virtually non-dismissible. German civil servants, by contrast, hold tenure for life as protected by Art. 33(5) of the Basic Law: appointment is for life and subject to public law, not private-law employment regulations. There is no contract of employment between the civil servants and the state entity employing him.

A prospective civil servant must be a national of the Federal Republic of Germany or of a member state of the European Union (although there are now multiple exceptions), and must generally achieve the status by the age of 35 (some Länder have different rules). There is one professional track to start the career for correctional officers depending on their education:

Mittlerer Dienst (middle service), mainly for positions requiring roughly the equivalent of a completed apprenticeship. Similar to non-commissioned officers. In ideal case, the opportunity to climb the ladder to *Gehobener Dienst* upper service is given during the career.

Opportunities for professional development

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

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

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



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

The public service particularly depends on the knowledge of its staff. They must be willing to constantly acquire new knowledge to be able to deal with ever changing laws and regulations. The public service faces two challenges in the area of education: It must both possess and convey the necessary knowledge.

So training and qualification (and therefore Career Development) are essential to keep public administration up to date. Advanced training is provided by both external and internal institutions.

Hearing of umbrella organizations

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

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

The umbrella organizations at federal and *Länder* level are the German Civil Service Association (dbb), and the German Trade Union Federation (DGB).



Social security

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

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

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

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.

Special retirement ages apply to certain groups of civil servants, as correctional officers. The special retirement age is also gradually being raised from 60 to 62 years. The states are responsible for determining the retirement age for their civil servants.

Civil servants must retire if they are permanently unable to perform their official duties for health reasons and are no longer able to fully or partly perform other work, even after retraining. In cases of early retirement, pension benefits are reduced.



Measures taken under public service law in recent years aim to reduce the number of staff taking early retirement. The number of persons retiring because of inability to work dropped after introducing pension cuts, carrying out more targeted medical checks and promoting alternative work instead of early retirement.

Federalism reform

As result of the federalism reform in 2006, the legislative responsibility for prison policy (*Strafvollzug*) was given to the "Land level". All related policies are under the responsibility of the 16 Federal States (Länder). However, even before the 2006 reforms, there were substantial variations between the Länder when it came to implementing prisons policy, so consideration of the sub-national level in this area remains essential.

Consequently, the prisons in Germany solely operated and managed by the federal states. The aim of prison confinement in Germany is twofold: emphasis is placed on enabling prisoners to lead a life of "social responsibility free of crime" upon release, but society is also to be protected from further acts of crime by the convicted. Germany has a goal of rehabilitation for prisoners so that they can have successful re-entry back into the community. The head offices for the state prison services are in the respective state justice ministries. There, a prison service department controls the organization of the prison service, personnel matters, basic and advanced training for prison staff, budgets, construction, cooperation in prison service legislation, the employment of prisoners, and vocational training and education for prisoners. It also reviews petitions and complaints and its representatives visit and inspect the prisons regularly. There is no mid-level authority anymore between the Ministry of Justice and the prisons. This direct contact facilitates decision-making and ensures the ministry is close to the daily reality of the prison service.

The competent authorities in the Federal States have the task to select and recruit sufficient staff of best possible quality, and to ensure adequate training and to **facilitate professional development**, which enables them to work in a high ethical manner in order to provide just and effective supervision, positive care and assistance to suspects and offenders.

It is advisable to annually evaluate training needs and to regularly revise and update training plans aimed at **workforce development** and to ensure responsiveness to the needs of prison services and probation agencies. It is important to secure sufficient number of trainers and resources to be able to put it in practice.



Human Resources management policies in the Federal State Bremen/Germany

The HR management policies in Germany are actually evident in a number of laws and regulations.

Regulations with regard to careers, career groups, recruitment of applicants, and professional development such as probationary period, promotion, personnel development, qualification, assessment and such intend to promote career development for civil servants in Germany (the federal states).

The **Bremen Civil Service Act** from 2009 in addition to the Civil Service Status Act of 17 June 2008 (Federal Law Gazette I p. 1010), in the current version applies to civil servants, unless otherwise specified.

Bremisches Beamtengesetz (BremBG)

Career 1 and 2

A career includes all offices belonging to the same subject and the same career group. One career group (discipline) is Justice. Membership in the career group (1 respectively 2) is based on the prior education and training required for the career. Career group 2 includes all careers that require a university degree or an equivalent level of education. Career group 1 includes all other careers. Within the career groups, a distinction could be made depending on the previous training and the requirements accordingly to the entry positions within the career groups (1 and 2).

Civil servants with the qualification for a career in career group 1 can acquire a qualification for a career in career group 2 without fulfilling the entry requirements prescribed for the career by promotion. For the ascent, an exam must be taken; the career regulations can determine exceptions.

If an examination is not required in general or in individual cases, the appointing authority determines the qualification for the career of career group 2 after the official has successfully completed the required promotion procedure. In accordance with the career regulations, a qualification restricted to offices or areas of use can also be acquired.

Career development and advancement requires the necessary advanced training.



The civil servants are obliged to take part in further training and also to train themselves. The employer must take appropriate measures to ensure that the civil servants receive further training.

The **“Regulation on the careers of Bremen's civil servants” (Bremer Laufbahnverordnung - BremLVO)** is regulating the career development for civil servants, e.g. corrections officers in Bremen/Germany.

The “Bremen Regulation on Training and Examination for the Career Group 1 a - First Entry Office in the Department of Justice (Prison)” is regulating the content of the training.

Once a correction officer starts duty, the following duty stations are part of the practical and theoretical training:

- Department of Security
- Pre-trial detention center
- Enforcement department for enforcement planning and motivation
- Enforcement department for special care and treatment
- Enforcement department for health and professional reintegration
- Enforcement department for low-threshold care and preparation for discharge
- Enforcement department for short sentence execution (Bremerhaven)
- Enforcement department for open prisons and women's prisons
- Department of Social Therapy (Sotha)
- Partial youth detention center.

Training and Work Schedule (simplified)

The training period for a German correctional officer is two years. The composition of theory and practice could differ from Land to Land but has many common features. The training begins with one month in the prison working with an experienced officer. The trainee then goes to school for three months for training in laws, communication skills, psychology, how to handle stress, self- defense, shooting and history.

Upon return from school the trainee will work as a full functional officer but remains in trainee status. During the next 12 months the trainee will learn how to work in every department in the prison. The trainee must also work at one or more prisons during this time to see how other facilities operate.



The last six months of training is back to school for advanced law classes, oral and written tests and practical tests.

Upon completion of the two-year training the trainee is considered a full officer. There is a three shift system with a 40 or 41-hour work week. Officers must work one weekend a month with three weekends off (in average).

A German correctional officer trainee is paid the equivalent of \$1357 a month, around 50 percent of the normal starting salary, which is \$2,689 a month.

Every two years an officer receives a pay increase. From stage 5-8 officers must wait three years between each pay raise. At stage 9 the monthly salary taps out at \$3,905. A married officer receives an additional \$148 a month. For each child born after the first an officer receives an additional \$262 a month.

After the front line rank of A-9 there are only two high-ranking, front-line officials, one A-10 and one A-11 earning up to \$4,740 a month. With the present system most COs retire at stage A-9.

Professional development

Accordingly, to Council of Europe's Guidelines regarding recruitment, selection, education, training, and professional development of prison staff, the following should be considered from the national prison administrations, in order to guarantee a sound professional development for correctional officers.

- a) A transparent system for annual appraisals of performance of all staff members should be developed, allowing their career advancement and professional development. Staff carrying out appraisals should be trained accordingly, in order to ensure a fair appraisal system.
- b) The appraisal should indicate training needs at individual and service level, as required.
- c) Prison services and probation agencies should provide regular training opportunities for enhancing professional performance and for career development, as appropriate.
- d) There should be frameworks in place to facilitate advanced professional development specifically by developing leadership and management capacities allowing career progression to middle and upper management. This should not preclude advanced entry schemes of recruitment to management grades.



Professional development does not have to focus only on promotion frameworks. Other forms of recognition of competence should be sought and used as appropriate.

f) Salaries and conditions of service should be commensurate with the staff's skills and responsibilities. The financial, employment conditions and working hours should be regulated by law and should permit the recruitment and retention of staff of good quality, allowing them to carry out their tasks effectively and humanely and to develop their awareness of the importance of their work for society. Provision should be made for support and supervision of staff to assist them in their role.

g) In order to enhance effective working within and between the prison services and probation agencies, joint-working, co-location arrangements and secondments of staff for training or working purposes should be encouraged. Such arrangements should take place only with the consent of the persons concerned and should not entail any change in their employment status or salary. Provision for international secondments to promote cross-border learning should also be considered.