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CIVIL SERVICE SALARY SYSTEM IN GERMANY AND RECENT REFORM TRENDS

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I. The Foundations of Employment in the Public Service

The traditional professional civil service in Germany is an institution grounded in subject competence, performance and loyal fulfilment of duty and is intended to provide stable administration. In this way, the professional civil service serves as a counterbalance to the political forces which shape the life of the state. Amidst the interaction of these political forces, the professional civil service is supposed to guarantee a stable, non-partisan administration bound by law and oriented solely on the common good.

While this explanation, served up by the legal specialists, may be somewhat difficult to digest, without this background it is impossible to understand the pay system and the resulting limits to individual remuneration and recent trends, i.e. performance-based pay.

Civil servants serve the people as a whole, not a political party. This means non-partisanship, but not political neutrality. Political neutrality refers to the loyal performance of one's duties towards the state. Civil servants must at all times guarantee to uphold the Constitution. Civil servants must ensure a balanced execution of the law, independent of legislative terms and personnel discontinuity of the government and legislative bodies, thereby constituting a stable counterweight to the turbulence of party politics.

This requires a very delicate balance. In order to maintain an effective professional civil service that does not blindly follow its supervisors' every whim, but acts in accordance with the law, civil servants must be legally and financially independent. For example, a civil servant who performs his/her duties in compliance with the law but in opposition to the wishes of a partisan supervisor need not fear losing his/her office or livelihood and that of his/her family. This independence on the part of civil servants can only be achieved by guaranteeing life tenure that can be terminated only by judicial decision. The obligation to uphold the law and the Constitution is also linked to remuneration commensurate to the office, and thus financial independence from third parties, averting the risk of civil servants performing their duties so as to serve their own self-interest.

The state relies on its civil servants to be able to fulfil its numerous legal obligations towards its citizens. The state confers on civil servants official duties and gives them responsibility for the lawfulness of their official acts.

Status groups

About 4.6 million persons serve the people of Germany in public administration at the federal, state and local levels. Of these, about 1.6 million are civil servants. The terms of their employment and above all their pay are regulated by law. In contrast, 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. Specific working conditions, however, are set out in collective agreements negotiated between the public employers and the responsible trade and labour unions.

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. Having said that, this office under public law has developed from the basis of employment as a civil servant and is governed by law, specifically the Act governing Federal Ministers. As office-holders who directly report to the parliament the federal ministers manage their departments independently and on their own responsibility in the framework of the general policy determined by the Federal Chancellor. They are not bound by instructions in individual cases and are not subject to any disciplinary power.

The public service is intended to guarantee sound administration based on expertise, professional ability and the loyal fulfilment of duties, and to ensure that essential tasks are continuously carried out in the public's interest. Therefore it is mainly civil servants who are employed in core areas of traditional administration, above all in supervisory positions and in areas involving the exercise of state authority.

In contrast public employees are employed in health and social services and in technical professions. Since the relation between rule and exception is defined in the Basic Law, the domains of civil servants and public employees are delimited in general terms, which leave some room to manoeuvre in individual cases. Accordingly, the functional distinction between civil servants and public employees may be less clearly marked.

Eligibility for the public service

Eligibility for the German public service is governed by the Basic Law: In accordance with the criteria of aptitude, qualifications and professional achievements, every German is equally eligible for the public service. In addition to the general requirements, such as loyalty to the Basic Law and personal integrity, civil servants must also have the necessary training and educational qualifications for the individual classes of service and subject areas. Such a system of *service classes* or formal preconditions for eligibility do not exist in the law on public service employees. Applicants are generally employed on the basis of their individual knowledge and abilities alone. Suitability for the specific job is decisive.

Recruitment

Recruitment to the public service is also 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. The German public service has no central recruitment competitions, however. 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. Added to this is the fact that, in the federal administration, each federal ministry is itself responsible for staffing. Each ministry is therefore responsible for selecting and hiring new staff and may establish independently how applicants are to be selected. This responsibility for human resource matters derives from the ministerial principle, according to which each federal minister manages the business of his/her department independently and on his/her own responsibility.

Number and distribution of established posts

Recruitment to the public service is on principle conditional on the existence of a vacancy. The parliaments at federal, local and regional level have the right to decide, within the framework of their budgetary authority, 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. On principle, the budgetary authority must approve each post before someone can be hired into that post. This highly specific budgetary procedure in the personnel area arose from the special status enjoyed by civil servants under German public service law. The basic impossibility of dismissal and the public employers' duty to provide maintenance, through to pensions for civil servants and their dependants, give rise to payment obligations which typically last for 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 salary earners accordingly, since they are, as a rule, also permanent employees, and the parliament is able to control staff numbers and their composition by managing the number and distribution of posts.

II. 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 policies in all branches of public administration, which objectivise personnel policies, ensure continuity despite leadership changes, and guarantee a uniform minimum standard for 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 various tasks require staff who have completed training designed with this in mind. In order to perform public service tasks correctly and effectively, an appropriate career structure has been developed that covers a wide range of functions. The complex career system which is based on specific training should enable civil servants to assume not only individual tasks but all tasks linked to a particular career. The fact that a civil servant can be assigned a great variety of roles within the framework of his/her specific career qualification also ensures greater flexibility in human resources management.

The training for careers that are rather untypical for the public administration is provided as in-service training in the course of a preparatory service. For the performance of particular tasks the public administration also needs specialists who — thanks to their education — have obtained expertise which cannot be conveyed by the public service and which need not be improved in a preparatory service (i.e. doctors). For these specialists, service careers for specific disciplines have been established. Admission of specialists to the public service is conditional on a certain length of

full-time occupational experience, instead of completion of preparatory service and the career examination.

Even if an applicant does not have the necessary specific career qualification, he/she may be admitted to the public service 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 or Land Personnel Commission.

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

The preconditions for admission to the preparatory service are

- in the ordinary service, successful completion of secondary school education or a recognised equivalent;
- in the intermediate service, successful completion of general school education (10 years) or attendance of a secondary modern school as well as follow-up professional training or a recognised equivalent;
- in the higher intermediate service, successful completion of a polytechnic education (Fachhochschule) or other school education qualifying for admission to a university or a recognised equivalent;
- in the higher service, successful completion of university studies in an appropriate subject area. Here, studies in law are regarded as being equal to economics, finance and social sciences for the general administrative service.

III. Professional Development Opportunities

Promotion is based on the principle of merit. Promotions take place in accordance with aptitude, qualifications and professional achievements. In most cases, it is necessary to change posts; the higher post is occupied on a probationary basis prior to the promotion. Since civil servants are assigned established posts, their promotion requires that an adequate higher post is available.

In order to gain an informative, objective and comparable picture of the performance of public service staff, performance appraisals are prepared regularly every five years in accordance with criteria set out in assessment guidelines — and where appropriate on specific occasions. They serve as the basis for proper personnel decisions and measures of personnel development and constitute an instrument of personnel management.

In order to improve the comparability of the appraisals, guidelines for assessment grades were established in the federal service in 1997 (so-called quota arrangement). The share of civil servants given the highest grade should hence not exceed 15%, the share of the second highest should not be more than 35% of the civil servants within a grade or functional level to be assessed.

Need for transition from political leadership to the civil service hierarchy

The rule under the law on the civil service whereby civil servants with life tenure may only be discharged from their duties against their will on reaching retirement age or because of unfitness for service is broken in order to ensure this confidence. But to serve the constitutional order of a democracy, which requires an effectively functioning and responsible government there is a need for a category of civil servant, who may be suspended for other reasons, the so called "political public servant". The necessity of the institution of the political civil servant becomes evident when a change of government takes place, as in a parliamentary democracy the new government is reliant on an effectively functioning public service to realise its objectives. In order to ensure purposeful cooperation with the administration, the government requires civil servants who enjoy its close confidence. They perform a bridging function between politics and administration. Consequently, they require the full confidence of the government at all times. In the fields of foreign or domestic policy, for example, they are thus often seen and judged as agents of the government on account of their special status. On the federal level the under secretaries, assistant secretaries (directors general), the spokesman of the federal government, ambassadors and some presidents of federal offices belong to this category. They are mostly of the highest pay grades.

Of total of around 23 000 civil servants in the higher federal authorities, around 400 are political civil servants. Of these, 130 are under secretaries and assistant secretaries. The public often overestimates how many under secretaries and assistant secretaries were forced to leave their posts directly after the change of government in 1998. In March 2001, the opposition announced that an initial tally of 15 under secretaries and 44 assistant secretaries were suspended from the civil service. In addition to discharging political civil servants, changes were also carried out relating to the positions between political and less political areas of the ministries. Assuming a further 10-20 changes of post — depending on the size of the department concerned, a good 200 further decisions relating to the political personnel have been effected in addition to the roughly 70-80 new appointments at the highest level. This means that around 300 civil servants have been affected by the change of government, representing around 1.5% of the Berlin ministries. Consequently, for the purposes of practical government work a change of government constitutes a process of evolution rather than revolution. This indicates that aside from decisions related to strategic orientation, a certain continuity is ensured in the preparation of policy.

V. The Remuneration of Civil Servants

The remuneration of civil servants, judges and military personnel (i.e. professional and fixed-term military personnel) is governed by the Civil Servants' Remuneration Act. It still applies to all civil servants of the Federation, *Länder*, local authorities and local authorities' associations, as well as of other bodies, institutions and foundations under public law. The law on remuneration — still — is uniform throughout Germany.

The reform of the federal system in September 2006 allows the individual *Länder* that the specific characteristics for civil servants may be taken into account. The current discussion is mainly about financial restraints in the public budgets.

Maintenance principle

The basis for remuneration is the so-called maintenance principle, which is one of the principles of the professional civil service guaranteed by the Constitution [Art. 33 (5) of the Basic Law]. According to this, the employer is obliged to provide suitable maintenance commensurate to the office assigned (but not the specific function) to active civil servants, also if they become disabled or reach retirement age. Remuneration is intended to ensure that civil servants are able to devote themselves entirely to their jobs; only a financially independent civil service is able to fulfil the functions assigned to it by the Constitution.

Unlike that of public employees, the remuneration of civil servants is not a direct payment for individual work done, but compensation for their service as a whole, in other words for civil servants making their entire working capacity available to the general public and carrying out their duties to the best of their ability (civil servants with life tenure).

Elements of remuneration

Remuneration, which is paid monthly in advance, consists primarily of the basic salary. This is supplemented by the family allowance, as well as allowances in specific cases. Performance bonuses or performance allowances, as well as special allowances in accordance with labour market conditions may also be paid. Special expatriation allowances apply to assignments abroad. In addition, civil servants receive annual special payments and capital-forming benefits. At the

federal level, almost 4% of total expenditure for remuneration of federal civil servants and military personnel is currently spent on allowances.

Basic salary

The basic salary is the main element of remuneration; it is determined in accordance with the pay grade of the office held. It is therefore not a matter of which function the civil servant actually performs, but solely of the pay grade of the office assigned to him/her. The offices and their pay grades are governed by the Federal Remuneration Schemes and additionally where appropriate by the Land Remuneration Schemes.

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

Civil servants in pay grades A 2 to A 16 (the vast majority of all civil servants and military personnel) receive incremental salaries, whilst civil servants in pay grades B 1 to B 11 receive fixed salaries. Scheme B applies to civil servants and military personnel in senior positions (such as state secretaries, directors general, deputy directors general, head of divisions, presidents of higher federal authorities, generals, etc.). Remuneration scheme R (for judges and public prosecutors) contains both incremental and fixed salaries (pay grades R 1 and R 2 incremental, R 3 to R 10 fixed salaries).

Remuneration scheme A

Remuneration scheme A assigns the following pay grades to the different careers 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, B 1 to B 11.

The top pay grade of a lower class of service is usually the entrance pay grade of the next class. In contrast to the fixed salaries, with incremental salaries the basic salary within the individual pay grades is divided into steps. Progression up the steps is governed by the civil servant's age, as a rule from the age of 21 onwards, and performance. As a minimum, the initial basic salary of the respective pay grade is paid. The basic salary increases within the respective pay grade up to the fifth step at intervals of two years, up to the ninth step at intervals of three years, and beyond this at intervals of four years. In the higher pay grades of the higher intermediate and higher services, the final basic salary can be reached at the earliest at the age of 49 and 53.

Gültig ab 1. August 2004

Besoldungsgruppe	2-Jahres-Rhythmus				3-Jahres-Rhythmus				4-Jahres-Rhythmus			
	Stufe											
	1	2	3	4	5	6	7	8	9	10	11	12
A 2	1474,59	1510,19	1545,81	1581,42	1617,03	1652,66	1688,28					
A 3	1536,09	1573,98	1611,87	1649,76	1687,67	1725,57	1763,47					
A 4	1570,97	1615,61	1660,20	1704,83	1749,44	1794,06	1838,66					
A 5	1583,67	1640,80	1685,19	1729,56	1773,96	1818,34	1862,73	1907,12				
A 6	1621,17	1669,91	1718,65	1767,38	1816,11	1864,85	1913,60	1962,33	2011,06			
A 7	1692,42	1736,22	1797,55	1858,87	1920,19	1981,52	2042,86	2086,64	2130,44	2174,26		
A 8		1798,45	1850,84	1929,43	2008,02	2086,60	2165,21	2217,60	2269,98	2322,39	2374,77	
A 9		1916,09	1967,65	2051,52	2135,39	2219,27	2303,15	2360,80	2418,48	2476,13	2533,80	
A 10		2064,60	2136,24	2243,69	2351,17	2458,63	2566,10	2637,74	2709,38	2781,01	2852,65	
A 11			2379,94	2490,05	2600,16	2710,28	2820,40	2893,81	2967,21	3040,64	3114,05	3187,45
A 12			2559,52	2690,81	2822,08	2953,37	3084,65	3172,17	3259,68	3347,20	3434,74	3522,25
A 13			2880,96	3022,73	3164,50	3306,26	3448,02	3542,53	3637,04	3731,55	3826,07	3920,58
A 14			2998,41	3182,26	3366,09	3549,92	3733,76	3856,31	3978,87	4101,43	4223,99	4346,55
A 15						3903,77	4105,89	4267,59	4429,28	4590,98	4752,68	4914,37
A 16						4311,59	4545,34	4732,36	4919,38	5106,37	5293,38	5480,39

Remuneration scheme B (fixed salaries for senior positions) Pay grade/Euro per month

B 1	4 914.37
B 2	5 716.99
B 3	6 056.77
B 4	6 412.65
B 5	6 820.95
B 6	7 206.51
B 7	7 581.57
B 8	7 972.48
B 9	8 457.84
B 10	9 965.09
B 11	10 353.56

The procedure to increase remuneration for civil servants is generally initiated once the collective agreement has been concluded for public employees. The Federal Government submits a draft bill to the parliament. The position of the trade unions is communicated in the annex to the draft bill submitted to the parliament. As a rule, the draft bill goes along with the collective agreement because the relevant aspects of the economic and budgetary situation have been examined in detail during the collective bargaining.

	Increase in the cost of living	Average increases in the private sector	Salary and wage increase in the public service	
			Collective agreement	Civil servants
1998	0.9 %	2.0 %	1.5 %	1.5 %
1999	0.6 %	3.1 %	3.1 %	2.9 %
2000	1.4 %	2.5 %	2.0 %	-
2001	2.0 %	2.3 %	2.4 %	1.8 %
2002	1.4 %	3.2 %	-	2.2 %
2003	1.1 %	2.4 %	2.4 %	2.4 %
2004	1.6 %	2.0 %	2.0 %	2.0 %
2005	2.0 %	2.0 %	1.0 %	-

Main trend: performance related pay

1997 bonus system

It has been possible since 1997 to advance to the next step in remuneration scheme A (in case of consistently outstanding performance) in only half the usual time (performance step). An early increase in the basic salary is irrevocable and is meant for long-term high performers. If a civil servant's level of performance is not suitable, he or she does not move on to the next step in the basic salary until performance justifies such a move. Performance steps may not be granted to civil servants on probation. The performance step may be given in each calendar year to up to 15% of the civil servants under remuneration scheme A and who have not yet reached the final basic salary.

Performance-related instruments make it possible to react directly and quickly to service performance and to increase the motivation of particularly well-skilled and high-performing staff; they supplement the performance steps in the basic salary. In order to prevent performance bonuses and allowances becoming set elements of remuneration and to keep them from becoming

routine, there are restrictions in the Civil Servants' Remuneration Act with regard to the beneficiaries, the amount and modes of payment. The performance bonus as a one-off payment is the clearest way to emphasise its particular nature as a reward because it is given for an outstanding service which has already been provided, and hence does not become a routine additional payment. A bonus may be granted up to the amount of the respective basic starting monthly salary of the civil servant. The continuous performance allowance is dependent on a positive performance evaluation and is time-limited (at most twelve months) and paid monthly up to 7% of the basic starting salary; it may be revoked.

Supervisors are responsible for making these awards, which occurs decentrally. There are no centrally defined criteria or procedures. In practice this system works well; for the 130 000 civil servants at the federal level, the results have been positive. Performance bonuses were used most often. Performance steps and allowances are both paid over a longer period and are thus more problematic from a budgetary perspective.

A bonus also has the greatest impact as a reward for outstanding achievement, and it does not run the risk of being taken for granted. Overall, the experience has been very positive, and supervisory staff have gained another personnel management tool in addition to promotion dependent on available positions. This "soft approach" also provides the possibility to sanction poor performance: instead of authorizing early advancement to the next pay step, a supervisor may delay advancement. But such cases are extremely rare in practice: no more than a dozen cases a year within the federal administration. It is thus safe to say that, apart from these few exceptions, all civil servants get a pay raise every two, three or four years.

2005 performance variable salary reform

Reform pressure on the professional civil service has been rising steadily for years, not only due to ever tighter budgets; demographic developments are also playing an increasingly important role in Germany. Each year, we have an additional 25 000 pensioned civil servants. With rising life expectancies, we can therefore expect an enormous increase in the number of pensioners by 2030. But overall economic developments have also led politicians to ask whether the professional civil service can continue in its current form. This is why there are thoughts of making the pay system even more performance-oriented.

In summer 2005 the federal government adopted a performance related pay reform. The governments' proposal for a new remuneration act was to reduce the basic salary at the initial and final steps. After the initial step, basic salary rises in 5, 10 and 20 years to the maximum basic salary. A performance variable of 2%, 4%, 6% or 8% can be added to the basic salary.

A person fulfilling the minimum requirements would not receive any performance variable = 96% of the old basic salary; a normal achiever with satisfactory performance would receive a performance variable at step 1 (plus 2% = 98% of the old basic salary); a high achiever with very satisfactory performance would receive an additional 4% = 100% of the old basic salary; for above-average performance an additional 6% = 102% of old salary; and for outstanding performance an additional 8% = 104% of the old salary.

Finally the legislative process was interrupted by the elections in autumn 2005. The new coalition agreement between the two leading political parties did not pick up this proposal. The main reason has been the bureaucracy expected coming on with the new performance related pay system. It also was regarded very difficult to use the new instruments in a responsible and balanced way.

The current discussion moves towards improving the 1997 bonus system. The remuneration schemes should not be touched anymore. One point for improvement is to establish safeguards for necessary funds because a lack of funds was responsible that some agencies could not award any of the measures of the 1997 reform.

ANNEX I

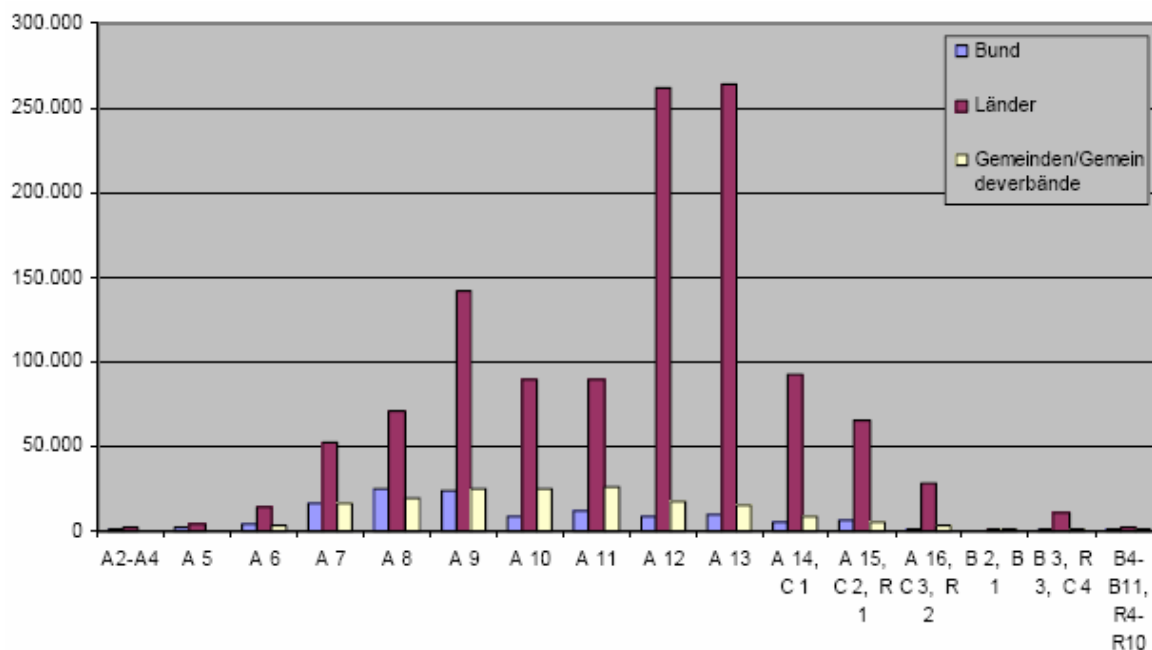
The following table provides an overview of the allocation of certain functions to specific pay grades.

Functions and pay grades

Function	Title	Pay Grade
Messenger (Bote)	(Oberamtsgehilfe)	A 2
Soldier	Lance Corporal (Hauptgefreiter)	A 4
	Sergeant (Unteroffizier)	A 5
Office clerk (<i>Bürosachbearbeiter</i>)	Sekretär	A 6
Policeman	Polizeimeister	A 7
Assistant desk officer (i.e. in a tax office)	Inspektor	A 9
Policeman	Polizeikommissar	A 9
	Lieutenant (Leutnant)	A 9
Policeman	Polizeioberkommissar	A 10
Engineer (<i>Fachhochschule</i>)	Technischer Regierungsoberinspektor	A 10
Company commander	Captain (Hauptmann)	A 12
Teacher at an elementary school-/ <i>Hauptschule</i>	Teacher (Lehrer)	A 12
Policeman	Polizeihauptkommissar	A 12
Teacher at a <i>Realschule</i>	Realschullehrer	A 13
Desk officer in a ministry	Regierungsrat	A 13
	Oberregierungsrat	A 14
	Regierungsdirektor	A 15
Full-time mayor in a town with up to 10 000 inhabitants	Bürgermeister	A 15
Teacher at a Gymnasium	Studienrat	A 13
	Oberstudienrat	A 14
	Studiendirektor	A 15
Commander of a battalion	Lieutenant-Colonel (Oberstleutnant)	A 14
Head of division in a federal ministry	Ministerialrat	A 16/
		B 3
Head of an embassy	Ambassador (Botschafter)	A 16/
		B 3/
		B 6/
		B 9
Full-time mayor in a town with up to 100 000 inhabitants	Oberbürgermeister	B 6
Brigade commander	Brigadier (Brigadegeneral)	B 6
Director in a federal ministry	Ministerialdirigent	B 6
Division commander	Major General (Generalmajor)	B 7
Director-General in a federal ministry	Ministerialdirektor	B 9
State secretary in a federal ministry	State Secretary (Staatssekretär)	B 11

ANNEX II

The distribution of active civil servants and judges among the different pay grades at the federal level, the level of the Länder and at local level is as follows:



For the Länder, the preponderance of pay grade A 9 is accounted for by the police, and that of pay grades A 12 and A 13 by teachers. Approximately 95% of all civil servants are in pay grades A 5 to A 15.