



GERMANY

The Federal Republic of Germany is located in the heart of Europe, linking the west with the east, the north with the south. The most densely populated country in Europe, Germany has been flanked by nine neighboring states since the unification of the two German states in 1990. Germany covers an area of 357,022 square kilometers. For most of its history, Germany was not a unified state but a loose association of territorial states that together made up the Holy Roman Empire of the German Nation. In 1871, the German Reich was founded. Now, the Federal Republic of Germany is divided into 16 federal states (*Laender*), each responsible for its own government. The states that exist today were established after 1945 but have in part retained their old ethnic traditions and characteristics as well as their historical boundaries.

Before the German unification in 1990, the Federal Republic consisted of 11 states, which were

established in the zones occupied by the Western Powers (the United States, Great Britain, and France). In the Soviet-occupied zone, at the end of World War II, five states were formed in the territory that later became the German Democratic Republic (G.D.R., or East Germany). After the first free elections on March 18, 1990, it was decided to create five new states on G.D.R. territory, very much along the lines of those that existed in the days before 1952. On October 3, 1990, the G.D.R. became part of the Federal Republic. At the same time, East Berlin was united with West Berlin.

There are some 82.6 million people living in Germany currently, and there are just under 7.3 million immigrants, which corresponds to 8.9% of the total population. At the beginning of the 1960s, many foreign workers started coming to West Germany. In recent years, integration within the European Union, the dissolution of the Eastern Bloc, and immigration from Asian and African countries have brought more people of diverse origins to the Federal Republic. Germany accepts a large number of asylum seekers and war refugees. Whereas in 1992, more than 430,000 people applied, since 1998 the annual number of asylum seekers has been under 100,000. In 2003, the figure stood at some 50,000.

THE POLICE FORCE

The first organized police forces in Germany date back to the early 19th century when some German kingdoms were influenced by Napoleon's Gendarmerie Nationale in France.

Today, there is no nationwide German police force. Law enforcement is a task (as are culture, universities, schools, and others) reserved for the 16 different states (*Laender*).

In the G.D.R. (East Germany), one central police force was established. Upon unification, this former People's Police (*Volkspolizei*) of the Democratic Republic was dissolved, and its members (after vetting for involvement with the former intelligence organization—the *Stasi*) were integrated into the police force of the so-called new states.

Each state maintains its own police force, where patrol police (uniformed) and detectives (plain-clothes) work together in the same force. Branches of the police force include the general or patrol police force, the criminal police (detectives), the emergency police force, and the water police. Their duties range from averting dangers to prosecuting crime. Generally, the uniformed patrol police force is mainly concerned with petty crime and minor offenses, whereas the criminal police deal with serious crimes and criminal offenses. This division of labor depends on the federal state: In some states, the uniformed police deal with more than 70% of all crimes; in other states, the percentage is less than 30%. In the prosecution of crime, the police are subordinate to the public prosecutor's office.

The uniformed (patrol) police primarily perform general public security functions, such as traffic problems and accidents, conflict resolution, minor crimes, and rendering assistance in different situations. Empirically, the usual task of a patrol police officer divides into 20% to 40% crimefighting (which is in fact the crime control), 20% conflict solution (disputes, family arguments), 20% helping people (drunken, helpless, elderly, etc.), and 20% to 40% traffic-related work (accidents, controlling traffic and drivers). Detectives, or the criminal investigation police, are responsible for all other, mainly severe crimes (usually starting

from robbery, serious assault, and breaking and entering).

The total number of police officers on duty (patrol police, detectives, border emergency, and water police) was about 265,000 in 2004, resulting in 1 officer per 330 inhabitants. However, if one calculates losses because of the shift system, illness, training, administrative tasks in ministries, and so forth, the actual number is approximately 1 officer available for 8,000 to 10,000 inhabitants at any given moment.

Every state maintains organizationally separate emergency police force units within its police force. These are supplied with the necessary control structures and operational equipment by the federal government. The emergency police forces are responsible for responding to exceptional circumstances including dangerous situations, in the case of natural disasters or accidents, as well as for assisting regular police duties in particular circumstances. The emergency police force (or standby police reserve) is also used as a riot police in each state. It is staffed by police recruits who are normally required to join this police force for 1 to 3 years after their initial training before they are posted to a local police force.

The Federal Border Guard (BGS) is a federal branch of the police force. Within the Federal Republic of Germany's internal security system, it handles specific policing tasks and answers to the Federal Ministry of the Interior. The tasks performed by the Federal Border Guard include patrolling the borders and railways and protecting aviation from attacks at most of the Federal Republic's major airports. Its duties related to border patrol are becoming more important with the rise of cross-border criminality on the country's eastern borders (such as smuggling of aliens, car smuggling, and drug trafficking). Since 1998, the Federal Border Guard has had extended powers to prevent illegal immigration, allowing it to check people's papers beyond a 30-kilometer zone on railway stations and at passenger airports. Furthermore, the BGS also has its own operational emergency forces. It also protects specific locations for selected constitutional bodies of the federal government and the federal ministries. Moreover, it has been

increasingly involved in international peacekeeping police missions abroad. The Federal Border Guard currently has some 38,500 members.

The German Police must investigate all crimes that come to their knowledge. The principle of legality, as stipulated by the Penal Prosecution Code (or Code of Criminal Procedure), regulates that the police are not allowed to dismiss a case; only the public prosecutor has such authority. Numbering slightly more than 5,000, the public prosecutors are for the most part concerned with criminal proceedings and the enforcement of sentences. When a person is suspected of a crime, it is their duty to lead the investigations with the assistance of the police, who are subject to the supervision and factual instruction of the public prosecutor's office. But in reality, more than 90% of all proceedings are completed by the police. Only in severe or difficult cases does the prosecutor advise the police what (or what not) to do. Following completion of investigations, the public prosecutor's office decides whether the proceedings should be terminated or prosecution instigated.

During the last part of the 20th century and the early 21st century, more than 70% of all cases brought to the prosecutor's office by the police were dismissed (the proceedings were closed by the prosecutor). More than half of all preliminary investigation proceedings against known suspects were dropped by the public prosecutor due to the lack of sufficient evidence or due to reasons of discretionary prosecution. Some 25% were passed on to the courts by means of a charge/application for penal orders. The remaining cases were settled in other ways, for example, by transferring them to another public prosecutor or by referring them for private prosecution. A conviction substantiated in a hearing before a deciding court has become the exception. The large scope for variation in assessment granted by these norms leads to considerable regional differences.

The majority of all convictions are now dealt with in written summary proceedings without trial. With a share of more than 80%, fines are by far the most frequent form of punishment. The suspended sentence of imprisonment is the second

most commonly applied sanction. Approximately 80% of those convicted were sentenced to pay a fine, approximately 14% had their sentence suspended, and approximately 6% were given an unconditional prison sentence, which normally leads to the offender being imprisoned.

The Federal Crime Agency (*Bundeskriminalamt* [BKA]) assists the federal and state units as a clearing agency for criminals and criminal actions. Federal officers' jurisdiction to investigate certain actions focuses on those inimical to the security of the state or criminal actions that transcend the confines of any given state. The responsibilities and powers of the BKA are regulated in the German Constitution and in the BKA Law. The BKA is subordinate to the Federal Ministry of the Interior and has the task of coordinating police contacts at national and international levels. It serves as the international criminal police force of the Federal Republic of Germany, which means that the BKA is responsible for investigations and searches involving a large number of cases in the field of international organized crime. All official communications between the German police and other countries are (and must be) routed through the BKA.

More than 3 million persons have file records at the *Bundeskriminalamt*. The electronic police information system at the BKA is known as INPOL. In 2004, the INPOL wanted-persons database contained approximately 892,000 arrest requests, including 667,000 expulsion orders/deportations of foreigners. An additional computer-assisted information system designed to store and retrieve data on persons and property is the Schengen Information System (SIS), which can be used for searches in the countries that are parties to the Convention Applying the Schengen Agreement (CAS). The establishment of the SIS was a significant compensatory measure following elimination of border controls at the internal borders of the CAS countries. SIRENE (Supplementary Information Request at the National Entry) is the national central office for information exchange relating to SIS searches. Within seconds, the search data can be accessed from more than 30,000 terminals located throughout the Schengen area. More than 10 million wanted notices are included in the

SIS (approximately 9.3 million property searches and 1.2 million searches for persons).

CRIME STATISTICS

Since 1997, the Police Crime Statistics Yearbooks have been published on the BKA homepage (<http://www.bka.de>). In 2003, 6,572,135 cases were recorded, with 2,355,161 offenders (23.5% of whom were non-Germans). The offense rate (number of registered cases per 100,000 inhabitants) for 2003 was 7,963. Although the number of theft cases has decreased continuously during the last years, theft still dominates the overall crime statistics with a share of about 47%. Murder (829 cases in 2003) and manslaughter (1,712 cases) are very rare crimes in Germany.

On average, approximately 50% of all crimes are solved, but the clearance rate varies substantially between individual areas of crime and regions. The clearance rate for breaking and stealing from cars is approximately 10%; for murder and manslaughter, the clearance rate is 95%.

The informational value of the Police Crime Statistics is limited by the fact that the police do not learn about all the criminal offenses that are committed. The extent to which crime goes unreported depends on the type of offense, and this can vary over the course of time in response to a variety of factors (e.g., public willingness to report offenses, the intensity of crime detection efforts). There is no nationwide or yearly victim survey in Germany, but in 2001 a First Periodical Report on Crime and Crime Control was published, where available data on victimization were compared with police and court statistics and analyzed by scientific experts.

POLICE RECRUITMENT, EDUCATION, AND TRAINING

Recruitment is organized by the state forces, which organize police schools for initial training. In some states, assessment centers are used to select qualified officers for further training and promotion, but usually the evaluation of the supervisors or senior

officers is used for further selection. Usually it is not possible to join the police force after the age of 26, and other criteria may append (minimum height, maximum weight, body mass factor, IQ tests, fitness and medical checks, etc.).

The training systems for police recruits vary from state to state. Police recruits are usually given up to 2 or more years of training, which consists of theoretical as well as practical components. The recruits gain knowledge and skills in subjects of law, intervention, psychology, political and social science, sports, and shooting. They also receive behavioral training (in the form of role playing). Recruits are paid throughout their studies. Once students successfully complete their studies, they receive the degree of Bachelor of Science in Public Administration; they are qualified for the medium level and may serve as a patrol officer or a detective.

To get to the next (second) level, 2 1/2 years of study at a Police University is required, with a diploma in public administration at the end and the rank of a Lieutenant.

Particularly qualified Police Officers may be admitted for the Command (third) level of the Police Department. These officers are appointed by means of a special selection system. The applicants must have served at least 3 years as an officer, but must not be older than 43 years. Training is divided into two parts: versatile theoretical and practical training lasting for 1 year at the Police University of the Federal State, and study for 1 year at the Central Police Command and Staff College in Münster. This Police Command and Staff College will be converted into a Police University in 2005, with an official Master's degree in police administration. After passing these studies successfully, the officer is appointed to the rank of Major and may then attain the highest police ranks in his state. To change to another state is possible but difficult and happens very seldom.

Approximately 50% of all police officers belong to the middle ranks, 45% to high ranks, and less than 5% to higher ranks.

The Bundeskriminalamt trains its own officers. Candidates receive their training during a 3-year

course of study at the Federal College of Public Administration as preparation for service. The course of studies is divided into a theoretical phase and a practical phase, each of which lasts 18 months. The BKA also provides special police training courses, advanced training in scientific and technical fields, foreign language courses and task-oriented operational training. Furthermore, the BKA provides basic and advanced training for police officers from other countries.

POLICE EQUIPMENT AND WORKING CONDITIONS

Because of the federal structure, there is no nationwide, homogenous equipment in use. This lack of standardization results in different patrol cars (from Mercedes, Audi, Volkswagen, and BMW to foreign models like Renault or Fiat) and different equipment (firearms, pepper sprays, batons, etc.) in different areas. The same is true for technology and communications. Usually modern technology is provided either by the BKA or by a central state crime agency. Radio and other communication is also varied, although there has been discussion of introducing digital radio and communication with other European police forces.

The police uniform is usually a combination of green jacket and beige trousers; although some states are adopting blue uniforms. Until the late 1990s, most police cars were green; after that many used silver vehicles with green or blue trim, to facilitate leasing contracts because silver cars are easier to sell when the police are finished with them. This is particularly true of Mercedes cars.

The police salary system is divided into three levels according to the service of the police (middle, high, and higher). Each rank has its own salary grade. The lowest rank receives a salary of approximately 2,000 euros; the highest rank goes up to 6,000 euros (2004). There are 10 salary levels. In addition, extra monthly payments are made for shift work. Whether or not an officer ascends from one rank to the next or changes from one level of service to the next depends on his or her performance and special training.

The retirement age is 60 years for all police officers (in 2004, it was planned to raise this age to 62). Early retirement is possible only in the case of illness or disability. For many officers, this results in up to more than 40 years on duty if an officer starts his career at the age of 18 years (which is or was not unusual; although with higher educational levels demanded, the average entry age is increasing to between 20 and 24 years). Part-time or fixed-time contracts are generally not possible, although part-time work is available for women for maternity reasons.

HUMAN RIGHTS, POLICE INTEGRITY, AND ACCOUNTABILITY

Amnesty International has published three reports on misconduct by police officers in Germany, the latest in January 2004. Cases of police misconduct, excessive use of force, or misuse of powers are investigated by special police departments, and each and every case must be delivered to the public prosecutor. Nevertheless, more than 90% of all cases are dropped by the prosecutor's office. Special commissions, ombudsman, or other systems that handle citizen complaints and unlawful police violence are not available in Germany.

The link between abuse of power and xenophobia is a frequent discussion topic for the German police. One theory blames the structural problems of police leadership as contributing to violent acts against foreigners or members of subcultures. In the late 1990s and early 2000s, many forces established guidelines, ethical standards, and codes of ethics, called *Leitbilder* (Guiding Principles). Whether or not these guidelines or codes really have an effect is unknown. After a university law student took a young child hostage in Frankfurt in 2003, discussion opened on whether or not special means of torture would be allowed or appropriate in such a case, or in cases of terrorist threats. Currently, the European Convention Against Torture does not allow any kind of torture—without exception.

The use of a gun by a police officer is a very rare event in Germany. Handgun usage by a police officer occurs in approximately 4,000 cases every

year. In 60 to 70 cases, the handgun is used against people, but in most cases the gun is used to shoot at dangerous or injured animals. Between 3 and 10 people are usually killed and some 30 are hurt during an average year by police guns in Germany. Between 0 and 9 German police officers are killed every year in line of duty, mostly as a result of guns fired at police officers or other weapons used. Officers killed in traffic or other accidents are not included in this figure.

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