

Due to factual connection all questions are answered together:

With respect to administrative supervision and budgetary control, federal courts are supervised by the Federal Government, Länder courts by the respective Land. Special rules apply to the judicial decision-making process and to the status of judges. The status of judges is mainly governed by the German Judiciary Act (Deutsches Richtergesetz, DRiG), as complemented by the Judiciary Acts of the Länder which contain, in particular, rules on legal education, appointment and promotion of judges working in the Länder. But German justice system does include numerous self-regulatory mechanisms with far-reaching authority in the form of committees for the selection of judges, court presidia and bodies for the representation of judges (councils of judges, councils for judicial appointments) at Länder level and federal level. These existing self-regulatory mechanisms serve to ensure the comprehensive independence of the judiciary.

I. Please find below the description of the competences of this self-regulatory mechanisms:

1. Representation of judges

The German Judiciary Act stipulates the establishment of bodies for the representation of judges, thereby enabling the judiciary to put forward its viewpoint in decision-making processes while at the same time allowing for interests to be balanced, conflicts to be resolved, and the efficiency of administrative action to be improved. At both the federal and the Länder level, the duties related to legal aspects of representation are performed by councils for judicial appointments (see point b below) and councils of judges (see point a below), the competence of which is regulated in detail by law.

a) The council of judges [called "Richterrat"] is conceived as a body with the task of representing the interests of a court's individual judges and its judiciary as a whole in negotiations with the court's management. At the federal level, councils of judges exist at all the supreme courts and at the Federal Patent Court. The councils of judges at the federal level are composed of elected judges, with the court's president and his deputy not being allowed to be members of the council of judges. The number of members of a council of judges is regulated by law and depends on the number of represented judges at the specific court in question. The councils of judges must be involved in matters concerning general and social issues. For example, their participation is mandatory in setting the organisational rules at the workplace, in determining the design and structure of the working environment, in the further training of judges, in drafting guidelines for the assessment of judges, in measures to reduce

the workload, etc. Section 72 of the German Judiciary Act provides that councils of judges must be established in the individual Länder and that their members must be elected from the ranks of the judiciary in direct and secret elections. Each Land legislature is free to regulate the further particulars

concerning the organisation and formation of the councils of judges. However, it is obligatory for the Land legislatures to have statutory provisions guaranteeing the comprehensive representation of all judges serving at the Land level.

b) With regard to the appointment of judges, the German Judiciary Act provides that the judiciary must be involved in the process via councils for judicial appointments [called “Präsidentenräte”].

These have the task of representing the jurisdiction's interests in negotiations with the competent highest service authority and with the committee for the selection of judges which is likewise involved in the appointment of judges. At the federal level, the council for judicial appointments must be involved prior to any appointment or selection being made. It delivers an opinion on the candidate's personal and professional aptitude, although this opinion is not formally binding (sections 55 and 57 of the German Judiciary Act). Councils for judicial appointments exist at all the supreme courts and at the Federal Patent Court (section 54 of the German Judiciary Act). The councils for judicial appointments are composed not only of members elected directly from the judiciary, but also of members of the court's presidium including the court's president who chairs the council for judicial appointments. Councils for judicial appointments must also be established in the Länder. However, the legislation provides the Länder with leeway in terms of how these should be individually structured.

Although the bodies for the representation of judges do not exert any direct influence on the budget for the justice system or on how that budget should be spent, the activities of these bodies can have an indirect impact on the spending of the budget due to the fact that some of the matters requiring their participation give rise to costs, such as the acquisition of new furniture or computers for example. The justice budget is prepared at both the federal and Länder level by the respective justice ministry. Once this budget proposal has been reviewed by the respective cabinet, it is submitted to the parliament for consideration and approval. The budget adopted by the parliament includes a section on the field of justice. This section is divided into one heading for staff costs and one heading for material costs. There is a tendency to provide the court presidents with a budgetary framework within which they can independently administer the funds allocated to them.

2. Presidium

Another self-regulatory body of the courts is the presidium. This is established at every court and is composed of the court president and up to eight additional judges, depending on the size of the court. In small local courts, the presidium consists of all the judges eligible to stand for election; no elections take place (section 21a (2) no. 5 of the Courts Constitution Act [Gerichtsverfassungsgesetz, GVG]). In all other cases, the members are elected for four years. Half of the presidium's members resign every two years (section 21b (4), first and second sentences, Courts Constitution Act). The presidium is responsible for the court's internal organisation. The presidium and its members are not bound in their activities by instructions. It reaches its decisions with complete judicial independence. The presidium is tasked with determining the principles for the allocation of court business. The roster allocating court business is set for the duration of one year and automatically expires at the end of the year. All the court business must be assigned to the competent judges in advance. The roster allocating court business distributes the duties on the basis of general and objective criteria. The presidium's tasks also encompass the assignment of particular duties to special divisions or special adjudicating bodies. Furthermore, the presidium is responsible for determining the composition of the adjudicating bodies, appointing the investigating judges, and regulating representation among the judges. It is also authorised to redistribute the allocation of court business in the course of the business year if there is a particular objective reason to do so. This ensures that neither the government nor other state authorities can influence the assignment of judges for the adjudication of specific cases. Thus via organisational rules within each court, these regulations concerning the presidium serve to secure the independence of the judiciary as constitutionally guaranteed in Article 97 (1) of the Basic Law [Grundgesetz, GG].

3. Committees for the selection of judges

Judges in Germany are generally appointed for life in order to guarantee their independence. At the federal level, the appointment of judges is done with the participation of a committee for the selection of judges. Pursuant to Article 95 (2) of the Basic Law, this committee decides on the appointment of judges at the supreme federal courts (the Federal Court of Justice, the Federal Administrative Court, the Federal Finance Court, the Federal Labour Court, and the Federal Social Court) in conjunction with the Federal Minister competent for the respective court. The committee for the selection of judges is composed of ex officio members (i.e. members by virtue of office) – these being the 16 competent Land ministers, whereby the competent minister in each case depends on the jurisdiction of the federal court at which the appointment is to be made – as well as an equal number of members appointed by the German Bundestag. These elected members must be eligible for election to the Bundestag

and experienced in legal affairs, but do not necessarily have to be members of the Bundestag. At the beginning of each legislative term, the Bundestag re-elects its members in the committee for the selection of judges. The Federation's committee for the selection of judges draws federalist legitimacy from its ex officio members and democratic legitimacy from its elected members. This inevitably distinguishes it from the committees for the selection of judges that exist at the Land level.

With regard to the Land level, Article 98 (4) of the Basic Law stipulates that the Länder may provide that Land judges shall be chosen by the Land minister of justice in conjunction with a committee for the selection of judges. Going beyond the wording of this constitutional provision, the participation of the committee for the selection of judges can be stipulated not just for the (initial) recruitment of judges but also for their promotion. In half of the 16 Länder, there are committees for the selection of judges which participate at the recruitment stage (e.g. Berlin, Brandenburg, Hessen) and others which are not involved until the stage of appointment for life and promotion (e.g. Rhineland-Palatinate, Schleswig-Holstein).

In sum you can notice the following:

Committees for the selection of judges have an active role during the selecting, appointing and promoting of judges. Representation of judges - Council of judges and Presidium - introduce their point of view of judges into decision-making processes. The Presidium of each Court performs an independent self-regulatory body. Furthermore there are many Länder that have delegated their original administrative tasks to the relevant President of Higher District Court or District Court. This concerns in particular the selecting, appointing and evaluation of judges.

II. Please find below the description of the Disciplinary proceedings against judges

Section 26 (1) of the German Judiciary Act (Deutsches Richtergesetz – DRiG) provides (for federal judges and Land judges) that, in principle, judges are subject to service supervision as long as there is no detracting from their independence (Article 97 Basic Law [Grundgesetz – GG]). Service supervision does not apply to judicial determination, which is a core part of judicial service, but instead covers only those activities of a judge which have to do with ancillary forms of attending to official duties (e.g. conducting meetings in court rooms, the use of uniform documents etc.). If a judge acts in breach of his duties, service supervision includes the power to impose the following two measures pursuant to section 26 (2) DRiG:

The judge may be reprimanded for an improper mode of executing his official duties, and he may be urged to properly and promptly attend to official duties.

For judges in federal service, the applicable law pertaining to public officials is the Federal Disciplinary Act [Bundesdisziplinargesetz – BDG]; for judges in service at the Land level, the respective Land disciplinary laws apply according to the individual Land laws governing judges. Section 63 (1) DRiG read in conjunction with section 5 BDG enumerates disciplinary measures for federal judges. Similar regulations exist regarding the Land judges.

Administrative supervision is undertaken by the president of the courts; and by the competent ministries in the last instance – as a rule, these are the justice ministries. Further serious disciplinary measures may only be imposed in the course of a formal disciplinary proceeding conducted by the judicial service courts; this is intended to ensure the most extensive possible independence of judges from executive bodies.