

SGI Sustainable Governance Indicators 2011

Germany report

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Executive Summary

Like most other industrial countries, Germany was hit hard by the financial crisis and the 2009 global recession during the period under review. This shock took on particular severity given the country's economic openness. However, this difficult period has offered a unique opportunity to study the strengths and weaknesses of the country's political and economic system with respect to its adaptability and resilience in the face of crisis.

This analysis reveals that Germany's economy is relatively robust, and that the country's labor market is today far more flexible than in the past. Although the German economy sunk into its deepest post-war recession in 2009, employment in 2010 rebounded to a level even higher than that of 2008. Various factors have contributed to this performance, which some are already terming a "German labor-market miracle." First, the country is now reaping the fruits of the controversial but ultimately successful Hartz reforms, which reduced structural unemployment. Second, an adequate economic policy reaction contributed to the success by allowing an undogmatic fiscal expansion during the crisis and the quick expansion of government incentives for reduced working hour programs (*Kurzarbeit*). Third, labor market parties behaved in a responsible and pragmatic way during the crisis. And fourth, demographic change is beginning to affect the country's economic reality, with the labor market becoming characterized by symptoms of expert labor shortage rather than oversupply.

The country's fiscal performance also indicates that the past years of reforms have started to pay off. Although government deficits during the crisis soared to double-digit levels in many OECD countries, they remained below 5% in Germany despite the government's enactment of active stimulus packages. In this context, one essential and far-reaching reform during the assessment period must be stressed: In 2009, a constitutional debt limit (*Schuldenbremse*) was introduced stipulating that the federal government deficit may not exceed 0.35% of GDP from the budgetary year 2016 onward, and that the individual federal states' budgets must be balanced from 2020 onward. While it is an open question whether these ambitious objectives can be reached, the new provisions are certainly an improvement as compared to their predecessors.

The crisis also allowed a revealing look at the degree to which Germany's governance systems function effectively. The government worked rather smoothly and quickly at the peak of the crisis, passing fast-track legislation in autumn 2008 that effectively stabilized the

banking system. Of course, numerous elements of all these quick decisions remain controversial. But it is widely accepted that the crisis management was in general appropriate and successful, at least in the short term.

Unfortunately, there are other critical fields where the assessment period has brought little progress. Thus, the health care system's direction of evolution is clearly unsustainable. The grand coalition's establishment of a health fund did not address the roots of the looming problems. With respect to old-age pensions, the grand coalition, as a kind of election campaign effort, gave pensioners new guarantees (the promise that no nominal cuts would occur) that partially undermine the automatic adjustment of pensions to demographic change. This type of appeal to older voters comes at the cost of undermining systemic sustainability. Nor is it evident that the correct regulatory conclusions have been drawn from the crisis. Of course, German policies are constrained by what is acceptable on an EU or OECD level in this respect.

Overall, the assessment period has not brought as much change as was observed in previous years. However, it has provided evidence that prior reforms had substance, and that they have improved the viability of the economic system.

Strategic Outlook

Any strategy to improve sustainable governance should first of all take account of a country's existing key strengths and weaknesses. In the course of the economic crisis, Germany demonstrated some surprising new strengths. For one, its labor market performance was excellent, and highly effective compared to that most other industrial countries. Its companies also proved to be highly adaptable in a severe weakening of the economic environment. But Germany's weaknesses were also obvious. High among these are the difficulties that governments experience in selling even successful reform projects to the voters, and in winning democratic support for these projects. As a consequence, some steps backward occurred, and more are threatening the successes that have been made. Examples include the weakening of pension reform through new, unsystematic guarantees for pensioners, and the move toward reregulation of the labor market and repeal of some elements of the Hartz reforms.

Behind these tendencies is the widespread impression that the past reforms may have been efficient but are not fair. Neither the grand coalition nor the succeeding coalition government paid sufficient attention to the fairness dimension of reforms. Only if reforms are perceived as both efficient and fair can they also be sustainable in

terms of voter acceptance.

Therefore, any strategy to improve the sustainability of governance should start with taking the fairness issue seriously. This is partially a matter of communication and partially of legislative substance. In terms of communication, the government should more clearly indicate, with convincing proof, how certain reforms benefit the most disadvantaged groups in society. For example, a convincing case can be made that the Hartz reforms have lowered long-term unemployment, and have thus successfully addressed the roots of poverty. But this aspect of the policy has not been communicated clearly. In terms of legislative substance, policymakers should look for areas where the needs of the most deprived could be addressed without distorting incentives. Here the priority should not be given to increasing the amount of transfers, as this carries unwanted disincentives to action. Instead, the top priority should be a more inclusive education system, with particular attention paid to early childhood.

Apart from that, much could be accomplished if German governments would simply refrain from taking additional action in the labor market and pension policy field during the next several years. Doing nothing is sometimes a better option than following each new popular demand. This would be true, for example, with respect to the ongoing discussion on new regulation for the temporary staffing sector (Zeitarbeit). This sector has contributed substantially to the German labor market's newfound flexibility, and has also served as a labor market entry point for the long-term unemployed. Legitimate intentions to safeguard decent working conditions in this sector must not lead to limiting its beneficial contribution to labor market flexibility. An equally risky project would be the establishment of comprehensive minimum wages. If minimum wages reach a critical level, they risk undermining the jobs particularly of low-skilled workers. This group still faces a high risk of long-term unemployment, so extreme caution is necessary. With respect to pension policy, simply allowing the formulas which dampen pension increases to work would be a solid contribution to sustainability. It will also be essential to avoid compromising the increase in the official retirement age to 67 by means of significant new exceptions. While further increases in the age of pension eligibility will likely be necessary in the long run given the increases in life expectancy, for the coming years the priority must be to defend the current level of 67 years, and to further increase the effective pension age by improving incentives to hire older workers. Such a relatively passive approach will not be sufficient in the field of health care. Absent significant reforms, ongoing demographic change combined with technological progress will lead to an explosion in

costs. A thorough reform must address both the expenditure and revenue sides of the system. On the expenditure side, efficiency should be increased, and the statutory insurance should be limited to existential risks. On the contribution side, new financing mechanisms must focus on loosening the link between health costs and labor costs.

A major challenge remains education. In this field, the ideological debates over the future of the three-pillar secondary school system miss the essential point. Education research has pointed to the absolutely crucial impact of early childhood conditions on life-long education and labor market success. A policy which seeks to improve the success of children coming from deprived families should therefore concentrate on optimal educational support in the first years after birth. Everything else is of secondary importance. This priority should guide the government's allocation of funds in the education system. Whereas in tertiary education, there are good reasons to allow a large share of private financing (including tuition fees backed by loan facilities), scarce public resources should be concentrated on improving the quality preschool education. In this respect, the move to abolish tuition fees for universities is misguided.

Overall, Germany has improved its ability to cope successfully with demographic change in the coming decades. However, major adjustments are necessary in the fields of education and health in order to safeguard the support of citizens for reforms in other fields.

Status Index

I. Status of democracy

Electoral process

Candidacy
procedures
Score: 10

The last general elections, held in September 2009, showed again that Germany's democratic electoral process is both sound and fair. Germany's Basic Law ensures that members of the German Bundestag, the country's lower parliamentary house, are elected in general, direct, free, equal and secret elections, serving for a legislative period of four years.

The Political Parties Act (PPA) sets general criteria for the treatment of political parties and candidates. While independent candidates have to fulfill a signature-gathering prerequisite in order to be eligible to stand for election, parties must meet strict organizational requirements. If parties have continuously held at least five seats in the Bundestag or in one of the parliaments of the federal states throughout the last legislative period, they are allowed to contest the election and to submit their nomination lists without any initial approval by the Federal Election Committee (FEC). All other parties have to formally notify the Federal Returning Officer (Bundeswahlleiter, FRO) of their intention to compete in elections at least 90 days before the election is held. On the basis of the FRO assessment, the FEC rules on each party's eligibility to participate in general elections. Due to the fact that the formal criteria stated in the PPA are vaguely formulated and open to interpretation, some political parties have argued that the decision on parties' eligibility risks falling prey to subjectivity. In its recent Election Assessment Mission Report, the OSCE called for definition of "a set of precise, objective and measurable criteria to determine which parties and associations are eligible to participate in elections" (OSCE 2009: 12).

Parties that defy the constitutional order can be prohibited by the Federal Constitutional Court, but no party has been subjected to the last resort of banning for more than 50 years. However, active debate on a possible ban of the rightist National Democratic Party (NPD) has been renewed since December 2008.

It is evident that the German judicial and administrative systems show a high sensitivity with regard to the fairness of the electoral process and the rights of parties. Nevertheless, an incident dating from the last

general election is worth mentioning. The Federal Constitutional Court rejected the urgent motion of two small parties whose lists of candidates for the general election had been dismissed in all federal states by the local state election commissions. As expected, the judges rejected the complaints as inadmissible, ruling that there was no right to appeal until after an election. Although there has not been the slightest concern in the public debate that this exclusion might have been influenced by any political factors, or that the FRO may have been influenced by the established parties, the judgment drew critical commentary from some lawyers. For instance, some constitutional lawyers complained about the lack of legal redress for small parties following cases where they have been barred from the electoral lists. Although this is perceived as a legal gap, the Federal Constitutional Court has so far not shown any intention to close it.

Media access
Score: 10

The legal framework for electoral campaigns is based on the freedom of assembly, which is codified in Article 8 of the Basic Law and ensures the “right to assemble peacefully and unarmed without prior notification or permission” but “(i)n the case of outdoor assemblies, this right may be restricted by or pursuant to a law.”

Whereas assemblies are regulated in detail, campaigning is largely unregulated by federal legislation. As mentioned above, the Political Parties Act (PPA) sets general criteria for the treatment of political parties. Of particular importance in the conduct of elections is Article 5, which requires that “where a public authority provides facilities or other public services for use by one party, equal treatment must be accorded to all parties.” During the period of an electoral campaigns, this general criterion applies to all parties that have submitted election proposals. The amount of services parties are able to use depends on their relative importance measured by the results obtained in the last general election. This is called the “principle of gradual equality” and constitutes the basis of parties’ access to media in conjunction with the Interstate Treaty on Broadcasting and Telemedia. In Article 25 of this latter treaty, the plurality of opinion is ensured: “The editorial content of commercial broadcasting must express plurality of opinion. The important political, ideological and social forces and groups shall be given appropriate opportunity to express themselves (...and) minority views shall be taken into account....”

This general guideline is further explored in the context of general elections: Article 42/2 states that “(p)olitical parties participating in elections for the federal parliament shall (...) be granted an appropriate amount of broadcasting time if an election list of this party has been admitted in at least one (federal) state.” This also counts for “...any party or other political association participating in the elections of representatives from the Federal Republic of Germany for the

European Parliament (...) if at least one electoral proposal has been approved.” The principle of gradual equality is also applied to television airtime, but the time granted to large parliamentary parties is not allowed to exceed twice the amount conceded to smaller parliamentary parties, which in turn receive no more than double the amount of airtime given to parties currently unrepresented in the federal or state parliaments. While campaign spots on the public media networks is provided free of charge, the private media can not impose airtime prices more than 35% of that demanded for commercial advertising (Arbeitsgemeinschaft Landesmedienanstalten 2005: 11). Non-parliamentary parties in particular rely on this broadcast advertising as an essential tool of campaigning. In addition, private media traditionally match the airtime allocation schemes of the main public broadcasters ARD and ZDF, thus giving airtime to non-parliamentary parties as well.

During the general election of 2009, parliamentary parties in general were satisfied with their access to public broadcast media. Criticism – especially from the Free Democratic Party (FDP), the Greens and the Left Party– arose when ARD and ZDF decided to cancel a debate among the party leaders of the five biggest parties due to reluctance by the Social Democratic Party (SPD) and the Christian Democratic Union (CDU) to take part. Furthermore, according to OSCE’s election report, “(s)ome of the non-parliamentary parties expressed dissatisfaction with the media’s tendency to focus coverage on the six largest parties, and stated that they were rarely invited to participate in political discussion programs or to give interviews.” Although that is true, in our view the principle of gradual equality seems to be an elaborate attempt to preserve a fair share of media coverage for small as well as for larger parties.

The period under review here saw a number of important elections. Most important were the general elections held on September 27, 2009, and the reelection of Federal President Horst Köhler (CDU) by the Federal Assembly on May 23 the same year. The Federal Assembly only convenes to elect the federal president and is composed of the members of the Bundestag and the same number of additional delegates nominated by the parliaments of the federal states. The federal president is thus not elected directly by the people. This absence of a direct legitimacy derived from the sovereign is unproblematic in our view. Germany’s president has mainly representative functions, and his or her opportunity to intervene in the legislative process is rare and limited to reviewing the procedural constitutionality of laws. Nevertheless, it is worth mentioning that there has been some discussion in the media dealing with the feasibility and desirability of electing the federal president directly. To

Voting and
registrations rights
Score: 10

sum up the debate, proponents of direct election have typically also argued for enhancing the federal president's powers (cf. *Sueddeutsche Zeitung*: 25.5.2009).

Based on the requirement of German citizenship, people aged 18 or over are eligible to vote and to run for election to the Bundestag, provided that they have been resident in Germany for at least three months. The right to vote can be denied to criminals by judicial order, to persons without legal capacity or to convicts currently residing in a psychiatric hospital. Every citizen not falling under the stated exceptions and who is registered in the municipal civil registry is automatically included in the voter register. Because registration with local authorities in Germany is mandatory, this system operates without severe difficulties. In the run-up to the election, every registered citizen eligible to vote receives a notification with all required information necessary to exert his or her right to vote, as well as an application form for postal voting. Citizens not included in the civil registry, such as homeless people, are eligible to vote but have to apply to the authorities in order to be registered. No problems have been reported in recent years. There is no real doubt that the legal situation also describes administrative reality.

The grand coalition cabinet under Chancellor Angela Merkel introduced several amendments to the Federal Electoral Act – the last one in May 2009 – including the broadening of the right of Germans living abroad to vote. Beginning with the last election, German citizens abroad who have lived in Germany for at least three months have been able to apply to register for the vote with the authorities of their last domestic residence. If this is done at least 21 days before the election, they then can cast their votes by mail. Furthermore, the need to justify (i.e., give a valid reason for) the desire to cast votes by mail was abolished. These reforms can be seen as qualitative enhancements to an already high standard. Worth mentioning too are the efforts of authorities to facilitate voting for people with disabilities. In general, one can conclude that all adult citizens can participate in national elections if they so wish. Exceptions to this rule are scarce, and those that do occur are well considered and justified. Thus, no observable structural discrimination occurred in the period under review.

Germany's political parties finance their activities in line with the PPA, through state funding, membership fees and donations. Sponsorship has recently drawn attention as a fourth but still minor source of revenue. In order to be eligible for state funding, parties must win at least 0.5% of votes in federal or EU elections and 1% in federal state elections. Every vote up to a 4 million cutoff point results in a state contribution to the party of €0.85; votes above that receive €0.70.

Party financing
Score: 8

Additionally, individual donations up to €3,300 are matched by the state with €0.38 per euro collected. According to the OSCE report, most parties are satisfied with the current arrangements (OSCE 2009: 16). German legislation does not contain any specific provisions regarding campaign financing or expenditure.

Transparency is a basic principle of the German party financing system, but is still open to improvement. The OSCE recommended that in order “(t)o further enhance transparency of party financing, including of electoral campaigns, consideration could be given to requiring immediate publication of information on large donations, as well as to speeding up the publication of annual reports” (OSCE 2009: 17).

With respect to campaign finance monitoring, German regulation is well developed, but again with room for improvement. The Basic Law and the PPA stipulate that the president of the Bundestag receives parties’ annual financial reports by the end of the third quarter of the following year. A certified auditor verifies the financial reports before the submission. The reports include detailed income, expenditure and asset accounting, and list all donations as well as the names of donors whose total contribution exceed €10,000. If a party does not meet these requirements, a fine double or even three times the amount of the misstated donation can be imposed. Recently, several parliamentary parties were confronted with accusations of circumventing the PPA regulations. In December 2009, the Free Democratic Party (FDP) and the Bavarian Christian Social Union (CSU) were accused of accepting donations made by a German billionaire and hotelier of approximately €2 million in exchange for supporting a value-added tax (VAT) reduction for the hotel industry. This scandal has not yet provoked any change in regulation. But the scandal ignited a heated debate lasting several weeks concerning the questionable quid pro quo relationship between political parties and their sponsors.

In the spring of 2010, the prime minister of the federal state North Rhine-Westphalia, Jürgen Rüttgers, drew negative international attention. In order to finance an election campaign, Christian Democratic campaign organizers had approached several companies proposing that in return for a contribution of €6,000, a personal conversation with Rüttgers would be arranged at the party’s convention. The scandal grew in size when party officials of the Christian Democrats in Saxony had to admit that they were conducting similar sponsorship practices. Although the affair resulted in the resignation of Rüttgers as secretary general, the lasting effects of the revelation seem to be minimal. The cases of questionable party-sponsoring led to an open letter by Transparency International

Germany and other organizations asking the chairmen of the parliamentary parties to tighten the PPA. So far, initiatives to enhance transparency and to regulate sponsorship of parties more specifically in the PPA have been introduced in the Bundestag by the Left Party and the Greens (Bündnis90/Die Grünen). They will probably be rejected by the coalition majority, however. On the one hand, these debates indicate that there could be a problem with illegitimate influence by donors. On the other, the resulting negative attention shows that transparency works at least partially, and that parties risk sullyng their reputation if they cannot dispel this criticism.

Access to information

Media freedom
Score: 8

The German Basic Law guarantees the freedoms of expression, press and broadcasting, and prohibits censorship (with limitations set by mutual respect, personal dignity and the protection of young people). This high standard of independence from political interference holds true for the print media, which is largely self-regulated. The German Press Council was established to protect the freedom of the press. However, Germany found itself at only 18th place in the Worldwide Press Freedom Index 2009, a disappointing showing compared with the aforementioned high aims. In the realm of television, the Interstate Treaty on Broadcasting and Telemedia creates a general countrywide framework for public and private broadcast media. In the private broadcasting sector, governmental influence is limited to general provisions, regulations and guidelines aimed at preventing discrimination or other abuse of broadcast media as stated in the interstate treaty. While the relationship between public authorities and private media can be seen as unproblematic, there are observed dependencies between authorities and the public media that are at least questionable.

An event in late 2009 raised considerable doubts as to whether German party-biased public authorities are still willing to guarantee the independence of publicly owned media outlets. The politically motivated dismissal of ZDF Chief Editor Nikolaus Breider by the ZDF administrative board attracted extensive attention. The issue was raised as to whether German politicians should be allowed to influence the career prospects of the journalists who report on them. Several constitutional lawyers raised constitutional objections to the composition of the board itself. The quarrel will have legal ramifications. In the aftermath of Breider's dismissal, the executives of the federal states were unable to come to agreement on a reform package that would have redefined states' involvement in the public media arena. Subsequently, Kurt Beck (SPD), prime minister of

Rhineland-Palatinate, announced that his state would file a judicial review against the ZDF interstate treaty (Spiegel Online: 25.03.2010). Beck, who is also chairman of the ZDF administrative board, cited concerns regarding the unconstitutional exploitation of governmental power and questioned whether the publicly owned media truly possessed independence.

The appeal to the Constitutional Court has some prospects of success, as evidenced by the harsh reactions of constitutional lawyers to the ZDF case. A group of 35 constitutional law scholars discussed the high-profile case in an open letter, concluding that the incident was an “obvious attempt to strengthen the influence of party politics” (FAZ: 22.11.2009) on public broadcasting. While media freedom is without doubt given high value and is effectively protected in Germany, this affair indicates that not all politicians really respect this principle fully.

In Germany, the scope of media concentration is determined by law to ensure the representation of the entire spectrum of opinions. The Interstate Treaty on Broadcasting and Telemedia (Rundfunkstaatsvertrag, RfStV) defines a threshold of an annual average of 30% of viewers, at which a prevailing dominance over public opinion is assumed. The Federal Cartel Office (FCO) has used its powers to block several potential mergers in both the print and electronic media sectors. In a case current as of the time of writing, the FCO was looking into the planned merger of two news agencies that risked significant distortion of fair market competition.

Germany's media environment can be described as pluralistic, decentralized, and compared with other European television and radio markets, very diverse. Such structural diversity guarantees the independence of media and facilitates substantive, content-related diversity in opinion and information (cf. Wyss 2002). In the broadcast sector, a variety of public and private television and radio channels across the country compete for the attention of the audience. Local and regional broadcasters play a meaningful role in this competition. Two main public television broadcasters operate at the national level: ARD – a conglomerate composed of various regional TV channels – and ZDF. According to the Arbeitsgemeinschaft Fernsehforschung, a media research cooperative, the public broadcasters had a combined market share of 42.9% in 2009. The program share of reports on the political process is relatively high, and can be characterized as in-depth and well investigated. On the other hand, private networks obviously have a significant market share as well. In the private sector, two media groups are dominant: The RTL Group holds an audience share of 25.2%, while ProSiebenSat.1 Media AG accounts for a 21.9% share. Since it is also possible to receive international

Media pluralism
Score: 10

news channels via satellite, independent political coverage is available to everyone.

The nationwide print media market is dominated by five leading daily newspapers and the Bild tabloid, which has by far the biggest circulation in Germany. Additionally worth mentioning as agenda-setters are a number of weeklies. The Internet has become an increasingly important medium for citizens to gather information and broadcasters, radio stations and newspaper publishers have adapted to the new circumstances by providing a large portion of their services online.

Besides the variety of different broadcasters, radio stations and newspapers, several German-speaking news agencies exist, among which the leading German news agency merits special mention. It is a joint venture of several broadcasters and newspaper publishing companies, and affords a network of correspondents around the globe, thereby guaranteeing its shareholders independent and firsthand news coverage.

In his second annual report for the years 2008 – 2009, the Federal Commissioner for Data Protection and Freedom of Information (FCDI) made clear that the effort to create a transparent federal administration remains far from complete. The 2006 Freedom of Information Act (FIA) remains largely unknown among the citizenry. Moreover, although many federal agencies try to ensure transparency, some public authorities have taken a very restrictive regulatory interpretation when evaluating information requests. Some have even sought to delay the process in order to deter citizens seeking to exercise their right to information. According to the FCDI, changes in governmental practices as well as further limitations to statutory exceptions are needed. Furthermore, the coexistence of different standards regarding information requirements in the FIA, the Environmental Information Act and the Consumer Information Act has proved to be an impediment. The commissioner's annual report listed 248 cases where citizens sought help in response to federal authorities' reluctance to make documents available to the public. In a third of the cases, the FCDI confirmed that the information was protected by confidentiality provisions or other FIA exceptions. In almost 40% of the cases, the commissioner's activity resulted in the release of information. In four cases, the FCDI issued a formal complaint. German authorities, thus, have room for maneuver, and they clearly make use of it.

For instance, the Federal Administrative Court decided that the Ministry of Transportation is not obliged by the FIA to release information on the movements of alleged CIA rendition flights. Whether access to official information can be rejected because of

Access to gvmt.
information
Score: 7

possible adverse effects on international relations is subject to an evaluation by the competent authority. This evaluation can be made only by the administrative courts, the judges argued (NVwZ 2010: 321). Some experts perceive this to be a general tendency. Moreover, some critics contend that the fees citizens must pay in advance in order to obtain official information are excessive. These costs might serve as a deterrent.

Finally, Germany is not one of the 12 Council of Europe states that signed the Convention on Access to Official Documents in June 2009. This, together with the low media attention paid to the FIA, indicates that this general complex of ideas and rights is not a high priority for the German public or media.

Civil rights

Civil rights
Score: 9

All civil rights mentioned are codified in the Basic Law, and their modification is only possible through a two-thirds majority in the Bundestag and Bundesrat. Indeed, some of the provisions concerning basic human rights are not alterable at all. This provision ensures that fundamental human rights are inviolable even for a majority of citizens or the parliament.

In general, all state institutions respect individual freedoms and protect civil rights. The court system works independently and effectively protects individuals against executive encroachments and legislative acts. In the Economist Intelligence Unit's Democracy Index, Germany was ranked 8th, with a score of 9.41 out of 10.

In 2009, the European Court of Human Rights (ECHR) found 18 violations of human rights principles in Germany, mostly associated with the length of legal proceedings. In December 2009, the ECHR ruled against Germany on a case in which preventive detention for a violent criminal was extended well beyond the individual's original sentence. The ruling is expected to have far-reaching consequences. Moreover, recent developments in the collaboration with other states in the war on terror have weakened the prohibition against torture in Germany. Some states use torture to gather information. It has become evident that there are no clear rules for dealing with information from foreign sources that was gained through torture. In a speech held in September 2008, Deputy Federal Attorney General Rainer Griesbaum argued that when facing the threat of global terrorism, no kind of information should be discarded categorically. Rather, each case had to be assessed individually, he said. The legal opinion of Hamburg's Higher Regional Court in the case of El Motassadeq, which argued that the usage of information should be prohibited only if the use of torture in the acquisition of information

could be verified, has become the majority legal opinion among German judges, reducing the legal principle of benefit of the doubt to absurdity.

With respect to the limitation of state power, a very disturbing case recently gained public attention: The Federal Court of Justice decided in January 2010 that Oury Jalloh's death by fire while in police custody had to be retried. In 2008, the Regional Court Dessau (Saxony-Anhalt) had acquitted two police officers respectively of aggravated bodily injury resulting in death and involuntary manslaughter. In his oral ruling, the judge criticized the testimony of most of the police officers, which had made a proper trial impossible. As of the time of writing, a case is still pending due to false testimony in court against one police officer. The judge was also highly critical about the "perfunctory inquiry" performed by the police. Amnesty International stated that this case was not isolated, and that in fact several examples of police misconduct and the use of excessive violence could be found in the last couple of years. Since there are statistics neither on the number of indictments nor on sentences against police officers, quantification of this issue beyond the summing up of particularly severe cases is difficult.

Amnesty International and other human rights organizations have also criticized Germany with regard to the deportation of asylum seekers.

Political liberties
Score: 9

Political liberties enjoy the utmost protection of the German Basic Law. Given the historic experience of Nazism, there is a high awareness on the part of all governmental organizations that limitations of the right to speak, assemble, organize, worship or petition must be kept to an absolute minimum.

Political pluralism is in general guaranteed, but is constrained by laws restricting the far left and far right. Nazism is illegal, but the government's attempts to ban the NDP failed in 2003. Freedom of expression is protected in the Basic Law, though there are exceptions for hate speech and Nazi propaganda such as Holocaust denial. Except in the case of opposition to the democratic order, the right to assemble peacefully is guaranteed and not infringed upon. In this context, the Federal Constitutional Court overruled the newly established Bavarian Assembly Act on the basis of doubts as to the stated obligations of disclosure. The freedom to associate and to organize is generally respected. Non-governmental organizations operate freely. Every person has the right to address requests and complaints to the "competent authorities and to the legislature" (Article 17 of the Basic Law). Freedom of belief is also protected by the Basic Law, but some churches are provided with particular advantages. As "corporations under public law," they fulfill public duties, but this role

also hinders a complete separation of church and state. Furthermore, public sector workers are not allowed to wear prominent religious symbols such as headscarves, as these are considered to be contradictory to the employees' secular tasks. Aygül Özkan (CDU), minister of social affairs in Lower Saxony and the first minister with a Turkish migration (and Moslem) background, provoked a storm of protest when she highlighted as contradictory the fact that religious symbols such as the crucifix remained in public school classrooms while headscarves were banished. Nonetheless, religious communities without a long tradition in Germany, such as Muslim communities, are allowed to build houses of worship. Legal disputes sometimes emerge over the particularities of these buildings, but these disputes emanate from the administrative rules governing new buildings in general, and any discriminative administrative praxis is hard to identify.

A new data-retention law requiring firms to store information such as emails and telephone conversations for up to six months went into effect at the beginning of 2008, but was overturned by the Federal Constitutional Court. The data storage "represents an especially grave intrusion" into citizens' privacy and could "cause a diffusely threatening feeling of being under observation that can diminish an unprejudiced perception of one's basic rights in many areas," said the president of the court as he read out the decision. While not annulling the legislation entirely, the court asked for immediate deletion of stored data and for a massive modification of the law, ensuring that the use of stored data must be limited to a proven "concrete danger."

The Basic Law stipulates that every person, irrespective of parentage, sex, race, language, ethnic origin, disability, faith, or religious or political belief has the same rights. The 2006 General Equal Treatment Act added age and sexual orientation to that enumeration. The Federal Anti-Discrimination Agency (FADA) monitors compliance with anti-discrimination norms and principles, supports persons who have experienced discrimination, mediates settlements, informs the public about infringements, and commissions research on the subject of discrimination. FADA reports about 9,600 contacts with people feeling discriminated against in the period August 2006 to March 2010. Discrimination on the ground of age (23.6%), gender (21.3%) and handicap (17.9%) were most frequent.

An initiative by several federal states to incorporate a ban on discrimination based on sexual identity in the Basic Law was rejected by the Bundesrat in November 2009. In April 2010, several legal scholars confirmed that the existing article and the General Equal Treatment Act together guarantee sufficient protection for lesbian, gay, bisexual, transgender and intersex persons. A draft provision

Non-discrimination
Score: 8

aimed at reducing the wage gap between women and men was dropped after the inauguration of the second Merkel administration. It is debatable whether a law-based approach is promising on this issue. Critics argue that it is methodologically difficult to prove the existence of a discrimination-based wage gap, given that many determinants beyond gender can legitimately cause wage differentials. These difficulties can leave a law-based solution ineffective, and risk creating an expensive and useless new bureaucratic burden for companies and employees. Nevertheless, the issue remains on the agenda because the previous strategy of voluntary agreements between the government and leading private-sector associations has turned out to be insufficient.

In the courts, several important verdicts were rendered in favor of persons subject to discrimination, including on the issue of the unequal treatment of marriage and (same-gender) civil partnership with respect to a dependent's pension. The Federal Constitutional Court ruled the previous legal situation to be unconstitutional (cf. *Antidiskriminierungsstelle des Bundes* (ed.) 2010: 20). Other judgments supported existing law such as the ban on religious headscarves in public buildings, or the distinction between disability and illness in the context of permissible questioning during job interviews (cf. *Antidiskriminierungsstelle des Bundes* (ed.) 2010: 11p.).

More broadly, international non-governmental organizations recently criticized the German government for rejecting an EU Council of Ministers draft measure concerning equal treatment and equal opportunity. Again, the fear of imposing additional bureaucratic burden in return for questionable benefits was among the reasons for this rejection.

Rule of law

According to the Basic Law, Germany is a constitutional state, and German authorities live up to this high standard in constitutional reality as well. One indicator illustrating the trust among German citizens and foreigners is the particular confidence shown in the quality of contract enforcement, property rights, the police and the courts. According to the Global Competitiveness Report 2009 – 2010, foreign investors appreciate Germany's positive legal environment very much.

In addition, Germany's judicial branch is in an inarguably strong position with regard to the assessment of administrative legality. In general, the more independent courts are from political influence, the more powerful they are with respect to competences and resources, and the easier it is for citizens to get access to the courts, the more

Legal certainty
Score: 9

that the government and administration are bound to act on the basis of and in accordance with legal provisions to provide legal certainty. Doing otherwise under these conditions would risk being continually overruled, which would undermine institutional legitimacy. Germany's supreme court stands out due to its substantial institutional powers in combination with a high degree of independence from political exertion of influence (cf. Kneip 2009: 647p.). For instance, as in most countries in the SGI report, public authorities as well as legislative acts are bound by Federal Constitutional Court (FCC) verdicts; neither government nor parliament can overrule a decision (unless the Basic Law itself is changed). The FCC's final say on the interpretation of the Basic Law secures the high degree of legal certainty that holds in Germany.

Nevertheless there have been some incidents that raise doubts about governments' willingness to act in accordance with legal provisions at all times. An example is the alleged promotion of a party colleague to a top police position the state of Hesse by Volker Bouffier, the Hessian secretary of state. This action was found to be faulty and "grossly illegal" by the Higher Administrative Court of Hesse, and had to be retracted. But this incident also demonstrates that the rule of law works and is protected by the courts.

All government bodies are obliged to comply with the Basic Law. The structural principles of Germany's constitutional jurisdiction can be described by the term "specialized" (cf. Kneip 2008). Specialized courts review state actions, for example. According to the Global Competitiveness Report 2009 – 2010, Germany's judicial branch acts independently of influence by government members, citizens or companies (achieving a report score of 6.4 out of 7) (The Global Competitiveness report 2009 – 2010: 350). This remarkably high score is an expression of the significance of the judicial branch in Germany. Judicial independence on all levels is secured by the Basic Law. In addition to the Federal Constitutional Court, there are five supreme federal courts in Germany: the Federal Court of Justice as the highest court for civil and criminal jurisdiction, the Federal Administrative Court, the Federal Finance Court, the Federal Labor Court, and the Federal Social Court. This division of tasks guarantees highly specialized independent courts with manageable workloads, and thus fulfills the requirement of a differentiated organization. Professionalism is generally secured by well-established procedures for legal education, although the system's scholastic backwardness and reluctance to agree upon Europe-wide education standards is sometimes subject to criticism (Zeit 2009). Germany's Federal Constitutional Court (FCC), which is not subject to supervision by any ministry, has extensive powers (Kneip 2008: 646). The FCC ensures

Judicial review
Score: 10

that all state institutions obey the Basic Law and act particularly to apply the fundamental rights. The court acts only when an appeal has been made, but can declare a law unconstitutional and has exercised this right several times. In case of conflicting opinions, the decision made by the FCC is final; all other governmental and legislative institutions are bound to comply with its verdict. The FCC's most important procedures are as follows: If a measure, administrative body action, court verdict or law is believed to infringe a fundamental right, anyone can lodge a constitutional complaint. In addition, courts, the federal government, a state government or one-third of the members of the Bundestag can file a complaint if they consider a statute to be unconstitutional. Furthermore, the Federal Constitutional Court adjudicates in cases of constitutional dispute regarding mutual constitutional rights, the duties of constitutional bodies, or between the federal government and the federal states. In such cases, only the federal president, the Bundestag, the Bundesrat or the federal government can appeal.

The work of the FCC thus has tremendous political implications. For example, the court instructed the parliament to ensure that the Bundestag and the Bundesrat had sufficient participation rights in European lawmaking and treaty amendment procedures. In another ruling, the FCC decided that provisions concerning the standard social benefits did not comply with constitutional requirements. The justices unanimously criticized the method of calculating the subsistence minimum benefit payment as insufficiently precise. Hence, the FCC ordered a revision of the so-called Hartz IV legislation by the end of 2010.

In 2008 and 2009, a total of 12,886 new cases were brought forward (for annotated figures, see website of the Federal Constitutional Court). Two of these were concerned with complaints regarding electoral proceedings, eight dealt with constitutional disputes between federal bodies, two involved review of statutes after application by a constitutional body, 80 reviewed statutes following judicial referral, 241 were temporary injunctions and 12,553 were constitutional complaints. In the judicial year 2009, a total of 128 constitutional complaints were lodged against sovereign acts of federal, federal state or European Union authorities. While these figures indicate that most of the cases heard were appeals against judicial decisions or legal provisions, it is also obvious that the supreme institution of the judicial branch controls whether government and administration act in conformity with the law.

If there are problems with the courts monitoring the rule of law these are related to resources and the duration of processes. The courts are overloaded, which leads among other problems to lengthy

proceedings. In 2008, 43% of proceedings in front of the administrative courts were concluded within six months and 65% within 12 months. However, the differentiation of proceedings, allowing for urgent decisions, guarantees that these problems do not affect the power of the FCC to effectively oversee public administrative and legislative compliance with the Basic Law.

Appointment of
justices
Score: 8

Federal judges are appointed by the responsible sectoral minister and the Committee for the Election of Judges, which consists of the respective subject-area ministers of the states and an equal number of members of the Bundestag. Half the Federal Constitutional Court justices are appointed by the Bundestag, and the other half by the Bundesrat. The FCC consists of 16 justices, who exercise their duties in two senates (panels) of eight members each. Whereas the Bundesrat, in accordance with the provisions of the Basic Law, elects justices directly and openly, the Bundestag delegates its decision to a committee, where the election takes place indirectly, secretly and not transparently. The composition of this 12-deputy committee is proportional to party strength in the chamber. Decisions in both houses require a two-thirds majority. To sum up, in Germany justices are 1) elected by 2) several independent bodies. The election procedure is 3) representative, because the two involved bodies do not interfere in one another's decisions. The 4) required majority in each chamber is a qualified two-thirds vote. By requiring a qualified majority, the political opposition has a secure influence over the selection of justices, regardless of temporary majorities. Nevertheless, attention should be drawn to the non-transparent election procedure of one-half of the justices, although even here candidates are extensively discussed in the media prior to the decision.

Corruption
prevention
Score: 7

In the Heritage Foundation/Wall Street Journal Index of Economic Freedom 2010, Germany achieved a score of 79.0, ranking 14th in the category "freedom from corruption." Although that may seem mediocre, one has to acknowledge that Germany is doing better than its peers France, Great Britain or the United States. Additionally, Germany achieved a score of eight out of 10 in the 2009 Transparency International Corruption Perception Index (CPI) (http://media.transparency.org/imap_s/cpi2009/). Compared with the beginning of the millennium, Germany has made slight improvements. According to the World Bank's "control of corruption" indicator, Germany is doing quite well relative to the world's 10 most important economies. With a score of 93.2 it is the runner-up behind Canada (which achieved a score of 95.7).

On the other hand, Germany has signed but not ratified the United Nations Convention against Corruption (UNCAC). In addition, national rules concerning asset declarations by members of parliament are

loose and subject to critique. As early as June 2005, the German Bundestag amended the Political Parties Act and the Annex to the Rules of Procedure of the German Bundestag, the code of conduct for members of the German Bundestag. Despite inarguable improvements, the new practice of publication of asset declarations still possesses significant shortcomings. The goal of the reform was to give the electorate insight into the deputies' activities and income structure, but this is not achieved in the best possible way. Each member of the German Bundestag is obliged to give information about his or her ancillary income when it exceeds €1,000 in an individual month or €10,000 per year. In the most recent report as of the time of writing, 25.2% of Bundestag members had to declare additional revenues, with 16.9% earning more than €7,000 in one or more activities during the current legislative term (data extracted on April 25, 2010: www.spiegel.de). In 2007, the average minimum ancillary income for members of parliament was approximately €9,300 (own estimation according to data provided on www.nebeneinkuenfte-bundestag.de) – a figure which has not changed significantly in the last several years. An analysis of the data (www.nebeneinkuenfte-bundestag.de) shows that the release of three income levels provides no clarity as to the potential influence of politicians' external financial interests in the political process. Transparency International has demanded that, in order to increase transparency, comparability and uniformity, all regulations concerning the code of conduct of members of parliament should be integrated into a single comprehensive body of legislation. That is not the case with the current provisions.

Furthermore, according to the experts from the Group of States against Corruption (GRECO), the definition of corruption in the national parliament is also "extremely limited," and the provisions for political bribery, which are laid down in the criminal code (§108e), are not in accordance with international standards. Only the actual buying or selling of votes in elections is considered to be a criminal offense. The unequal treatment afforded to parliamentarians, public officials and public service employees is also striking. While the latter two categories face prosecution in the case of bribery, no such rules apply to parliamentarians.

II. Policy-specific performance

A Economy

Economy

Economic policy
Score: 7

The recent years have been characterized by a series of reforms which have aimed at preparing the pension system for demographic change, improving the tax system's global competitiveness and consolidating the budget. The priorities of the reform program have been adequate given the external constraints: that is, taxes have been lowered particularly in areas where taxpayers are highly mobile (as in the case of multinational companies).

The GDP decline in Germany following the global financial crisis was clearly above the OECD average due to Germany's marked export orientation. Therefore, the German economy's export dependency is sometimes criticized as too one-sided. However, the labor market performed remarkably well during the crisis, and the bulk of new jobs were created not in the export-oriented sectors, but rather in the service sector.

What is also remarkable is that the improvement in Germany's economic performance has not been achieved solely by political intervention, but also by highly responsible industrial relations. Trade unions and employers' associations have paved the way for a high degree of flexibility in wage settlements, working-time arrangements and other issues. Thus, the competitive situation of each single sector and company is now much better reflected in its specific working conditions, compared to the high degree of uniformity that prevailed in former times. Stable unit labor costs have also enhanced the competitiveness of German exporters.

Beyond these structural successes, the government has also acted quite determinedly in order to steer the economy through the economic crisis. The first stimulus package, launched in November 2008, amounted to €3.9 billion in 2009 (0.2% of 2008 GDP) and €7.1 billion in 2010. The most important elements of the package were a temporary reintroduction of declining-balance depreciation for certain types of investment goods and an increase in public investments. The second stimulus package, launched in January 2009, was significantly larger, amounting to €54.3 billion to be spent in 2009 and 2010. Its measures comprised, inter alia, infrastructure improvements, incentives to buy new vehicles through the car scrappage scheme, a

loan and guarantee program for companies, and other measures including subsidies for R&D investments by small and medium-sized businesses (SMEs). The third stimulus package, passed in December 2009, envisaged measures worth €8.9 billion, including increases in the standard child allowance and in child benefits, a reduction in the inheritance tax, a revision of recent tax reforms to ease burdens on medium-sized businesses, and the lowering of VAT for hoteliers. Although all three packages provoked controversial debate, their basic constitution was welcomed by mainstream economic advisors such as the Council of Economic Advisors.

Recent simulations by the OECD suggest that the measures contained in the first and second stimulus packages boosted GDP by around 0.5% in 2009 and a further 0.2% in 2010. Beyond these policies the expansion of subsidies for reduced-hour working programs (Kurzarbeit) had major stabilizing effects due to its positive impact on employment stability and consumer confidence.

Since the beginning of the crisis, the country's budget deficit and gross public debt have risen substantially, although deficit levels contrast very favorably to deficits as much as twice as large in countries including the United Kingdom and the United States, and also to the relatively much higher deficits in France.

However, major challenges remain to be addressed in the coming years. Labor market reform remains an issue. Budgetary policy must lower structural deficits. Furthermore, the underlying causes of the banking sector problems need to be addressed in a more coordinated manner. In addition, Germany has continuing weaknesses in research, development and education; the unfavorable climate for the employment of women; and an overly restrictive immigration law for non-European Economic Area citizens.

Labor market

Germany's labor market performance has improved considerably in recent years, and has shown strong resilience coupled with surprising stability over the course of the financial crisis. The country's approach to regulation is very specific. While employment protection is far-reaching for employees with regular contracts, some flexibility exists with respect to fixed-term contracts. Furthermore, the temporary employment sector has expanded quickly, offering a substitute for the lack of dismissal flexibility.

While wage settlements are characterized by collective agreements, there is a growing leeway on the individual firm level to deviate from the collective agreements, particularly if the individual firm is in a weak competitive situation.

Labor market policy
Score: 9

To date, the use of minimum wages has been very limited. No overall statutory minimum wage exists. However, in a few specific sectors, minimum wages have been introduced. With some exceptions (e.g., the minimum wage for postal services) the levels of these minimum wages have been moderate enough that no negative effects on the number of jobs materialized.

In the years prior to the current economic crisis, unemployment fell continuously. While this decline in unemployment came to a halt in 2008, the reaction of the German labor market was small compared to many other countries. Despite the dramatic reduction in real GDP at the end of 2008, the unemployment rate did not rise in 2009. Moreover, the number of unemployed individuals began to fall again in 2010, a development standing in sharp and positive contrast to the trends in most other industrial countries.

There are several explanations for this so-called German job miracle. Some of these are demographic, since the number of workers retiring now exceeds the number of young people entering the labor market. Furthermore, this development reflects the far-reaching labor market reforms passed in 2003 and 2004 (the so-called Hartz reforms), which merged the unemployment and social assistance benefit schemes, improved the efficiency of the labor office, liberalized temporary work and included numerous other measures. This reform was only recently stabilized in terms of its legal basis. While the Constitutional Court ruled against the measures' creation of mixed administration in job centers (ventures cooperatively operated by municipalities and the regional offices of the Federal Employment Agency), government and opposition eventually agreed upon a constitutional amendment in March 2010. Furthermore, non-wage labor costs were reduced to below 40% of gross wages. In addition, some of the adaptability seen during 2009 can be explained by the widespread use of short-time working programs. With this instrument, the Federal Employment Agency subsidizes 60% of the difference between the previous income and the reduced income attributable to curtailed working hours, and 67% of the income difference for employees with children if a company reduces working time for economic reasons. As a result of the financial crisis, the maximum period of short-time working benefit eligibility was extended to 18 months. Additionally, the Federal Employment Agency subsidizes 50% of social security contributions, and 100% starting from the 7th month of short-time work.

Overall, German labor-market institutions have improved considerably through a specific model which is by no means comparable to the Anglo-Saxon hire-and-fire or the Danish flexicurity model. In the course of the crisis, these institutions showed their particular strength relative to the Anglo-Saxon model, under which unemployment rates

reacted with high elasticity to the economic slump.

Nevertheless, several shortcomings still exist. Unemployment is still at an unacceptably high level, even if it is now well below the record levels of 2005. A substantial portion of labor costs are connected to the financing of social security systems, an aspect that threatens to become even worse. Furthermore, certain segments of the labor force, particularly workers of low productivity and poor education, are still at high risk of long-term unemployment.

Enterprises

Enterprise policy
Score: 7

With regard to competitiveness indicators, Germany holds a medium position, ranked behind several other members of the European Union. The most prominent disadvantages of Germany as a business location include high levels of regulation and bureaucracy. Nevertheless, Germany is an attractive investment location for private equity investors, and is expected to gain further importance. Significant advantages include the availability of capital sources and the country's strong innovation potential.

Growth has been particularly weak in the service sectors. In contrast, the manufacturing sectors expanded rapidly prior to the recent crisis, leading to a strong increase both in imports and exports. However, the increase in exports was temporarily halted by the crisis, which hit Germany harder than many other countries from the perspective of GDP growth. Conversely, the German economy has also benefitted particularly strongly from the economic recovery in 2010.

In recent innovation surveys, Germany has continued to occupy a weak middle position, while competitors such as Canada or the Netherlands have made greater progress. While the strength of intellectual property rights, research-intensive industries, and networking between companies and research facilities is above the OECD average, Germany has significant weaknesses in research, development and education; its unfavorable climate for the employment of women; and an overly restrictive immigration law for non-European Economic Area citizens. Above all, the difficulty of access to loans or venture capital remains one of the system's gravest weaknesses. The Act on the Modernization of Framework Conditions for Venture Capital and Equity Investments and the law on venture capital investment, adopted in August 2008, were important steps in this direction. However, these acts need to be revised thoroughly since the European Union recently blocked parts of them due to doubts on the measures' compatibility with EU guidelines on risk capital. The strengthening of the German venture capital market should be a central element of future strategies.

Taxes

Tax policy
Score: 6

The 2008 reform of corporate taxes lowered the formerly very high effective tax burden faced by German companies to a level more in line with Western European standards. The revenue situation was improved by increasing the relative weight of indirect taxes, especially the value-added tax (increased from 16% to 19% in 2007). Before the crisis, the state's revenue situation had substantially improved, leading almost to a balanced government budget in the year 2008.

However, several shortcomings remain. Due to high social security contributions, the German tax system puts an exceptionally high burden on average earners, who are confronted with substantial labor-supply disincentives and incentives to shift their work into the shadow economy. Furthermore, the German tax system has remained both highly complex and non-transparent. The business tax and inheritance tax reforms launched by the grand coalition in 2008 and partly revised by the new government in December 2009 certainly had some positive effects for medium-sized businesses. However, they have also led to significant complications in terms of tax law.

Following a decision of the Federal Constitutional Court, the grand coalition issued a tax-relief law focused on individuals, which came into effect in January 2010. It mainly allows for higher tax deductibles for public health insurance and long-term care insurance contributions, and also includes some temporary business tax reductions. Combined with the three economic stimulus packages, these measures were considered necessary to tackle the consequences of the economic crisis. On the other hand, temporary tax relief cannot replace essential reforms to improve the structure of the tax system.

There have also been intensive discussions on the question of raising environmental taxes. Germany has certainly made significant progress in recent years in restraining environmentally harmful behavior. However, in terms of revenues from environmental taxes, Germany still ranks in the lower middle range of OECD countries, with annual revenues of slightly less than 2.5% of GDP.

In addition, the German government has sought to reduce practices such as cross-border shifting of company profits through accounting gimmicks. Overall, German tax policy has been largely consistent in recent years. The promise of tax cuts – prominently offered by the liberal FDP party in the last general election campaign – was unable to be met in the current conditions without risking budgetary sustainability.

Budgets

Budget policy
Score: 8

Public finances had improved significantly prior to the recent economic crisis, with the budget deficit coming close to balance in 2008. Since then, the budget deficit and the gross public debt have been pushed up by crisis-related revenue shortfalls and anti-crisis stimulus packages.

Three such packages were launched as part of the government's attempt to revive the economy (for the details, see Economy). The stimulus launched in November 2008 amounted to €3.9 billion in 2009 (0.2% of 2008 GDP) and an additional €7.1 billion in 2010. The second stimulus package, launched in January 2009, was significantly larger, amounting to a total of €54.3 billion to be spent in 2009 and 2010. The third stimulus package, implemented beginning in December 2009, included measures worth €8.9 billion. Overall, as a result both of the automatic stabilizers and the discretionary packages, the government balance turned to deficit (around 3.3% of GDP in 2009 and around 4.5% of GDP in 2010, according to the June 2010 forecast). However, these figures contrast favorably with the much worse deficit figures posted by other EU and industrial countries, reaching the double-digit level in countries including the United Kingdom, the United States and Ireland.

Germany appears to be at medium risk with regard to the long-term sustainability of public finances. The long-term budgetary impact of aging is close to the EU average. However, public finances are increasingly coming under pressure due to rising pension and health care costs. To address these and other structural challenges, a constitutional debt limit was introduced in 2009 which restricts the federal government's cyclically adjusted budget deficit to a maximum of 0.35% of GDP, and requires balanced cyclically adjusted budgets for the individual federal states. As a result of a transitional rule, this reform will become binding for the central government in 2016 and for the states in 2020. The aim of this constitutional revision is to provide a clear prior commitment to fiscal consolidation, greater transparency and clarity, and consistency with the European Stability and Growth Pact. However, the implementation needs careful monitoring in order to prevent pro-cyclical behavior, close remaining loopholes, strengthen the stability council and preserve budgetary flexibility on all governmental levels.

The German federal government enjoys an undisputed triple-A rating as a debtor from all rating agencies, with its reputation even enhanced in the wake of the European debt crisis originating from Greece. In this situation, the yields on German government bonds fell

to unprecedentedly low levels. This development has led to substantial savings on interest payments.

B Social affairs

Health care

Health policy
Score: 7

Health policy is still an evolving issue in German social policy. Due to a decision by the former grand coalition, the so-called health fund became effective in January 2009, fundamentally changing the funding of German health care. It is a centralized institution responsible for collecting income-based contributions and allocating the money to the various health insurance plans. The latter activity is done with reference to a highly complicated morbidity-oriented risk structure compensation scheme, which compensates for variations among the insured within the various insurance plans, and fosters fair competition between plans as they seek to attract new members and reduce costs. In addition, the health care system is increasingly subsidized by government monies, thus breaking with the hitherto basic principle of a solely contribution-financed system. The grand coalition also introduced a uniform contribution rate, which for the first time is set by the government and not by the individual insurance plans.

After the general elections, the coalition agreement between the CDU/CSU and FDP announced additional far-reaching reforms focusing mainly on financial matters. First, the parties agreed to freeze the contribution rate for employers at the level of 7%, thus breaking with the principle of parity-financing the health care system. Expected future increases in the contribution rate will thus be borne only by employees. Second, high-income earners are allowed to opt out of the compulsory health care insurance program after one year of exceeding the income threshold of the state system (instead of three years), and to change instead to private insurance companies.

Because of some ambiguous passages in the coalition agreement and subsequently intense conflict between the coalition partners, a heated debate arose over how to reform health care more broadly. Due to the fiscal crisis, it seemed impossible to shift financing to a lump-sum payment model as favored by the FDP and elements within the CDU. Introducing this new mode of funding the system would drastically increase the government funds provided to the health care system. Low-income earners would have to be subsidized by the state to be able to finance their lump sum payments, whereas high-income earners would be better off compared to the contribution-

financed system. At the time of writing, it remained unclear whether the government would stick to its coalition agreement or redefine its policies and retain the existing contribution-based system.

In the meantime, the new government has sought to contain pharmaceutical costs. The Federal Ministry of Health has proposed key points aimed at reducing drug costs. Pharmaceutical companies have to provide a dossier on the expected benefits of new drugs. In addition, the trade association for health insurance plans is allowed to bargain with pharmaceutical companies over price reductions of up to 16% of the market price.

In addition, a committee was established to debate future health care reforms to be introduced in 2011. However, the committee consists exclusively of members of the government, and includes not a single nonpolitical expert. As of the time of writing, it appeared that the proposed reforms would focus on financial issues, and would not be likely to increase health care system efficiency, which is low compared to that of other European countries. From January 1, 2009, due to reforms implemented by the grand coalition, all citizens in Germany will have health insurance coverage, whether in the private or state sector. However, the rationing of medical services could increasingly become an issue. Already today, some types of rationing exist: While patients with insurance coverage from a private health insurance company get fast access to all kinds of diagnostic tests and specialized doctors, patients with coverage from the statutory health insurance plans face significantly longer waiting times and increasing copayments. This de facto rationing of diagnoses and treatment must be expected to spread further if no major efficiency improvements are realized.

Social inclusion

Social inclusion
policy
Score: 7

Expenditures for social security and poverty reduction are still high in Germany. However, social inequality and poverty risk is increasing. During the years of rising unemployment, poverty risks increased as well, setting Germany on the path to a more unequal society. But this data does not yet appropriately reflect the successes of recent years in lowering long-term unemployment, a key driver of poverty. Thus, it remains to be seen whether the robust labor-market situation will be reflected in social data.

Regional heterogeneity is substantial. In the former East Germany, the average poverty level is 20%, with levels reaching nearly 30% in some areas. By contrast, some of the former West German or "old" states in the south (Hesse, Bavaria, and Baden-Württemberg) have poverty rates around 11%. "Old" states in the north show higher

poverty rates than do their counterparts in the south. Though there is a methodological dispute as to whether these figures are realistic given the significantly lower costs of living in the former East Germany, a fact not adequately reflected in the study, these results point to marked differences between East and West.

In addition, there are considerable differences in income levels between the individual states. The poverty line is drawn at an income level which is less than 60% of the national average income wage. For singles this amounts to €764 per month, and for couples without children to €1,376. The average poverty rate nationwide is 14.3%, with the average in the former West being 12.9%, 6.6% lower than in the former East. A more detailed picture is given by the German federal government's 2008 Report on Poverty and Wealth. More and more workers with fulltime jobs have incomes which are below the poverty line. In addition, the middle class, defined as having income between 70% and 150% of the average income, is constantly decreasing. Only 54% of employees are now grouped as being part of the middle class, compared to 62% in 2000. Only a small number jumped into the wealthy group (with income above 150% of the average), whereas most of those leaving the middle class fell into the group with high poverty risk. Within the poor income groups, income has consistently moved away from the 60% of average income level, thus intensifying the poverty risk.

Children's poverty rates have also increased in recent years. Today it is estimated that more than 3 million German children live in poverty; in some cities, such as Berlin, more than 35% of all children are poor. Concerning pensioners, only 2.3% are dependent solely on basic social security. However, today's favorable situation of relatively wealthy pensioners cannot be extrapolated into future decades. After many years of high levels of unemployment, low Hartz IV welfare payments, decreasing wage incomes and unsteady work lives, an increasing share of the population will be faced poverty in retirement. In addition, changes to the pension formula in recent years have aimed at reducing pension benefit payments.

A simulation study performed by the German Institute of Economic Research (DIW) makes clear that pensions in the years to come will consistently decline. Whereas East Germans may currently expect a pension between €900 and €1000 per month, for those who were born between 1962 and 1971, the level will sink to around €600 per month, which is near the basic income security level. Younger cohorts may face pensions which lie under that line. In addition, low-income groups are unable to save money in private pension funds, which would complement their low state pensions with private assets.

Reducing the various risks of social exclusion while at the same time

making the German welfare state sustainable for future challenges – primarily demographic changes and changes in labor conditions – seems an impossible task. The groups particularly at risk of poverty are mainly the unemployed with uncompleted or no vocational training, single parents, and persons with a migration background. To effectively deal with the problems of these groups remains a task for the years to come. However, there have been discussions about setting a government-guaranteed minimum wage, something that has previously been done only through the social partners. The Assigned Workers Act requires that a collective bargaining agreement should apply to at least 50% of workers in a given industry, thus varying from sector to sector. The outgoing government changed the Assigned Workers Act in order to make it easier for the social partners to introduce minimum wages in a larger number of sectors. Today, around 3 million workers are covered by minimum wages agreements. The question of whether statutory minimum wages can be part of a coherent strategy to boost employment and fight poverty, and thus foster social inclusion, remains a highly controversial issue in German politics and economic theory in general. There is the risk that a politically motivated establishment of an excessive statutory minimum wage may not reflect economic realities, thus leading to unemployment for those with low educational attainment. If that were the case, a minimum wage could even worsen the problem of social exclusion and transfer dependency.

Since unemployment is the major economic factor in poverty risk, the recent favorable labor market developments represent a sign of hope. This trend could demonstrate that the Hartz labor market reforms were successful in fighting poverty in the medium term due to their success in reducing structural unemployment.

Apart from these issues, it is uncontroversial that social inclusion should be addressed through reforms of the education system aimed at reducing the share of people leaving the system without some type of formal qualification.

Other phenomena of social exclusion are even harder to address through political strategies. Looser family ties, shrinking involvement in associations and lower membership in religious communities all point to trends implying a greater risk of individual isolation. Government policy to date has provided a quite favorable environment for citizen involvement, with policies such as the generous tax treatment of voluntary donations to charities and other public interest organizations.

Citation:

Dümig, Kathrin, 2010: Ruhe nach und vor dem Sturm: Die Arbeitsmarkt- und Beschäftigungspolitik der Großen Koalition, in: Egle, Christoph/Zohlnhöfer, Reimut

(eds): Die zweite Große Koalition. Eine Bilanz der Regierung Merkel, 2005-2009, Wiesbaden: VS.

Families

Family policy
Score: 7

Improving the compatibility of employment and parenthood has recently been high on the German political agenda. This objective has been addressed through a variety of initiatives. In 2008, an entitlement for a place in a child care facility for children below the age of three was introduced, to take effect in 2013. To date, this entitlement has only covered children beginning at age three. Another instrument is the parental leave benefit introduced in 2007 under the grand coalition. Child care facilities are heavily subsidized, with a trend even toward the free provision of services in many federal states. Transfers toward families through various mechanisms are substantial, such as through the free insurance coverage of children in the statutory health insurance program.

The family policy of the new CDU/CSU and FDP government is much more in flux than that of the grand coalition. This is mainly due to a change in the minister in charge of this area. The incoming minister, 32-year-old Kristina Schröder, initially tried to extend the period for parental leave from 14 to a maximum of 16 months. However, this was promptly rejected by the Ministry of Finance due to additional costs of about €250 million. She then tried to introduce a two-year part-time work benefit associated with caretaking, with participants receiving 75% of their former income. Under the proposal, worker would have to work full-time for two additional years, continuing at 75% of their previous wage. However, employer's organizations strongly criticized the plan, as they would have to bear the financial risks of layoffs during the two periods. Furthermore, Schröder announced that the so-called child care subsidy could be paid out in the form of vouchers for learning opportunities. According to the coalition agreement, this is planned to start in 2013 for parents who raise their children at home. The deal would see parents receiving €150 per month in child care benefits for children under three years of age. However, the proposal was vehemently rejected by the FDP; the CSU and parts of the CDU also strongly opposed the voucher idea. Currently, the budget consolidation debate also relates to family-related expenditures.

Taken together, the recent innovations show that German politics takes the objective of combining parenting with labor market participation very seriously. Whether the new instruments will help to raise the country's fertility rates remains to be seen. The high and

income-related subsidy for parental leave can be criticized as producing windfall gains for wealthy young academics, and its cost-benefit analysis is controversial. According to an estimate by the Ministry for Family Affairs, Senior Citizens, Women and Children, Germany spends € 250 billion, with effects that remain largely unclear. The birth rate remains at the same low level as in years before, and no evaluation of the huge amount of money spent on family policies has taken place. However, the ministries of Finance and Family have agreed to delay evaluating the effects of the family policies until 2013.

Pensions

Pension policy
Score: 7

There has been a large number of pension reforms in the recent past, most recently involving the gradual increase of the age of pension eligibility from 65 to 67, a provision adopted in 2007. All these reforms have boosted the long-run sustainability of the pension system, leaving it in a favorable condition compared to systems in France or southern European countries, for example.

However, given the increasing political power of pensioners, the long-term nature of this success can not be guaranteed. In our period of observation, two relevant examples can be noted. First, the government decided that in 2008 and 2009, pensions benefit levels should be increased by more than the amount determined by the pension formula. Second, the link between pensions and wages was temporarily loosened in May 2009, because wages decreased. With an eye to the coming elections, the government introduced a law guaranteeing that no nominal cuts in pensions would occur. However, this guarantee is to be compensated for by lower pension growth rates in subsequent years. This nominal pension guarantee is still in force; as a result, the pension system faces additional burdens of about €10 billion through 2013.

In spite of these wrong turns, the substance of the recent pension reforms remains effective, keeping the German pension system more stable. Whether the German pension system puts an unacceptable burden onto the younger generation is a controversial question, however. It is unavoidable that there will be a double burden on the younger generation in an era of falling fertility: necessarily, the younger generation will have to honor the older generations' pension promises while simultaneously caring for their own pensions to a larger extent than did former generations. But one can also argue that the younger generation benefits from much higher real incomes than those of their parents or grandparents, justifying a higher pension burden.

However, the pension system alone will be less successful in the future in preventing poverty among the elderly. Today's pensioners are relatively wealthy, and only rarely exposed to poverty. Longer unemployment spells in the current working population will increase the risk of poverty in the future. Preventing poverty among the elderly will become the next big reform issue for the German pension system.

Integration

Integration policy
Score: 6

Germany is known as a country of immigration; about 15 million people (20% of the population) have a migration background, and this number is increasing. Integration policy in Germany aims at two groups of migrants.

On the one hand, the government tries to attract highly skilled employees to work in Germany, and therefore facilitates immigration for this group. This is due to unfulfilled demand for skilled workers. These migrants are usually well integrated. On the other hand, the government focuses on the integration of people with a Muslim (especially Turkish) background. Members of this group tend to be less integrated in society and usually of a lower skill level. Many of them were born in Germany (third-generation migrants). In particular, this immigrant group has fallen behind in terms of educational attainments and labor market performance. Thus, there is a strong link between the debates on immigration policy and on reform of the education system.

Overall, an explicit and consistent integration policy in Germany is still in the early stages of development; over the last 10 years, there have been several changes in integration policy, with only limited effects.

In 2009, the new government refused to create a new ministry of integration at the federal level, arguing that better integration policy was not related to creating additional bureaucracy. Today, integration policy is associated with the Federal Ministry of the Interior, through the Federal Office for Migration and Refugees, and is represented by Minister of State in the Federal Chancellery (and Federal Government Commissioner for Migration, Refugees, and Integration) Maria Böhmer. Some of the federal states have their own ministries for integration. In 2005, the former governing coalition passed a national integration plan, which tried to identify the main goals for integration.

In 2006, then Minister of the Interior Wolfgang Schäuble established the German Islam Conference (Deutsche Islam Konferenz, DIK), with the aim of developing the intercultural dialog between representatives of Muslim organizations in Germany and government officials. The design is to support societal cohesion, integration and reaching consensus with respect to values. The new government decided to

continue the conference, with a new focus. The new Minister of the Interior Thomas De Mazière aims to transform the results of the first period into practical policy.

The most important goal is to support children and women in learning the German language as the main prerequisite for good education and integration. Therefore, the government provides free language courses for immigrants and has established a language test, which everyone has to pass before moving to Germany. In addition, since Sept. 1, 2008, everyone who wants to become a German citizen has to pass the citizenship test.

C Security

External security

External security
policy
Score: 8

Germany is a well-integrated member of international alliances such as NATO, the United Nations, the European Union, and the OSCE. This integration guarantees highly professional standards and structures within which the German army, the Bundeswehr, provides an important contribution to security and defense.

In these contexts, German military forces have participated in a number of European and international peacekeeping missions in various countries. In recent years, these missions have led to vigorous debate in political and in public circles, as they are not popular among the German population. This has been particularly true since the first deaths of German soldiers, and since the Bundeswehr's involvement in incidents resulting in the deaths of civilians, such as the Kundus air strike in September 2009.

A more fundamental debate mainly revolves around the general role of the Bundeswehr, which was originally founded as a mere defensive army, but now faces new tasks and international military engagement. A basic problem is that the military forces are not yet fully adapted to their new international role, and seem not to be well prepared for these new missions. There has been much criticism of the service's current training and equipment, which does not meet military and logistical requirements. It is also highly questionable whether the military conscription model appropriate during the cold war remains justifiable today, or whether it rather represents an obstacle to establishment of a cost-efficient army. A transition to a more professional army would likely boost the cost-effectiveness of the German military services, given that the new government has reduced the time of service for draftees to just six months.

Overall, the German territory has thus far been effectively protected

from major terrorist attacks, and there appears to be no direct military threat. Whether missions such as that in Afghanistan really serve the long-run security interests of German citizens remains a controversial question.

Internal security

Internal security
policy
Score: 9

Internal security is a longstanding issue on the political agenda, and governments provide well for it.

Two issues have recently provided challenges to internal security policy. First, extremist right- and left-wing activities are an increasing problem, arising mainly but not exclusively in the federal states of the former East Germany. Second, fighting terrorist and extremist activities has emerged as both a domestic and international phenomenon. Recent events have clearly demonstrated that even small terrorist groups of Islamic fundamentalists are able to paralyze the whole security system for weeks at a time. Today, internal security policy is closely intertwined with EU strategies and policies.

Due to the events of 9/11 and its effects on the subsequent “war on terrorism,” former Minister of the Interior Wolfgang Schäuble focused on policies strengthening internal security in order to prevent future terrorist attacks. In 2007, there was a debate on data retention, with policy mandating the storage of all phone and Internet communications for six months. In Germany, the government implemented an EU policy on data retention, but this law was overturned by the Federal Constitutional Court in March 2010.

Another law enables the police forces of the Federal Criminal Police Office to implement preventive measures against terrorism, including monitoring private communications via personal computers or telephones, and observing individuals with video cameras. There has also been some debate over how the military forces could be used domestically to prevent terrorist attacks, an idea that was ultimately dropped.

In 2009, the EU Commission recommended the implementation of body scanners at European airports to increase safety. Most European governments initially refused to use them, but another failed attack would probably lead the scanners to be implemented soon. Generally, the relationship between security and freedom consistently drives heated and controversial discussions.

Nonetheless, authorities have so far been successful in preventing major terrorist attacks, at times by detecting conspiracies at an early stage.

Citation:

Fischer Weltalmanach 2009

<http://www.tagesschau.de/inland/vorratsdatenspeicherung126.html>

<http://www.vorratsdatenspeicherung.de/content/view/289/79/>

http://www.bmi.bund.de/cln_174/SharedDocs/Reden/DE/2010/01/rede_bt.html

http://www.bmi.bund.de/cln_174/SharedDocs/Pressemitteilungen/DE/2010/03/politisch_motivierte_kriminalitaet.html?nn=303936

Busch, Andreas, 2010: Kontinuität statt Wandel: Die Innen- und Rechtspolitik der Großen Koalition, in: Christoph Egle/Reimut Zohlnhöfer (eds): Die zweite Große Koalition. Eine Bilanz der Regierung Merkel, 2005-2009, Wiesbaden: VS.

D Resources

Environment

Environmental
policy
Score: 8

In recent years, there has been a change from traditional regulation policies to new environmental policies such as eco-taxes, tradable permits and environmental agreements. German environmental policy is embedded in and influenced by the European framework, but without doubt, Germany has established itself as a pioneer and leader in the field.

The environmental policy of the former grand coalition primarily focused on issues of climate change. In collaboration with Great Britain, Germany plays a leading role in the European Union, mainly concerned with the reduction of CO₂ emissions. On the national level, former governments promoted renewable energy use, offshore-wind farms, cogeneration, and the energy-efficient redevelopment of buildings and the infrastructure.

The government faces a multitude of powerful pressure groups, such as the car and energy industries, which try to influence environmental policies. New pressure groups have also emerged representing interests such as the solar energy industry, which benefits from the massive subsidies for renewable energy sources.

The most important economic interests come from renewable energy sector. Solar technologies and other renewable have long been subsidized by consumers through a subsidy financed by a markup on the price of electricity. In March 2010, the government started reducing these subsidies for solar energy, and wants to revise the renewable-energy law further given the substantial burden on consumers and the disputable ecological benefit provided.

Whether the former SPD-Green Party coalition plan to bring an end to nuclear power generation can be reconciled with the objectives of climate policy remains a controversial question. The new government has discussed changing the deadline for the shutdown of nuclear power stations.

In spite of these disputes, however, there exists a broad consensus within German society and across German political parties that environmental objectives such as fighting climate change have a high priority.

Research and innovation

Due to comparatively high production costs, the German government hopes to gain competitive advantages by placing emphasis on innovation. As a result, Germany has increased its expenditure on research and development, and now spends above the European average. In fact, Germany has a leading position in Europe with regard to the number of patent applications. In recent years, medium-sized businesses have begun contributing markedly to this development.

The government has also continued its “excellence initiative.” The federal government and the federal states agreed to resume the Joint Initiative for Research and Innovation, and want to increase the budget by 5% every year (2011 – 2015).

In 2010, the government increased the budget of the Ministry of Education and Research by €660 million (to a total €10.6 billion). The goal is to encourage the translation of research results into products. In addition, the Ministry of Economics and Technology spent €2.5 billion on technological research. To boost the business innovation budget, the ministry established a program targeting small and medium-sized businesses (SMEs) in 2008. All in all, the government plans to increase spending on research and innovation to a total of 3% of GDP by 2015.

Though Germany thus mobilizes substantive resources, there is a debate as to whether the instruments chosen are appropriate. Many other industrial countries foster corporate R&D activities through general tax incentives. By contrast, Germany fosters R&D through government expenditure, which involves a difficult assessment as to which R&D activities are promising. Therefore, the German approach faces the criticism that politicians and bureaucrats determine R&D allocation, this bearing a responsibility they are unable to fulfill. With this in mind, the new German government has announced general tax incentives for R&D for SMEs. As of the time of writing, however, this had not been enacted.

Research and
innovation policy
Score: 8

Education

Education policy
Score: 6

In Germany, the individual states have been almost completely responsible for education policies since 2006. As a consequence, there are no generally binding standards for primary and secondary education, and one can note a significant and increasing divergence of approaches between the states, resulting in diverse educational standards.

In recent years, the states have launched extensive reform projects aimed at improving their educational systems. First, they started to reduce the 13 years previously needed to gain the Abitur, the German degree issued after the completion of secondary schooling. However, there is no consensus on the direction of further reforms, and the states have thus followed very different paths. Simultaneously, the states have begun reforming teachers' university training as a result of the Bologna reforms. Today, there is no common curricula for bachelor's or master's studies for future teachers. As a consequence, the minister for education is trying to shift influence on educational policies back to the federal level.

The government has called education and specifically equality in education one of the most important issues of the future. The most important challenge is to reduce inequality. Program for International Student Assessment (PISA) surveys have shown that there is a significant difference between children with high and low socioeconomic backgrounds. Since the results of the first PISA survey were released, several programs have been established seeking to create a better environment for education, and to facilitate advancement on every education level. Thus, the government and the states have sought to support infant development, particularly in the German language, aiming to reduce inequality in this dimension before the children start their school career. This approach reflects the insights of education researchers who point to the crucial impact of the first years of life on life-long education and labor market successes. So far, the German preschool system and the relatively low standards of qualifications met by kindergarten teachers are not yet appropriate, given the importance of this phase in the life cycle.

The BAföG system of state educational support has been renewed to help disadvantaged students. In addition, to facilitate the international exchange of students, foreign qualifications will soon be accepted more readily.

Management Index

I. Executive Capacity

A Steering capability

Strategic capacity

Strategic planning
Score: 4

In its final years, the grand coalition did not make any attempt at substantial strategic planning. Indeed, the government parties' strategic planning efforts were mainly concerned with how best to position themselves for the upcoming elections. Nor has the new government, consisting of a coalition between the Liberal Democrats (FDP) and the Christian Democratic parties (the Christian Democratic Union (CDU) and the Christian Social Union (CSU)), introduced any important organizational devices for strategic planning. The new head of the chancellery (PMO) again has the status of a minister without portfolio, strengthening his position vis-à-vis the minister-presidents of the federal states and the heads of the various federal ministries. The head of the planning department does not strategically plan the tasks and timing of government policies, but is more concerned with the standing of Chancellor Merkel in public opinion.

Although the federal chancellery is staffed by up to 500 employees, the organizational structure of the German government is not well equipped for strategic planning. Instead, there is strong party politicization, and all important decisions are made by the heads of the parties. In addition, ministerial autonomy contributes to the fragmentation of the governmental process, hindering the development of a coherent policy orientation. Cabinet meetings are unable to compensate for this fragmentation, as previous compromises made between the coalition partners and the minister-presidents of the federal states undermine the meetings' relevance.

Scholarly advice
Score: 5

In some policy fields, expert commissions provide regular expert advice. Most of their members are appointed by the government or the relevant sectoral ministries. In addition, ad hoc commissions are convened to review issues related to complicated policies or major reforms. The German Council of Economic Experts and the German Council of Environmental Advice provide yearly reports and opinions

on current policy problems. In addition, most ministries have external advisory bodies and finance more or less scientific studies. Not all of the advisors are academic and independent, and some give only legal advice. Their actual influence on policy-making is difficult to evaluate, but during the period under review, there were no examples of highly influential independent academic advisors.

Nonetheless, there are many issues faced by the government which are not ideologically driven, and on which the government and the ministries listen to advisors. One such example is the precise definition of active labor market policies: In this area, the in-depth academic evaluation of various instruments has had a real impact, with ineffective instruments being phased out. Other examples relate to the design of tax reform details, such as the 2008 business tax reform.

Inter-ministerial coordination

GO expertise
Score: 6

The chancellery is divided into six directorates, each with various numbers of subgroups that are again subdivided to better mirror the line ministries. The chancellery seems to coordinate its activities and function well when dealing with European politics and international tasks. In times of crisis, such as autumn 2008, the chancellery has effectively been able to coordinate fast-track legislation in close cooperation with the Ministry of Finance. However, in normal times, national policies are mainly worked out by the sectoral ministries in accordance with compromises made at the political level. In general, the chancellery does not autonomously evaluate important draft bills or assess them according to the government's strategic and budgetary guidelines. With respect to budgetary issues, the finance minister is dominant, acting as the guardian of fiscal discipline. In other fields, stop-and-go processes that are often publicly debated take place until a compromise is reached, and the chancellery and line ministries often work out the legal or technical details only at that point. In addition, it seems that the chancellery's capacities are not as deep as those of the line ministries.

GO gatekeeping
Score: 5

The chancellery formally sets the agenda for cabinet meetings, which gives it some gatekeeping power. Political power, however, depends on other resources. The content of the cabinet's agenda is negotiated between the coalition partners in advance, and on policy matters the cabinet simply certifies what has been decided previously by the party politicians. Thus, only in exceptional cases will the government office refuse items scheduled for the cabinet meeting on the basis of policy considerations.

Line ministries

Score: 7

The chancellor formally determines the general guidelines of government policies. In addition, he or she has the power to give top priority to particular policy fields and therefore extend his influence in these areas. Nevertheless, according to the Basic Law the line ministries have primary responsibility for their own policy fields. Therefore, the preparation of bills is mainly the business of the line ministries. In the day-to-day policy processes, the chancellery is to some extent kept informed about ministerial initiatives, but is not deeply involved. Most disputes between ministries and the chancellery are discussed and resolved in meetings, often held weekly, between the state secretaries and chancellery staff members. However, in the case of the current government, the FDP ministries have evidenced increasing autonomy from those of the CDU/CSU.

Cabinet committees

Score: 5

The cabinet played only a minor role in the policy-making process of the grand coalition (which governed until October 2009). This is true too of the new government. As a rule of thumb, the cabinet functions as an institution that formally ratifies decisions on policy issues that have been settled in other venues. It only rarely discusses policy issues, though in day-to-day work the line ministries will briefly present their proposals, and the cabinet will accept them. All conflicts have already been settled before issues come to the cabinet agenda. Cabinet or ministerial committees do not filter out or settle issues so that the cabinet may concentrate on strategic policy issues. The cabinet and cabinet committees play no important role in political decision-making. The main agency is the so-called coalition committee, which meets regularly at least once a month for coalition talks or can be convened at the request of any of the coalition partners. It consists of the chancellor, the deputy chancellor, the chairpersons of the parliamentary groups (in the case of the CDU/CSU parliamentary group, the first deputy chairperson also attends) and the party chairpersons, if they are not already included. In some rare cases, the cabinet will meet for a weekend to discuss contested policy matters or try to bring about consensus in cases of substantial conflict.

Senior ministry officials

Score: 9

The cabinet agenda is drawn up by the chancellor's office, and all proposals ready for decision are prepared and reviewed by senior ministry officials. Most disputes are ironed out prior to cabinet meetings in the weekly meetings of the state secretaries. The new coalition's governing style does not differ significantly from its predecessor's. Therefore, cabinet meetings are well organized and prepared in advance, but there is no room for strategic planning or strategic policy debate in the cabinet itself. Policies are negotiated by the coalition committee, which is the most important (though

informal) decision-making body.

Line ministry civil servants
Score: 5

Ex ante coordination between the line ministries' leading civil servants has generally not been strong, whether in the previous or current government. In addition, an entrenched political practice ensures that no ministry makes any proposal which might be postponed or blocked by other ministries. Proposals are often heatedly discussed in public by party politicians, ministers or the state's minister-presidents before any interministerial coordination takes place. The federal Ministry of Finance must be involved when budgetary resources are concerned, while complicated legal or constitutional issues necessitate the involvement of the federal Ministry of Justice. But generally, every ministry in charge is fully politically responsible for its own proposed bills.

Informal coordination procedures
Score: 7

Most important policy decisions are taken by the coalition committee. This was true for both governments in power during the period under review. Both coalitions' coalition committees were fairly successful in reaching compromises, even though in some cases no decision was made. Both were very successful in keeping conflicts out of cabinet sessions.

RIA

RIA application
Score: 8

In 2000, the federal ministries revised rules of procedures came into effect, demanding that an impact assessment be performed for every draft law. Thus, the regulatory impact assessment (RIA) process is institutionally anchored in Germany. The RIA is designed to restrain the amount of state regulation to the degree possible, examining alternative regulation possibilities and improving the quality of regulations. The RIA analyses the intended effects and the unintended side effects of draft laws as well as of alternatives.

The Federal Ministry of the Interior has developed guidelines for the application of these impact assessments. The evaluation of the actual effects and therefore a retrospective RIA of existing laws and regulations is part of the assessment process.

There is a separate program for environmental impact assessment. The budgetary and bureaucratic consequences of a draft law are also required to be assessed.

Needs analysis
Score: 8

According to Ministry of the Interior guidelines, RIAs are divided into three components: the prospective proceeding, the attendant proceeding and the retrospective proceeding. The main task of the prospective proceeding is the analysis of the necessity of a regulation. Therefore, the alternatives, including the introduction of no further regulations, are assessed as well. The draft regulation's

proposed achievement must also be justified.

Alternative options
Score: 7

The consideration of alternatives is part of the impact assessment process. An impact assessment is also executed for certain alternatives.

Societal consultation

Negotiating public
support
Score: 6

Government staffers' meetings with representatives from public interest groups are part of their daily routine. Nevertheless, neither the grand coalition nor the new CDU/CSU-FDP government has used social pacts or other bargaining institutions to explicate their policies in greater detail or to seek compromises satisfying all organizations involved. Integration policy has been a partial exception to this rule, with a conference established to develop intercultural dialogue between representatives of Muslim organizations in Germany and government officials.

Policy communication

Coherent
communication
Score: 3

In a formal sense, the federal government's Press and Information Office is the center where information from all the ministries comes together. However, this does not guarantee a coherent communication policy, which is a difficult task for any coalition government. The constant tendency of coalition partners to sharpen their own profile versus the other government party explains a sometimes very dissonant communication policy. Government decisions are regularly explained to the public as compromises that do not perfectly satisfy either side in the coalition.

The grand coalition's response to the financial crisis can be used as an example. While in the early stages of the crisis, the Christian Democratic chancellor and the Social Democratic minister of finance worked together closely and apparently in consensus, this changed substantially after the end of 2008. The governing parties publicly disputed the need for and the prospective size of stimulus packages, and the minister of economic affairs even publicly opposed his own government's rescue plans for car manufacturer Opel, suggesting that the company should file for bankruptcy. Similarly, the partners in the CDU/CSU-FDP coalition have been unable to present their program in a coherent way. Instead, the governing parties have quarreled with one another in public on a large number of issues.

B Policy implementation

Effective implementation

Government
efficiency
Score: 7

The grand coalition (2005 – 2009) was reasonably successful in achieving important policy objectives. For example, it successfully changed the Basic Law by introducing a new deficit limit, and reformed the corporate tax system. On the other hand, many of the reforms to welfare state policies were inconclusive, and it seems likely that the relevant problems have not been solved. Furthermore, the government failed outright to privatize the railways and to codify environmental law, two objectives the government had set itself.

The new government has not yet been in office long enough to evaluate its success.

Structurally, it makes a difference whether a German government also commands a majority in the Bundesrat, which was the case for the grand coalition until spring 2009 and for the new government until July 2010.

Citation:

Egle, Christoph/Zohlnhöfer, Reimut (eds), 2010: Die zweite Große Koalition. Eine Bilanz der Regierung Merkel, 2005-2009, Wiesbaden: VS.

Ministerial
compliance
Score: 8

In principle, line ministers are responsible for policies that fall into their jurisdiction. Therefore, they have at least some leeway to pursue their own or their party's interest. This leeway is quite substantial in international comparison, because the coalition partners in both governments during the period under review here abstained from sending watchdogs in the form of state secretaries to ministries led by the other partner.

Nonetheless, the individual ministers' room to maneuver is limited both by the "cabinet principle" and the "chancellor principle." According to the cabinet principle, all important decisions have to be taken by the whole cabinet. The latter principle gives the chancellor the formal right to determine the guidelines of government policy, and to ask the federal president to appoint or dismiss ministers. It is true that most bills are essentially rubber-stamped by the cabinet without much discussion, that chancellors hardly ever have enough power to determine policy guidelines in coalition governments, and that a chancellor who dismisses a coalition partner's minister risks the collapse of the coalition. However, these regulations at least prevent extreme cases of individual ministers pursuing their or their parties'

own interests.

In comparison to the other ministers, the federal minister of finance has a relatively strong position. With support of the chancellor, he or she is able to reject requests by other ministries, and therefore also has a governmental oversight role.

In addition, a number of informal mechanisms are used to coordinate government policy. Both government coalitions serving during the period under review worked out lengthy coalition agreements. These not only embodied compromises on the most important policy issues, but also contained procedures on how to deal with conflicts should they arise during the legislative period. Chief among these mechanisms has been the coalition committee, which is made up of the coalition parties' most important actors, and was quite effective in hammering out policy compromises under the grand coalition. The rule preventing governing parties from voting against one another in important Bundestag ballots is also important. These mechanisms help ensure that ministers generally implement the government program.

Monitoring line
ministries
Score: 5

According to the Basic Law, ministers are fully responsible for governing their own divisions. However, they are bound to the general government guidelines drawn up by the chancellor. In topics of general political interest, the cabinet makes decisions collectively. In case of dissent between ministers, the chancellor has the power to serve as an intermediary. The Internal Rules of Procedure require the line ministers to inform the chancellor about all important issues. However, in many cases the chancellery lacks the sectoral expertise to monitor the line ministries' policy proposals effectively.

Monitoring agencies
Score: 7

Executive agencies' competences and responsibilities are explicitly contained in law, edicts, statutes and other regulations. Their activities are not only subject to legal supervision, but also to functional supervision. Functional supervision implies the review of the suitability of agency decisions, as well as of administrative instructions. This holds for the federal as well as the regional level. The ministries have not always made appropriate use of this oversight mechanism, however. The Audit Office has revealed deficiencies in the implementation of functional supervision by the line ministries.

A number of independent agencies, including the Federal Labor Office, the Federal Network Agency, the Bundesbank and others have deliberately been placed beyond the effective control of the federal government.

Task funding
Score: 5

The funding of tasks delegated from national to subnational level without a corresponding source of funding is a sore point in the German debate on fiscal federalism. Some progress was made on

the expenditure side in 2006, when the Bundestag and Bundesrat agreed on the Federalism Reform I, which abolished some forms of mixed financing. Furthermore, draft laws connected with the provision of cash benefits or allowances in kind for third parties will in the future require the approval of the Bundesrat .

Nevertheless, problems with the new provisions soon emerged when the grand coalition wanted to increase the number of child care places for children under the age of three. Since the first federalism reform of 2006, education has come almost entirely under the jurisdiction of the individual federal states. Moreover, the federal government is not allowed to fund state tasks unless the federal level also has legislative competences in the field. Thus, it was very difficult to find a way to provide the states with the necessary funding to provide enough places in child care facilities. Though a way was found in the end, it came close to violating the new constitutional rules.

The inadequacy of autonomous state-level tax resources remains a major reform issue to be addressed. Federalism Reform II has failed to bring any breakthrough in this regards. The German states remain the only level of government with practically no autonomous tax-setting power.

Constitutional
discretion
Score: 8

The allocation of tasks and responsibilities between the federal and state governments is contained in the Basic Law. There are many links between the fields of responsibility, and a clear differentiation is not always possible. However, Federalism Reform I brought some additional precision and clarification of competences for the states. As mentioned above, in some fields the states' ability to act is limited by the available funding. The Federalism Reform II passage was no success in this respect. The states' lack of autonomous tax powers represents a significant weakness.

National standards
Score: 7

In Germany, public services are provided by different levels of government: the federal administration, the administrations of the individual federal states, communal administration, indirect public administration (institutions subject to public law with specific tasks, particularly in the area of social security), non-public and non-profit institutions (e.g. kindergartens or youth centers), and finally judicial administrations. While some standards have a national character and thus have to be respected by all levels, this is not the case for others in areas such as education.

The principle of federalism implies that the provision of public services will not be uniform across the country. This principle limits the ability to set binding standards. It is an essential feature of federalism that it respects differences in preferences, allowing for experiments and heterogeneity in the provision of public services.

The first reform of federalism, adopted in 2006, gave the states a number of new legislative competences, which they started to use in the period of observation. Since the states have adopted differing policies in some areas, this has led to a slight decrease in the national uniformity of public services.

C Institutional learning

Adaptability

Domestic
adaptability
Score: 7

Germany's adaptation of domestic institutional structures to international and supranational developments has produced a mixed record. As in other EU countries, the influence of EU regulations is significant, and the German legal system is today strongly influenced by EU law. However, the organization of the government is still based on structures laid down partly at the end of the 19th century and partly in the aftermath of World War II. The federal government does not have a central policy lead tasked with the management of EU affairs. Each federal ministry is responsible for all matters related to the adoption, implementation and coordination of proposals by the European Commission in its own sectoral area, although the participation of the federal Foreign Office is always required in matters of fundamental importance. The coordination role is primarily shared between the Ministry of Economics and the Foreign Office.

Federal structures, with their various layers of governments and plethora of institutional actors, pose specific problems in terms of adaptability to international and supranational developments. The federalism reform of 2006 contributed to the streamlining of the processes. To address challenges posed by the financial crisis and other structural challenges, a constitutional debt limit was introduced as part of the federalism reform of 2009, restricting the federal government's cyclically adjusted budget deficit to a maximum of 0.35% of GDP, and requiring balanced cyclically adjusted budgets for the individual states. The aims of the provision are the establishment of clear prior commitments to fiscal consolidation, greater transparency and clarity, and consistency with the European Stability and Growth Pact.

In the ratification process for the Treaty of Lisbon, the Federal Constitutional Court decided that the German law transposing the treaty violated the participation rights of the Bundestag and of the Bundesrat. To ensure the ratification of the treaty in accordance with the Basic Law, government and opposition agreed on the duty to obtain Bundestag consent in matters of fundamental EU regulation,

and to provide stronger participation rights to the states in matters of labor legislation, environmental policy and EU budgetary policy.

International
coordination
Score: 9

The German government actively collaborates in various reform efforts promoted by the EU and other transnational and international organizations. Nonetheless, the reaction of the German government to the budget crisis in Greece was criticized as hesitant, showing a lack of willingness to take on an important role in the European Union. It can also be argued, however, that the Greek bailout stands in sharp contrast to the Maastricht Treaty's no-bailout clause, so that any responsible government had to be cautious on that issue given its far-reaching implications for German taxpayers.

There is no doubt that Germany is overall a very constructive partner in international reform initiatives. However, one should not confuse an active involvement in international cooperation with a complete negation of specific national interests and specific policy preferences.

Organizational reform capacity

Self-monitoring
Score: 5

There is neither a particular institution nor commission that independently and impartially serves an oversight role with respect to the government's activities. Nor is there a governmental institution for self-monitoring. As mentioned above, the government's organization is mainly based on structures that date from the end of the 19th century and the aftermath of World War II. This tradition has created silo ministries, an inward-looking administration and a weak center.

Faced with significant complaints from business associated with red tape, the federal government launched a major program aimed at reducing administrative burdens. The creation of a "better regulation" unit in the federal chancellery and the establishment of the National Regulatory Control Council (NRCC), an independent advisory body, have pushed forward the cause of regulatory streamlining. The council is tasked with the application, monitoring and further development of a standardized measurement of the costs of legislatively created bureaucracy, on the basis of the Standard Cost Model. These developments are important in terms of counteracting the centrifugal tendencies at work. However, the NRCC is only allowed to evaluate drafts of laws and their estimated bureaucratic cost, and never the efficiency of the final law. Additionally, the strategic relationship of the better regulation program to high-level public policy goals, especially economic goals, is not yet evident. The program is not clearly linked to broader economic policies, and there is as yet no comprehensive framework designed to avoid fragmentation created by the operation of different programs on different levels. In addition, ex post evaluation of the successes and

failures of the better regulation program tends to be ad hoc. As a first step, the mandate of the NRCC needs to be strengthened, making it a central coordination unit for better regulation policies and reform efforts across the federal government.

Institutional reform
Score: 8

In general, institutional reforms aimed at improving the management capacities of the government are extremely rare in Germany. One exception is the 2006 federalism reform, which clarified the relationship and division of competences between the various levels of government. It contributed to the streamlining of the processes by, inter alia, abolishing the “framework legislation,” a type of federal legislative device that had allowed the states substantial discretion in implementation. It also relocated a number of previously overlapping competences either to the federal or state level and reduced the scope for political roadblocks by reducing the number of laws requiring the consent of the Bundesrat. Between September 2006 and June 2010, 39.6% of laws required the consent of the Bundesrat, compared to 53% before the reform. The number of cases in which the mediation committee between the Bundestag and the Bundesrat had to take action went down from 11.8% between 1998 and 2002 and 22.9% between 2002 and 2005 to 3.2% between 2006 and 2009.

To address challenges posed by the financial crisis and other structural problems, a constitutional debt limit was introduced as part of the 2009 federalism reform, restricting the federal government’s cyclically adjusted budget deficit to a maximum of 0.35% of GDP from 2016 on, and requiring balanced cyclically adjusted budgets for the states from 2020 onward.

Citation:

Zohlnhöfer, Reimut, 2010: Die Auswirkungen der Föderalismusreform I auf die Arbeit des Bundesrates, in: Uwe Jun/Sven Leunig (Hrsg.): 60 Jahre Bundesrat, Baden-Baden: Nomos (in print).

II. Executive accountability

D Citizens

Knowledge of government policy

Policy knowledge
Score: 7

Given the complexities of most political questions, it is highly doubtful that citizens really understand all the motives, objectives and

implications of governmental policies. Nevertheless, there are surely differences in people's levels of knowledge. The extent to which citizens are informed of government policy-making depends both on the supply of in-depth information and the interest in consuming this information. On the supply side, the nationwide print media market is dominated by five leading daily newspapers. On the demand side, the circulation of quality newspapers seems small. However, the Internet has become an increasingly important medium for citizens to gather information, and broadcasters, radio stations and newspaper publishers have adapted to the new circumstances by providing a great deal of their services online.

Television news programs are the main source of information for most citizens. High-quality news broadcasts have a substantial audience. According to one survey, around half of the population watches a news program every day.

Even though high-quality information thus reaches a great deal of the citizenry, there is ongoing discussion as to the willingness of citizens to digest the information provided. According to a survey (Allbus 2008: 61) in 2008, the proportion of those who are interested or very interested in politics was close to one-third in the former West German states. In the former East Germany, on average, public interest in politics is slightly less strong (27.4% in 2008). In addition, older people are more interested in politics than younger generations, and social status plays a key role as well. But looking at the long run, it is evident that more people today are interested in politics than was the case four decades ago.

Germany also performs quite well in international surveys with respect to its citizens' interest in politics and self-assessments of political knowledge. According to the European Social Survey (ESS) 2004, Germans regard themselves as "interested in politics." Moreover, few agreed with the statement "Politics is too complicated to understand," while "Making one's mind up about political issues" was seen as relatively easy. As a part of the International Social Survey Program (ISSP) 2004, 61.3% of the participants in the former West Germany and 64.2% of the participants in the former East Germany agreed or strongly agreed on the importance of having a "good understanding of important political issues," compared to an overall average of 53.8%. All in all, in international comparison Germans rate their own political knowledge as extensive.

Of course, it is questionable whether these kinds of self-assessment exercises indeed reflect the true level of information held. Nevertheless, it is an argument for seeing the issue in a relatively positive light, particularly in international comparison.

E Legislature

Legislative accountability

Obtaining documents
Score: 10

The German Bundestag is a “working parliament” – that is, parliamentary committees are of pivotal importance in formulating and preparing legislative initiatives. Outside their law-preparation activities, they also serve an oversight role with respect to government ministries. Committees can invite the minister responsible for its sectoral policy area to a hearing, and have the right to ask for governmental information that is important for the opposition. The ministries’ expert staffers are always present at committee hearings, often exceeding the number of actual parliamentary committee members. Most documents can be accessed directly by any committee member. Nonetheless, the ministerial bureaucracy tries to withhold information in cases where the opposition may try to use it in criticisms of the government or in preparing policy alternatives, and there are some restrictions on which documents can be provided. But most documents are made public and can be accessed in different ways, including at larger libraries and on the Internet.

Summoning ministers
Score: 10

Parliamentary committees’ right to summon ministers is established by the Basic Law. At the same time, the Basic Law also gives members of the federal government or the Bundesrat the right to be heard in front of the plenum or of any committee.

Summoning experts
Score: 10

Parliamentary committees are able to hold public hearings at any time, and can summon experts to attend them. This mechanism is regularly used. Rule 70, Paragraph 1 of the Rules of Procedure of the German Bundestag states that “(f)or the purpose of obtaining information on a subject under debate, a committee may hold public hearings of experts, representatives of interest groups and other persons who can furnish information. Where an item of business has been referred to it, the committee responsible shall be obliged to hold such hearings if one-quarter of its members so demand....” The gathered experts are often able to influence the discussions and bring about changes in the draft laws, thus enhancing the quality of lawmaking.

Task area coincidence
Score: 9

In general, the task areas of parliamentary committees and ministries coincide. But because the Basic Law provides for the establishment of several committees that do not have a ministerial counterpart (the Committee on the European Union; the Petitions Committee; the

Parliamentary Control Panel), this is not always the case. Furthermore, several committees sometimes deal with matters that are the responsibility of a single ministry (e.g., the Committee on Internal Affairs and the Sports Committee both monitor activities performed by the Federal Ministry of the Interior), and a single committee sometimes deals with matters that are not clearly assigned to a single ministry. Rule 63 of the Rules of Procedure of the German Bundestag defines the proceedings in cases where multiple committees share responsibilities. Nonetheless, parliamentary committees' most important task areas fully coincide with those of the ministries, enabling effective monitoring.

Audit office
Score: 10

The Federal Court of Audit (FCA) is a supreme federal authority, and thus an independent body which is not overseen or otherwise constrained by the government or parliament. The FCA is subject only to the law, and provides assistance to both the federal parliament and the federal government in their decision-making procedures. According to the Basic Law, its members have the same independence as the members of the judiciary, and its task is to monitor the budget and the efficiency of the state's financial practices. The FCA submits its annual report directly to the Bundestag as well as to the government and the Bundesrat. The Bundestag and Bundesrat jointly elect the FCA's president and vice-president, after proposals from the federal government. Around 1300 court employees "audit the (state) account and determine whether public finances have been properly and efficiently administered" (according to the FCA's website), while the FCA's "authorized officers shall have access to any information they require" (Federal Budget Act Section 95 Para. 2). Thus, although Germany's audit office is not exclusively accountable to the parliament, the latter can still rely on the FCA's report.

Ombuds office
Score: 7

The standing parliamentary Petitions Committee is provided for by the Basic Law. As the "seismograph of sentiment" (annotation 2 Blickpunkt Bundestag 2010: 19; own translation), the committee deals with requests and complaints addressed to the Bundestag based on every person's "right to address written requests or complaints to competent authorities and to the legislature" (Art. 17 of the Basic Law). It is able to make recommendations as to whether the Bundestag should take action on particular matters. Nonetheless, its importance as a citizens' advocate and initiator of governmental action to address public concerns is negligible, and it operates primarily as a symbolic institution. However, the committee at least offers an operative contact point for citizens.

Two additional parliamentary ombudsmen are concerned with the special issues faced by patients and soldiers.

F Intermediary organizations

Media

Media reporting
Score: 8

Substantive, in-depth information on decisions taken by the government requires several structural prerequisites. First and foremost worth mentioning is the plurality and heterogeneity of television channels (see Media Pluralism), which is further enhanced by the availability of satellite channels including BBC World, Al-Jazeera, CNN, CNBC Europe and so on.

Public TV and radio broadcasters generally offer in-depth reports on the political process. The two main public television broadcasters, ARD – along with its affiliated regional channels – and ZDF, accounted for 42.9% of the total television market. That substantial market share has in fact declined in recent years, forcing the public broadcasters' head editors to copy the private channels' successful "infotainment" and "politainment" formats. Nevertheless, with regard to international standards, ARD and ZDF in particular offer citizens the opportunity to obtain a relatively deep knowledge of political decision-making. There are also one public and two private channels that specialize in the provision of information, which together have a market share of 3%. Journalists' organizations are trying to improve the quality of journalism, which has its deficiencies. Investigative journalism serves as a watchdog when it uncloaks scandals and malpractices in politics or economics. While editors in places such as the United States deploy substantial monetary and personnel resources for that purpose, German journalists are at best limited in their efforts and lack investigative tenacity (cf. Nagel 2007; Deutschlandfunk report). Volker Lilienthal, a journalist and media scholar, described the issue as follows: "Journalists are often too credulous and rely on statements of politicians and lobbyists in press conferences. The critical assessment of sources is underdeveloped and often leads to journalistic failures. Journalists are basically cheating the audience, because they cannot see the bigger picture" (Internetsource Deutschlandfunk; own translation).

Parties and interest associations

Party competence
Score: 7

Parties in Germany provide the link between state and society. The Basic Law (Art. 21 Para. 1) gives this role to parties due to historical reasons. They are meant to convert the various interests of the people into decisions and programs, and conversely, communicate

the content of politics to citizens. Plausible and coherent manifestos are thus of vital importance. The following analysis focuses on the parties represented in parliament and their election manifestos for the 2009 general election. In a first and superficial comparison, the two major parties in particular, the CDU/CSU and the SPD, showed significant gaps in the consistency of their election manifestos. The CDU rejected tax increases and even promised some (moderate) tax relief. On the other hand, the party promised extra spending on education, family and health care. In the face of the new constitutional debt brake, and the monetary obligations resulting from the financial crisis, these appear to be conflicting goals. Similarly, the SPD tried to address every societal group with its manifesto, resulting in inconsistency. It seems that this overpromising and the internal fragmentation frequently seen in catch-all parties are inherent problems faced by these two parties. The ideas of the Liberal Democrats (FDP), particularly its tax cut plan, are hard to achieve without major expenditure cuts in the current economic environment. The program of the Left Party demonstrates fundamentally oppositional status. The party is only coherent in its complete excoriation of Germany's existing social market economy. The Greens are no exception to this lack of realism, claiming that they would be able to create 1 million new jobs via their "green new deal."

To sum up: Since electoral programs mainly aim at "vote-seeking" (and not at policy-seeking) in a given political competitive environment, they are often imprecise, ambiguous and sometimes even inconsistent. The manifestos in the last general elections confirm this evaluation. This is easy to explain: In the 2005 election, the Christian Democrats offered the most "honest" election program within living memory, including tax increases and substantial welfare-state restructuring. According to most observers, this program cost the CDU/CSU an election victory. Thus, it is no wonder that parties were loathe to repeat this experience.

As in previous governments, ministries and parliamentary committees take the proposals of interest groups into account. Rule 70 Paragraph 1 of the Rules of Procedure of the German Bundestag states that "(f)or the purpose of obtaining information on a subject under debate, a committee may hold public hearings of experts, representatives of interest groups and other persons who can furnish information." This right is used extensively. The German ministerial administration does have a considerable impact on policy formulation. Within the process of formulation, the expertise of interest groups plays a key role in providing the in-depth information required by ministerial officials. The ministerial hearings are the main

gateway of influence. Lobbyists sometimes even work in ministries, which is seen as a major problem. “The borders separating legitimate representation of interests from shady politics are fluid today” (Heinze 2009: 5). Since interests are sometimes mediated through institutionalized corporatist structures, interest associations are privileged. Economic interest associations also have an influential say in German politics since their mobilization capabilities and financial resources make them important for parties’ success at the ballot box. Furthermore, association members play an important role as members of German parties. “Natural alliances” between trade unions and Social Democrats on the one hand and Christian Democrats and employers associations on the other hand do exist, but have softened in recent decades as ideological cleavages have crumbled. With the SPD in opposition for the first time since October 1998, it seems that unions in particular have ended their verbal assaults against the party and returned to a more conventional line of argument in the media. Nevertheless, political priorities seem to be of greater importance than traditional affiliations when it comes to the formation of alliances between interest organizations and parties. Every German government has shown a high degree of interest representation and responsiveness, no matter which coalition had been in charge. That means that major economic interest groups are very well integrated into the policy-making process. This high level of integration ensures that associations are aware of the complexities of policy-making and of the positions of their political adversaries. In general, proposals made by important groups and associations are thus reasonable.

Association
competence
(others)
Score: 8

The official government list cites 2,088 registered associations, of which one-third could be considered to be non-economic interest associations. As stated above, German interest organizations do have considerable impact on policy formulation within the ministerial administration and the legislative process, as well as on the agenda in general. Within the process of policy formulation, the expertise of interest groups plays a key role in providing ministerial officials with the in-depth information necessary to make decisions. But because the recommendations represent particular interests, it is vital that every involved interest group is heard. That is sometimes not the case, and the proposals of the most powerful interest groups (employers’ associations and unions) generally weigh heavier than those of less potent lobby groups (such as environmental, social interest and some religious groups). But citizen groups, social movements and grassroots lobbying organizations are becoming increasingly influential, particularly on the local levels. Although the policy proposals of non-economic interest groups can be described

as reasonable, they tend to be focused on a single issue, and often ignore economic constraints in such a way as to make their suggestions less realistic. Although they often put painful subjects on the policy agenda, they are thus limited in their efficacy due to the absence of political weight.

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