United Nations Convention against Corruption

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II. Preventive measures

5. Preventive anti-corruption policies and practices

2. Paragraph 1 of article 5

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

1. At federal level:

At federal level, there is now a tried and tested corruption prevention strategy for the entire federal administration. This strategy also serves as a model for the 16 federal states (Länder) and also influences strategies in the private sector. The coordinated system of provisions under criminal law, public service law, disciplinary regulations, labour law and various rules for the administration demonstrates that preventing corruption is a high priority in Germany.

“Anti-corruption policies that promote the participation of society”

Stakeholders outside the administration are also integrated into efforts to prevent corruption as well, for example stakeholders in civil society and the private sector (for specific examples, see question 3 below).

“Anti-corruption policies that reflect the principles of the rule of law”

A cornerstone of corruption prevention is the constitutional principle of lawfulness of the administration which is anchored in Article 20 (1) and (3) of the Basic Law. According to this article, the executive “shall be bound by ... law and justice”. This means that all administrative action must apply and comply with all valid statutory norms (the Constitution, legislation, ordinances, statutes, etc.). This attachment to higher law is also known as the “precedence of the law”. It means that all those employed in the administration are obligated to apply and comply with all valid statutory norms.

In addition to this principle, all those employed in the public service must bear individual responsibility for lawful administrative action. For civil servants, this is covered by Section 63 of the Act on Federal Civil Servants (BBG) and Section 36 of the Act on the Status of Civil Servants (BeamtStG):

(1) Civil servants shall take full personal responsibility for the legality of their official actions.
(2) Civil servants shall report any reservations as to the lawfulness of an official order to their immediate supervisor without delay. If the order is upheld without the reservations being remedied, civil servants shall apply to their next higher supervisor. If the order is confirmed, civil servants must carry it out and are relieved of personal responsibility. This shall not apply if the action ordered violates human dignity or criminal or administrative law, and the civil servants are aware that it constitutes a criminal or administrative offence. The confirmation shall be provided in writing upon request.

(3) If a supervisor demands that the order be carried out immediately due to imminent threat and the next higher supervisor cannot be consulted in time, subsection 2, third through fifth sentences shall apply accordingly.

Equivalent rules apply to persons employed in the public service on the basis of a work contract under private law (public employees).

“Anti-corruption policies that reflect proper management of public affairs and public property, integrity, transparency and accountability”

The Federal Budget Code (BHO) governs the orderly use of public funds. According to the BHO, the state may spend only what is determined in the budget. The budget is adopted by the German Bundestag (Parliament) and Bundesrat (representing the federal states). The budget must clearly show all expenditures and commitment appropriations. According to sections 44 and 23 of the BHO, expenditures and authorizations for future commitments in respect of payments to be made to agencies not belonging to the federal administration in order to fulfil specific tasks (allocations) may only be budgeted if the federal government has considerable interest in the performance of such tasks by the agencies concerned and this interest cannot be satisfied at all or to the necessary extent without the allocations.

An autonomous, independent constitutional body, the Bundesrechnungshof (German SAI), monitors the use of budgeted funds (more on this topic under Article 6 (1) and (2)).

Additional important principles which help prevent corruption in the use of public funds are the principles of efficiency and economy. All employees in the public service must abide by these principles when budgeting funds. These principles are established in Section 7 of the Federal Budget Code:

(1) The principles of efficiency and economy shall be observed in preparing and executing the budget. These principles shall impose an obligation to examine the extent to which government tasks or economic activities serving public purposes may be accomplished through divestiture and denationalization or privatization.

(2) Appropriate economic feasibility studies shall be conducted for all measures that have a fiscal impact. The risk allocation associated with such measures shall also be taken into consideration in the process. In suitable cases, private-sector providers shall be given the opportunity to demonstrate whether and to what extent they can perform government tasks or economic activities serving
public purposes with equal or greater efficiency (expression of interest procedure).

(3) Cost and activity accounting shall be introduced in suitable areas.

Public administration in Germany provides a high level of transparency. One core task of all public bodies is therefore to make available general information about their tasks and responsibilities and about their internal organization. For example, the Federal Office for Migration and Refugees (BAMF), which among other things decides which refugees are eligible to enrol in integration courses, has published on its website information on how to fill out the application to enrol in an integration course (see <http://www.bamf.de/DE/Willkommen/DeutschLernen/Integrationskurse/Formulare/formulare-node.html>). This information is available in a number of foreign languages (see <http://www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Integrationskurse/Kursteilnehmer/Merkblaetter/630-009_merkblatt-zum-antrag-aufzulassung.html?nn=4261610>).

This transparency obligation extends to data as well. Transparency and open data enable citizens to participate to a greater extent and enable public agencies to work more intensively with civil society. In early 2017, the Open Data Act was adopted in order to improve access to publicly funded data. The act requires all agencies of the direct federal administration to make open data available free of charge. The data are offered in unprocessed, machine-readable form without access restrictions and are free to be used and circulated by anyone, as long as this does not conflict with the rights of third parties.

The Administrative Procedure Act (VwVfG) ensures transparency by requiring that anyone affected by an administrative procedure must be heard and allowed to inspect documents connected with the proceedings:

Section 28 Hearing of participants

(1) Before an administrative act affecting the rights of a participant may be issued, the participant shall be given the opportunity to comment on the facts relevant to the decision.

(2) This hearing may be dispensed with if it is not required by the circumstances of an individual case and in particular if 1. an immediate decision appears necessary in the public interest or because of the risk involved in delay; 2. the hearing would jeopardize the observance of a time limit vital to the decision; 3. the intent is not to diverge, to his disadvantage, from the actual information provided by a participant in an application or statement; 4. the authority wishes to issue a general order or similar administrative acts in considerable numbers or administrative acts using automatic equipment; 5. measures of administrative enforcement are to be taken.

(3) No hearing shall be granted if it would conflict with urgent public interests.

Section 29 Inspection of documents by participants

(1) The authority shall allow participants to inspect the documents connected
with the proceedings where knowledge of their content is necessary in order to assert or defend their legal interests. Until administrative proceedings have been concluded, the first sentence shall not apply to draft decisions or work directly connected with their preparation. Where participants are represented as provided under sections 17 and 18, only the representatives shall be entitled to inspect documents.

(2) The authority shall not be obliged to allow the inspection of documents where this would interfere with the orderly performance of the authority's tasks, where knowledge of the content of the documents would be to the disadvantage of the country as a whole or of one of the federal states, or where proceedings must be kept secret by law or by their very nature, i.e. in the rightful interests of participants or of third parties.

(3) Inspection of documents shall take place in the offices of the record-keeping authority. In individual cases, documents may also be inspected at the offices of another authority or of the diplomatic or consular representatives of the Federal Republic of Germany abroad; the authority keeping the records may make further exceptions.

But non-participants may also apply to inspect documents concerning administrative proceedings which do not personally affect them, on the basis of the Freedom of Information Act (for more information, see Article 10 (a)).

Another key element of the strategy for preventing corruption in the German federal administration is the specific provisions on integrity for those employed in the public service. The general rights and obligations of civil servants are covered in detail in sections 60 and following of the Act on Federal Civil Servants (BBG). For example, according to Section 60 BBG, every civil servant has the following basic obligations:

(1) Civil servants shall serve the people as a whole, not a political party. They shall carry out their tasks impartially and fairly and shall consider the common good in exercising their office. In everything they do, civil servants must affirm the free, democratic basic order within the meaning of the Basic Law and work to uphold it.

(2) When engaging in political activity, civil servants shall maintain the moderation and reserve required by their status relative to the general population and by their consideration for the duties of their position.

Another example of provisions on integrity is the fundamental ban on accepting rewards, gifts or other advantages according to Section 71 BBG:

Even after their civil service employment ends, civil servants may not demand or accept any rewards, gifts or other advantages or the promise of such for themselves or third persons in connection with their position. Exceptions shall require the approval of the highest service authority or the last highest service authority. The authority to provide approval may be delegated to other agencies.

In addition, the BBG contains special rules, for example on working hours and on whether outside activities are allowed (see Article 8 (5) below).
Agency-internal regulations specify the legal provisions cited above in further detail, for example on the exceptional permission to accept gifts (see Article 8 (2) and (3) for more information).

Equivalent provisions on integrity apply to staff who are not civil servants (section 3 (2) and (3) of the Federal Civil Servants' Remuneration Act).

2. At federal state level:

The general principles just described, such as the precedence of the law and the obligation of transparency, also apply to public administration at state level.

Further, in 1995 the federal states adopted their own strategy for preventing and fighting corruption (IMK Strategy on Corruption) in the framework of the Standing Conference of the Interior Ministers of the federal states (IMK). The strategy is based on 16 guidelines and recommendations for prevention and punishment which define the framework for balanced corruption-fighting efforts involving all of society. The strategy recommends 12 preventive and six punitive measures in the following fields of action: legislation, law enforcement, administrative organization and awareness-raising/further training for employees of the public service (only available in German at http://m.mik.nrw.de/fileadmin/user_upload/editors/import/inn/doks/imkkonzept.pdf).

The IMK regularly produces reports on the implementation of its strategy to fight corruption. The sixth and latest report covers the period 2010 to 2014 and shows how the individual measures recommended in the IMK strategy to prevent and fight corruption were carried out and what new developments there were during the reporting period. Each report builds on and updates the previous one. The following responses and explanations concerning the Federal states are largely based on the information from the 6th IMK implementation report.

In Berlin, for example, fighting and preventing corruption is based on a four-pillar model within the judicial administration. The four pillars are a special division of the public prosecutor's office, a central office for fighting corruption, an anti-corruption working group and a contact person for the public or public employees to submit information about possible corruption anonymously (Vertrauensanwalt). In addition, since 2015 the Berlin police (state criminal police office, LKA) have had a system for the public to submit tips about possible corruption anonymously. Website on Berlin’s four-pillar model: <https://www.berlin.de/sen/justiz/strafverfolgung/korruptionsbekaempfung/>

In North Rhine-Westphalia, the Act to Improve the Fight against Corruption and to Establish and Manage a Contract Award Register, has been in force since 2005. The Act applies at state and local level. It is flanked by circular instructions which cover managerial responsibility, the use of internal control systems, etc. in detail. All executive agencies of the North Rhine-Westphalia Interior Ministry, which has lead responsibility for fighting corruption, have internal audit units. Their tasks and powers are described in detail in the guidelines for internal audit units of the Interior Ministry’s executive agencies. The internal audit units regularly conduct audits in their agencies and in subordinate agencies as appropriate, thereby monitoring compliance with provisions to prevent corruption. Managerial responsibility has a high priority in the agencies; as a result, new managers receive extensive training, for example.
The Anti-corruption Guidelines of the Free State of Bavaria ("Guidelines for the Prevention and Suppression of Corruption in Public Administration") include regulations on objectives, organizational control mechanisms, public relations, conduct in the event of suspicion of corruption, prosecution of acts of corruption, as well as regulations on preventing manipulation in the field of procurement. The Guidelines particularly emphasize the importance of educating and raising awareness among employees and for providing employees in areas where there is a risk of corruption with general information and incident-based information (eg changing posts). For this purpose, the Bavarian State Ministry of the Interior has developed a model "Code of Conduct against Corruption" that has been made available to the state and local authorities. These measures are supplemented by a guide for executives.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The system for preventing corruption at federal level is explained in further detail below, under Article 5 (2) and (3) and Article 8 (2) and (3).

One practical example of how other stakeholders are integrated in the corruption prevention efforts of the German Federal Government is the Private Sector/Federal Administration Anti-Corruption Initiative: Together Against Corruption, launched in 2010. Its members include representatives of the largest federal ministries on the one hand and associations and chief compliance officers of various large and medium-sized companies on the other. Their goal is to improve corruption prevention at the interface between the private sector and the federal administration with the help of a joint strategy. The members usually meet once or twice a year to discuss current challenges related to corruption, from the perspective of both the public administration and the private sector; to work out strategies and solutions; and to publish guides for the public sector on selected topics. For example, one of these guides provides information on effective compliance measures. Companies can select the measures most appropriate for themselves or evaluate their existing compliance system (available in German at <https://www.bmi.bund.de/SharedDocs/downloads/DE/themen/moderne-verwaltung/praktische-hilfestellungen-antikorruptionsmassnahmen.pdf?__blob=publicationFile&v=2>).

Another guide in the form of a list of questions and answers provides information on accepting rewards and gifts (available in German at <https://www.bmi.bund.de/SharedDocs/downloads/DE/themen/moderne-verwaltung/initiativkreis_korruptionspraevention.pdf?__blob=publicationFile&v=2>).
3. Paragraph 2 of article 5

2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Both the Federation and all 16 federal states have created their own binding rules on preventing corruption, with various specific provisions. Some rules of conduct are accompanied by examples intended to give employees greater security and make it easier for them to deal with situations of possible corruption.

The federal and state rules are based on the original sample administrative provisions drafted by a federal and state working group. They are included as an annex to the above-mentioned IMK anti-corruption strategy of 18-19 May 1995. The federal and state rules therefore are similar in content, ensuring a significant degree of uniformity at these two levels of government.

The Federation and the federal states also have specific rules on allowing advertising and sponsoring and how to deal with it. These rules help ensure transparency and prevent corruption, in line with the framework directive on principles for sponsoring, advertising, donations and charitable donations to finance public tasks adopted by the IMK on 18-19 November 2014.

For the Federation, sponsoring is governed by the General Administrative Regulation to promote activities by the Federal Government through contributions from the private sector (sponsoring, donations and other gifts) of 7 July 2003 (VV Sponsoring). Directions for implementing the regulation were last amended on 5 January 2015.

At federal level:

Federal Government Directive concerning the Prevention of Corruption in the Federal Administration


- the obligation to conduct measures at regular intervals and as warranted by circumstances to identify areas in all federal agencies which are especially vulnerable to corruption;
- the obligation to conduct risk analyses in respect of those areas identified as especially vulnerable to corruption and, based on the results of the risk analysis, to determine what changes are to be made in regard to organization, procedures
and/or personnel assignment;
• strict adherence to the principle of greater scrutiny and the principle of staff rotation;
• appointing contact persons for corruption prevention within the supreme federal authorities who are not bound by instructions and who act as contacts for staff, the general public and heads of authorities;
• specific basic and advanced training for supervisory staff and staff members in areas especially vulnerable to corruption;
• increasing awareness among staff for where the boundary lies between what is permissible and what is not;
• management staff must have effective control measures in place.

The implementation of these measures is set out under Question 3.

The Directive is flanked by further regulations and recommendations, such as

• the Anti-Corruption Code of Conduct,
• guidelines for supervisors and heads of authorities,
• recommendations for implementing the Directive (for more information on the content of the Directive as the centrepiece of corruption prevention in the federal administration and on the obligations for public employees, see below under Article 8 (2) and (3) UNCAC),
• the general administrative regulation to promote activities by the federal government through contributions from the private sector (sponsoring, donations and other gifts),
• directions for implementing the administrative regulation, and
• the Circular on the Ban on Accepting Rewards or Gifts in the Federal Administration (current version 2004).

Further, the individual agencies have in-house regulations with additional rules for their specific areas of responsibility or specifying the provisions in the Anti-Corruption Directive (often making them stricter).

Similar regulations exist in all federal states and also in the cities and municipalities.

Revising the Anti-Corruption Directive
The Directive and the recommendations for implementing it are currently being revised. This revision is intended above all to incorporate the practical experience gained from applying the rules and recommendations over the past 13 years. The revision is being prepared by an interministerial working group which includes contact persons for corruption prevention and experts from the internal audit units. The revised draft will ultimately be submitted to all federal ministries for approval and to the Federal Cabinet for adoption.

Guides from government and the private sector
In addition, there are several guides drawn up jointly by government agencies and the private sector, such as those by the Private Sector/Federal Administration Anti-Corruption Initiative: Together Against Corruption (see above, the example under Article 5 (1)), by the German Association of Towns and Municipalities, and by the federation of small and medium-sized construction companies (BVMB).
**Competition Register for Public Procurement**

Another measure to meet the obligations of Article 5 (2) UNCAC is the introduction of a nationwide competition register, in which companies will be listed that have committed economic crimes and therefore can or must be excluded from the award of public contracts.

Companies which commit economic crimes should not profit from public contracts or concessions. Compiling a competition register will enable contracting authorities to check a nationwide electronic database to find out whether a company has violated relevant laws. The Act to Introduce the Competition Register for Public Procurement entered into force on 29 July 2017, and the register is currently being set up at the Bundeskartellamt (Federal Cartel Office). The new competition register is scheduled to go into operation in 2020.

The Act covers all the criminal and regulatory offences to be entered in the register. These are final and binding convictions, penalty orders and final decisions on fines as the result of offences which according to Section 123 (1) and (4) of the Act against Restraints of Competition (GWB) must bar companies from taking part in the contract award procedure, including in particular bribery, money laundering, tax evasion and terrorist financing. According to Section 124 GWB, offences which may bar companies from participating include violations of anti-trust law and of certain labour law provisions.

The private sector also has rules on preventing corruption and rules of conduct which are described in greater detail under Article 12 (1) and (2).

**At federal state level:**

All the federal states have rules on corruption prevention (in the form of directives or laws) and on related issues.

To optimize the structuring of operations, the federal and state governments take different measures. In general, but especially in areas especially vulnerable to corruption, the principle of review by a second staff member is rigorously applied, creating the highest level of transparency, for example in documenting files and processes. Checks are conducted regularly or randomly. In the area of procurement in particular, optimization in the relevant agencies and organizational units is achieved by keeping the requesting unit, the procurement unit and the unit responsible for managing funds separate. The procurement process is computer-assisted. In the federal states, the structuring of operations is accompanied by written rules (agency-internal rules such as in-house directives, etc.). Compliance with these rules is checked periodically or as occasion demands.

Effective corruption prevention also requires greater administrative and expert supervision using information and participation procedures as well as sufficient monitoring measures. The importance of administrative and expert supervision is expressed in corresponding state law and agency-internal regulation.

To carry out the variety of tasks related to preventing and fighting corruption, organizational units were set up in the federal states some time ago to perform specific preventive and punitive anti-corruption measures. As a rule, these are
internal audit units. Existing organizational units were also assigned additional tasks; in some cases new responsibilities and tasks were created, for example in-house contact persons for corruption prevention.

All federal states also have rules on the ban on accepting gifts and on sponsoring. Half of the federal states have also introduced a corruption register in the form of procurement registers in which companies are entered which can or must be excluded from contract award procedures. These registers will be replaced when the nationwide competition register goes into operation (see Question 2 above for more information).

The Act on the Status of Civil Servants of 17 June 2008 (BeamtStG) also applies to all civil servants at state level. For example, according to Section 37 (2) no. 3, the obligation to maintain confidentiality does not apply in case of corruption-related crime, and Section 42 prohibits the acceptance of rewards, gifts and other advantages. The federal states have utilized the possibility to make their own rules in addition to the Act on the Status of Civil Servants, in order to establish generally binding codes of conduct and indicate possible consequences of failing to abide by them.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

**At federal level:**

In the following, some examples of strategies and practices in the Anti-Corruption Directive to prevent corruption will be explained in further detail. The figures below from 2015 can also be found in the Annual Report for 2015 on Preventing Corruption in the Federal Administration (available in English at <https://www.bmi.bund.de/EN/topics/administrative-reform/corruption-prevention/integrity-node.html>):

- **Identifying and analysing areas of activity especially vulnerable to corruption (No. 2 of the Anti-Corruption Directive)**

According to No. 2 of the Anti-Corruption Directive, measures to identify areas of activity which are especially vulnerable to corruption must be carried out in all federal agencies (more than 930 agencies and offices in total) at regular intervals, in order to be able to take corruption prevention measures specifically for them. In 2015, 50,784 jobs in the federal administration were classified as especially vulnerable to corruption. In terms of staffing numbers, this means that about 8.8% of areas of activity in the federal administration examined are especially vulnerable to corruption.

Various methods are available to gather this information. Collection is mainly based on the indicators of tasks especially vulnerable to corruption and on the likelihood of being involved in corruption when engaged in these tasks. The federal administration has guides to this issue, available in German at <https://www.bmi.bund.de/SharedDocs/downloads/DE/themen/moderne-verwaltung/handreichung-korruptionsgefaehrdete-arbeitsgebiete.html>.

These guides present methods for identifying areas of activity especially...
vulnerable to corruption; these methods are already in use and have proven helpful in practice. With the methods described, the evaluation is prepared and assisted using electronic questionnaires. The organizational unit or staff member in question first conducts a self-assessment on the risk of corruption. Then questions are asked about existing safety measures in the internal control system (IKS). The organizational unit conducting the examination compiles and evaluates the data gathered in this way. The results are compiled in a risk atlas for the entire agency.

Some agencies, such as the Federal Statistical Office, interview all staff members to determine whether an area of activity is especially vulnerable to corruption. For those areas found to be especially vulnerable to corruption, a risk analysis is then carried out. This analysis evaluates the potential risk in each area, the existing system of internal control (IKS) and measures taken to increase supervisors’ and staff awareness. Based on the results, recommendations for reducing the risk of corruption are drafted. These may call for changing the organizational structure and work process, staff assignments or special measures to increase awareness.

- **Administrative and expert supervision (No. 9 of the Anti-Corruption Directive)**

  The federal administration consists of multiple levels: supreme federal authorities (usually federal ministries) and higher, intermediate and lower federal authorities. If an authority has one or more executive agencies, it also performs administrative and expert supervision in the framework of corruption prevention. Expert supervision means that the supervising authority assists, monitors and instructs its executive agency with regard to its tasks as needed. The same is true of administrative supervision, although here the focus is on the supervision of staff rather than the tasks to be carried out. According to Section 3 (1) of the Joint Rules of Procedure of the Federal Ministries (GGO), federal ministries are required to conduct expert supervision. The Joint Rules of Procedure are available at <https://www.bmi.bund.de/SharedDocs/downloads/EN/themen/moderne-verwaltung/ggo_en.html>.

  As part of their duty of administrative and expert supervision, supervisors must also pay attention to signs of corruption. And they must alert their staff to the risk of corruption regularly and as circumstances require. In 2015, 446 out of more than 900 federal agencies conducted administrative supervision and 444 conducted expert supervision (a single agency may conduct both administrative and expert supervision). And 261 federal agencies issued specific rules for the administrative and expert supervision of areas of activity especially vulnerable to corruption.

- **Transparency and the principle of greater scrutiny (No. 3 of the Anti-Corruption Directive)**

  According to the principle of greater scrutiny, multiple staff members or organizational units are involved in checking operations. This can be done in two ways: Either a task is assigned to multiple staff members (second staff member checks work results), or additional staff members check the work results (plausibility check). In areas of activity classified as especially vulnerable to corruption, more intensive administrative and expert supervision is one measure the Anti-Corruption Directive calls for (see No. 3.1 of the Directive). In 2015, more than 600 out of a total of more than 900 federal agencies had a second staff.
member check work results and/or conducted plausibility checks. About 560 federal agencies used IT-assisted workflows to comply with the principle of greater scrutiny.

The federal agencies continue to develop their measures for preventing corruption. For example, in 2015, 458 agencies in the federal administration were definitely planning to take at least one new measure, 363 had already initiated at least one new measure, and 197 had implemented at least one new measure. The agencies listed the following examples of new measures: issuing new implementation directives, planning/carrying out new training measures, conducting organizational measures and measures related to areas of activity/jobs, designating ombudsmen, introducing electronic channels to report possible corruption.

**At federal state level:**

The federal states of Hesse and North Rhine-Westphalia will be presented as examples. In addition to the Act on the Status of Civil Servants, the following state regulations apply to state employees in Hesse:

- Ordinance to prevent and fight corruption within the remit of the Ministry of the Interior and for Sport of 21 May 2014 (Official Gazette of 2 June 2014, p. 482). There are plans to extend the scope of the ordinance to cover the entire Hessian state administration.

- Administrative regulations for employees of the state of Hesse on accepting rewards and gifts of 18 June 2012 (Official Gazette of 25 June 2012, p. 676)

- Joint circular instructions on the principles for sponsoring, advertising, donations and charitable donations to finance public tasks of 8 December 2015 (Official Gazette of 18 January 2016, p. 86)

Parts I to III of the ordinance “Avoiding corruption in Hessian local governments” provide recommendations for municipalities on how to take general organizational measures and measures specifically in the framework of contract award procedures to prevent corruption. Part IV of the ordinance contains binding rules for municipalities regarding grants from the state of Hesse. The existing ordinance was evaluated in 2013 and 2014. The new ordinance entered into force on 9 June 2015.

In North Rhine-Westphalia, heads of public bodies are required to take corruption prevention measures corresponding to the level of risk. Areas vulnerable to corruption and the jobs concerned are to be identified internally (corruption risk atlas). Staff whose jobs are classified as especially vulnerable to corruption are supposed to be reassigned to non-vulnerable positions at least every five years (rotation). If such rotation is not possible, the factual and legal grounds and the measures taken in compensation in the individual case (such as more intensive checks) are to be documented and reported to the responsible supervisory authority.
4. Paragraph 3 of article 5

3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

**Federal level**

**Reporting on corruption prevention measures**

The German Bundestag has made the federal administration especially accountable for its corruption prevention efforts. Based on several decisions in 2004, the entire federal administration is required to report to the Bundestag’s Auditing Committee every year on its corruption prevention efforts. This Annual Report on Preventing Corruption in the Federal Administration covers more than 570,000 staff employed in the federal administration and more than 900 agencies, offices and other institutions (for more on this report, see under Article 10 (c)). It includes all reported cases of suspected corruption as well as statistics on the implementation of the Anti-Corruption Directive and its measures to prevent corruption (available to the public at <https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2016/corruption-prevention-report-2015.html>)

Also since 2005, every two years the Federal Ministry of the Interior has submitted to the Bundestag a report on sponsoring to benefit the federal administration (available to the public at <https://www.bmi.bund.de/SharedDocs/downloads/DE/publikationen/2017/sponsoringbericht-2017.pdf?__blob=publicationFile&v=1>)

The federal states also report regularly on the various efforts to prevent corruption at all levels of government. Since 1999, they have submitted to the IMK (see footnote 1) reports on the implementation of the strategy to prevent and fight corruption. This report is currently produced every five years. The next report is scheduled to appear in 2020.

**National Situation Report on Corruption**

The National Situation Report on Corruption contains the latest information and statistics on the situation of and trends in corruption-related crime in Germany. It is based on information supplied by the Federal Criminal Police Office and its counterparts in the federal states, the Federal Police and the Customs Criminological Office using a nationally standardized questionnaire. The report is produced every January at the Federal Criminal Police Office for the previous year and published upon approval by the Federal Ministry of the Interior. In addition to a detailed description of corruption-related crime during the reporting period, the report also contains areas targeted by corruption, amount of damage, detailed analysis of givers and takers of bribes and of where proceedings originated as well as an overall assessment of corruption-related crimes reported...
to the police. The National Situation Report on Corruption is available to the public at <https://www.bka.de/DE/AktuelleInformationen/StatistikenLagebilder/Lagebilder/Corruption/korruption_node.html>.

Queries from journalists and initiatives by non-governmental organizations demonstrate that the public intensively analyses the National Situation Report on Corruption which can serve as the basis for further demands and descriptions of problems.

**RETASAST**
Initiatives to amend existing criminal laws or create new ones, including anti-corruption legislation, often include support from RETASAST, which is part of Section IZ 14, the advising unit for practical legal issues and policy in the field of law enforcement at the Federal Criminal Police Office. RETASAST is responsible for collecting and analysing information and data of legal relevance, that is, matters from law enforcement practice in which police work is hindered by legal or legislative shortcomings. RETASAST also provides statistics and evaluates court decisions in light of their relevance for practical law enforcement.

Its goal is to assist in the passage of legislation. RETASAST is intended to provide an empirical basis for initiating legislative amendments or to support initiatives to do so. It is also intended to evaluate existing legal instruments. It actively collects relevant information and also takes it from regular reports of its cooperation partners. Staff at police stations can submit their comments and questions to RETASAST via the designated contact person in their central unit or state criminal police office.

The information is analysed, recorded and prepared for inclusion in RETASAST’s regular reports. These reports are provided twice yearly to the specialized departments of the federal and state governments and to the Federal Ministry of the Interior as a collection of cases at federal and state level. The information also serves as the basis for comments and responses to instructions, expert opinions and individual questions from law enforcement and policy-makers. RETASAST depends on information supplied by police stations at federal and state level. State police stations can submit their comments and questions to RETASAST via the designated contact person at the responsible state criminal police office.

**Monitoring by the Bundesrechnungshof**
The Bundesrechnungshof (German SAI; BRH) regularly checks whether the federal administration is following the rules on corruption prevention. These checks typically focus on certain aspects of corruption prevention or on the implementation of corruption-prevention measures in individual agencies or institutions of the federal administration. Checking corruption prevention is also often part of a larger examination of budgeting and management at the agency in question. The BRH also repeatedly checks individual areas or cross-sections of areas at high risk of corruption (e.g. procurement, grants, construction measures). Further, horizontal checks of corruption prevention are carried out regularly. The BRH uses all the usual forms of auditing (selective audits,
horizontal audits and follow-up audits).

The main task of the BRH is to point out vulnerabilities in administrative processes and inadequate preventive measures which could be favourable to corruption. With its findings and recommendations, the BRH systematically helps promote thorough corruption prevention in the federal administration. It also advises the administration on improving its regulatory framework.

The BRH has found that the number of criminal investigations of actual or suspected corruption, as reported by the Federal Ministry of the Interior in its annual reports since 2004, can be regarded as minimal in relation to the number of all staff employed in the direct and indirect federal administration. In the 2015 reporting year, criminal investigations were initiated against only 0,005 % of more than half a million employees of the federal administration in connection with corruption offences, with typical related offences such as fraud or breach of trust or with corruption-related service offenses (see annual report for 2015 on preventing corruption in the federal administration, available in English at <https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2016/corrupt ion-prevention-report-2015.html>). In the 2016 reporting year, criminal investigations were initiated against 0,006% of the federal employees (see annual report for 2016 on preventing corruption in the federal administration; only available in German at <https://www.bmi.bund.de/SharedDocs/downloads/DE/publikationen/2016/jahres bericht-2016-korruptionspraevention.pdf?__blob=publicationFile&v=3>). Happily, corruption in the federal administration is relatively rare. Based on its auditing activity, the BRH has gained no other insights into the number of corruption cases in the federal administration. The BRH comes to the conclusion that the federal administration largely implements the Anti-Corruption Directive in an orderly fashion, although the implementation status of individual provisions and by the various addressees of the directive varies.

Overall implementation is advanced, which partly results from the fact that the usual work processes of a federal agency provide in any case for written or electronic record-keeping, division of tasks, involvement of supervisors and other organizational units, etc. These organizational practices help prevent corruption, even if this is not always their primary purpose. However, they are also flanked by a variety of targeted corruption-prevention measures.

The BRH has found that, in general, the degree of implementation tends to decrease the further an institution is removed from the government: For example, federal agencies generally have progressed much further than grant recipients, which must also apply the Anti-Corruption Directive if they receive federal funding. The number of staff can also influence the implementation of corruption-prevention measures, especially staff rotation. Smaller institutions in particular often find it difficult to comply with strict staffing rules such as the principles of greater scrutiny, staff rotation and the division of tasks. The BRH has often found methodological flaws in the threat and risk analyses of audited institutions.

Overall, however, the BRH has found that the federal administration carries out extensive and visible activities to comply with the strict rules of the Anti-Corruption Directive.
At federal state level:

The federal states too have instruments to monitor measures to prevent and fight corruption, such as the state-level equivalent of the National Situation Report on Corruption, which almost all federal states produce annually, as well as the IMK reports on the implementation of its strategy to fight corruption (see paragraph 2 above).

For example, the state criminal police office of Baden-Württemberg produces an annual report on corruption-related crime based on the crime statistics compiled by the police and on information-sharing related to corruption. Among other things, the report describes current trends in corruption-related crime. Its findings are submitted to the Federal Criminal Police Office to be included in the national report.

The North Rhine-Westphalia Interior Ministry produces reports every two years which are presented to the interior minister and state secretary. They are currently at the state audit institution (Landesrechnungshof). The report contains the findings of the ministry’s audits and of the internal audits of its executive agencies. Other ministries, such as the Justice Ministry, also compile their findings in a report presented to the minister and state secretary. According to the decision of 19 May 2010, a report on sponsoring must be presented to the Hesse state parliament every two years in order to make the contribution of third parties to finance public tasks more transparent.

All federal states have autonomous, independent audit institutions which, like the BRH, regularly check the corruption-prevention measures taken by the administration.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

One example of a BRH audit of corruption prevention can be found in the remarks on further results of the 2015 audit (remark no. 2 in the audit report). This audit checked corruption prevention at the Federal Ministry of Justice and Consumer Protection (BMJV), in particular measures to identify and analyse areas of activity especially vulnerable to corruption (No. 2 of the Anti-Corruption Directive).

The BRH’s findings were as follows:

The federal ministry’s core tasks include initiating and working on new legislation. In the past, the ministry classified the divisions entrusted with this task as “apparently not especially vulnerable to corruption” in its risk analysis. The ministry explained this assessment by stating that, although the divisions often influenced the content of legislation, the parliament always made the formal decision to adopt a law. The BRH disagreed, arguing that, although laws are adopted by the parliament, this does not rule out every possibility of potential corruption in the divisions involved. Bills submitted by the Federal Government to the German Bundestag are normally drafted in ministry divisions. The initial
phase of drafting, in which the division has a high level of responsibility, is especially sensitive. Passing on inside information, for example, can give third parties an advantage and significantly influence the public or parliamentary debate. The federal ministry then conducted a new risk analysis following the BRH recommendations.

This example shows that, in a multi-step decision-making process, not only the final step is decisive for identifying risks. Instead, according to the BRH, precisely the initial phases of such processes can come with (special) corruption risks. The BRH’s remarks on this audit increased the federal administration’s awareness of this fact.

Similar audits are also conducted in the federal states. For example, the state audit institution checks the implementation of and compliance with the Anti-Corruption Directive. Its comments are being incorporated into the current revision of the directive. In North Rhine-Westphalia too, the state audit institution is currently examining corruption prevention within the remit of the state’s Interior Ministry.
5. Paragraph 4 of article 5

4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

At federal level:

Germany has participated in cross-border cooperation to prevent and fight corruption for years. This applies to bilateral relations and to multilateral cooperation. Among others, Germany is active in the Council of Europe’s Groupe d’Etats Contre la Corruption (GRECO) and in the Anti-corruption bodies of the United Nations, the OECD and the G-20, as well as at European Union level. Experts from the federal and state administrations are involved in world-wide sharing of ideas and experience on fighting corruption. For example, they participate in EU twinning projects and advise on the basis of memorandums of understanding. They also advise in the framework of advanced training projects which are funded by the Federal Foreign Office, for example.

At federal state level:

The same is true of the federal states. For example, Berlin’s state agencies (police, building administration, central unit for fighting corruption) are constantly involved at home and abroad, especially in eastern Europe, in the context of administrative assistance and knowledge transfer.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

GRECO evaluations

Germany has been the subject of all GRECO evaluations so far. These evaluations focused on both preventing and fighting corruption in Germany. For example, a priority in the latest round of evaluations was the prevention of corruption in respect of members of parliament, judges and prosecutors. Both the evaluation reports and the compliance reports are available at <https://www.coe.int/en/web/greco/evaluations/germany>.

German development cooperation in the area of anti-corruption

German development cooperation works with partner countries and institutions on implementing these provisions. Overall, German development cooperation supports over 60 projects following a twin-track approach: supporting stand-alone anti-corruption projects and integrating preventive measures in specific sectors.
such as water, education and health.

For example, in water projects in Albania and DR Congo, the development bank Kreditanstalt für Wiederaufbau (KfW) worked with water supply companies to enhance their integrity management. In Kyrgyzstan, integrity management and transparency in procurement was improved in a health sector programme. In Afghanistan staff of the clinic and of the Ministry of Health were supported through awareness-raising measures in 2016. In forestry projects in both Vietnam and China, multi-phased performance monitoring increased integrity, while in the Amazon region the partner countries received assistance in combating the illegal trade in wildlife. Decentralization projects in Benin and Mali supported local audits in municipalities. In Ghana, the supreme audit institution was strengthened by improving its field office structure. Through public finance projects in Rwanda and Uganda, transparency and integrity in the public sector were enhanced through work with the Auditor General and the tax administration, thereby improving public procurement and strengthening financial controls.

Furthermore, technical cooperation projects implemented by the Deutsche Gesellschaft für internationale Zusammenarbeit (GIZ) GmbH explicitly focusing on corruption are currently being implemented in Kenya, Indonesia and Tunisia, while numerous bilateral governance projects address corruption as one part of their work. Whereas the programme in Indonesia focuses on corruption prevention with the Anti-Corruption Commission, the project in Kenya addresses the entire law enforcement chain with the goal of improving the capabilities of state and non-state actors to fight corruption and the misuse of power effectively. The project in Kenya was recently redesigned on the basis of the recommendations of the first cycle of the UNCAC review.

Alongside bilateral programmes, GIZ developed on behalf of German development cooperation a tool called Anti-Corruption Works (AC Works) for assessing corruption risk and planning counter-measures in programme planning. It combines the expertise of programme staff with the knowledge of anti-corruption experts in a workshop setting and was implemented in projects worldwide more than ten times in the last three years.
6. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

None.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.
6. Preventive anti-corruption body or bodies

7. Paragraph 1 of article 6

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:

(a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;

(b) Increasing and disseminating knowledge about the prevention of corruption.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

In Germany, due to the competences shared between the Federal Government and the Länder (federalism) and the division of tasks defined within the respective administration, the tasks referred to in Article 6 paragraph 1 of the UNCAC are carried out by different bodies. Both on the Federal and on the Länder level, there are lead units responsible for corruption prevention. Usually they belong to the Ministries of Interior. They have issued binding regulations on corruption prevention for their respective administrations requiring for example the appointment of contact persons for corruption prevention. They are being supported by other bodies or organizational structures such as internal audit units, anonymous whistleblower systems, bodies responsible for authorizing secondary employment and the acceptance of rewards and gifts or for authorizing sponsoring or the Agencies for Civic Education. In addition, Supreme Audit Institutions at the Federal and the Länder level oversee and examine the anti-corruption efforts in the administration. The components listed below are all part of this overall concept.

At federal level
A lead division on preventing corruption was set up in the Federal Ministry of the Interior (Division O4). Another lead division on fighting corruption was established in the Federal Ministry of Justice and Consumer Protection (Division IIA4).

Re (a) - Establishing contact persons for corruption prevention
Pursuant to no. 5.1 of the Rules on Integrity (see <https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2014/rules-on-integrity.pdf?__blob=publicationFile>), depending on its size and function each executive agency within a federal ministry’s remit is required to appoint a contact person for corruption prevention. These contact persons may be charged with the tasks described in no. 5 of the Rules on Integrity, for example:

a) serving as a contact person for agency staff and management, if necessary without having to go through official channels, along with private persons;
b) advising agency management;

c) keeping staff members informed (e.g. by means of regularly scheduled seminars and presentations);

d) assisting with training;

e) monitoring and assessing any indications of corruption;

f) helping keep the public informed about penalties under public service law and criminal law (preventive effect) while respecting the privacy rights of those concerned.

**Internal audits**

Internal audit units have been established in nearly all federal agencies. They are responsible for auditing corruption prevention measures and, where necessary, issuing recommendations on improving measures taken.

**Establishing bodies responsible for authorizing secondary employment and the acceptance of rewards and gifts**

As already detailed in regard to Article 5 paragraphs 1 and 2, public officials are required to notify their employer of any secondary employment they engage in as well as any rewards and gifts they are offered and to obtain authorization therefor. There are clear rules on which unit/division within an agency or authority is responsible for granting such authorization.

Within the Federal Ministry of the Interior, for instance, it is the Staff Division which is responsible for these matters. Staff in the Division examine applications/notifications relating to the acceptance of gifts and the exercise of secondary employment and check them against statutory requirements and specific circulars and internal rules relating to them. They then decide whether to authorize the secondary employment or allow the gift to be accepted. Decisions are always cross-checked by a second member of staff. In cases of doubt, a member of staff of the higher grade of service who is qualified to hold judicial office will take the decision.

**Establishing bodies responsible for authorizing sponsoring**

Sponsoring is subject to permission being granted by the responsible authority. Pursuant to no. 3.3 of the General Administrative Regulation on Sponsoring, the acceptance of offered or solicited sponsoring requires the written consent of the highest administrative authority. The latter may delegate its powers in this respect. If the government body to which the power of consent is delegated is the intended beneficiary of the sponsoring, the consent of the next-highest body must be obtained beforehand, unless the benefitting body is authorized to take the final decision. A post with responsibility for sponsorship issues (sponsorship officer) must be established within each of the supreme federal authorities. The holder of this post is involved in matters relating to sponsorship and cooperates closely with the contact person for corruption prevention.

Where there are plans to solicit sponsoring, a decision is to be obtained from the head of the government body prior to approaching potential sponsors. The head
of the government body involves the sponsorship officer in cases to be decided by the supreme federal authority. The head may delegate decision-making powers within the supreme federal authorities.

Bundesrechnungshof (Germany’s Supreme Audit Institution, SAI)
For further details regarding the Bundesrechnungshof please refer to Article 6 paragraph 2 Question 2.

Financial Intelligence Unit
For further details regarding the Financial Intelligence Unit please refer to Article 58.

Re (b) - Increasing and disseminating knowledge

Federal Agency for Civic Education
Corruption is an issue which is also dealt with by the Federal Agency for Civic Education (BpB), a subordinate agency within the Federal Ministry of the Interior’s remit. It is tasked with promoting an understanding of political issues through political education measures, with fostering an awareness of what democracy is and with encouraging people to be politically active. The BpB takes an interdisciplinary approach to corruption (philosophy/anthropology, history, political science, media/journalism, the arts/culture). Its key activities focus on defining the legitimate means of lobbying and exerting an influence in pluralistic, democratic societies, the extent to which these are culturally, historically and regionally determined and their interdependencies, and the impact which corruption and accepting and granting advantages in dealings between the state and its citizens have on the credibility and effectiveness of political systems.

Furthermore, knowledge about the prevention of corruption is increased and disseminated inter alia by means of the following measures:

- The Rules on Integrity, a brochure containing all those regulations which are applicable to the federal administration, is generally available (to public officials, members of the public, the press etc.) both in hardcopy and online (see <https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2014/rules-on-integrity.pdf?__blob=publicationFile&v=3>).
- The Code of Conduct for Members of the German Bundestag contains various texts detailing which information each Member of the German Bundestag must supply to the President of the Bundestag (e.g. regarding secondary employment, possibly including income earned, shares held in companies, donations and other allowances paid for their political activity) and is also generally available (in German, see <https://www.bundestag.de/blob/194754/d90bf2976b8a03a86fc0c65f3717bb23/web_verhaltensregeln_2017-data.pdf>).
- E-learning programs for public officials offered for example by the Federal Academy of Public Administration (BAKÖV)
- In-house training for staff in the federal ministries and agencies within their remit
- Information about corruption prevention activities within the federal administration is presented to the general public in the course of the annual Federal Government Open Day, the emphasis being on the Federal Ministry of the Interior. The Open Day is held on two consecutive days, during which
all the federal ministries are open to the general public for eight hours. The event provides the general public with the opportunity to discuss and find out more about these anti-corruption activities.

- The federal administration organizes events and provides information on fighting and preventing corruption in various federal ministries (e.g. Federal Foreign Office, Federal Ministry of the Interior) on International Anti-Corruption Day (9 December).
- Various federal ministries (e.g. Federal Ministry of the Interior, Federal Ministry for Economic Cooperation and Development, Federal Ministry of Justice and Consumer Protection) and subordinate agencies (e.g. Federal Criminal Police Office) regularly tweet about fighting and preventing corruption and organize events on these issues.
- Regular training events on preventing corruption in the federal administration are organized for higher-ranking foreign administrative staff by Federal Government experts as part of the Federal Foreign Office’s European Academy.
- The Federal Ministry of Justice and Consumer Protection, Federal Ministry of the Interior, Federal Foreign Office, Federal Ministry for Economic Cooperation and Development and the GIZ in particular organize regular information-sharing events lasting several hours with colleagues from other countries. (The Federal Ministry of the Interior alone organizes around 30 events each year.). Information and instruction is provided to embassy staff.
- Experts in the federal administration and executive agencies are actively engaged in EU twinning projects and upon request (events of varying length).
- Regular information-sharing events are held with civil-society experts such as Transparency International.

At Länderevel

Re (a) and (b)

To be able to implement the diverse (preventive and repressive) tasks associated with fighting corruption, organizational units were established in the Ländere. These tasks were assigned to existing organizational units or specific persons were appointed to take responsibility for certain preventive and/or repressive anti-corruption measures (contact person for corruption prevention, internal auditors, other organizational structures).

The Ländere also increase and disseminate knowledge about prevention of corruption. For example, staff across the North Rhine-Westphalian state administration have access to a brochure entitled “Corruption - Other People’s Problem” published jointly by the Ministry of the Interior and the North Rhine-Westphalian Criminal Police Office. It contains information on dealing with rewards and gifts (available only in German at https://fah.nrw.de/sites/default/files/asset/document/korruption.pdf).

Hesse has posted information about corruption prevention measures on its intranet which staff can access. In addition, the Central Training Unit in the Hessian state administration regularly runs seminars on various issues related to fighting corruption (e.g. “Successfully Fighting Corruption”, “Fighting Corruption - From Risk Analysis to Mapping Risks”, “Compliance in the Public Sector” and
“Compliance Management in Procurement Law”). Two versions of a “Corruption Prevention in the Hessian State Administration” e-learning program are also available: one for staff and one for management. The program is available to all for self-learning via the Hessian state administration’s training platform. Those applying to take part in either of two seminars on fighting corruption must first complete the program. There are also plans to oblige all staff in the Hessian state administration to regularly take part in training courses. Corruption prevention courses are, further, part of police officer training.

The Free State of Bavaria also focuses on raising awareness and educating its employees about corruption prevention. In addition to the anti-corruption guideline, they are familiarized with the "Code of Conduct against Corruption". The State Government has also procured an E-Learning program (one for staff, one for managers) to combat corruption in the public administration. It has been set up on the Free State Administration and Police e-learning platforms. Participation in the E-Learning Program is mandatory in the Bavarian State Ministry of the Interior for all managers and for all employees in areas that have been classified as high-risk areas as part of the risk analysis. It is also available to staff of other departments.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

At federal level

The Annual Report on Preventing Corruption in the Federal Administration contains concrete examples of measures taken to implement Article 6 paragraph 1 (a). The Annual Report covers all authorities and other bodies of the federal administration (922 authorities/bodies and over 570,000 public officials). In 2015, 540 bodies had a contact person for corruption prevention. In 319 agencies these tasks were carried out by a contact person in another agency. There were 48 agencies which reported that they have no contact person for corruption prevention; 557 contact persons contacted the head of their agency in 2015 regarding corruption prevention.

Another example of how the aforementioned provision is being implemented is the cross auditing carried out by the Bundesrechnungshof in relation to basic issues of administrative integrity and preventing corruption in the federal administration. The following cross audits have recently been carried out:

• Scope of requirements as regards integrity in the federal administration
  The Bundesrechnungshof examined the scope of the Federal Government’s requirements as regards integrity in the federal administration (preventing corruption, accepting rewards and gifts, sponsoring and the use of external parties).
  It then recommended that the scope of these provisions be defined more uniformly and that all facilities in the federal administration should be included in their scope.

• Risk analyses and mapping of risks in select higher federal authorities; cross
In 2012 and 2013 the Bundesrechnungshof examined whether and if so how 10 specific higher federal authorities carried out threat and risk analyses pursuant to no. 2 of the Rules on Integrity and then mapped out the relevant risks. It uncovered methodological weaknesses in regard to some of the risk assessment procedures. In 2016 it then also reviewed to what extent those improvements which the higher federal authorities had promised to make had actually been implemented.

- Preventing corruption in the case of recipients of institutional funding
  Under certain conditions, the recipients of federal institutional funding are obliged to apply the Rules on Integrity analogously. The Bundesrechnungshof is currently examining whether various federal ministries and the recipients of their institutional funding are applying the Rules on Integrity correctly. It is thereby reviewing which organizational measures the funding recipients have taken to reduce the risk of corruption in their organization. It is also checking whether the federal ministries have obliged the recipients of their funding to apply the Rules on Integrity and whether they are then monitoring compliance with those rules.

A three-day event organized by the Federal Agency for Civic Education in the summer of 2017 will serve as a further example of how Article 6 paragraph 1 (b) (increasing and disseminating knowledge) is being implemented: The international symposium on the phenomenon of corruption was held from 16 to 18 June 2017. The aim was to foster an awareness of the phenomenon of corruption among a broad-based group of people through events at which various disciplines and actors shared their experience. Around 200 participants from more than 40 countries took part. Discussions were held in interdisciplinary panels over the course of the three days, with renowned experts in the field of corruption research and corruption prevention taking part. Academics, journalists, activists, artists and film-makers from Romania, Ukraine, Belarus, Georgia, Germany, Estonia, Sweden and Russia debated theories of corruption, globalized networks, civil society and the media as players in the fight against corruption. Each evening different artists active in the field of corruption were profiled in films and talks.

At Länder level

The following examples indicate how Article 6 paragraph 1 is being implemented at Länder level:

Due to Berlin's two-tier administrative structure (comprising a central administration and district administrations), different contact persons for corruption prevention have been appointed at the different levels, including Anti-corruption Officers, Internal Auditors and Ombuds People/Trusted Lawyers. [Berlin has a two-tier administration comprising a central administration and district administrations, The central administration is the superordinate administrative level. It comprises the Senate Administrations and their subordinate authorities. The central administration is responsible for all areas of relevance to the whole of Berlin, for example the police, finance and the judiciary. It is led by Berlin's state government, the Senate, which is headed by the Governing Mayor. The 12 district administrations form the lower administrative level and are primarily responsible for local matters, such as culture, green spaces and schools. Each district administration is made up of a district parliament and a district authority. The district authority is a collegiate administrative authority comprising the district mayor and councillors.]
In North Rhine-Westphalia, each ministry has an internal audit unit or contact point for corruption prevention. These are listed in the Circular on Preventing and Fighting Corruption in the Public Administration. The Ministry of the Interior’s Internal Audit Unit, for instance, also audits its subordinate departments and organizes awareness-raising events. Please refer to the responses to Question 2 for further examples.

In the Free State of Bavaria, internal audit units were set up comprehensively taking into account department-specific features. In part, the internal audit was located directly in the Ministry and is responsible for the entire business area, some of the internal audits also exist decentralized in the subordinate authorities.
8. Paragraph 2 of article 6

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.

Is your country in compliance with this provision?
(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

At federal level

Independence of contact persons for corruption prevention
According to no. 5.5 of the Rules on Integrity, contact persons are independent of instructions when carrying out their duties of corruption prevention. They do not have to go through official channels when it comes to information sharing, but may report directly to the head of the agency (no. 5.5 of the Rules on Integrity). In cases of suspected corruption, contact persons notify the head of their agency and make suggestions regarding internal investigations, measures to prevent concealment and notifying the law enforcement authorities. Contact persons may not be delegated any powers to carry out disciplinary measures, nor can they themselves lead investigations in disciplinary proceedings in corruption cases (no. 5.3 of the Rules on Integrity). Contact persons have a wide-ranging right to be given all the information they need to perform their duties in cases of suspected corruption (no. 5.4 of the Rules on Integrity).

Independent investigations by internal auditors in cases of suspected corruption
Internal audit units are actively involved in preventive activities. These units were established on the basis of the Recommendations on Internal Audits in the Federal Administration adopted by the federal ministries on 21 December 2007. The Recommendations (available in German at: <https://www.bav.bund.de/DE/3_Aufgaben/3_Interne_Revision/Empfehlungen_Innenrevision.pdf?__blob=publicationFile&v=1>) were drawn up by internal auditors in the federal administration with the help of the academic community and industry under the lead responsibility of the Federal Ministry of the Interior. They contain tips concerning the structure and work of internal audit units.
These units are tasked with identifying shortcomings and minimizing risks by examining the legality and correctness, effectiveness, appropriateness and efficiency of administrative action. Internal audit units have extensive audit and information rights (see no. 5 of the Recommendations) within their remit. Internal corruption prevention tasks and/or investigations in the case of suspected corruption may be transferred to these units (see no. 3 (4) of the Recommendations), unless they are already the responsibility of other units/persons (e.g. internal administrative investigation units).
The majority of federal ministries have now established internal audit units. The
The independence of the Bundesrechnungshof

The independent status of the Bundesrechnungshof and that of its members is enshrined in the German Constitution, the Basic Law. It is an independent body of government auditing which is subject only to the law. No other government institution can instruct it to perform an audit. It is a unique institution, being neither part of the legislative, judicial nor executive branches of government. The Bundesrechnungshof applies the criteria of performance, regularity and compliance as set forth in Article 114 para. 2 of the Basic Law to its auditing activities.

The staff of the Bundesrechnungshof comprises members (the President, Vice-President, senior audit directors and audit directors), audit managers, auditors and support staff. The members are independent both personally and in respect of the performance of their duties. The President and Vice-President are both elected by the Bundestag and the Bundesrat upon the proposal of the Federal Government and are appointed by the President of the Federal Republic of Germany for a non-renewable term of 12 years. The principle of rotation ensures that the heads of audit units do not remain in the same unit for more than a set number of years. The regulations on independence and disciplinary measures within the supreme federal judiciary apply to the members of the Bundesrechnungshof.

The Bundesrechnungshof selects all its audit matters at its own discretion and decides on the scope of its audits. It advises the Federal Government, German Bundestag and Bundesrat when it comes to preparing budget estimates as well as financial developments and high risks in the overall budget and budget estimates. Its work is governed by legislation: the Bundesrechnungshof Act, federal financial regulations (Federal Budget Code) and the Budgetary Principles Act. The Bundesrechnungshof's procedures and audit approaches are set forth in its Standing Orders and Audit Rules. Its mission statement reflects its objectivity and values: independence, neutrality, objectivity and credibility.

The Senate is the Bundesrechnungshof's highest decision-making body. It comprises 16 members: the President, Vice-President, all the senior audit directors, three audit directors and two rapporteurs. The Senate can set up committees. The most important and obligatory committee provided for under the Bundesrechnungshof Act is its Standing Committee. It is involved in decision-making processes regarding the allocation of audit assignments within the Bundesrechnungshof. The schedule of responsibilities ensures full audit coverage. It determines the distribution of functions within the Bundesrechnungshof and is drawn up by the President in consultation with the Standing Committee of the Senate in accordance with statutory procedure. One major purpose of this procedure is to ensure full audit coverage and as far as
possible to avoid any audit gaps.

The Bundesrechnungshof submits an annual report on major audit findings and audit recommendations to both the Bundestag and Bundesrat and to the Federal Government (see section 97 of the Federal Budget Code).

The Bundesrechnungshof budget is one of those departmental budgets which go to make up the overall federal budget. The Bundesrechnungshof prepares its annual budget estimate at its own discretion. This estimate is submitted to the Federal Ministry of Finance, which scrutinizes the budget estimates of all government departments and draws up the federal budget. It may amend the estimates in consultation with the relevant departments and agencies. If, however, it decides to amend the Bundesrechnungshof’s budget estimate, it must notify the Federal Government of any deviations where such amendments have not been approved by the Bundesrechnungshof (see section 28 of the Federal Budget Code). The Bundesrechnungshof’s draft estimate, which is part of the federal budget estimate, is then submitted to the Bundestag and Bundesrat for adoption together with the amendments proposed by the Federal Ministry of Finance on which agreement has not been reached. If the Federal Ministry of Finance wishes to amend the Bundesrechnungshof’s budget request, it has to present its wishes to the Bundestag and Bundesrat for modification along with the original request. The Bundestag and Bundesrat then take the final decision on the Bundesrechnungshof’s budget.

**At Länder level**

In some cases federal rules also apply in the Länder, in other cases the Länder have issued their own regulations to ensure the independence of corruption prevention units. In Lower Saxony, for example, contact persons for corruption prevention are authorized to report matters directly to the head of their agency (no. 6.3 of the Lower Saxony Anti-Corruption Directive).

In North Rhine-Westphalia the Guidelines on Internal Audits within the Remit of the Ministry of the Interior stipulate that internal auditors are independent when it comes to examining and evaluating specific matters. The Ministry’s Internal Audit Unit is authorized to directly contact the State Secretary in writing or in person. Internal auditors in agencies within the Ministry of the Interior’s remit may also directly contact and/or speak to the head of their authority or body. Staff in the Internal Audit Unit are not bound by instructions in regard to their findings and assessments. Staff have neither police nor public prosecution powers, such as are required to conduct interrogations or deprive a person of their liberty. However, they do have the right to question staff about specific matters in the context of their audits. In specific cases, the Internal Audit Unit will make its findings available to police and public prosecution office investigations upon request.

In Hesse an Ordinance on Preventing and Combating Corruption within the Remit of the Ministry of the Interior and Sports of 21 May 2014 (Official Gazette, 2 June 2014, p. 482) stipulates that contact persons report directly to the head of the agency and are directly subject to their disciplinary and technical supervision in the conduct of their duties. In cases of suspected corruption, the contact person
notifies the head of the agency and makes suggestions regarding internal investigations, measures to prevent concealment and notifying the law enforcement authorities. Contact persons may be assigned no disciplinary powers, nor can they lead investigations in disciplinary proceedings. There are plans to extend the scope of the Ordinance to cover the entire Hessian state administration.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

A handout containing instructions for contact persons for corruption prevention in cases of suspected corruption (as at 20 Sept. 2013) is available in German at: <https://www.bmi.bund.de/SharedDocs/downloads/DE/themen/moderne-verwaltung/handreichung_korruptionspraevention_verdachtsfaelle.html>. The Federal Ministry of the Interior’s Recommendations on Internal Audits in the Federal Administration (as at 21 Dec. 2007) are available in German at: <https://www.bmi.bund.de/DE/themen/moderne-verwaltung/integritaet-der-verwaltung/interne-revision/interne-revision-node.html>.
9. Paragraph 3 of article 6

3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

Is your country in compliance with this provision?

(Y) Yes

Has your country provided the information as prescribed above? If so, please also provide the appropriate reference.

The Federal Ministry of the Interior was nominated as the (federal) agency within the meaning of paragraph 3 to have lead responsibility for corruption prevention within the Federal Government.
10. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

None

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.
7. Public sector

11. Paragraph 1 of article 7

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:

(a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;

(b) That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;

(c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;

(d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The following presentation of the principles and measures which strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and other non-elected public officials is only an extract. For further and more detailed information please refer to the brochure “The Federal Public Service” which is available in English for download at: <https://www.bmi.bund.de/SiteGlobals/Forms/suche/EN/publikationssuche-formular.html>. Below references are made to the relevant pages of the brochure.

Re (a) and (b): Principles of efficiency and transparency; objective criteria; adequate procedures for the selection and training of individuals

Principle of selecting only the best candidates

When it comes to recruiting civil servants, the principle of selecting only the best candidates is applied in Germany. This principle is enshrined in constitutional law, namely in Article 33 para. 2 of the Basic Law, as well as in the relevant federal and Länder laws concerning civil servants (see, e.g., sections 8 and 9 of the Federal Act on Civil Servants and section 9 of the Federal Civil Servant Status Act). Candidates are to be selected solely on the basis of their aptitude, qualifications and professional achievements. Posts to be filled with external personnel are generally publically advertised. Once all applications have been received, the most qualified candidates are filtered out using the aforementioned criteria.

In addition to professional suitability, candidates also need to be personally
suitable to take on a post in the public service. A criminal record check is therefore always carried out. The Federal Criminal Central Register contains records of (among other things) criminal convictions made by German courts.

The selection criteria and processes apply at federal level regardless of whether the position to be filled is vulnerable to corruption or not. The Federal Government Directive concerning the Prevention of Corruption in the Federal Administration (Corruption Prevention Directive), too, calls for particular care to be taken when selecting staff to work in areas especially vulnerable to corruption.

The same applies to Ländler level: Various Land law provisions stipulate that particular attention must also be paid to applicants' reliability when recruiting staff for jobs in areas classified as vulnerable to corruption.

See also "The Federal Public Service", p. 40 et seq.

*Raising awareness/training*

The Corruption Prevention Directive contains guidance on set out guidelines about integrity and transparent conduct which apply to staff at all levels of the federal administration. They concern specific education and training programmes for supervisors and staff in areas especially vulnerable to corruption. In addition to specific context-related awareness-raising measures in their respective authority, staff in areas especially vulnerable to corruption are increasingly able to take part in special training courses.

*Rotation*

Further, the Corruption Prevention Directive requires that the principle of rotation be applied to staff in functions deemed to be especially vulnerable to corruption. At federal level, the period of time a person is assigned to a post should not exceed five years. Exceptions to this principle of rotation must be justified in writing. Additional compensatory measures also need to be taken in such exceptional cases, including greater scrutiny, rotational assignments within an organizational unit, shifting responsibility, more intensive expert and administrative supervision, and greater use of electronic control mechanisms.

The Ländler also apply the principle of rotation as a corruption prevention measure. Four of the Ländler limit the maximum period anyone can remain in an area especially vulnerable to corruption to seven years; six of the Ländler have limited this period to five years, three to four years; and three of the Ländler set the maximum period on a case-by-case basis.

It should, however, be noted that it is often difficult to apply the principle of rotation in practice given the cuts in the public service and the resulting scarcity of personnel resources. In 2015, for example, the federal authorities reported that 9,381 of the more than 50,000 staff employed in areas especially vulnerable to corruption had been assigned to the same task for more than five years. Reasons cited for not sticking to the principle of rotation included the fact that the member of staff in question had specific skills which would be hard to replace and that continuity could not be guaranteed. Appropriate compensatory measures were taken in regard to 83.5% who did not move on to another role, such as expansion of the four-eye principle, introduction of team work, change of tasks within the...
team, particularly intensive technical supervision (see Annual Report for 2015 on Preventing Corruption in the Federal Administration).

Ways need to be found of dealing with the loss of know-how when a post holder moves to another position, even in times of increasing complexity, as well as of ensuring the most efficient staffing levels possible. In order to establish whether more reports of suspected corruption are indeed made in “positions especially vulnerable to corruption”, in the course of drawing up the Annual Report for 2016 on Preventing Corruption in the Federal Administration the Federal Ministry of the Interior also asked how long those employees against whom investigations on account of suspected corruption had been initiated had been in post. Neither an analysis of responses to this enquiry nor the findings of the Federal Criminal Police Office’s Corruption National Situation Report 2015 ("Bundeslagebild Korruption") were able to provide any further insights. A statistical analysis did not indicate that it is more likely that suspected corruption will be reported in connection with a position especially vulnerable to corruption than in connection with one not especially vulnerable to corruption. Given that the number of reported cases is small, however, the meaningfulness of this statement is rather limited.

The issue of job rotation is one topic being discussed with the supreme federal authorities in the context of revising the corruption prevention regulations concerning the federal administration. The aim of this revision process is to adapt legal provisions to the changing framework conditions (more limited personnel resources, more complex tasks to be performed, the need for specialist knowledge and skills shortage) and to guarantee compliance in practice.

Re (c): Civil servants’ salaries

German law also meets the requirements set out in (c) regarding the adequate remuneration of civil servants and other non-elected public officials. Compliance is guaranteed by applying the “maintenance principle”, which is enshrined in Article 33 para. 5 of the Basic Law, and by means of detailed rules in the Federal Civil Servants’ Remuneration Act plus its Annexes. This principle obliges the state (federal and Länder level) to appropriately support civil servants and their families throughout their lifetime and to pay reasonable maintenance commensurate with their grade, the level of responsibility their office carries with it and the significance of the civil service to public life in line with general economic and financial trends and the general standard of living (Federal Constitutional Court, judgment of 14 February 2012, file no. 2 BvL 4/10, margin no. 145; consistent past decisions).

Salaries have to be regularly adapted by law to general economic and financial trends. As a result, civil servants’ salaries also need to be assessed in relation to the general population's income situation and development. The Nominal Wages Index is a suitable reference point. It maps changes in the average gross monthly earnings, including bonuses, of full-time, part-time and casual workers in Germany and must take regular wage and salary increases into account. When adjusting civil servants’ salaries, account must also be taken of general price trends for consumer goods and services used by private households which are tracked using the Consumer Price Index. This prevents salaries being eaten up by rising general living costs (average cost of living per household and month in Germany in 2016: € 2,480; [https://www.destatis.de/EN/FactsFigures/SocietyState/IncomeConsumptionLivingConditions/ConsumptionExpenditure/Tables/PrivateConsumption_D.html]) and
civil servants being denied the ability to maintain their standard of living on account of a loss of purchasing power.

Finally, assessments of the adequacy of civil servants’ salaries must be based on total amount that is basic salary plus additional components such as family allowances or job bonuses. The basic salary is based on the pay grade of the assigned office and therefore does not depend on what function the civil servant actually performs. The offices and pay grades are specified in four federal pay scales: Federal pay scales A and B govern the remuneration of civil servants with life tenure and soldiers. Federal pay scale B applies to high-ranking positions such as state secretaries, directors-general, directors, head of divisions, generals and presidents of higher federal authorities. Federal pay scale W governs that of professors at higher education institutions and federal pay scale R that of judges and public prosecutors. These are all set out transparently in the Federal Civil Servants’ Remuneration Act, which is available in German online (<https://www.gesetze-im-internet.de/bbesg/>). Performance-related bonuses and allowances can also be paid. The annual budget for performance-related pay is set in the Federal Civil Servants’ Remuneration Act. Specific reasons must be cited for each bonus paid. The awarding of bonuses, including the amount of each bonus, is transparent.

The requirements of Article 33 para. 5 of the Basic Law also apply in cases where the Länder are responsible for regulations applicable to the salaries of civil servants employed by the Länder and municipalities.

For more detailed information see “The Federal Public Service”, p. 82 et seq.

**Staff employed under collective agreements**

In addition to civil servants, the Federation employs more than 100,000 public service staff under a separate collective agreement, the Collective Agreement for the Public Service (“TVöD”). It sets out key employment conditions which have been agreed with the trade unions. Salaries are listed in pay tables and are based, firstly, on the task performed and, secondly, on work experience.

Staff subject to collective agreements receive monthly pay calculated on the basis of the task performed and work experience, which is graded in “steps”. Bargaining rounds in recent years have led to significant increases in pay scales for federal staff employed under collective agreements. These increases were higher than the general trend as documented in the Collective Wages Index (sometimes considerably so). In some cases, pay is higher than income opportunities in the private sector, and even in the lowest pay scales it is significantly higher than the minimum wage (8.87 EUR/Hour since 2017). The collective agreements and pay scale tables are freely accessible: <https://www.bmi.bund.de/SharedDocs/downloads/DE/themen/oeffentlicherDienst/tarifvertraege/TVoeD.pdf?__blob=publicationFile&v=2>.

Special and performance-related bonuses can also be paid to staff employed under collective agreements if they meet certain predetermined criteria. These bonuses must be substantiated and transparent.

In addition to the adequate income opportunities which have been negotiated with the trade unions, there are other attractive benefits of working for the Federal Government Staff enjoy non-monetary benefits, including job security and flexible working time arrangements.. These all contribute to preventing corruption in the federal administration.

Moreover public employees of the Länder are paid in accordance with the collective bargaining agreement for the public service of Hessen (TV-H) or the
collective bargaining agreement for the public service of the states (in all other federal states, TV-L).

Further information can be found on p. 93 et seq. in the brochure “The Federal Public Service”.

Re (d): Education and training programmes
Enhancing awareness of the risks of corruption and regular staff training programmes on preventing corruption and recognizing the risks of corruption are seen as the priorities of corruption prevention work. The focus of all corruption prevention efforts is on staff and their convictions and values, since these determine their actions in the federal administration.

The Federal Government and the Länder have introduced regulations on raising awareness specifically for corruption prevention. The issue is also an integral part of education and training programmes.

New staff are regularly taught about the basic principles of corruption prevention and the relevant codes of conduct in the public service as part of their induction. All staff are instructed as to their duties at the time of recruitment. In the federal administration they are handed a copy of the relevant provisions, which they have to sign for. It is also part of an employer’s duty of care to provide staff with comprehensive information about vulnerability to corruption and to act as a source of information and as a contact person.

The Federal Government’s central training institution, the Federal Academy of Public Administration (BÄköV), for instance, and the training facilities of the Federal Police and of the Federal Armed Forces offer courses on preventing and fighting corruption, too. The Federal Academy each year organizes events on related topics such as sponsoring, compliance and internal audits, some of which are open to anyone and others which are specially designed for specific groups of participants. It also has a learning program on corruption prevention, including exercises, on its e-learning platform. A certificate is awarded to participants who answer all the test questions correctly. Staff must hand this certificate to their personnel department so that it can be added to their file. Many authorities oblige staff employed in positions vulnerable to corruption to work through individual units of this e-learning program at regular intervals. Seminars geared to management and junior management staff, those employed in internal audit units and staff involved in the award of public contracts have formed an integral part of the Federal Academy of Public Administration’s annual programme since 2005. Upon request, the Federal Academy can also organize tailor-made seminars for individual federal authorities. On the federal level contact persons regularly meet to discuss current challenges they are faced and to share information. The objective is to ensure, wherever possible, that a uniform approach is adopted across the federal administration for dealing with similar problems.

There are also training courses on dealing with corruption prevention which are attended by both staff at various levels of the federal administration and those employed in the private sector and NGO representatives. A number of private-sector providers run such courses. Experts from the federal and Länder administrations also teach on these commercial training events.
Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

No such statistics are available.
12. Paragraph 2 of article 7

2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

I. Eligibility for election

Eligibility to be elected to hold public office is regulated in Article 38 of the Basic Law, in the Federal Electoral Act and in the German Criminal Code: Anyone who has attained the age of majority may be elected (Article 38 para. 2 of the Basic Law and section 15 of the Federal Electoral Act).

Pursuant to section 15 (2), number 2, of the Federal Electoral Act, whoever is not eligible to be elected or does not have the capacity to hold public office in consequence of a judicial decision cannot be elected. German criminal law contains provisions governing the loss of eligibility to be elected. Pursuant to section 45 (1) of the Criminal Code, a person automatically loses the ability to hold public office and be elected in public elections for a period of five years after being sentenced to imprisonment for at least one year for a felony. A court may also deprive a convicted person of the ability to be elected for a period of between two and five years if the law expressly so provides (section 45 (2) of the Criminal Code). According to section 358 of the Criminal Code, a court may deprive a person of the capacity to hold public office where, for instance, a term of imprisonment of at least six months has been imposed for taking a bribe (section 332 of the Criminal Code).

A separate regulation applies to elected officials: Pursuant to section 108e (5) of the Criminal Code, in addition to imposing a sentence to imprisonment for at least six months for taking or offering a bribe in one’s capacity as an elected official, a court may deprive a person of their ability to acquire rights from public elections and the right to be elected or vote in public matters.

II. Incompatibility of public office and elected office

1. Members of parliament

a. German Bundestag

Section 5 read in conjunction with section 7 of the Act on the Legal Status of the Members of the German Bundestag determines that the rights and duties of civil servants, judges, professional soldiers and fixed-term volunteer soldiers who are elected as Members of the German Bundestag rest for the duration of their term of office.
b. European Parliament

Pursuant to section 7 of the Act on the Legal Status of Members of the European Parliament, membership of the European Parliament is incompatible with those offices, functions and mandates which are listed in section 22 (2) nos 7 to 15 of the Act on Electing Members of the European Parliament from the Federal Republic of Germany, namely

- accepting election as Federal President,
- appointment as a judge in the Federal Constitutional Court,
- appointment as Parliamentary State Secretary,
- appointment as Parliamentary Commissioner for the Armed Forces,
- appointment as Federal Commissioner for Data Protection,
- accepting election or appointment as a member of a Land government,
- appointment to one of the functions referred to in Article 7 para. 1 or para. 2 of the Act to Introduce General Direct Elections for Members of the European Parliament,
- appointment to one of the functions which is incompatible with being a Member of the European Parliament pursuant to other legal provisions and
- assuming the office of head of state, judge in the constitutional court, member of a government comparable to a Land government and an office comparable to that of parliamentary state secretary in the Federal Republic of Germany in another Member State of the European Union.

2. Federal Chancellor and Federal Ministers

Pursuant to Article 66 of the Basic Law and the more specific terms of the Act on the Legal Status of Members of the Federal Government and of the Act on the Legal Status of Parliamentary State Secretaries, the Federal Chancellor and Federal Ministers may not hold any other salaried office, engage in any trade or profession, or belong to the management or, without the consent of the Bundestag, to the supervisory board of an enterprise conducted for profit.

3. Federal President

Pursuant to Article 55 of the Basic Law, the Federal President may be neither a member of the government nor of a legislative body of the Federation or of a Land. The Federal President may not hold any other salaried office, engage in any trade or profession, or belong to the management or supervisory board of any enterprise conducted for profit.

**Länder and municipalities**

Comparable regulations regarding eligibility for election and incompatibility between public office and elected office have been put in place at Länder level, for example in the constitutions of the individual Länder and in their electoral laws.
The same applies at municipal level.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

No such statistics are available.
13. Paragraph 3 of article 7

3. Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

**Funding of political parties**

Under Article 21 para. 1, first sentence, of the Basic Law, political parties participate in the formation of the political will of the people. Parties receive government funding for the partial financing of the task incumbent upon them under the Basic Law. The following form the basis for calculating how this government funding is allocated: the party’s success at elections to the European Parliament, to the German Bundestag and to Land parliaments; the sum of membership fees paid by ordinary party members and office holders; and total donations paid to the party (section 18 (1) of the Political Parties Act). According to Article 21 (1), fourth sentence, of the Basic Law, political parties must publicly account for their assets and for the sources and use of their funds. This regulation is elaborated in sections 23 et seq. of the Political Parties Act. These provisions contain detailed rules concerning the form and content of the financial reports to be submitted and submission deadlines, on the auditing of the reports by independent agencies (usually independent auditing firms or chartered accountants) and subsequently by the President of the German Bundestag, on publication of these financial reports as Bundestag Printed Papers, and on administrative and criminal sanctions for violations of the provisions of the Political Parties Act. Political parties only receive government funding for the partial financing of their activities if their financial reports meet the requirements set out in the Political Parties Act (section 19a (1), second sentence, of the Political Parties Act).

Political parties which do not meet their duty to submit an annual financial report (section 23 (1), first sentence, of the Political Parties Act) receive no government funding for that specific year. Under section 2 (2) of the Political Parties Act, a party loses its legal status as a political party if it violates the duty to submit financial reports six years running. Under section 38 (2) of that Act, the President of the German Bundestag has the option of imposing a coercive fine to get a party to comply with this obligation. Political parties must disclose all donations made to the party in their annual report, classifying it as party income (section 23 (1), first sentence, read in conjunction with section 24 (4) nos 3 and 4 of the Political Parties Act). Any party members, i.e. including Members of the German Bundestag and candidates, who receive party donations must immediately disclose this to that member of the executive board nominated under the party
statute to handle financial matters (section 25 (1), third sentence, of the Political Parties Act). Pursuant to section 25 (3), first sentence, of the Political Parties Act, donations, fees paid to a party by members and elected officials above a total sum of 10,000 euros per calendar year must be listed in the financial report, stating the name and address of the donor and the amount of the donation. Individual donations of more than 50,000 euros must be notified immediately to the President of the German Bundestag, who then publishes the donation, stating the donor’s name, in a Bundestag Printed Paper (section 25 (3), second and third sentences, of the Political Parties Act).

Only “direct donations” made to Members of the German Bundestag which are expressly intended for the sole use of that Member and not for their party are not treated as party donations and are thus not governed by the Political Parties Act. Instead, they are subject to the transparency requirements set out in the Code of Conduct for Members of the German Bundestag (available in German online at: <https://www.bundestag.de/parlament/aufgaben/rechtsgrundlagen/go_btg/anlage1/245178>). Comparable transparency requirements also apply to members of the Land parliaments.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The financial reports published by the President of the German Bundestag as Bundestag Printed Papers are available in German online at: <https://www.bundestag.de/parlament/praesidium/parteienfinanzierung/rechenschaftsberichte/rechenschaftsberichte/202446>. Donations published as Bundestag Printed Papers in accordance with section 25 (3), third sentence, of the Political Parties Act are available in German online at: <https://www.bundestag.de/parlament/praesidium/parteienfinanzierung/fundstellen50000>. For further information go to: <https://www.bundestag.de/service/glossar/glossar/R/rechenschaftsberichte/247146>
14. Paragraph 4 of article 7

4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Germany has implemented the requirements set out in paragraph 4 as follows:

**Administrative procedure**

Sections 20 and 21 of the Federal Administrative Procedure Act and the equivalent administrative procedure laws applicable in the individual Länder contain rules on those conflicts of interest which can arise in the course of administrative procedures. They include rules on excluding individuals from administrative procedures by law where various types of conflicts of interest are to be expected and on the conduct of individuals who are to act on behalf of an authority in an administrative procedure where there is reason to doubt their impartiality (in which case their superior must be notified and, where necessary, the superior may order that the person in question not participate in that procedure).

“**Section 20 Persons excluded**

(1) The following persons may not act on behalf of an authority:

1. a person who is himself a participant;

2. a relative of a participant;

3. a person representing a participant by virtue of the law or of a general authorisation or in the specific administrative proceedings;

4. a relative of a person who is representing a participant in the proceedings;

5. a person employed by a participant and receiving remuneration from him, or one active on his board of management, supervisory board or similar body; this shall not apply to a person whose employing body is a participant;

6. a person who, outside his official capacity, has furnished an opinion or otherwise been active in the matter.

Anyone who may benefit or suffer directly as a result of the action or the decision shall be on an equal footing with the participant. This shall not apply when the benefit or disadvantage is based only on the fact that someone belongs to an occupational group or segment of the population whose joint interests are affected by the matter.
(2) Paragraph 1 shall not apply to elections to an honorary position or to the removal of a person from such a position.

(3) Any person excluded under paragraph 1 may, when there is a risk involved in delay, undertake measures which cannot be postponed.

(4) […]

(5) Relatives for the purposes of paragraph 1, nos. 2 and 4 shall be:

1. fiancé(e)s, auch im Sinne des Lebenspartnerschaftsgesetzes,
2. spouses,
2a. civil partners,
3. direct relations and direct relations by marriage,
4. siblings,
5. children of siblings,
6. spouses of siblings and siblings of spouses,
6a. civil partners of siblings and siblings of civil partners,
7. siblings of parents,
8. persons connected by a long-term foster relationship involving a shared dwelling in the manner of parents and children (foster parents and foster children).

The persons listed in sentence 1 shall be deemed to be relatives even where:

1. the marriage producing the relationship in nos. 2, 3, and 6 no longer exists;
1a. the registered civil partnership producing the relationship in nos. 2a, 3 and 6a no longer exists;
2. the relationship or relationship by marriage in nos. 3 to 7 ceases to exist through adoption;
3. in case no. 8, a shared dwelling is no longer involved, so long as the persons remain connected as parent and child

Section 21 Fear of prejudice

(1) Where grounds exist to justify fears of prejudice in the exercise of official duty, or if a participant maintains that such grounds exist, anyone who is to be involved in administrative proceedings on behalf of an authority shall inform the head of the authority or the person appointed by him and shall at his request refrain from such involvement. If the fear of prejudice relates to the head of the authority, the supervisory authority shall request him to refrain from involvement where he has not already done so of his own accord.

(2) […]“

Analogous provisions in regard to the law on tax procedures are set out in sections 82 to 84 of the Fiscal Code, in regard to the law on social procedure in sections 16 and 17 of the Tenth Book of the Social Code and in regard to the law on the award of public contracts in section 6 of the Regulation on the Award of
Public Contracts.

*Land* legislation, in particular municipal law, contains additional, in some cases more wide-ranging, provisions on excluding individuals, including supplemental provisions on prohibitions of representation under municipal law.

**Award procedures**

Legal provisions on the award of public contracts also contain rules on avoiding conflicts of interest.

Pursuant to section 6 (1) of the Regulation on the Award of Public Contracts, board members or staff of a contracting authority or of a procurement service provider acting on behalf of the contracting authority may not be involved in an award procedure if there is any conflict of interest. Section 6 (2) of the aforementioned Regulation defines when a conflict of interest arises:

“A conflict of interests arises when individuals are involved in conducting an award procedure or can influence the outcome of an award procedure and have a direct or indirect financial, economic or personal interest which could compromise their impartiality and independence in the course of the award procedure.”

Section 6 (3) of the Regulation lists when such a conflict of interest can be presumed to exist. This presumption rule also applies to the relatives of those individuals referred to in section 6 (1) of the Regulation (e.g. financée(e), spouse, civil partner, children, siblings):

“It shall be presumed that there is a conflict of interest when the persons referred to in subsection (1)

1. are candidates or tenderers,

2. advise a candidate or tenderer or otherwise support them, or act as their legal representative or only represent them in the award procedure,

3. are employed by or working for

a) a candidate or tenderer for money or for them as a member of the board, supervisory board or similar body or

b) an enterprise involved in the award procedure if this enterprise also has business relations with the contracting authority and with the candidate or tenderer.”

**Authorization and notification requirements regarding secondary employment**

Rules intended to prevent conflicts of interests also apply in regard to any secondary employment which civil servants engage in. Section 99 (1), first sentence, of the Federal Act on Civil Servants and section 40 of the Federal Civil Servant Status Act stipulate that civil servants must always obtain authorization to engage in any paid secondary employment. Exceptions to this rule are only permissible in regard to those types of secondary employment which are listed in section 100 (1) of the Federal Act on Civil Servants as secondary employment not
requiring authorization. Please refer to our responses to Article 8, paragraph 5 for more details on such authorization.

According to section 3 (3) of the TVöD, those employed under collective agreements must notify their employer in good time before taking up secondary employment. For more details, please refer to our response to Question 2 re Article 8, paragraph 1.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

No such statistics are available.
15. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

None

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.
8. Codes of conduct for public officials

16. Paragraph 1 of article 8

I. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

In Germany, a distinction is drawn between two types of public service employees: civil servants (Beamte) and public service staff employed under collective agreements (Tarifbeschäftigten). The latter sign a private-law contract of employment. They are subject to the relevant labour laws and collective agreements negotiated between employers’ organizations and workers’ associations (trade unions). The most important of these is the Collective Agreement for the Public Service (“TVöD”).

Civil servants, in contrast, enter into a special relationship of service and trust with their employer which establishes specific rights and duties. The very existence of the civil service is enshrined in Article 33 of the Basic Law. The civil service system is regulated in the Federal Act on Civil Servants and in supplementary legislation (e.g. the Civil Service Benefits Act) and numerous statutory instruments (e.g. the Working Time Ordinance). Unlike collective agreements, these regulations are enacted by the legislature and regulatory authorities.

Due to Germany’s federal structure, a distinction is also drawn between administrative civil servants in the federal, Land and municipal administrations. Civil servants have the same status at federal and Länder level, though. The Federal Government sets the regulatory framework for the Länder in the form of the Federal Civil Servant Status Act. Rules governing the status of civil servants in the municipalities are set out in the respective Land regulations. The provisions of the Federal Civil Servant Status Act were fully incorporated into the Federal Act on Civil Servants and therefore also apply to civil servants in the federal administration.

I. Civil servants

Sections 60 et seqq. of the Federal Act on Civil Servants and sections 33 et seqq. of the Federal Civil Servant Status Act make binding determinations concerning the duties incumbent upon civil servants. They encompass the core values of the civil service and are characteristic of the special relationship of service and trust between civil servants and their employer (e.g. the duty to exercise one’s office impartially, fairly, loyally and in the interests of the common good). There are provisions on integrity (e.g. the ban on accepting rewards, gifts and other advantages [section 71 of the Federal Act on Civil Servants] and the need for approval to be issued for secondary employment [sections 97 et seqq. of the
aforementioned Act], the duty of honesty (e.g. requirements in respect of performing one’s tasks and on conduct [section 61 of the aforementioned Act]) and on responsibility (e.g. for the lawfulness of official activities [section 63 of the aforementioned Act]). These provisions in combination with the relevant Land legislation concerning the civil service apply accordingly at Länderevel. The statutory provisions are supplemented by guidelines and administrative regulations at both federal and Länderevel.

Under section 71 of the Federal Act on Civil Servants and section 42 of the Federal Civil Servant Status Act, even after their civil service employment ends civil servants may not demand, allow themselves to be promised or accept, in connection with their position, rewards, gifts or other advantages either for themselves or third parties. This prohibition is a more concrete expression of the duty of trust and the duty not to pursue any vested interests. Its aim is to guarantee that the general public has confidence in the integrity and functioning of the civil service. That is why even the mere appearance that civil servants may be influenced or may be pursuing their own personal interests in conducting official matters on account of being granted small favours must be avoided. Accordingly, violations of section 71 of the Federal Act on Civil Servants and of section 42 of the Federal Civil Servant Status Act constitute a breach of duty and an offense according to section 331 of the Criminal Code (acceptance of advantages).

Under section 5 of the Federal Disciplinary Act and the provisions of the disciplinary legislation applicable in the Ländere, a written reprimand, a fine, a salary cut, demotion and removal from office are possible penalties for breaches of duty. Retired civil servants may have their pension cut or may be deprived of their pension altogether. If the offense of section 331 of the Criminal Code is fulfilled, a prison sentence of up to 3 years can be imposed.

Conducting official business without any vested interests and without consideration for personal advantage is one of the cornerstones of the civil service system. A civil servant who accepts benefits in connection with his or her position will create the impression that official matters are not directed by objective criteria and that public officials are corruptible. This is unacceptable in the interests of a law-abiding administration and creating general confidence that administrative activities are based on the rule of law. Civil servants who intentionally breach section 71 of the Federal Act on Civil Servants or section 42 of the Federal Civil Servant Status Act lose their employer’s trust and the trust of the general public in the fact that they are duly conducting official business and they must therefore be removed from office if they carry out an official act contrary to duty in return for the advantage granted or if they accept cash as payment, unless there are serious mitigating circumstances (see Federal Administrative Court, judgment of 8 June 2005, file no. 1 D 3/04, with further references). Civil servants are also dismissed when a non-suspended prison sentence of at least six months is imposed for bribery or a non-suspended prison sentence of at least one year is imposed for accepting an undue advantage. “Accepting an undue advantage” means that a civil servant accepted a benefit for performing a lawful act.

Please see our response to Article 8, paragraph 5 regarding civil servants’
secondary employment.

II. Employees (subject to collective agreements)
Those public officials who are not civil servants but employees subject to collective agreement are also banned from accepting rewards, gifts, commission or any other benefits from third parties in connection with their work (section 3 (2) of the TVöD). The aim is to prevent the impression arising that they are amenable to accepting personal advantages and to ensure that all doubts as to the objectivity of their action and integrity are kept at bay. Both the duty of allegiance and the duty of loyalty are secondary obligations of employment relationships. Accepting favours constitutes a breach of these secondary labour law obligations and generally justifies dismissal without due notice (Federal Labour Court, judgment of 17 March 2005, file no. 2 AZR 245/04).

See our response to Article 8, paragraph 5 for details regarding secondary employment.

Responsibility to promote integrity, honesty and responsibility among public officials

Within the federal administration it is primarily the contact persons for corruption prevention and staff in the internal audit units and/or training facilities who are responsible for raising awareness for the issues of integrity, honesty and responsibility among public officials. Prevention of corruption is part of the management responsibility. On the one hand management personnel have to lead by example. They have to set an example through their own behavior that they never tolerate or support corruption (see no. 1 of the Anti-Corruption Code of Conduct in Annex 1 to the Anti-Corruption Directive). On the other hand the management personnel play a central monitoring role. This includes inter alia:

1. Promote staff awareness and education.

2. Take organizational measures such as implementing the principle of greater scrutiny in areas of activity that are especially vulnerable to corruption or assigning tasks randomly.

3. Look after, supervise and lead staff.

The Guidelines for Supervisors and Heads of Public Authorities/Agencies (Annex 2 to the Anti-Corruption Directive) indicate the state of the art leading and managing personnel have to take into account.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

At federal level

Awareness-raising measures
In 2015, a total of 101,200 staff (out of a total of 354,513, i.e. 28.5%) across the whole of the federal administration (excluding the Federal Ministry of Defence’s remit) took part in measures to raise awareness for the issue of corruption
prevention, including 7,800 management-level staff. Of these, some 28.8% were employed in positions especially vulnerable to corruption. In the Federal Ministry of Defence 118,390 staff (out of a total of 221,779, i.e. 53.4%) took part in awareness-raising measures, including 5,984 management staff.

Those employed in positions especially vulnerable to corruption in around half of all authorities and in more than three quarters of the Federal Ministry of Defence’s subordinate agencies take part in awareness-raising measures on an annual basis.

Staff in units/departments with positions especially vulnerable to corruption also take part in in-house awareness-raising training courses which address specific risks. These are organized by the contact persons for corruption prevention/staff in internal audit units and/or specialist lecturers.

**Training measures**

Education and training programmes go beyond mere awareness-raising. They encompass an interactive, generally multi-step, process in which a multiplier (a member of teaching staff) teaches knowledge based on a concept and applying a systematic (didactic) approach. A lecture is an awareness-raising measure; e-learning is a training measure. In 2015, a total of 13,346 people took part in education and training measures in the highest federal authorities and agencies within their remits (excluding the Federal Ministry of Defence and its remit). Of these, at least 4,240 are employed in positions especially vulnerable to corruption. (Not all authorities consistently record whether those who take part in educational and training courses work in positions especially vulnerable to corruption.) In the Federal Ministry of Defence and its remit a total of 3,645 staff took part in corruption prevention education and training measures; 310 of these were identified as being employed in positions especially vulnerable to corruption. In 2015 a total of 3,030 management staff also took part in corruption prevention training; 121 management staff were themselves involved in training measures as trainers, teachers or consultants. In the Federal Ministry of Defence and subordinate agencies within its remit, 427 management staff took part in training measures and 14 were actively involved in teaching these courses.

**Practical example:** Approval of gifts at the Federal Ministry of the Interior

The Federal Ministry of the Interior (BMI) regularly receives groups of visitors as part of its public relations work. Often visitors come from the constituency of members of parliament to get information about the work of the BMI. Employees from the various departments explain to the groups their and the other areas of responsibility of the BMI and answer visitors’ questions. It is not unusual for a group of visitors to hand over a gift to the lecturer at the end of the event. As employees in the civil service are in general not allowed to accept gifts, the lecturers have to ask the responsible personnel department for approval. For this purpose, an application form is available on the intranet. The lecturer must complete the form and submit it together with the gift. The personnel department then determines the usual selling price of the gift, e.g. by means of internet research. In accordance with a BMI-internal regulation, employees are allowed to accept gifts up to a value of € 25 per year per donor on the basis of a general, publicly disclosed approval. If a gift from a group of visitors does not exceed this
value, the employee may keep it. If it exceeds this value, the gift is collected and sold, for example, at a public auction.

**At Länder level**

An example from Hesse:

Hesse has enacted the Administrative Regulations for State Employees in Hesse on Accepting Rewards and Gifts of 18 June 2012 (Official Gazette, 25 June 2012, p. 676). Under these regulations, staff’s attention must be drawn to those obligations which result from section 42 of the Federal Civil Servant Status Act or the corresponding rules applicable under collective agreements (ban on accepting rewards, gifts and other advantages). All new members of staff are handed a copy of these rules when they are hired; they must sign to confirm receipt. Supervisors are required to hold regular meetings, for example service meetings, in which they discuss these rules and corruption issues with staff in order to continuously raise their awareness for this matter. A record must be made of each such meeting. Staff in positions especially vulnerable to corruption are to be given job-related and needs-based instruction. These rules are also regularly (at least annually) made known to all staff in the police through repeated instruction. A record must be kept and staff must sign to confirm that such instruction has been given.

Section 3 of the Collective Agreement for Hesse, according to which staff are banned from accepting rewards, gifts, commission or other advantages in connection with their work, applies to state public service employees in Hesse.
17. Paragraph 2 and 3 of article 8

2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.

3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.

Is your country in compliance with these provisions?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with these provisions of the Convention.

At federal level
The Corruption Prevention Directive and all the other rules on integrity which are applicable to staff in the federal administration are set out in the Rules on Integrity brochure, which is available in both German and English on the Internet. The federal agencies all regularly use and distribute this brochure in the context of training courses and awareness-raising measures, as well as on other occasions, for instance visits by foreign delegations. The regulations detailed in the following are all set out in the Rules on Integrity brochure (see <https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2014/rules-on-integrity.pdf?__blob=publicationFile>).

Anti-Corruption Code of Conduct; Guidelines for Supervisors and Heads of Public Authorities/Agencies
The Corruption Prevention Directive is supplemented by an Anti-Corruption Code of Conduct (Annex 1 to the directive) and by Guidelines for Supervisors and Heads of Public Authorities/Agencies (Annex 2 to the directive).

The Anti-Corruption Code of Conduct is intended to inform staff of situations in which they might inadvertently become involved in corruption. It is also aimed at urging staff to fulfil their duties properly and lawfully and at alerting them to the consequences of corrupt behaviour. It contains the following key behavioural rules:

1. Set an example: Show, through your behaviour, that you neither tolerate nor support corruption.

2. Immediately refuse any attempt to involve you in corrupt activities and inform the contact person for the prevention of corruption and your supervisor without delay.

3. If you suspect that somebody wishes to ask you for preferential treatment contrary to your duty, consult a colleague as a witness.

4. Do your work in such a manner that it can pass review at any time.

5. Separate your job strictly from your private life. Check to see whether your private interests might conflict with your work duties.
6. Help your workplace in detecting and clearing up corruption. Inform your supervisor and the contact person for corruption prevention in case of specific indications of corrupt behaviour.

7. Support your workplace in detecting defective organizational structures that favour corruption.

8. Take part in basic and advanced training on preventing corruption.

9. And what should you do if you have already been caught up in corruption? Free yourself from the constant fear of being found out! Get it off your chest! If you confess on your own initiative, and your information helps clear up the facts, it may reduce the severity of punishment and consequences under public service law.

Further on, these rules are explained in more detail.

The Guidelines for Supervisors and Heads of Public Authorities/Agencies (Annex 2 to the directive) specifically address leading personnel of public authorities and agencies. They are both responsible for and serve as an example to those working under their supervision. Conduct and attentiveness of the leading personnel are extremely important in preventing corruption. For this reason, the Guidelines ask the supervisors to be pro-active in personnel management and evaluation. In particular, they should ensure that responsibilities are clearly designated, that job descriptions are transparent, and that staff performance is assessed with appropriate frequency.

**Recommendations on Preventing Corruption in the Federal Administration**

These Recommendations were issued to supplement and clarify each of the provisions of the Corruption Preventive Directive. Handouts containing practical hints on implementing the Directive are continuously updated based on past experience. The aim is to ensure that a uniform standard is applied across the whole of the federal administration (see 3. in the Rules on Integrity brochure [https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2014/rules-on-integrity.pdf?__blob=publicationFile]). The Recommendations are currently being updated based on an analysis of the experience gained and regularly exchanged among the federal authorities over the course of more than ten years.

**General Administrative Regulation on Sponsoring to Promote Activities by the Federal Government through Contributions from the Private Sector**

The General Administrative Regulation to Promote Activities by the Federal Government through Contributions from the Private Sector of 7 July 2003 is another important preventive tool (Federal Gazette, p. 14906, see 5. in the Rules on Integrity brochure [https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2014/rules-on-integrity.pdf?__blob=publicationFile]). The Administrative Regulation provides guidance on when it is possible to use sponsoring to support the administration in fulfilling its tasks. As a general principle, a restrictive approach has to be applied when taking decisions on the solicitation and acceptance of sponsoring. Sponsoring is strictly prohibited in connection with interventional administration (e.g. the Federal Police's security-related duties). It is, for example, permissible in the areas of culture, sport, health, environmental protection, education and science, the promotion of foreign trade, political PR work and during
representative events organized by the Federal Government, provided there is no possibility of influence being brought to bear on the administration in the discharge of its duties and of the impression arising that such influence is possible. Accordingly, each sponsoring measure must be made transparent. To further increase transparency, the Federal Ministry of the Interior is required to submit a sponsoring report every two years in which cash and non-cash contributions and services are disclosed. All federal ministries have to contribute to this report. The report is published in German on the Federal Ministry’s website (see https://www.bmi.bund.de/SharedDocs/downloads/DE/publikationen/2017/sponsoringbericht-2017.html).

**Circular issued by the Federal Ministry of the Interior on the ban on accepting rewards or gifts**

The Circular on the ban on accepting rewards or gifts in the federal administration of 8 November 2004 (Joint Ministerial Gazette, p. 1074, see 4. in the Rules on Integrity brochure <https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2014/rules-on-integrity.pdf?__blob=publicationFile>) makes it clear that gifts and rewards may never be accepted in connection with public office or official matters (section 71 of the Federal Act on Civil Servants). Exceptions can only be made in areas in which there are no concerns of any influence being exerted on staff. However, staff must seek their employer’s approval before accepting the gift. No exceptions can be made to the prohibition of accepting cash.

As an exception, the employer’s tacit approval may be assumed to have been given in the case of minor gifts. The Circular contains a full list of what are defined as “minor gifts”. Accordingly, the employer’s tacit approval may be assumed in the following exceptional cases:

- **The acceptance of minor gifts up to a value of 25 euros (e.g. simple promotion articles such as ballpoint pens, notepads, calendars). The market value in the Federal Republic of Germany is the decisive criterion. In this case, the recipient is obliged to notify the employer, however. The object concerned is to be specified, together with its estimated value, the grounds for granting the object and the person granting the object.**

- **Hospitality provided by public institutions or grant recipients who are predominantly financed by the public sector.**

- **Participation in hospitality measures by private parties on the occasion of or in connection with official activities, meetings, inspections or similar, where such measures are customary and appropriate or where they are based on the rules of social intercourse and courtesy which members of the public service cannot evade - with due regard to their special obligation to discharge their duties in an impartial manner - without breaching social etiquette. This shall also apply where the nature and scope of the hospitality represents a substantial value, whereby the official function of the employee concerned shall also be considered in determining the extent to which the hospitality is commensurate in the individual case concerned.**

- **Hospitality in the context of general events in which employees participate on official duty or with due regard to the social obligations pertaining to the discharge of their duties (e.g. introduction and/or discharge of official staff,**
official receptions), provided that such hospitality remains commensurate and within the customary bounds.

- **Minor services which facilitate or expedite official business** (e.g. collection by car from a railway station).

Despite these exceptions, such minor gifts still need to be notified. The federal ministries have issued their own regulations to give concrete expression to the rules set out in the Circular in line with their respective remits. In practice, approval is generally given for minor gifts up to a maximum value of EUR 25, although this upper limit varies. In the Federal Ministry of the Interior’s Procurement Agency, for instance, it is EUR 0.

The Circular also stipulates that public service employees must immediately notify their employer without being asked if they are offered rewards or gifts in connection with official business. It also contains guidance on how staff are to deal with invitations involving hospitality. These rules and the equivalent rules at Länder level play a key role when it comes to raising employees’ awareness.

**Transparency requirements applicable to Members of the Bundestag**

The Code of Conduct for Members of the German Bundestag and the Implementing Provisions which give more concrete expression to the Code of Conduct require that Members of the Bundestag disclose specific information to the President of the Bundestag concerning

- activities pursued prior to taking on their mandate,
- activities pursued alongside the exercise of their mandate (incl. any income from such activities),
- shareholdings in companies,
- agreements on future activities or allowances,
- donations and other benefits received in respect of political activity and
- gifts received from guests or hosts.

Newly elected Members of the Bundestag therefore have to submit a form to the President of the Bundestag at the start of their first electoral term. They must also notify any changes and additions to the reported information which arise in the course of the electoral term within three months of the notifiable situation arising. Possible penalties for breaching this disclosure requirement include a reprimand, publication of a Printed Paper and an administrative fine.

Most of this information is published on the Bundestag’s website and in the Official Handbook of the German Bundestag, although income is only indicated in the form of ten income brackets. The purpose of this declaration and publication is to disclose facts “which may indicate combinations of interests with implications for the exercise of the said mandate” (section 44a (4) of the Members of the Bundestag Act). A special rule applies in the case of combinations of interests which are not readily apparent from the information published on the Internet:
Committee members who deal on a remunerated basis with a matter which is on the committee’s agenda for deliberation must disclose any combination of interests before deliberations begin.

For more information, please cf. answers to Article 52 paragraph 5.

**At Länder level**

The same principles are also applied at Länder level. Lower Saxony, for example, has adopted an Anti-Corruption Code of Conduct (Annex 1 to the Anti-Corruption Directive) and a Circular on the Ban on Accepting Rewards, Gifts and other Advantages of 24 Nov. 2016, which also contains rules on hospitality expenses. Both are available in German at: 

Hesse enacted an Ordinance on Preventing and Combating Corruption within the Remit of the Ministry of the Interior and Sports of 21 May 2014 (Official Gazette, 2 June 2014, p. 482), for instance. There are plans to extend its scope of application to the whole of the Land administration. The Administrative Regulations for State Employees in Hesse on Accepting Rewards and Gifts of 18 June 2012 (Official Gazette, 25 June 2012, p. 676) also apply. To make life easier for them, employees can fall back on model letters when they need to refuse gifts or invitations (staff in the federal administration can find similar examples on p. 53 et seq. of the German version of the Rules on Integrity brochure [https://www.bmi.bund.de/SharedDocs/downloads/DE/themen/moderne-verwaltung/regelungen-zur-integritael.pdf?__blob=publicationFile&v=3]). The Joint Circular on the Principles of Sponsoring, Advertising, Donations and Promotional Donations for the Financing of Public Tasks of 8 December 2015 (Official Gazette, 18 January 2016, p. 86) likewise apply in Hesse. Following a resolution adopted on 19 May 2010, a sponsoring report must be submitted to the Hessian Land Parliament every two years. This ensures greater transparency in regard to services provided by third parties to finance public services.

With effect from 1 November 2010, Bavaria has issued a guideline for dealing with sponsoring, advertising, donations and patronage donations in the state administration (“Sponsoring Guidelines”). The guideline applies to the payment of corresponding benefits to authorities, courts and other institutions of the Free State of Bavaria. It provides for all essential forms of monetary support that the neutrality of the public administration is to be protected, that any appearance of outside influence in the performance of public functions is to be avoided, that the proper and impartial performance of the task must be ensured, and that competition is not restricted. Advertising and sponsorship measures must be transparent, inter alia by signing a sponsorship agreement. The sponsoring services worth a value of € 1,000 or more must be disclosed in a biennial sponsoring report presented by the Bavarian State Ministry of the Interior, for Construction and Transport to the state parliament. These reports are available in German at <https://www.stmi.bayern.de/sug/engagement/sponsoring/index.php>.

A further example from Berlin: The Administrative Regulations on Dealing with Sponsoring and Other Forms of Donation by Private Individuals Applicable to the Berlin Senate Administrations were adopted to introduce uniform rules on sponsoring applicable across the central administration. The district administrations still have their own regulations, although they are advised to adopt
the aforementioned Administrative Regulations. The Senate Administration for the Interior and Sports draws up a sponsoring report for the central administration every two years listing all third-party donations of over EUR 5,000. These reports are available in German at: <http://www.berlin.de/sen/inneres/buerger-und-staat/weitere-themen/korruptionsbekaempfung/artikel.102993.php>.

The above-mentioned General Administrative Regulation to Promote Activities by the Federal Government through Contributions from the Private Sector of 7 July 2003 also applies in Brandenburg. It requires that sponsoring activities are collated and published every two years in a sponsoring report.

As part of its corruption prevention activities, Rhineland-Palatinate has drawn up a list of questions and answers plus examples of how to accept benefits and made the list available to those employed by the Land administration (“Are employees of the Land administration allowed to accept benefits?” as at: 28 September 2016). The aim of the list is to help staff in the Land administration to recognize where the boundaries are between what is desirable, what is still permissible and what is not permissible in regard to donations.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The rules set out in the Circular on the ban on accepting rewards or gifts in the Federal Administration are applied to varying degrees across the federal administration. While, for instance, the Federal Ministry of the Interior has adopted its own house rules on the basis of which staff need not disclose minor gifts worth up to EUR 25 (per year and donor), the Federal Ministry of Finance strictly applies the requirements of the Corruption Prevention Directive in practice. As a result, staff in the Federal Ministry of Finance have to notify all gifts they accept regardless of their value.

For examples at Länder level please refer to the above responses to Question 2.

For statistics regarding the number of public officials who have been undergone training please see our responses to Article 8, paragraph 1.
18. Paragraph 4 of article 8

4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

At federal level

Civil servants

Duty to maintain confidentiality

Under section 67 (1) of the Federal Act on Civil Servants, all civil servants are required to maintain confidentiality. In line with Article 33 para. 5 of the Basic Law, this is a traditional principle of the civil service. The duty to maintain confidentiality always takes precedence over the right to freedom of expression under Article 5 para. 1 of the Basic Law. Section 67 (1) of the Federal Act on Civil Servants stipulates the following:

“[c]ivil servants shall maintain confidentiality concerning all official matters of which they become aware in the course of their official activity. This shall also apply beyond the remit of an employer and following termination of civil service employment. […]”

Exceptions to the duty to maintain confidentiality: whistle-blowing

Section 67 (2), first sentence, no. 3 of the Federal Act on Civil Servants and section 37 (2), first sentence, no. 3 of the Federal Civil Servant Status Act stipulate that the duty to maintain confidentiality about official matters explicitly does not apply when civil servants notify the responsible highest service authority or another agency or non-service body (e.g. an ombudsperson) designated under Land legislation of a reasonable suspicion of corruption in accordance with sections 331 to 337 of the German Criminal Code. This ensures that civil servants who notify the competent agencies of a reasonable suspicion of corruption in good faith are protected against suffering unreasonable disadvantages (see p. 77 et seq. of the Rules on Integrity brochure regarding section 67 of the Federal Act on Civil Servants

Section 14 (1) no. 3 of the Act on the Legal Status of Military Personnel contains an identical rule applicable to soldiers (see p. 78 of the Rules on Integrity brochure
Employees

Employees who report actual or alleged violations of the law are protected by general provisions governing the termination of employment contracts (section 626 of the German Civil Code, section 1 of the Act on the Protection against Unfair Dismissal), by the prohibition of victimization under labour law (section 612a of the German Civil Code) and by constitutional law (Article 2 para. 1 of the Basic Law [general freedom of action], Article 5 of the Basic Law [freedom of expression] and Article 20 para. 3 of the Basic Law [rule of law]) in conjunction with the jurisprudence of the Federal Labour Court (judgment of 3 July 2003, file no. 2 AZR 235/02, NZA 2004, 427) and of the Federal Constitutional Court (orders of 25 Feb. 1987, file no. 1 BvR 1086/85, NJW 1987, 1929 and of 2 July 2001, file no. 1 BvR 2049/00, NJW 2001, 3474). According to these consistent past decisions of the highest courts, when employees act in good faith, they carefully check whether the information they are supplying is correct and reliable, and the report does not constitute a disproportionate reaction, then an attempt must always be made to clarify the matter internally. In its judgment in the case of Heinisch v. Germany, the European Court of Human Rights substantiated employees’ right to draw attention to wrongdoing in the workplace (judgment of 1 July 2011, Application no. 28274/08). The labour courts will in future have to take this judgment into account in their rulings. A review is currently being conducted to see whether the protection afforded whistle-blowers complies with other applicable international requirements, too.

At Ländere level

The same applies at Ländere level. Saxony, for instance, has appointed contact persons for corruption prevention in the highest Land authorities and, in some cases, also in the state ministries’ respective subordinate authorities.

Further, some of the Länder have set up anonymous, in some cases interactive, whistle-blower systems. Public service employees, too, can use these to report suspicions of corruption. The systems are, however, primarily geared to the general public, which is why further details will be provided in our responses to Article 13, paragraph 2, “reporting by society”.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

In addition to a contact person for corruption prevention, the Federal Ministry of the Interior has also appointed an anti-corruption ombudsperson. Anyone can contact the ombudsperson, that is both public service employees and citizens, to pass on information concerning suspected cases of corruption relating to the Federal Ministry of the Interior and/or its subordinate authorities. The ombudsperson (who is a lawyer) is both ex officio and contractually obliged to maintain confidentiality, which is why the report itself is passed on to the Federal Ministry of the Interior but not the whistle-blower’s identity. Any information passed on to the ombudsperson is first examined before being forwarded to the internal audit unit, the anti-corruption commissioner or the contact person for corruption prevention in the respective authority for an internal review. Appointing
an ombudsperson has proved its worth, as cases of corruption within the Federal Ministry of the Interior’s remit have already been brought to light through the ombudsperson which then led to the institution of criminal investigations.
19. Paragraph 5 of article 8

5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

1. Secondary employment/employment relationships

1. Civil servants

Secondary employment

One of the duties of public officials is to be fully personally committed to their profession as a civil servant. This rule is laid down in section 61 of the Federal Act on Civil Servants and in section 34 of the Federal Civil Servant Status Act. (That is why, in addition to their primary position, civil servants may only take on secondary employment to a limited extent. Whether and to what extent secondary employment is permissible depends on the nature of the activity in question. Sections 97 to 101 of the Federal Act on Civil Servants regulate which types of secondary employment are permissible (see p. 71 et seq. of the Rules on Integrity brochure <https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2014/rules-on-integrity.pdf?__blob=publicationFile>). Prior permission always needs to be sought before taking up secondary employment (section 99 (1) of the Federal Act on Civil Servants, section 40 of the Federal Civil Servant Status Act). Such permission is given by an employee’s supervisor and the HR manager. Permission should be refused where there are concerns that the secondary employment might interfere with service-related interests (section 99 (2) of the Federal Act on Civil Servants). This can, for instance, be the case where the secondary employment could influence the civil servant’s neutrality or impartiality, or if it is not compatible with the profession (e.g. a Federal Police officer working as a bouncer in a nightclub). Nor may the time spent in the secondary employment amount to more than one fifth of the civil servant’s regular weekly working hours. These statutory grounds for refusing permission for secondary employment enable employers to include corruption prevention aspects in their decision-making.

Secondary employment which is not expected to conflict with any service-related interests constitutes an exception to the above rule. It includes literary, scientific, artistic and lecturing activities, university and college teaching staff rendering expert opinions, civil servants working in self-help organizations and any voluntary work. Although these activities do not require approval (section 100 (1), nos 2, 3 and 4 of the Federal Act on Civil Servants), wherever civil servants receive compensation or payment in kind they must notify their employer in writing before taking up the activity, stating the type and extent of the activity and the probable amount of the compensation or payment in kind (section 100 (2) of the Federal
Act on Civil Servants). An employer can also refuse to issue approval for secondary employment which does not generally require prior approval if, in the performance of the relevant activity, the civil servant violates service-related duties (section 100 (4) of the Federal Act on Civil Servants). Similar provisions apply to soldiers (section 20 of the Act on the Legal Status of Military Personnel). Leisure-time activities do not require approval, nor do they need to be notified.

Civil servants are required to cooperate both in regard to the application for approval and the reporting of secondary employment. They must submit the documents which are necessary for their employer to take a decision. In addition to having the burden of proof, civil servants must also immediately report any changes, especially to the compensation paid or payments in kind made.

With a view to the preventive aspect of combating corruption, the 1997 Second Act on Limiting Secondary Employment explicitly extended civil servants’ burden of proof in regard to the type and extent of the secondary employment to include the compensation and payments in kind derived from the activity. The legislature was of the opinion that the amount of the compensation can be relevant in a variety of cases which are not necessarily apparent merely from declaring the type and extent of the secondary employment. Depending on the circumstances of the individual case, it is possible to draw conclusions from the amount of the consideration about the extent to which there might also be hidden advantages, for instance, in relation to the applicant’s office or the extent to which there are concerns as to the applicant’s impartiality, neutrality or lack of vested interests in the exercise of his or her official duties (see Bundestag Printed Paper 13/6424, 12; Federal Constitutional Court, order of 27 March 1981, file no. 2 BvR 1472/80; Münster Higher Administrative Court, OVGE 33, 243, 248).

Further, the abovementioned Act included a rule which stipulates that approval must as a general rule be time-limited. Under section 99 (4), first sentence, of the Federal Act on Civil Servants, approval for secondary employment may now only be issued for a limited amount of time, up to a maximum of five years, after which it lapses. If the civil servant wishes to continue the secondary employment, he or she must re-apply for approval. The Federal Ministry of the Interior has issued recommendations in regard to when approval for secondary employment should be limited to less than five years (e.g. if the nature of the activity changes frequently; if it is foreseeable that it will be necessary to review, at an early stage, whether the secondary employment is compatible with the provisions of civil service law, in particular specific service-related concerns; or if there are plans for the civil servant to engage in official activities in the foreseeable future in an area in which he or she is engaged in secondary employment).

**Activities after the end of the (active) civil service relationship**

Once a civil servant reaches the age of retirement or leaves the public service for another reason, approval for his or her engaging in paid or other employment may be refused for five years, or three years after reaching the age of retirement, where there are concerns that such employment will interfere with service-related interests (section 105 of the Federal Act on Civil Servants, section 20a of the Act on the Legal Status of Military Personnel).

Under section 40 of the Federal Civil Servant Status Act (or section 41 in regard to retired civil servants), after the end of this period former civil servants are only required to disclose any secondary employment, not to seek approval therefor.
The above provisions give the Ländere the leeway to introduce rules on any necessary exceptions to the duty of disclosure. The Ländere have made use of this possibility. The Federal Ordinance on Secondary Employment also contains detailed rules on secondary employment which are applicable to the federal administration.

2. Employees
Unlike civil servants, public service employees do not need to obtain approval for paid secondary activities. However, under section 3 (3) of the TVöD, they are required to give their employer advance written notification in good time before taking up paid secondary employment. Their employer may prohibit them from engaging in the secondary employment or may impose conditions if the secondary employment is likely to interfere with their fulfilling their duties under the contract of employment or the employer’s legitimate interests. Generally speaking, the secondary activities may not exceed 20% of the employee’s regular weekly working hours. The obligation to surrender earnings can be imposed as a condition for permission to engage in secondary employment with the same employer or elsewhere in the public service; the provisions applicable to federal civil servants apply accordingly to federal employees.

The duty of disclosure does not apply to unpaid secondary employment.

3. Members of the Bundestag
Unlike public officials, Members of the Bundestag are as a matter of principle permitted to engage in secondary employment. They are subject to the provisions governing disclosure in the Code of Conduct for Members of the German Bundestag issued on the basis of sections 44a and 44b of the Members of the Bundestag Act. Even where there is a concrete conflict of interests, secondary employment is permissible as long as it is disclosed (Rule 6 of the Code of Conduct). According to paragraph 3 of Rule 1 of the Code of Conduct, the amount of income derived must be declared if it exceeds EUR 1,000 within one month or EUR 10,000 within one year. Calculations must be based on the gross amounts due for an activity, including expenses, compensation and benefits in kind.

4. Special rules applicable to members of the Federal Government
Current and former members of the Federal Government are also subject to limitations in regard to employment which they wish to engage in after leaving the Federal Government. Under the Act governing the Legal Status of Members of the Federal Government, they must disclose their intention to engage in any employment outside the public service within 18 months of leaving the Federal Government (section 6a (1) of the above Act). Current and former members of the Federal Government must notify the Head of the Federal Chancellery of their intention to take up employment (section 6a (1), second sentence). Where there are concerns that the activity will interfere with public interests, it may be prohibited (section 6b (1), first sentence). Such refusal generally lapses after one year, but it may be extended to up to 18 months in cases where there is serious interference with public interests (section 6b (2)). The Federal Government is responsible for issuing such refusal. The decision is taken on the recommendation of a committee of three (section 6b (3)). The members of this committee are appointed by the Federal President on the proposal of the German Bundestag;
they act in an honorary capacity (section 6c (1), second sentence). Members of the Federal Government are entitled to payment of a transitional allowance during this waiting period (section 6d of the Act governing the Legal Status of Members of the Federal Government).

The aforementioned rules also apply accordingly to parliamentary state secretaries (section 7 of the Act on the Legal Relationships of Parliamentary State Secretaries). The parliamentary state secretaries help the minister carry out his duties. In particular, they work to maintain good relations with the Bundestag and Bundesrat and their committees, with the parliamentary groups and their task forces, and with the political parties. The federal minister decides which tasks to delegate to each parliamentary state secretary. The parliamentary state secretaries represent the federal minister in these areas and in individual cases as the minister decides. Parliamentary state secretaries are required to make the disclosure as set out in section 6a of the Act governing the Legal Status of Members of the Federal Government to that member of the Federal Government to whom they are or were assigned (section 7, second sentence, of Act on the Legal Relationships of Parliamentary State Secretaries).

Some of the Länderei plan to introduce comparable rules at Länderei level. Berlin, for example, plans to introduce a rule on the waiting period applicable to senators (in Berlin the Land ministers are called senators) in line with the rule applicable to state secretaries.

II. Investments and assets

Disclosure requirements
Civil servants are generally required to disclose their assets neither to the revenue authorities nor to their employer. Obliging federal civil servants to disclose their assets is extremely problematic from the point of view of constitutional law. It would constitute interference with a highly personal sphere of life. This is protected by the general right of personality, as enshrined in Article 2 para. 1 in conjunction with Article 1 para. 1 of the Basic Law. In addition, such a duty would most likely lead to many qualified candidates being put off applying for higher office in particular and to their foregoing the opportunity to take such office.

During the recruitment process potential civil servants are, however, asked whether they are in debt and, if so, why and how high the debt is. The aim is to assess the applicant's personal suitability for public office. Candidates are asked to make a self-declaration. Where there are doubts as to a candidate's personal suitability, he or she may be rejected. Also, disciplinary proceedings must be instituted against federal civil servants who negligently enter into debt. This is based on the belief that civil servants owing large debts are particularly vulnerable to corruption.

The supervisory mechanisms have thus been shifted elsewhere, as explained in the following section.

According to the Federal Act on the Legal Status of Members of the Federal Government, members of the Federal Government are also not obliged to disclose their assets.
Notification requirement of the tax authorities etc. to compensate for the lack of duty to disclose investments and assets

All those agencies which are capable of preventing, uncovering and prosecuting corrupt practices are required to cooperate to guarantee the success of the fight against corruption. This presupposes that the law enforcement authorities are informed at an early stage of any facts which justify the suspicion that a criminal offence related to corruption has been committed. They are to first discuss and analyse the facts establishing a suspicion together so as to enable the relevant authority to then respond swiftly, flexibly and robustly.

The tax authorities’ notification requirements result from the applicable provisions of tax law, for example section 4 (5), first sentence, no. 10 of the Income Tax Act, section 10 of the Ordinance on Tax Audits and section 31b, second sentence, of the Fiscal Code. Under section 4 (5), first sentence, no. 10 of the Income Tax Act, the revenue authorities are obliged to report facts which give rise to a reason to suspect a criminal offence to the law enforcement authorities. The courts, public prosecution offices and administrative authorities are obliged to report the same matters to the revenue authorities. Generally applicable rules also apply in this context, such as those under civil service law (concerning claims for compensation), the Fiscal Code (in section 116 on reporting tax crimes), the Criminal Code (in section 73 et seq. on confiscation) and the Code of Criminal Procedure (in sections 111b et seq. on the provisional securing of assets). Out of all the 16 Länder, 15 have already enacted their own rules in regard to the tax authorities’, audit institutions’ and other authorities’ notification requirement so as to make up for the lack of requirement to disclose investments and assets.

III. Substantial gifts or benefits

Civil servants

Section 71 of the Federal Act on Civil Servants and section 42 of the Federal Civil Servant Status Act contain a general ban on civil servants demanding, allowing themselves to be promised or accepting rewards, gifts or other benefits in connection with their position. They may accept these only in exceptional cases after their employer has issued approval therefor (for details see our responses to Article 8, paragraphs 2 and 3).

The Länder have introduced generally binding codes of conduct and guidance regarding the possible consequences of non-compliance which supplement the Federal Civil Servant Status Act. The above acts have also been given more concrete expression at federal level, for example in the Circular on the ban on accepting rewards or gifts in the Federal Administration (see https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2014/rules-on-integrity.pdf?__blob=publicationFile).

Some of these codes of conduct contain model letters which civil servants can use when returning/declining gifts. The aim is to give staff peace of mind and to make it easier for them to deal with these situations. The regulations introduced at federal and Länder level are based on the original Model Administrative Provisions of the Federal Government/Länder Working Group on Matters of Civil Service Law (see Annex 2 to the Strategy for Preventing and Combating
Corruption of 18/19 May 1995). That is why these regulations are all very similar in terms of content, which ensures uniformity at this level, too.

**Members of the Bundestag**

Under section 44a (2) of the Members of the Bundestag Act, Members of the Bundestag may not accept any allowance or other pecuniary benefit in the exercise of their mandate other than that which is regulated by law. Thus, they may not accept money or other cash benefits which are only paid or granted because they are expected, in return, to represent and advance the donor’s interests in the Bundestag.

Under section 44a (2), third sentence, of the aforementioned Act, accepting money or other cash benefits is also prohibited if they are granted without an appropriate service in return on the part of the Member of the Bundestag. Paragraph 5 of Rule 8 of the Code of Conduct for Members of the German Bundestag contains further details, in particular on establishing whether the service in return is appropriate (see [https://www.bundestag.de/blob/195006/a1232d4a394f7cdee1b9bccc2f374880/code_of_conduct-data.pdf](https://www.bundestag.de/blob/195006/a1232d4a394f7cdee1b9bccc2f374880/code_of_conduct-data.pdf)).

Under section 44a (3) of the aforementioned Act, unlawful donations or pecuniary benefits, or their monetary equivalent, must be paid to the federal budget. The President of the Bundestag asserts the entitlement by means of an administrative act, unless three years have elapsed since the donation was paid or the pecuniary benefit was granted. Paragraph 5 of Rule 8 of the Code of Conduct for Members of the German Bundestag contains further details in this regard.

**At Länder level**

Hesse, for instance, has enacted Administrative Regulations for State Employees in Hesse on Accepting Rewards and Gifts of 18 June 2012 (Official Gazette, 25 June 2012, p. 676).

The relevant provisions of the North Rhine-Westphalian Anti-Corruption Act concerning the obligation to disclose and report secondary employment are listed below by way of example.

**Section 16 of the Anti-Corruption Act - Disclosure obligation**

The Members of the Land Government shall give written notification to the Minister-President, the members of local authority and associations of local authority bodies and committees, the members of district authorities, mayors and informed citizens pursuant to section 58 (3) of the local authority code, section 41 (5) of the county council authority code or section 13 (3) of the regional council code to the administrative officers, administrative officers and heads of other public-law corporations, bodies and foundations under public law subject to the supervision of the Land to the head of the supervisory body, and members pursuant to section 1 (1) no. 4 to the heads of the facility concerning 1. any employment engaged in and consultancy contracts signed,

2. membership of supervisory boards and other supervisory bodies within the meaning of section 125 (1), fifth sentence, of the Stock Corporation Act,
3. membership of bodies of independent public- or private-law areas of the authorities and facilities referred to in section 1 (1) and (2) of the Act on the Organization of the Land Administration,
4. membership of bodies in other private-law enterprises,
5. functions in associations or comparable committees.

In derogation from the first sentence, members of the advisory council of a public-law facility under sections 114a of the local authority code and a joint municipal enterprise under sections 27 and 28 of the Act on Joint Local Authority Activities shall be required to notify the head of the supervisory body. The information is to be supplied in a suitable form once a year.

Section 17 of the Anti-Corruption Act - Duty to notify secondary employment

(1) Administrative officers shall notify the council or the county council of activities pursuant to section 49 (1) of the Act on Civil Servants Employed by the Land of North Rhine-Westphalia prior to engaging in them. The first sentence shall apply accordingly for a period of five years to these civil servants upon their retirement.

(2) The list referred to in section 53 of the Act on Civil Servants Employed by the Land of North Rhine-Westphalia shall be submitted to the local or district council by 31 March of the calendar year which follows the relevant financial year.

Berlin is planning to introduce disclosure requirements for Members of the House of Representatives similar to the rules applicable to Members of the Bundestag, but taking into consideration the specific features on account of its being a parliament of part-time members. It also plans to introduce a register of lobbyists for the House of Representatives.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Judgment of the Federal Labour Court of 18 September 2008 (file no. 2 AZR 827/06):

An employee’s secondary employment may not conflict with his or her official duties. This will, in particular, be the case where an employee engages in secondary employment in matters in which the authority of which he or she is an employee is or may become active. Depending on the circumstances of the individual case, a serious breach by a public service employee against the secondary obligation incumbent upon him or her in connection with exercising the secondary activity may justify terminating the contract of employment on important grounds, even without a prior warning. The employee’s breach of duty is especially serious if the circumstances in conjunction with the exercise of the secondary employment have significantly undermined the general public’s confidence and that of his or her employer in the employee fulfilling the tasks incumbent upon him or her without any undue influence from the secondary employment.
20. Paragraph 6 of article 8

6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Measures against public service employees
Where civil servants breach their statutory duties of conduct, this constitutes a disciplinary offence. Disciplinary offences may lead to disciplinary measures up to dismissal from the civil service. Breaches of those duties which also apply to retired civil servants (such as the ban on accepting gifts) may also be subject to disciplinary measures which can go as far as the civil servant being deprived of his or her pension. In the case of public service employees, measures under labour law such as a warning and termination with or without notice are possible penalties. A civil servant’s status ends as soon as a judgment handed down by a German court in ordinary criminal proceedings becomes final and the civil servant has either been sentenced to imprisonment for at least one year for an intentional act or to imprisonment for at least six months for an intentional act under the provisions concerning betrayal of peace, sedition, endangering the democratic rule of law or treason and endangering external security or, if the offence relates to an official act in higher office, bribery (section 41 of the Federal Act on Civil Servants, section 24 of the Federal Civil Servant Status Act).

Concerning staff employed under collective or individual agreements, a breach of secondary labour law obligations can lead to consequences under labour law, initially a warning regarding the specific non-compliance. Nevertheless, termination of the contract of employment on account of the employee’s conduct may also be justified, both with and without due notice.

Measures against parliamentarians
Under section 44a (4) of the Members of the Bundestag Act, if disclosable activities or income are not reported, the Presidium may impose an administrative fine of up to half of the Member’s annual remuneration. Rule 8 of the Code of Conduct for Members of the German Bundestag (see https://www.bundestag.de/blob/195006/a1232d4a394f7cdee1b9bccc2f374880/cod_e_of_conduct-data.pdf) regulates the relevant procedure and less severe measures which are to be imposed. Where there are indications that a Member of the Bundestag has failed to meet his or his obligations under the Code of Conduct, the President must, pursuant to Rule 8 paragraph 1, first sentence, first obtain a statement from the Member concerned and then institute a factual and legal investigation. Under the second sentence of paragraph 1, the President can demand further information from the Member concerned to explain and clarify the
situation and may ask the chairperson of the relevant parliamentary group to state his or her position.

Under Rule 8 paragraph 2, first sentence, of the Code of Conduct, if the President is convinced that the case is less serious or involves only minor negligence (e.g. failure to meet the deadline for declaring information), the Member concerned will receive a reprimand. Otherwise, the President will inform the Presidium and the chairpersons of the parliamentary groups of the outcome of the investigation (Rule 8 paragraph 2, second sentence, of the Code of Conduct).

The Presidium takes its decision as to whether the Code of Conduct has been breached after hearing the Member concerned (Rule 8 paragraph 2, third sentence). If the Presidium finds that a Member of the Bundestag has failed to meet any obligations under the Code of Conduct, the decision - without prejudice to the administrative fine needing to be imposed under section 44a (4), second sentence, of the Members of the Bundestag Act in conjunction with Rule 8 paragraph 4 of the Code of Conduct - must be published as a Bundestag Printed Paper in accordance with Rule 8 paragraph 2, fourth sentence, of the Code of Conduct.

At Länderr level, the conduct of members of the Berlin House of Representatives, for instance, is regulated by section 5a of the Act on the Legal Relationships of Members of the Berlin House of Representatives of 21 July 2017, which entered into force on 1 May 2017 (Gazette of Laws and Ordinances 2017, p. 294).

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

A public service employee who accepts favours will be deemed to have breached secondary obligations under the contract of employment, which generally justifies terminating his or her contract of employment without due notice (Federal Labour Court, judgment of 17 March 2005, file no. 2 AZR 245/04). In special cases, a serious breach of secondary obligations by a public service employee in connection with the exercise of a secondary activity may justify terminating the contract of employment on important grounds even without a prior warning (Federal Labour Court, judgment of 18 September 2008, file no. 2 AZR 827/06, juris, margin no 28).

Reprimands issued against Members of the Bundestag in accordance with Rule 8 paragraph 2, first sentence, of the Code of Conduct for Members of the German Bundestag are not published. The last time a breach of duty was published as a Bundestag Printed Paper was on 11 April 2017 (Bundestag Printed Paper 18/11920).
21. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

None

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.
9. Public procurement and management of public finances

22. Paragraph 1 of article 9

1. Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:

(a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;

(b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;

(c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;

(d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;

(e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

For public contracts above the EU thresholds, public contracts and concessions are awarded on the basis of competition and transparent procedures; the participants in an award procedure must be treated equally (see section 97 of the Act against Restraints of Competition). The provisions concerning the award of public contracts below the EU thresholds follow the same principles and have been brought into alignment with the new provisions applicable to public contracts above the EU thresholds.

Very detailed regulations governing public procurement procedures are in place, providing a level playing field for all bidders. The provisions on public procurement applicable in Germany require the non-discriminatory and competitive award of public contracts (see for construction works: section 2 (1) no. 1 and subsection (2) of the Regulations on Contract Awards for Public Works - Part A, section 1 [VOB/A] and for supplies and services: section 2 (1) of the Code of Procedure for Procuring, Supplies and Services below EU-threshold [UVgO]). Specifications must be worded in such a way that all bidders understand them to mean the same thing (see section 7 (1) no. 1 of the VOB/A, section 23 (1) UVgO).

Contracts above the EU thresholds: The above principles apply in accordance with the provisions of German cartel procurement law (the Act against Restraints of Competition [GWB], the Ordinance on the Award of Public Contracts [VgV], the
Ordinance on Award of Public Contracts Defence and Security [VSVgV], the Ordinance on the Award for Concessions [KonzVgV] and the Regulations on Contract Awards for Public Works [VOB/A]).

Contracts below the EU thresholds: The above principles apply in accordance with the provisions of German budget law (see section 55 of the Federal Budget and the relevant budget provisions on Land and municipal level). Below the EU thresholds, the Länder are empowered to issue complementary regulations. Most have availed themselves of this possibility by enacting Land procurement laws and decrees. Hesse, for instance, enacted the Hessian Act on Public Procurement and Compliance with Collective Agreements of 19 December 2014 (Gazette of Laws and Ordinances I p. 354). To achieve greater transparency in regard to procurement procedures, an expression-of-interests procedure has to be conducted in the Hessian Database of Tenders above a specific threshold (works contracts above EUR 100,000 and other contracts above EUR 50,000). If no expression-of-interests procedure is conducted, special procedural rules apply, such as changing the bidders to be invited to bid, inviting non-local enterprises to bid.

(a) Public distribution of information relating to procurement procedures and contracts

Contract notices as well as award notices must be published, including all relevant information about the award procedure, the public contract and its technical specifications. Contract notices and award notices above the EU thresholds must be published on the TED (Tenders Electronic Daily) platform (www.ted.europa.eu <http://www.ted.europa.eu>) (see e.g. section 40 VgV). TED is a single electronic point of access managed by the Publications Office of the European Union. Contract notices and award notices below the EU thresholds must be published on the Internet.

(b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication

The contracting authority must define the selection criteria applied when assessing the bidder’s eligibility, the selection criteria and the details of the procurement procedure in detail and in advance (see sections 122 and 127 GWB). This information must be published together with the contract notices on the TED platform (see section 40 VgV).

The principle of transparency (section 97 (1), first sentence, GWB) requires that all stages of the public award procedure must be comprehensible and controllable for all those involved. The public contracting entity is not permitted to make any essential changes to the award criteria and technical specifications after publication. Bidders are significantly restricted when it comes to correcting errors in their bid after the opening date in order to prevent competitors being eliminated on account of price adjustments.

(c) The use of objective and predetermined criteria for public procurement decisions

The award criteria must relate to the subject matter of the contract. They must be specified and defined in such a manner as to ensure effective competition, that the contract cannot be awarded arbitrarily and that it is possible to conduct an effective review as to whether and to what extent the tenders meet the award
criteria. The award criteria and their weighting must be specified in the contract notice or the procurement documents and must be published (see section 127 GWB).

One condition for the award of a contract is suitability as defined in section 122 GWB. Under that provision, public contracts are awarded to competent and efficient businesses, that is those which meet the aforementioned selection criteria. There may also be no ground for compulsory exclusion under section 123 GWB (final and binding conviction for the taking and giving of bribes to elected officials, for granting an advantage and bribery) and no non-obligatory ground for exclusion under section GWB (incl. where the enterprise is guilty of serious misconduct in the context of its professional activity, calling the enterprise’s integrity into question).

(d) An effective system of domestic review, including an effective system of appeal

German legal provisions concerning public procurement also provide for an effective domestic review procedure, including legal remedies. As already mentioned in the above, when it comes to the award of public contracts above the EU thresholds, bidders have the option of requesting a review by an independent body (based at federal level in the cartel offices, at Länderelevel in Län dere agencies) before the award is actually made. When it comes to public contracts below the EU thresholds, bidders have the option of requesting damages in civil proceedings.

An application for the conduct of a review procedure can also be made in regard to what is known as a “de facto award”. This refers to cases where the public contracting entity concludes a contract directly with an enterprise without involving other bidders in the award procedure and without conducting a formal award procedure before concluding the contract. It constitutes the direct award of a contract, which is illegal and breaches the principle of competition under section GWB. A determination of the invalidity of the contract may be made in a review procedure within a period of 30 days after having learnt of the breach and at the latest within six months of the contract being concluded (section 135 GWB). Where the contracting entity has published the contract award in the Official Gazette of the European Union, this period ends 30 calendar days after publication of the award notice in the Official Gazette of the European Union.

(e) Codes of conduct for personnel responsible for procurement

Germany has strict and detailed provisions for preventing conflicts of interests (see our response to Article 7, paragraph 4 above). Under section 6 VgV, a person who has a personal interest in the award of a public contract (e.g. on account of being related to the bidder) is not permitted to take part in the contracting authority’s award decision-making.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.
**Statistical reporting of procurement review procedures**

Under section 184 GWB, the public procurement tribunals and higher regional courts are required to notify the Federal Ministry for Economic Affairs and Energy (BMWi) each year of the number of review procedures conducted in the previous year and of the results of those reviews.

In 2016 the public procurement tribunals received a total of 880 applications to conduct a review procedure. In 232 of these cases the decision given was in the contracting authority’s favour, in 140 of the cases in the contractor’s favour. In the remaining cases the complaint was either withdrawn in the course of the procedure (309 cases) or it was dealt with in another manner (197 cases).

Under section 171 GWB, an immediate complaint can be filed with the higher regional court against a decision given by a public procurement tribunal. In 2016 the higher regional courts received 180 such complaints. Of these, 39 were successful/largely successful and 48 were rejected/largely rejected. The remaining complaints were withdrawn or were dealt with in another manner.

**Competition Register**

Germany is in the process of establishing a kind of debarment list in order to make the provisions on excluding bidders in cases of corruption more effective in practice and to assist in corruption prevention. The Act on the Establishment and Operation of a Competition Register (Federal Law Gazette I p. 2739) entered into force in July 2017. The aim of this national register is to provide contracting authorities with the necessary information to be able to decide whether a bidder needs to be excluded from a tender, for example because the bidder’s management has been convicted for a white-collar crime such as corruption. It guarantees awareness of any offences committed. In future, contracts may only be awarded to businesses with a clean record. The national register is to be the central source of information concerning white-collar crimes. It will be established at the Federal Cartel Office.

The Act concerns the establishment of a register containing information on, for instance, sentences in relation to crimes such as money laundering, fraud, corruption and tax evasion which can be attributed to a business. The public prosecution office and other authorities are obliged to notify the register of any convictions which can be attributed to a specific enterprise. Contracting authorities are then required to consult the register to find out whether there are any entries on a bidder before awarding a public contract. That way the register ensures that contracting authorities have all the relevant information they need at their disposal to assess whether a bidder should or must be excluded from a tender. The register is not intended to be a blacklist which excludes companies from the procurement process with binding effect. The Federal Cartel Office will be issuing guidelines on accessing self-cleaning measures. The Competition Register will be operational by 2020 at the latest.

**Digitalizing the procurement process: e-procurement**

**At federal level**
Germany has been digitalizing the procurement process at the federal level since 2003, a process which is now largely completed. The level of digitalization is, nevertheless, to be stepped up in the context of the Federal Government’s “Digital Administration 2020” programme. One major goal is to make all the information concerning public procurement available on a single web portal. All existing procurement applications will gradually be incorporated into the central E-Beschaffung (E-Procurement) portal. The following applications are already available:

- **e-Vergabe**

  e-Vergabe is the central e-tendering platform at federal level which brings together the public award authorities and bidders. Over 720 public award authorities handle their procurement processes online, with more than 21,000 registered bidders and a volume of billions of euros. e-Vergabe guarantees a modern and reliable tendering process which is in compliance with EU public procurement law and free of charge.

- **Kaufhaus des Bundes**

  Federal framework contracts are awarded through the Kaufhaus des Bundes - the federal public authorities’ digital shopping platform. Tenders which have been awarded are published in electronic catalogues on the shopping platform. Users can easily call up framework agreements without the need to organize their own procurement procedure.

- **XVergabe**

  The level of adoption of electronic tendering within the European Union is still very low - approx. 13% compared to the target of 50% set for 2010. A research paper published by Deutsche Bank (based on a study launched in 2011) concludes that between EUR 50bn and EUR 70bn could be saved within the EU each year by making the full transition to e-procurement. However, full transition to e-tendering without enabling interoperability across national boundaries would not suffice as there are already more than 330 platforms across Europe. While this does not pose a problem for contracting authorities, as they each only use one platform, in a worst-case scenario an economic operator has to use all the 330 available platforms to participate in all calls for tenders. XVergabe is the key to solving this problem. It creates a sustainable basis for electronic interoperability between economic operators and contracting authorities and makes it possible for economic operators to access all compatible e-tendering platforms with only one bidding client. Instead of 330 platforms, the economic operator then only has to use one. Levels of satisfaction among economic operators is expected to rise by ensuring that potential bidders gain access to more public tenders.

### At Länder level

Berlin, for example, introduced the option of e-procurement in 2005. Berlin’s publication and procurement platform can be accessed at: [http://www.vergabeplattform.berlin.de]
23. Paragraph 2 of article 9

2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:

(a) Procedures for the adoption of the national budget;
(b) Timely reporting on revenue and expenditure;
(c) A system of accounting and auditing standards and related oversight;
(d) Effective and efficient systems of risk management and internal control; and
(e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Regulations on adopting the budgetary plan, on budget management, accounting and bookkeeping are set out in the Basic Law, the Federal Budget Code, the Budget Principles Act, the annual budget laws and various administrative provisions. The Länder have comparable provisions in their Land constitutions and Land financial regulations.

The budget procedure at federal level is as follows:

(a) Procedures for the adoption of the national budget

The Federal Ministry of Finance (BMF) draws up the draft federal budget and the accompanying Cabinet bill (section 28 of the Federal Budget Code). The Cabinet generally adopts the Federal Government's bill on the draft federal budget in late June/early July of each year. The draft budget is submitted to the Bundesrat at the same time as it is tabled in the German Bundestag (Article 110 para. 3 of the Basic Law, section 30 of the Federal Budget Code), generally by the first week in which Parliament is sitting in September at the latest. The draft budget is accompanied by a federal financial plan (setting out the projected volume and composition of revenues and expenditures for a five-year period), a financial report (detailing the current situation and projected trends in the financial sector) and, every other year, a subsidy report (containing a statistical overview of federal grants and tax breaks).

The draft budgetary plan is adopted in the Budget Act. Once consultations in the Bundestag and Bundesrat are completed, the Budget Act is countersigned by the Federal Minister of Finance and the Federal Chancellor and signed into law by the Federal President. It is usually published in the Federal Law Gazette in late December and thus in good time before the start of the new financial year. Thereafter the Budget Act is publicly accessible. It enters into force on 1 January of the new year. Debates on the federal budget in the German Bundestag are broadcast via various media (e.g. Bundestag Parliamentary TV, live stream.
(b) Timely reporting on revenues and expenditures

Under Article 114 para. 1 of the Basic Law, the Federal Ministry of Finance is required to submit to the Bundestag and the Bundesrat an account of all revenues and expenditures as well as of assets and debts for the preceding fiscal year for the purpose of approving the Federal Government’s activities. The accounts are drawn up on the basis of sections 80 to 86 of the Federal Budget Code.

The budget accounts are publicly accessible; they are generally published in June of the following budget year. The budget accounts are sent to the 
Bundesrechnungshof (German Supreme Audit Institution) for audit. Submission of the budget accounts to the Bundestag and the Bundesrat marks the start of the procedure for discharging the Federal Government.

Further, the Federal Ministry of Finance regularly reports throughout the course of the year on developments regarding federal revenues and expenditures, for example in its monthly reports.

(c) A system of accounting and auditing standards and related oversight

The principles of accounting and auditing are laid down in the Basic Law, the Federal Budget Code and the Budgetary Principles Act (see (b) above). Under Article 114 para. 2 of the Basic Law, the Bundesrechnungshof (German Supreme Audit Institution) is responsible for auditing the Federation’s accounts and asset accounts and for reporting on whether Germany’s public finances have been properly and efficiently administered. The Bundesrechnungshof is independent of both the Federal Government and of the Bundestag. Each year it summarizes those results of its audit process which may have a bearing on the approval of the Federal Government’s activities. These comments are sent to the Bundestag, the Bundesrat and to the Federal Government. They serve to inform the legislature in a timely manner and are made publicly accessible in the form of a Bundestag Printed Paper.

The staff of the Bundesrechnungshof include its members (President, Vice-President, heads of divisions and heads of audit units), auditors of the higher and upper grades of service and other staff. It has a total of around 1,200 staff. The members are civil servants, although they are personally and functionally independent. They are subject to the rules on independence and disciplinary measures which are applicable to judges at the highest federal courts of justice.

(d) Effective and efficient systems of risk management and internal control

Effective and efficient systems of risk management are primarily achieved within the federal administration by implementing the requirements set out in the Federal Government Directive concerning the Prevention of Corruption in the Federal Administration of 30 July 2004 (Corruption Prevention Directive). The first step to implementing the preventive measures detailed in the Corruption Prevention Directive is to identify those areas of work which are especially vulnerable to corruption. Data on areas especially vulnerable to corruption, including how long staff remain in post, are regularly gathered and risk analyses are carried out (see
our responses to Question 3 re Article 5, paragraph 2 on “regularly identifying areas of activity especially vulnerable to corruption”, no. 2 of the Corruption Prevention Directive).

**Internal audits**
Internal control is also guaranteed by means of internal audits, a management control instrument. Internal audit units scrutinize administrative activities and deliver information, analyses and assessments. However, their task is also to make recommendations and provide advice. Internal audits are, therefore, not a repressive measure but aim to support the work of the administration. They deliver the insights of a unit which is not involved in the process being examined. In addition, they have a preventive function and help to improve the culture, quality, effectiveness and efficiency of administrative activities in the long term. Policy decisions are not examined during an internal audit.

Based on an authority-related threat and risk assessment and taking account of the cost-benefit relationship, the internal audit unit makes a list of issues to be audited and draws up an audit plan on its basis. The audit plan must be submitted to the head of the authority for approval. It addresses objective, personnel and temporal aspects of the audits. It must comprise a longer-term plan.

The following types of audit can be conducted:
- Regular audits,
- Inventory audits,
- System audits,
- Occasional audits,
- Follow-up audits (to check on implementation of previous advice given and recommendations made).

Depending on the focus of the audit, the following criteria are applied: Lawfulness, Correctness, Safety, Efficiency, Safeguarding the future, Appropriateness/effectiveness, Impact orientation.

Audits are generally announced to the entity concerned ahead of time. During the audit the internal audit unit ascertains and evaluates the facts and documents its audit activities, findings and assessments. The insights gained and proposals made on the basis of those insights are already discussed with the audited entities at this stage of the auditing process. At the end of the audit, the internal audit unit then promptly sends the audited entity a draft of its audit report. The draft report contains both its findings and assessments and, where necessary, suggestions for remedying shortcomings or making improvements. The audited entity is given the opportunity to comment in the course of discussions during a final meeting. The outcome of this final meeting is documented. Once the audit is completed, the final audit report is promptly submitted to the head of the authority. Details regarding the audit planning and audit procedure are set out in audit regulations, which are made known within the authority.

Through task-specific training and continuing training, internal audit units also
guarantee transparent audit processes, standardized audit procedures, a standardized report layout, exchanges of experience, work shadowing in other internal audit units, and the quality of their work. The Federal Ministry of the Interior regularly organizes meetings with internal audit units in other federal ministries to ensure that government departments are able to share their experiences.

The recommendations for setting up internal audit units in the federal administration are available online (in German only):<https://www.bmi.bund.de/SharedDocs/downloads/DE/themen/moderne-verwaltung/interne-revision-empfehlungen.pdf?__blob=publicationFile&v=2>

(e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph

The Bundesrechnungshof (German Supreme Audit Institution) has no executive powers and so has to convince others by means of its argumentation. The federal administration often follows the Bundesrechnungshof’s recommendations, though. Further, the German Bundestag, in particular the Budget Committee and its Audit Committee, play a key role when it comes to ensuring that the necessary consequences are drawn. In recent years these committees have, following detailed consultation, embraced virtually all of the Bundesrechnungshof’s observations. During these consultations in the German Bundestag, the heads of the ministries, accompanied by representatives from the relevant departments, are required to report to the committees and answer their questions. To increase the effectiveness of its recommendations the Bundesrechnungshof regularly conducts a follow-up once an audit is completed. It asks the audited entity to what extent the recommendations have been implemented as promised and, where necessary, requests proof. The findings made during the follow-up may necessitate a report being submitted to the German Bundestag or a verification audit being conducted.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Transparency in regard to the administration of public finances is achieved by posting up-to-date information on the Internet, among other measures.

- The Federal Ministry of Finance provides relevant information, in particular its monthly reports, on its website:<http://www.bundesfinanzministerium.de/Web/DE/Service/Publikationen/Monatsbericht/Monatsbericht.html>
- The Bundestag publishes documents online: http://www.bundestag.de/parlamentsdokumentation; <http://www.bundesrat.de/DE/dokumente/dokumente-node.html>
- Documents published by the Bundesrechnungshof (German Supreme Audit Institution) on the Federal Budget and Balance Sheet are available at: <https://www.bundesrechnungshof.de/en/veroeffentlichungen/bemerkungen-jahresberichte-en?set_language=en>
- All federal budget expenditures and revenues broken down by departmental budgets, groups and functions (target and actual) are visualized in graphs: <http://www.bundeshaushalt-info.de>.
- The current Budget Act 2017 is available online at: <https://www.gesetze-im-internet.de/hg_2017/BJNR301600016.html>
24. Paragraph 3 of article 9

3. Each State Party shall take such civil and administrative measures as may be necessary, in accordance with the fundamental principles of its domestic law, to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents.

Is your country in compliance with this provision?
(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

As regards implementation of Article 9, paragraph 3 of the Convention, reference is here in particular made to the duties of care set out in legislation applicable to civil servants (see above) and various criminal law provisions (e.g. sections 263, 266, 267 and 283b of the German Criminal Code).

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

No relevant studies or examples are available.
25. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.
10. Public reporting

26. Subparagraph (a) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

(a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

At federal level:

Freedom of Information Act

The Freedom of Information Act in particular, which entered into force on 1 January 2006, has created greater transparency in the public sector. It provides everybody with an unconditional, though not exclusive right of access to official information held by federal agencies. To ensure access to information, the authority may furnish information, grant access to files or provide information in any other manner.

Exceptions pursuant to Sections 3 to 6 of the Freedom of Information Act may preclude the right of access to information. These exceptions must be specified by the authority concerned. They have been designed to protect public and private interests and can be subdivided into the protection of specific public interests (such as public security or international relations), of the decision-making process by the authority, the protection of personal data, of intellectual property and of business or trade secrets. The protection of the core area of executive responsibility is one of the unwritten reasons preventing access to information not governed by the Freedom of Information Act. The Federal Constitutional Court has ruled that the protection of the core area of executive responsibility derives from the principle of the separation of powers and serves as the Federal Government’s protection vis-à-vis Parliament. In line with this ruling, the Federal Government has the right to initiative, consultation and action which is beyond the reach of inquiry. It protects in particular the Federal Government’s decision-making (consultations in the Cabinet, preparation of Cabinet and ministerial decisions).
Pursuant to Section 9 (4) of the Freedom of Information Act admissible legal remedies include an appeal followed by an action to compel performance of the requested administrative act. Furthermore, anyone considering their right to access to information to have been violated may appeal to the Federal Commissioner for Freedom of Information. The Federal Commissioner has the right to object to the authority (Section 12 (3) of the Freedom of Information Act in conjunction with Section 25 (1), first sentence, nos. 1 and 4, second sentence, and paragraphs (2) and (3) of the Federal Data Protection Act.

Open data law

Moreover, a new Open Data Act came into effect on 13 July 2017. This was provided for in Section 12a of the Act on E-Government (for more detailed information see Art. 10 lit. b). It requires the federal administration to proactively publish all data as open data ("open by default"). While the law does not include an individual right to access to raw government data, it creates a legal requirement for the public administration pertaining to all government data: When administrative processes or daily practice result in the generation or gathering of data, publication under open data principles is the standard, while exceptions may still apply (similar to those in the Freedom of Information Act, see above).

Open Government Partnership

In December 2016 Germany announced its participation in the Open Government Partnership (OGP). This entails an intersectoral dialogue between government and civil society and is a strong signal for openness, transparency and participation. A first national action plan (NAP) was published on 16 August 2017.

The first NAP creates the framework conditions for further promoting open government and provides for the implementation of appropriate reform projects in various policy areas. The two-year action plan includes 15 commitments by several federal ministries such as fulfilling international transparency standards in the fields of development cooperation and extractive industries, promoting the provision of open data by authorities, and carrying out the federal competition "Living Together Hand in Hand - Shaping Local Communities", an initiative of the Federal Ministry of the Interior to support local integration projects.

The OGP action plans are developed in consultation with civil-society organizations and therefore also represent a joint learning experience: NGOs get an insight into the challenges of government, while public administration receives valuable input for its ongoing reform process. This is a clear signal of openness and a vivid democracy, in particular given the growing complexity of public tasks. Transparency, cooperation, participation and civic engagement are not only basic principles of the OGP process but also cornerstones of our civil society.

The Federal Government's Joint Rules of Procedure

Another means that enhances transparency is the participation of associations in the preparation of bills of the Federal Government. This is a standard procedure laid down in Section 47 (3) of the Federal Government's Joint Rules of Procedure (GGO). The federal ministries have to consider statements by affected industry or
trade associations during the legislative process. To this end, bills are sent to selected stakeholders that are active at a federal level.

The purpose of participation is to provide the Federal Government’s lead ministry with the opinions of associations so that the interests of affected parties can be taken into account and comments on possible errors of the bill or incorrect assumptions can be revised at an early stage.

In order to increase the transparency of this form of stakeholder participation, the Federal Government decided to publish all drafts and statements of the 18th legislative period (22 October 2013 until 24 October 2017).

At federal state level:

Eleven federal states also have their own freedom of information acts for their administrations. They largely correspond to the federal provisions described above.

The federal states have differing rules governing public reporting on questions of organization, working practices and decision-making processes.

In Berlin, for example, the range of information is different in every state and district administration. One of the main difficulties is to translate information into simple language. Work on this issue is ongoing. The Senate Department for the Interior and Sport, which has also been responsible for digital technology in the administration since 2016, offers relevant information to citizens on its website at http://www.berlin.de/sen/inneres/moderne-verwaltung/. Furthermore, the Berlin Service Portal at https://service.berlin.de/senatsverwaltungen/ provides access to a vast range of information offers. The Freedom of Information Act of Berlin will be turned into a transparency act. The aim is to ensure that data not requiring protection are generally provided on the Berlin data portal.

The federal state of Hesse, on the other hand, does not have a freedom of information act. The websites of the individual authorities of Hesse, however, provide comprehensive information on their organization and responsibilities.

In Rhineland-Palatinate the State Transparency Act (Landestransparenzgesetz, LTranspG) entered into force on 1 January 2016. This act took over the provisions of the State Freedom of Information Act and the State Environmental Information Act. The State Transparency Act also created an online transparency platform. This platform is used by authorities subject to the transparency act to provide information.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The single government service telephone number 115

115 is the public administration’s customer service based on a comprehensive knowledge management system. By dialling 115 citizens, businesses and public administration have a direct connection to authorities in Germany - regardless of the government level concerned. Twelve federal states, 88 federal authorities and
numerous state authorities already participate in the service. The participating municipalities, state and federal authorities provide information on the services with the greatest demand - such as the opening hours of various authorities, responsibilities for specific issues, requirements for the issuance of documents, such as ID cards and passports, and information on legal costs or on marriage, childcare facilities, naturalization, etc. The aim is to introduce this service throughout Germany.

Websites of all federal ministries
All federal ministries have their own websites. These websites provide specialized information, press releases and organization charts, describe areas of responsibility (and give contact information), provide publications and reports to download and provide information on how to apply for access to information pursuant to the Freedom of Information Act.

Below you can find the websites of the most important federal ministries:

- Federal Foreign Office: <https://www.auswaertiges-amt.de/en>
- Federal Ministry of Finance: <http://www.bundesfinanzministerium.de/Web/EN/Home/home.html%20>
- Federal Ministry of the Interior, Building and Community: <https://www.bmi.bund.de/EN/home/home_node.html>
- Federal Ministry of Justice and Consumer Protection: <http://www.bmjv.de/EN/Home/home_node.html;jsessionid=13EE7E64E9C8787353E9E394AD599EBE.2_cid297>
- Federal Ministry of Defence: <https://www.bmvg.de/en>

At federal state level
The federal states provide similar information about their ministries. Given the large number of authorities in the 16 federal states, the relevant links are not included.
27. Subparagraph (b) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

... 

(b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The organization of the federal administration excludes any negative conflicts of jurisdiction (several authorities declare themselves not competent for an issue) and ensures appropriate access to the responsible decision-making bodies for the public. The Freedom of Information Act plays an important role also in this context. The same applies to the federal states. The Joint Rules of Procedure of the State Chancellery, the ministries and the Representation of the federal state of Hesse to the Federation (Joint Rules of Procedure, Official Gazette of 27 June 2016, p. 639) specify, for example, that inquiries and complaints that cannot be dealt with within one month following their receipt must be replied to with an interim notification (Section 8 (3) of the Joint Rules of Procedure). Therefore, applicants generally receive a reply to their inquiry.

Administrative services are provided not only in an analogue way, but increasingly also electronically. The Act on E-Government, which entered into force in August 2013, is intended to facilitate electronic communication with the government (the English translation of an extract of the Act on E-Government is accessible at <https://www.bmi.bund.de/SharedDocs/downloads/EN/news/egovernment.pdf?__blob=publicationFile&v=1>). It helps the Federation, the federal states and municipalities to offer simpler, more user-friendly and more efficient electronic government services. The Act on E-Government also requires administrations to provide electronic access. The federal administration even has to provide access for secure De-Mail communication. The provision of electronic documents and electronic payment in administrative procedures are also made easier. Furthermore, the act contains principles on electronic file-keeping and, alternatively, electronic scanning. Other central elements include the following:

- meeting publishing requirements by means of official journals in electronic form;
- requiring the documentation and analysis of processes;
- rules on the provision by public administrations of machine-readable data collections (open data).

On the basis of the Act on E-Government, the Federal Government drew up the
government programme “Digital Public Administration 2020” in September 2014. It supports authorities to implement specific digitalization projects by providing modern digital services, ensuring state-of-the-art data protection and data security and transparent databases. The projects focus on central technical infrastructures ensuring easier contact between administrations, citizens and businesses. They also deal with internal applications of authorities, such as the introduction of electronic file processing. The government programme is thereby meeting the request for binding standards for digital administrations throughout Germany.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

**Modern e-government in Germany / the portal network**

To provide citizens and businesses with convenient, swift and secure access to all administrative services available online, various laws have been adopted and measures taken over the past few years. As part of the new rules governing the financial equalization system of the Federation and the federal states as from 2020, the federal and state governments agreed in December 2016 that their administrative portals should be linked in a joint portal network taking federal structures into account. To this end, the Act to Improve Online Access to Administrative Services (Online Access Act) was adopted. Moreover, the Act obliges the Federal Government and the federal states (including local authorities) to offer all administrative services that are legally and actually suitable also online within five years and to link them through a portal network, comprising the portals on Federal, Länder and municipal level.

Once they have registered, users should be able to log into their accounts to benefit anywhere from all the services offered by the portal network. These interoperable citizens and business accounts are intended to ensure the secure authentication of citizens and businesses for online administrative services. The citizens and business accounts store the users’ core data. They can be released individually for the use of online services. Electronic forms can thus be filled in automatically. Manual data entry for individual services still remains possible if a user does not wish to set up an account. The accounts’ mailbox function supports the communication between authorities, citizens and businesses. It can also be used to show the processing

**Digital federal procurement processes**

The first stage of the electronic procurement portal has already been developed. It will be fully operational by 2021 and include all components and functionalities of digital procurement processes provided to the federal administration. Pooling the demand of the entire administration will result in cost savings and higher quality in the areas of corruption prevention and secure procurement.

Since April 2016 documents for above-threshold calls for tender must generally be announced and provided electronically. For EU-wide calls for tender, the federal ministries use an electronic procurement platform throughout Germany provided by the Federal Ministry of the Interior’s Procurement Office.
As from 18 April 2018 the entire communication and information exchange in procurement procedures must be conducted in electronic form. This saves processing costs and ensures greater legal certainty and better competition. (In this context, cf. also the comments regarding Article 5 (3), question 3.)

At federal state level:

The federal states have adopted equivalent provisions.

In Berlin, for example, the Act to Promote E-Government entered into force on 10 June 2016. It provides a legal basis for modern services and citizen participation while increasing productivity of public administration. E-government should help to reduce bureaucracy and modernize the public administration. This increases the attractiveness of Berlin for businesses and enables access to the Berlin administration on a 24 hours/7 days basis. The Berlin Senate Department for the Interior and Sport is responsible for the strategic orientation, management and development of e-government in Berlin. Additional information in German can be obtained at: <http://www.berlin.de/sen/inneres/moderne-verwaltung/e-government/artikel.95921.php>.
28. Subparagraph (c) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...  

(c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

At federal level:

Annual reports on preventing corruption in the federal administration
Since 2005, the Federal Government has submitted annual written reports on the development and the results of corruption prevention in the federal administration to the German Bundestag. In these reports the ministries explain how they implemented the requirements of the Directive concerning the Prevention of Corruption in the Federal Administration in the reporting year (for more details on these requirements cf. Article 5(2)).

The annual report on preventing corruption is based on a web-based interministerial survey with more than fifty specific questions. The questionnaire covers authorities of all levels (922 authorities/bodies) and over 570,000 public officials in the federal administration. In the questionnaire the authorities/bodies first need to identify themselves (name, government level, remit) and provide information on the number of public officials they employ. Then they have to answer questions on the implementation of the directive’s requirements in the year under review, e.g.

- in which year did the relevant authority/body last identify areas of activity especially vulnerable to corruption and for how many posts did it conduct risk assessments;
- how many public officials worked in positions especially vulnerable to corruption;
- how many public officials had been working in similar areas vulnerable to corruption for more than five years (without rotation);
- what were the reasons for disregarding the principle of rotation in the above-mentioned cases (e.g. indispensable expert, staff member shortly before retirement from active service or transfer to another organizational unit, staff member without a position of similar pay level to be transferred to);
- whether preventive measures, such as a second staff member checking work results, plausibility checks and/or IT-based workflows, were used;
- does the authority/body have a contact person for corruption prevention;
- how many (full-time) posts were assigned to tasks of the contact person for corruption prevention;
- how many times during the reporting year the contact person was in touch with the authority’s senior management;
- for how many public officials did the authority/body conduct awareness-raising measures or provide anti-corruption training in the year under review and how many of them worked in areas particularly vulnerable to corruption;
- for how many senior staff members did the authority/body conduct awareness-raising measures or provide training;
- what other anti-corruption measures were planned by the authorities/bodies in question and which measures were taken in the year under review.

The data collected by this survey every year provide a very detailed statistical overview of the status of implementation of the Directive concerning the Prevention of Corruption. The annex to the annual report on preventing corruption contains a table of these data. The report presents conclusions for future practical approaches drawn from the answers provided by the authorities/bodies and statistical data evaluation.

A positive side effect of this survey is the fact that it contributes to self-monitoring in the authorities concerned and facilitates operational supervision of subordinate authorities by higher level authorities in the field of corruption prevention.

The annual reports on preventing corruption also include all new cases of suspected corruption which became known in the year under review and cases and the results of proceedings which were concluded in that year (e.g. termination of investigations or conviction of the suspect). Furthermore, they also provide information on the disciplinary proceedings initiated against civil servants.

Thus, the report provides a comprehensive overview of the status of corruption prevention in the federal administration. The annual reports on preventing corruption are published in German and English on the website of the Federal Ministry of the Interior and are accessible for everyone (cf. the 2015 report as an example available at: <https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2016/corruption-prevention-report-2015.html>)

The Parliamentary Public Accounts Committee and the Committee on Internal Affairs of the German Bundestag separately discuss the report. A representative of the executive level of the Federal Ministry of the Interior answers any questions that they may have. The Bundesrechnungshof, Germany's supreme audit institution, also examines the report and makes recommendations. The procedure ends with a decision by the Bundestag on the report, which may also include requirements for the next report (e.g. the request to provide additional information.
on the issue of rotation). Moreover, public officials in the federal administration regularly receive information on corruption prevention. This includes, for example, information letters published by the Federal Ministry of the Interior that are available also for interested parties outside the federal administration, or agency-specific awareness-raising activities on accepting gifts and rewards at Christmas or tickets for major sporting events such as the Football World Cup.

**National Situation Report on Corruption**

The National Situation Report on Corruption contains concise and updated information on the situation and development of corruption. It is based on information supplied by the Federal Criminal Police Office and its counterparts in the federal states, the Federal Police and the Customs Criminological Office using a nationally standardized questionnaire. The report is produced every January at the Federal Criminal Police Office for the previous year and published upon approval by the Federal Ministry of the Interior.

In addition to a detailed description of corruption-related crime during the reporting period with references to the applicable legal provisions, the report also contains areas targeted by corruption, the amount of damage, a detailed analysis of givers and takers of bribes and of where proceedings originated as well as an overall assessment of corruption-related crimes reported to the police. The National Situation Report on Corruption is available at: [https://www.bka.de/DE/AktuelleInformationen/StatistikenLagebilder/Lagebilder/Korruption/korruption_node.html](https://www.bka.de/DE/AktuelleInformationen/StatistikenLagebilder/Lagebilder/Korruption/korruption_node.html).

**At federal state level:**

**Report by the Standing Conference of Interior Ministers**

On 3 May 1996 the Standing Conference of the Interior Ministers and Senators of the Länder (IMK) approved the strategy for preventing and fighting corruption of 18 and 19 May 1995 drawn up by several working groups and has since repeatedly requested the working groups to report on the (further) implementation of the strategy. In its meeting of 16 and 17 November 2006 the Standing Conference of Interior Ministers tasked working group VI with continuing information sharing at this level and reporting on this issue at regular intervals. This requirement is met by implementation reports submitted by the working group.

In the course of time, the reporting intervals have become longer. The fifth implementation report covered the period from 2006 to 2009, while the current sixth report covers the period from 2010 to 2014.

The last reports were based on the previous reports and followed up on them. The sixth implementation report is a completely new and comprehensive report presenting the state of play, i.e. the current state of implementation of the individual measures to prevent and fight corruption, taking any new rules and regulations of the reporting period (2010-2014) into account. The structure of this report is in line with the structure of the strategy to prevent and fight corruption of the Standing Conference of Interior Ministers. It includes a report on the status of legislation, prevention measures and law enforcement as well as conclusions.
**Individual reports by the federal states**

Irrespective of the report by the Standing Conference of Interior Ministers covering all federal states, the federal states also publish their own reports on corruption risks. The findings of the internal audit unit within the remit of the interior ministry of North Rhine-Westphalia, for example, are compiled every two years in a joint report and presented to the interior minister. Furthermore, the state Criminal Police Office draws up an annual situation report on corruption for North Rhine-Westphalia (cf. answers to Article 5 (1)).

Similarly, Brandenburg’s state Criminal Police Office publishes an annual situation report on corruption-related crime. This report is addressed to the executive and decision-making levels of policy makers and the police. It contains the latest information on the situation and trends in this field of crime. It helps assess the potential risk and damage of corruption and its importance for the situation of crime and identify necessary action. Thereby, the situation report contributes to decisions on priorities, action and resources tailored to the given situation. The data are transmitted to the Federal Criminal Police Office and are incorporated in the National Situation Report on Corruption. Furthermore, authorities report annually on the trends and results of corruption prevention. These reports are included, for example, in the reports submitted to the Standing Conference of Interior Ministers.

According to the Anti-corruption Guidelines of the Free State of Bavaria, the Bavarian State Office for Criminal Investigation is also obliged to present a corruption situation report for the Free State of Bavaria with the aim of reproducing the actual state of corruption as accurately as possible, identifying measures to combat corruption, recommending approaches to control and providing a prognostic outlook on future developments in this offense area. Lower Saxony will serve as an example for the implementation at federal state level. In this state, the monthly online publication of sponsoring services received creates greater transparency. Pursuant to Lower Saxony’s Directive on Preventing and Fighting Corruption in the State Administration, the supreme state authorities must disclose sponsoring services of more than €1,000 received within their remit. These services received by the ministries and the state chancellery are published on the websites of the relevant institutions (for example, on the website of Lower Saxony’s Ministry of the Interior and Sport:

<https://www.mi.niedersachsen.de/startseite/aktuelles/sponsoringliste/sponsoringleistungen-123761.html>)

For reasons of transparency, the anti-corruption office of Berlin publishes an activity report every year, which also includes information about cases of corruption. The report is published at


In Rhineland-Palatinate the crime statistics contain all known criminal offences committed in Rhineland-Palatinate including attempts subject to punishment and information on identified suspects and victims. They also include economic crime. The crime statistics of Rhineland-Palatinate - most recently the 2016 annual report - can be obtained here:

<https://www.polizei.rlp.de/de/service/statistiken/kriminalstatistik/>
cases, available statistics etc.

Link to the 2015 Annual Report on Preventing Corruption:

Link to the National Situation Report on Corruption:
<https://www.bka.de/DE/AktuelleInformationen/StatistikenLagebilder/Lagebilder/Korruption/korruption_node.html>

For the reports of the federal states, please refer to the reply to question 2.
29. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

None.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.
11. Measures relating to the judiciary and prosecution services

30. Paragraph 1 of article 11

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

In Germany, the principle of judicial independence is constitutionally guaranteed under Article 97 para. 1 of the Basic Law. Accordingly, judges are independent and subject only to the law. Further, judges appointed permanently to full-time positions may be involuntarily dismissed, permanently or temporarily suspended, transferred or retired before the expiration of their term of office only by virtue of judicial decision and only for the reasons and in the manner specified by the laws (Article 97 para. 2, first sentence, of the Basic Law).

That being said, the Federal Government Directive concerning the Prevention of Corruption in the Federal Administration (Corruption Prevention Directive, see our responses to Article 7, paragraph 1 and Article 8, paragraphs 1 to 3) still applies to federal courts. The same goes for the Code of Conduct against Corruption, which supplements the Directive. The federal courts also report annually on the level of implementation of these provisions in their administrations (see our comments regarding the Corruption Prevention Report in regard to Article 10, letter (c)). Administrative provisions concerning the prevention of corruption in the public administration also apply to judges at Länder level.

Further, a wide range of training courses are available to judges at federal and Länder level. Corruption prevention is an integral part of courses run by the German Judicial Academy, for instance. Various multi-day conferences are organized each year on issues around corruption. These training events are open to all judges and public prosecutors working in Germany. No special provisions for public prosecutors are necessary.

As part of its fourth round of evaluation, GRECO's report on Germany (Corruption Prevention concerning Members of Parliament, Judges and Public Prosecutors) of 10 October 2014 recommended that "a compilation of existing ethical / professional conduct regulations - accompanied by explanatory notes and / or practical examples, including guidance on conflicts of interest and related issues - be developed, effectively shared with all judges and easily [made] accessible to the public".

The Länder have contributed to this process by providing regulations at Länder
level. The compilation therefore includes regulations both at the level of the constitution and federal law and at the level of the 16 federal states and covers in particular issues of conduct in office, conflicts of interest, ancillary activities, the prohibition of accepting rewards, gifts or other benefits and preventing corruption. Therefore, the compilation has become very extensive (over 500 pages).

However, it is still easy to handle due to its clear structure. For example, the reader can look up the regulations concerning him or her, depending on the federal state in which he works. The compilation is available on the website of the Federal Ministry of Justice and for Consumer Protection (only in German) at <http://www.bmjv.de/SharedDocs/Downloads/DE/Fachinformationen/Kompendium_von_Regelungen_in_Bund_und_Laendern_%C3%BCber%20das_berufsethische_Verhalten_von_Richtern_und_Staatsanwaelten/Web.pdf?__blob=publicationFile&e&v=2>.

In its compliance report dated 20 March 2017 GRECO assessed the recommendation as implemented. This applies equally to the corresponding recommendation on corruption prevention among prosecutors.

A Code of Conduct for the Justices of the Federal Constitutional Court entered into force in November 2017. In that Code of Conduct the constitutional judges declare that their conduct during and after their term of office will be guided by the principles set out in the Code. Among other rules, the Code of Conduct specifies that the constitutional judges of the Federal Constitutional Court must conduct themselves in a manner which does not compromise the confidence in their independence, impartiality, neutrality and integrity. Therefore, the members of the Court should exercise their duties independently and impartially, without bias as to personal, social or political interests or relations. In their entire conduct, they must be mindful of ensuring that no doubts arise concerning their neutrality in the exercise of their office with regard to social, political religious or ideological groups. Furthermore, the constitutional judges must respect confidentiality in relation to the work at the Federal Constitutional Court, and gifts or donations of any kind can only be accepted in social contexts and to the extent that their personal integrity and independence will not be called into question. The Code of Conduct requires that the Court’s members disclose any income resulting from non-judicial activities. It also determines rules for the conduct of the constitutional judges of the Federal Constitutional Court after they cease to hold office: The constitutional judges of the Federal Constitutional Court are not allowed to become involved in legal matters which were the subject of proceedings before the Federal Constitutional Court during their term of office or which are closely related to such proceedings. Besides, in the first year after ceasing to hold office, the constitutional judges of the Federal Constitutional Court are asked to refrain from undertaking advisory activities which relate to the subject areas of their cabinet, from submitting expert opinions and from appearing in court. Thereafter, they still have to refrain from representing anyone before the Federal Constitutional Court.

To promote transparency in the judiciary, the Länder are pushing ahead with modernizing IT systems in their courts and public prosecution offices, the aim being to swiftly introduce electronic legal transactions and electronic court files. Berlin, for example, is setting up an online judicial portal. It will provide important information and documents free of charge as well as the means of making online bank transfers. Important information such as legislation, distribution-of-business plans, how to contact the courts and judgments of general interest will be available free of charge via the new portal.

Judges are also made aware of integrity issues and corruption risks. In Rhineland-
Palatinate, for example, judges’ attention is to be drawn to their duty of integrity and to the risks of corruption when they take their oath of office. The fact that such instruction has been given must be documented. Integrity and vulnerability to corruption are dealt with as part of education and training.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Please refer to our responses to Question 2.
31. Paragraph 2 of article 11

2. Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Under German law, public prosecutors are bound by instructions and do not have the same independence in their decision-making and actions as judges. They are subject to general civil-service regulations.

When it comes to training courses and raising awareness of corruption prevention, details provided in our response to Article 11, paragraph 1 above also apply to public prosecutors.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

No such statistics are available.
32. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

None.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.
12. Private sector

33. Paragraphs 1 and 2 of article 12

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.

2. Measures to achieve these ends may include, inter alia:
   (a) Promoting cooperation between law enforcement agencies and relevant private entities;
   (b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;
   (c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;
   (d) Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;
   (e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;
   (f) Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.

Is your country in compliance with these provisions?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with these provisions of the Convention.

Paragraph 1

Accounting and auditing as well as bookkeeping are regulated by German law in §§ 238 to 342e of the German Commercial Code (HGB). Special laws specific to different legal forms (e.g. the Stock Corporation Act) and tax law contain supplementary regulations in this regard.

All these regulations serve to fulfil three key functions: They ensure that a company’s assets and capital are formally documented (documentary function); they provide an overview of whether a company made an overall profit or loss in a particular financial year (income determination function); and they provide those who are interested, for instance partners, creditors or the public sector, with information about a company’s economic situation and make it easier for the merchant/company to manage the business (information function).

Breaches of the relevant provisions are subject to sanctions under both administrative and criminal law (including terms of imprisonment). The most important administrative law sanction is a coercive fine which can be imposed under section 335 of the Commercial Code when, in breach of duty, a company’s annual financial statement and other accounting documents are not submitted in
good time. The Federal Office of Justice is responsible for imposing such a fine.

The most important criminal sanctions are § 283 of the German Criminal Code (StGB) (bankruptcy), § 283b StGB (violation of the accounting obligation) and § 331 HGB (incorrect presentation). Under section 283b StGB for example, a term of imprisonment of up to two years or a fine can be imposed in the case of a breach of bookkeeping duties.

In addition to complying with the above-mentioned provisions, various types of companies in Germany also need to meet accounting standards, like those of the German Accounting Standards Committee (DRSC) and the International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board. Listed companies in the European Union are, for instance, obliged to apply the IFRS to their consolidated financial statements. This requirement is set out in Regulation (EC) No 1606/2002 on the application of international accounting standards of 19 July 2002, which is directly applicable in Germany (see <http://eur-lex.europa.eu/legal-content/DE/TXT/PDF/?uri=uriserv:OJ.L_.2002.243.01.0001.01.ENG>).

**Paragraph 2**

As part of the audit procedure for the annual and consolidated financial statements of companies which, as issuers of eligible securities within the meaning of section 2 (1) of the German Securities Trading Act (WpHG), have the Federal Republic of Germany as their country of origin, the German Financial Reporting Enforcement Panel (FREP) was established in accordance with sections 342b et seqq. of the Commercial Code.

In a first enforcement step, the Panel examines a company’s annual financial statement for breaches of accounting provisions, thereby boosting compliance with accounting principles in the private sector. The Panel reports facts giving rise to the suspicion of a criminal offence in relation to a company’s accounting to the competent prosecuting authority (section 342b (8) of the Commercial Code). Such facts include false entries which serve to conceal the payment of bribes.

Under sections 37n et seqq. of the Securities Trading Act, the Federal Financial Supervisory Authority (BaFin) is responsible for the second enforcement step. Under section 37r of that Act, BaFin must report facts giving rise to the suspicion of a criminal offence in relation to a company’s accounting to the competent prosecuting authority.

Please refer to our response to Article 13, paragraph 2 concerning incentives to report acts of corruption and anonymous reporting lines.

**Information brochure for companies**

The Federal Ministry of Justice and Consumer Protection and the Federal Ministry for Economic Affairs and Energy have issued an information brochure for export-oriented companies. The brochure (available in German at <http://www.bmjv.de/SharedDocs/Publikationen/DE/Korruption_vermeiden.pdf?__blob =publicationFile&v=8>) aims to give companies a quick overview of the legal anti-bribery framework and possible prevention measures. The brochure is currently being revised.

**OECD Guidelines for Multinational Enterprises**
Fighting bribery and undue advantages is also part of Chapter VII of the OECD Guidelines for Multinational Enterprises. The National Contact Point for the OECD Guidelines, which is attached to the Federal Ministry for Economic Affairs and Energy, informs companies and the general public as part of its PR activities. Among other things, the National Contact Point has information about the OECD Guidelines available on its website.

**German Corporate Governance Code**
In addition, there is the German Corporate Governance Code (available in English at <http://www.dcgk.de//files/dcgk/usercontent/en/download/code/170214_Code.pdf> ). It is a non-statutory set of rules drawn up and developed further by a government commission consisting of representatives of capital market-oriented companies, institutional investors and private investors, scientists, auditors and representatives of a trade union federation. It describes essential legal regulations for the management and supervision of German capital market-oriented companies and contains internationally and nationally recognized standards of good and responsible corporate governance. Number 4.1.3 of the Code stipulates that the management board of a company must ensure that all provisions of law and the company’s internal policies are complied with. Compliance also includes observing statutory anti-corruption provisions. The supervisory board of a company is responsible for monitoring whether the board is fulfilling its compliance tasks (section 111 (1) of the Stock Corporation Act). Under section 161 of the Stock Corporation Act, the management board and supervisory board of such companies must declare once a year that the company was and is in compliance with the Code and which recommendations were or are possibly not being applied (“comply or explain”). Nevertheless, the Code contains no recommendations or suggestions whatsoever concerning how the board should or must fulfil its compliance tasks. Rather, companies are given the necessary leeway to forge their own path and to put in place those systems which they feel are appropriate to ensure their own company fulfils statutory provisions. Where the board members’ duty to diligently manage the company also has a statutory basis (section 76 (1) in conjunction with section 93 (1) of the Stock Corporation Act), non-application is not an option. The same applies to the managing directors of a limited liability company (section 35 (1) in conjunction with § 43 (1) German Limited Liability Companies Act (GmbHG)).

**Public Corporate Governance Code of the Federation**
Good governance principles have also been put in place in regard to companies established under private law in which the Federation has a stake (known as “holdings of the Federation”). These are set out in the Principles of Good Corporate Governance for Indirect or Direct Holdings of the Federation (available online at <http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Bundesvermoegen/Privatisierungs_und_Beteiligungspolitik/Beteiligungspolitik/grundsaetze-guter-unternehmensfuehrung-anlage-en.pdf?__blob=publicationFile&v=3>ermoegen/Privatisierungs_und_Beteiligungspolitik/Beteiligungspolitik/grundsaetze-guter-unternehmensfuehrung-anlage-en.pdf?__blob=publicationFile&v=3>). The Federal Government adopted the latest version of the Principles on 1 July 2009. The Public Corporate Governance Code of the Federation (PCGK) forms the
centrepiece of this set of rules. The PCGK sets out the essential provisions of applicable law governing the management and oversight of companies in which the Federal Republic of Germany is a shareholder, while outlining the internationally and nationally acknowledged principles of good and responsible corporate governance. This includes provisions concerning the financial accounting/auditing of annual financial statements, rules on conflicts of interests and transparency obligations. The objective is to make the management of companies and oversight over them more transparent and easier to understand, and to define more precisely the role of the Federation in its capacity as shareholder of such companies. Another aim is to increase awareness of good corporate governance.

Private Sector/Federal Administration Anti-Corruption Initiative
The Federal Ministry of the Interior has established the Private Sector/Federal Administration Anti-Corruption Initiative, which brings together representatives of large and medium-sized companies, industry associations and federal ministries. The aim of the Initiative is for the public and private sectors to develop a common corruption prevention strategy and thus to improve their mutual efforts. The need for anti-corruption education and training is regularly discussed and illustrated by best practices. Further, the Initiative has published practical guidance and answers to FAQs, such as on accepting gifts, hospitality or other benefits, as well as on anti-corruption measures. The second joint recommendation made by the Initiative gives practical guidance on anti-corruption measures for management and leading personnel.

Supported anti-corruption measures
A number of German business associations actively promote anti-corruption measures. The following initiatives are listed here by way of example:

- The Federation of German Industry has initiated a working group on compliance which brings together representatives from business associations, companies, agencies and politics. The working group meets regularly and enables the different stakeholders to exchange views on current issues and to develop positions.

- The German Chemical Industry Association provides companies with guidance on compliance as well as additional material.

- The International Chambers of Commerce (ICC) Germany informs companies about anti-corruption measures on its website. Various guidelines and rules are available which aim to help companies when it comes to preventing corruption.

- Both the German Engineering Federation (VDMA) and the Association of the German Construction Industry (HDB) have issued guidelines on the prevention of corruption (VDMA Corruption Prevention Guidelines and the HDB Guidelines on Combating Anticompetitive Agreements and Corrupt Behaviour).

- The Association for Supply Chain Management, Procurement and Logistics (BME), the leading professional association for supply chain managers, buyers and logisticians in Germany and Central Europe, has established a
BME Compliance Initiative which issued a Code of Conduct applicable to signatory companies.

- In addition, some 350 German companies are part of the German Global Compact Network which comprises stakeholders from politics, society and science. Among other initiatives, the German Global Compact Network offers anti-corruption training and corruption prevention guidelines (available in German at https://www.globalcompact.de/de/themen/Korruptionspraevention.php).

Wherever appropriate, the Federal Government supports initiatives like those referred to in the above. For example, the Federal Ministry of Education and Research funded a comprehensive study on the prevention of corruption in companies and public administration which provides guidance on corruption prevention. Study partners included the Federal Criminal Police Office and the German Association of Small and Medium-sized Businesses.

**Alliance for Integrity**
The Alliance for Integrity, initiated by the Federal Ministry for Economic Cooperation and Development and the Federation of German Industry, is a business-driven, multi-stakeholder initiative which seeks to promote transparency and integrity among companies, their business partners and other relevant actors in the economic systems. The Alliance for Integrity is a global initiative, currently active in Brazil, Germany, Ghana, India, Indonesia and their respective regions. It fosters collective action from all relevant actors in the private sector, the public sector and civil society and offers practical solutions to strengthen the compliance capacities of companies and their supply chains. The Alliance organizes activities across a range of different levels with diverse target groups and implementation partners, including peer-to-peer learning and international dialogue, public-private dialogue, awareness-raising and information-sharing across a wider professional audience, as well as training and train-the-trainer programmes.

**Public registers**
Germany’s Commercial Register, Corporate Register and Shares Register guarantee a high level of transparency and reliability of data relating to those who are involved in the establishment and management of companies and those who are authorized to represent a company. Among other things, the Commercial Register lists a company’s authorized representatives and the owner’s name. The Corporate Register provides central access to, among other things, information in the Commercial Register, Register of Commercial Partnerships and Register of Cooperatives as well as to announcements regarding insolvencies and entries in the Commercial Register. The Shares Register lists the date of birth and address of shareholders in a stock corporation, for instance. For further information on the newly established Transparency registers, please cf. Article 14 para. 1 a).

Further, when authenticating incorporation procedures and requesting an entry in the Commercial Register notaries check the identity of all founding members and authorized representatives. As far as promoting transparency regarding related entities and individuals acting on their behalf goes, the relationships between companies are recorded as part of the accounting process in the group financial
statements (section 271 (2), sections 290 et seqq. of the Commercial Code). Paragraph 2, letter (d) suggests preventing the abuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities.

**Preventing conflicts of interest**
Under section 105 of the Federal Act on Civil Servants and section 41 of the Federal Civil Servant Status Act, retired or former civil servants receiving a pension must - for a period of five years, or for a period of three years in the case of those who reach the age of retirement - notify any commercial activities or other employment they engage in after leaving the civil service which bear any relation to their official activity in the last five years prior to leaving the civil service and which could adversely affect service-related interests. Where there are concerns that service-related interests could be adversely affected, the former employer must refuse consent for the planned activity.

This duty of notification does not apply to civil servants who have asked to be released from public service and who are not entitled to a pension. They are, however, still subject to the duty of confidentiality even after their official activity ends concerning all matters which become known to them in their official capacity (e.g. under section 67 (1) of the Federal Act on Civil Servants, section 37 (1) of the Federal Civil Servant Status Act).

Any breach of this duty is punishable under section 353b of the Criminal Code (breach of official secrets and special duty of confidentiality). Civil servants are also banned from accepting rewards or gifts in relation to their office even after they leave the civil service (section 71 of the Federal Act on Civil Servants, section 42 of the Federal Civil Servant Status Act). This ban also covers those cases in which former civil servants are offered employment as a reward for their previous official activities.

Current and former members of the Federal Government are also subject to restrictions when they leave office and wish to take up certain follow-up employment. The Federal Act on the Legal Status of Federal Ministers and the Federal Act on the Legal Status of Parliamentary State Secretaries contain explicit rules in this regard (see also our responses above regarding special rules applicable to members of the Federal Government).

**Accounting and auditing requirements**
The accounting and auditing requirements for the private sector in Europe are governed by European law, in particular the Accounting Directive (Directive 2013/34 / EU), the Statutory Auditors Directive (Directive 2014/56 / EU) and the Auditors Regulation (Regulation (EU) No. 537/2014). The regulation applies directly; the directives have been transposed into German law.

Under section § 91 (2) of the Stock Corporation Act, the management board of a stock corporation is obliged to set up a monitoring system for developments that may endanger the continued existence of the company. Incidentally, in view of the diversity of companies it is in principle - save for specific statutory regulations - left to the discretion of the corporate management whether and how they want to establish a comprehensive compliance organization.
However, since its last amendment in 2017 the German Corporate Governance Code recommends in number 4.1.3. sentence 2 the introduction of a compliance management system. German capital market-oriented companies that do not comply with this recommendation must declare this deviation in their annual declaration of compliance pursuant to section 161 of the Stock Corporation Act. It is also explicitly stated in the third sentence of section 4.1.3 that employees and third parties should be given the opportunity to report, in a protected manner, suspected breaches of the law within the company, including, in particular, violations of criminal provisions on corruption. Please see our response to Article 12, paragraph 1 above as regards companies’ accounting and auditing obligations.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Paragraph 1

The Federal Office of Justice (BfJ) has published on its website extensive explanations on the accounting and disclosure requirements, including certain court decisions: https://www.bundesjustizamt.de/DE/Themen/Ordnungs_Bussgeld_Vollstreckung/Ordnungsgeldverfahren/Ordnungsgeldverfahren_node.html

For the rest, see replies to paragraphs 2 and 3.

Paragraph 2

Example of a court case
Under section 93 (2) of the Stock Corporation Act and section 43 (2) of the Limited Liability Companies Act, members of a company’s management board who breach their duties of proper corporate management are jointly and severally liable for any resulting damage. Depending on the level of vulnerability, the board’s duty of proper corporate management under sections 76 (1) and 93 (1) of the Stock Corporation Act and sections 35 (1) and 43 (1) of the Limited Liability Companies Act may be concretized to the extent that a compliance unit has to be established to prevent (corruption) damage and monitor risks and vulnerabilities. In a judgment dated 10 December 2013, case file 5 HK 0 1387/10 (which is not yet final), Munich I Regional Court sentenced the board of one particular stock corporation to pay damages in the millions of euros as it had not structured and supervised the company in such a way as to prevent acts of corruption.

Cooperation between the prosecution authorities and relevant private agencies
Codes of conduct
Under the German Corporate Governance Code’s “comply or explain” mechanism, companies are required to submit an annual declaration of compliance. Declarations by DAX- and MDAX-listed companies are published online. An overview of individual declarations of compliance are at <http://www.dcpg.de/de/entsprechenserklaerungen.html>.

Two examples of such declarations of conformity are available in German at


A German example of a corporate governance report by a “holding of the Federation” (DFS Deutsche Flugsicherung GmbH’s 2016 Corporate Governance Report) is available at: <https://www.dfs.de/dfs_homepage/de/Unternehmen/Zahlen%20und%20Daten/Finanzen/2016-03-14%20PCGK-Bericht%20DFS%202016%20unterzeichnet.pdf>.

Members of the company management who violate their duties of proper corporate governance are jointly and severally obliged to pay compensation in accordance with section 93 (2) AktG and section 43 (2) GmbHG. Depending on the risk situation, the duty of the Management Board to duly manage the company (sections 76 (1), 93 (1) AktG and sections 35 (1), 43 (1) GmbHG) may be substantiated in such a way that a compliance organization has to be set up that focusses on prevention of (corruption) damages and on risk control. Thus, in its (not yet final) judgment of 10 December 2013, Az: 5 HK 0 1387/10, the Munich Regional Court 1 condemned the management board of a public limited company to pay damages amounting to millions, as it had not organized and supervised the company in such a way that acts of corruption would not be committed.

Extractive Industries Transparency Initiative in Germany (D-EITI)
The Federal Government is promoting transparency in the German mining sector by implementing the international Extractive Industries Transparency Initiative (EITI). The aim is to strengthen dialogue and transparency in regard to extractives policy and thus to increase acceptance of the domestic extractives industry. At the same time the D-EITI is preparing German industry for compliance with the relevant international transparency requirements.

After joining EITI, countries must make information on payments made by businesses in the extractive industry and the relevant government revenues transparent and publicly accessible. The EITI Standard provides for both the publication of payments as well as increased transparency regarding other aspects of resource extraction, including licensing and legal frameworks.

Germany submitted its first EITI Report to the International EITI Secretariat on 23 August 2017. Annual reports contain what is known as the payment reconciliation and explanatory information about the domestic extractive industry, known as the contextual information. Companies which participated in the voluntary reporting go to make up more than 88 per cent of total production in the oil, gas, lignite and potash sectors. In total, payments of more than EUR 408 million were reported. Of these, more than EUR 302 million were subject to reconciliation against payments to the relevant government agencies, which was carried out for the first time in Germany. An audit by an independent administrator revealed no discrepancies. By submitting its first report Germany is taking an important step towards full EITI membership, on which the EITI Board is likely to take a decision.
in spring 2019. To ensure that both information and data are generally accessible, the report is published on an interactive web portal (<http://www.rohstofftransparenz.de>), including in the form of open data. In addition, the EITI was included in Germany's first national action plan as part of the Open Government Partnership (OGP), which Germany joined in December 2016. The OGP is an initiative comprising 74 countries which are committed to promoting open governmental and administrative action (see also our response to Question 2 concerning Article 7, paragraph 4).

**Hospitality and Criminal Law Guidelines**

The Hospitality and Criminal Law Guidelines (available in German at <http://vsa-ev.de/wp-content/uploads/2018/02/Hospitality-und-Strafrecht-ein-Leitfaden.pdf>) are another example of a measure taken. They were drawn up by The Sponsors’ Voice e. V., an association of sponsors, and by the Vereinigung Sport sponsoring-Anbieter e.V., an association of providers of sports sponsoring. Members of The Sponsors’ Voice include well-known companies established in Germany which actively engage in sports sponsoring. The Vereinigung Sport sponsoring-Anbieter e.V. represents the interests of sports rightholders in Germany <http://www.vsa-ev.de/media/downloads/Hospitality_171017_final.pdf>.

Hospitality is an integral part of many marketing and sponsoring strategies. Nevertheless, legal uncertainty around the issue has increased in both companies and the world of sport, leading to companies becoming less able to put the hospitality packages they have acquired to prudent use. The two above-mentioned associations developed the Hospitality and Criminal Law Guidelines to ensure that hospitality can still be used to promote sports going forward and to boost legal certainty in regard to the issuing of invitations. The Guidelines provide guidance on compliant behaviour, and were developed in cooperation with staff in the Federal Ministry of Justice and Consumer Protection responsible for criminal law on corruption and staff in the Federal Ministry of the Interior responsible for sports, civil service law and corruption prevention.

The Guidelines aim to help raise awareness among staff in the two associations for where the legal boundaries are around sports sponsoring and to support them in tapping into those sponsoring opportunities which are legal and morally defensible. A second amended and updated version of the Guidelines was published in September 2017.

**Berlin Compliance Model**

The Berlin Compliance Model also contains rules of conduct in regard to sponsoring (available in German at <https://www.rheingau-musik-festival.de/fileadmin/Sponsorenmappen/Berliner_Compliance_Modell.pdf>). The Model was developed by the Cultural Committee of German Business in the Federal Association of German Industry and the Rheingau Music Festival in cooperation with representatives from politics and administration. The Berlin Compliance Model provides guidance on corporate cultural sponsoring. It sets out the conditions under which invitations to events can be issued and accepted without raising any legal or other concerns.

**The Alliance for Integrity’s corruption prevention training programme**

The Alliance for Integrity has developed and runs a practical corruption prevention training programme in its project countries and regions (De Empresas para Empresas, DEPE). Training is divided into three phases:
In the first phase (train the trainer) big multinational and local companies are shown how to train small and medium-sized enterprises (SMEs) as regards compliance. In the second phase (corruption prevention training) the trainers who were trained in the first phase then pass on their knowledge to enterprises with little or no experience of corruption prevention. The training focuses on internal, external and collective corruption prevention measures. In the last phase, all participating enterprises are given access to information available in the online Support Desk as well as any assistance they may need when implementing difficulties and questions arise.

So far more than 150 trainers across the world have trained more than 1,300 participants. In Germany, the Alliance for Integrity runs compliance training courses in chambers of trade and industry in cooperation with the German Global Compact Network with a view to the 10th principle. As part of the Corruption Prevention in the Delivery Chain group of experts, the Alliance for Integrity has developed guidelines together with the relevant civil-society and private-sector actors in a peer-to-peer exchange. The guidelines explain cross-sectoral solutions to problems which arise when implementing corruption prevention measures in global delivery chains.

Cross-Thematic Group on Responsible Business Conduct and Anti-Corruption
The Alliance for Integrity promotes transparency across private entities by facilitating information-sharing among enterprises and other relevant actors (e.g. the public sector and civil society). As part of Germany’s 2017 G20 Presidency the Alliance for Integrity supported the Business20 dialogue by acting as a Concept Partner in the Cross-Thematic Group on Responsible Business Conduct and Anti-Corruption. This working group comprising leading business figures served to promote responsible good governance and integrity. The recommendations it subsequently made drew attention, among other things, to the need for transparency in regard to beneficial ownership and legal entities. Concrete policy measures were drafted in this regard.
34. Paragraph 3 of article 12

3. In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:

(a) The establishment of off-the-books accounts;
(b) The making of off-the-books or inadequately identified transactions;
(c) The recording of non-existent expenditure;
(d) The entry of liabilities with incorrect identification of their objects;
(e) The use of false documents;
(f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Letter (a) prohibits the creation of accounts which do not appear in the books. This is enshrined in section 238 et seq. of the Commercial Code. Accordingly, each merchant is obliged to keep books and to show clearly in them his commercial transactions and his financial position pursuant to generally accepted accounting principles. Entries in the books must be complete, correct, timely and orderly (section 239 (2) of the Commercial Code). The correctness of entries encompasses a ban on fictitious entries and accounts. Breaches are punishable under section 283b (1) number 1 of the Criminal Code (see above).

Letter (b) requires the prohibition of transactions regarding which no or only inadequate entries are made in the books. Such a ban is enshrined in section 239 (2) of the Commercial Code. The principle of completeness which that provision serves to enforce requires that all business transactions be entered in the books. The obligation to keep orderly books in conjunction with the requirement of verifiability (section 238 (1), second sentence, of the Commercial Code) prohibits the making of inadequate entries in the books. Any breaches of the duty to keep books is punishable (section 283b (1) number 1 of the Criminal Code, see above).

Letter (c) requires to prohibit the recording of non-existent expenditure. For the bookkeeping this corresponds to the requirements of correctness under section 239 (2) of the Commercial Code. Further, expenditure must be recorded in the profit and loss account which each merchant must draw up as part of the annual financial statement based on generally accepted accounting principles. As well as the faithful presentation of the accounts, these include the principle of
completeness as set out in section 246 (1) of the Commercial Code, according to which the profit and loss account must record all the enterprise’s expenses and earnings in the relevant financial year. Inverting this argument, non-existent expenditure may not be recorded. Breaches are punishable under section 283b (1) numbers 1 and 3 letter a) of the Criminal Code (see above).

Letter (d) concerns the prohibition of entering liabilities with incorrect identification as to their objects. Sections 239 (2) and 264 (2) of the Commercial Code contain just such a prohibition. Breaches are punishable under section 283b (1) numbers 1 and 3 letter a) of the Criminal Code (see above).

The use of false documents is prohibited under section 239 (2) of the Commercial Code and punishable in accordance with section 283b (1) number 1 of the Criminal Code (see above).

The intentional destruction of bookkeeping documents before the end of the statutory retention period is prohibited under section 283 letter b (1) number 2 of the Criminal Code (see our detailed response to Article 12, paragraph 1).

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

**Examples of court cases**

**Breach of duty to keep books abroad**

A German national who is normally resident in Germany who breaches his duty to keep books abroad can also be punished under section 283b (1) number 1 of the Criminal Code (Karlsruhe Higher Regional Court, judgment of 21 February 1985, case file 4 Ss 1/85).

**Deviating accounts alongside properly kept books**

The conditions under section 283b (1) number 3a of the Criminal Code are, in contrast, not met where the perpetrator keeps proper books and correct accounts as well as deviating accounts serving to deceive individual business partners (Federal Court of Justice, order of 15 July 1981, case file 3 StR 230/81 (Mannheim Regional Court)).
35. Paragraph 4 of article 12

4. Each State Party shall disallow the tax deductibility of expenses that constitute bribes, the latter being one of the constituent elements of the offences established in accordance with articles 15 and 16 of this Convention and, where appropriate, other expenses incurred in furtherance of corrupt conduct.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Under section 4 (5), first sentence, number 10, first sentence, of the Income Tax Act, bribes or other money linked to corruption may not be deducted as business expenses.

The courts, public prosecution offices and administrative authorities must notify the revenue authorities of facts which become known to them in their official capacity and give rise to the suspicion that an offence within the meaning of the above provisions has been committed in order that tax proceedings may be initiated and tax offences and regulatory tax offences prosecuted. The revenue authority must notify the facts giving rise to the suspicion of a criminal or regulatory offence within the meaning section 4 (5), first sentence, number 10, first sentence, of the Income Tax Act to the public prosecution office or the administrative authority. These, in turn, notify the revenue authority of the outcome of the proceedings and the facts on which they are based.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

No relevant studies or examples are available.
36. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

None.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.
13. Participation of society

37. Paragraph 1 of article 13

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:
(a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
(b) Ensuring that the public has effective access to information
(c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;
(d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:
   (i) For respect of the rights or reputations of others;
   (ii) For the protection of national security or ordre public or of public health or morals.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Paragraph 1, letters (a) and (b)

It is primarily freedom of information legislation and press freedom in Germany but also the reports published by the Federal Government and its authorities, by Land governments and their authorities which guarantee public access to information and enhance the general public's active participation.

Freedom of Information Act and press legislation

Federal and Land freedom of information laws entitle everyone to access to official information without preconditions, though not without exceptions (see our response to Article 10, letter (a) for more details as regards freedom of information legislation).

The press’s right to receive information from the administration derives directly from Article 5 para. 1, second sentence, of the Basic Law:

“Freedom of the press and freedom of reporting by means of broadcasts and films shall be guaranteed.”

The Länder have each enacted their own press laws to elaborate regulations applicable to the press in more detail (e.g. the press's right of information, duty of due diligence and authorities’ right to reply).

There is no separate press law applicable to the federal administration. Journalists may request information directly under Article 5 para. 1, second sentence, of the Basic Law. The federal administration is therefore obliged to respond to all press inquiries. A margin of discretion does, however, exist in
regard to the form of the response, which is why account may be taken of any considerations which may run counter to the press’s interest in specific information. Account may also be taken of all those aspects listed in the Land press laws and the Federal Freedom of Information Act which pose an obstacle to the duty to provide information. The administrative authorities are, for instance, not obliged to launch their own investigations before responding, nor to provide information about personnel matters or to engage in substantial administrative effort. Journalists can, at most, apply to the courts for the determination of the authority’s obligation to respond to a request. They cannot, however, force responses to be given to supplement answers which they deem unsatisfactory.

**Online Access Act**

Under the Online Access Act, the Federal Government and the Länder are required to provide electronic access to administrative services on separate online portals by the end of 2022 at the latest. The 17 administrative portals (one for each Länder) will be connected via intelligent links to form a portal network. It will then be possible to search and locate authorities and administrative services via the portal network and not just via one’s own Land portal or the Federation’s portal. That means that citizens and enterprises will be able to locate administrative services anywhere in Germany, regardless of which portal they use as their point of entry (see our response to Article 10, letter (b) for more details regarding the Online Access Act and the portal network).

**Live plenary of the German Bundestag**

Article 42 of the Basic Law provides that “sittings of the Bundestag shall be public”. Therefore, anyone who is interested can watch a plenary sitting of the German Bundestag live from the public gallery of the plenary chamber. Visitors have to register in advance either in writing or online on the following website: <https://visite.bundestag.de/BAPWeb/pages/createBookingRequest.jsf?lang=en>.

Nevertheless, only a few people can actually be present in the plenary chamber when Members meet in Berlin. That is why the German Bundestag decided to create an additional information medium, Parliament TV. This step was taken in 1999 when Parliament moved from Bonn, the former federal capital, to Berlin. The channel broadcasts every plenary debate as well as the full proceedings of a large number of public committee meetings and hearings live without any commentary.

As an additional service, all live broadcasts and videos since the beginning of the 17th electoral term in October 2009 have been made available in the Bundestag’s Media Centre in German. Plenary sittings and committee meetings, special events, interviews and reports can be viewed or downloaded at any time at www.bundestag.de/mediathek <http://www.bundestag.de/mediathek>. A user-friendly way for Internet-enabled TVs to access the Media Centre is via a Smart-TV app. The Deutscher Bundestag TV app is available to download in numerous app stores.

Viewers who follow the channel live online receive additional information such as the current agenda or the order of speakers directly via the homepage. This information can also be accessed via a smartphone at m.bundestag.de, as well as via the Deutscher Bundestag mobile app. The app’s audio stream allows users to
Participation of associations in the preparation of bills of the Federal Government

Another means of enhancing the transparency of and promoting the contribution of the public to decision-making processes is the involvement of associations in the preparation of Federal Government bills. This is a standard procedure which is laid down in the Joint Rules of Procedure of the Federal Government, which are described in more detail in our response to Article 10, letter (a).

Based on an internal directive, statements by stakeholders (including lobby groups) who are interested in a legislative proposal for which the Federal Ministry of Justice and Consumer Protection has responsibility have systematically been made publicly available on the Ministry’s website (“legislative footprint”) since April 2016. They can be accessed in German only via


**Government data portal**

An online data portal called GovData Portal (https://www.govdata.de/) providing a new, additional means of accessing administrative data went live in February 2013. GovData Portal provides central access to re-usable administrative data provided by the Federation, Länder and municipalities, including geodata, statistical data and environmental data. This multilevel approach is key to driving forward open data in a federal state like Germany. GovData Portal is jointly financed by the Federal Government and Baden-Württemberg, Berlin, Brandenburg, Bremen, Hamburg, North Rhine-Westphalia, Rhineland-Palatinate and Saxony. This cooperation is based on an administrative agreement and decisions taken by the IT Planning Council (a Federal Government-Länder steering committee responsible for coordinating cooperation in regard to IT).

**G20 Presidency**

During its 2017 G20 Presidency Germany actively sought to engage in dialogue with business and civil society. In the course of the year B20 and C20 representatives were invited to attend three meetings of the G20 Anti-Corruption Working Group (ACWG) in order to update the ACWG on their respective anti-corruption work streams and to present their recommendations to the G20. In addition, the German G20 Presidency cooperated with the OECD to organize the 6th Annual High-Level Anti-Corruption Conference for G20 governments, business and - for the first time in 2017 - for civil society too. Topics addressed at this conference included the challenges of implementing integrity measures in day-to-day business, the emerging challenges of collective action initiatives such as anti-trust concerns with a special emphasis on small- and medium-sized enterprises (SMEs), addressing corruption in the healthcare sector as well as the issue of strengthening integrity in sports. In September 2017, the German G20 Presidency, in cooperation with the United Nations Office on Drugs and Crime (UNODC), hosted a special event on corruption and wildlife crime to which speakers from several wildlife NGOs were invited.
During side events organized during the Seventh Session of the States Party to the United Nations Convention Against Corruption in 2017 Germany set out the principles of accountability on the part of legal persons in regard to corruption, for instance, as well as the principles concerning corruption in connection with the illegal trade in both wild animals and plants and products derived from them. Germany also reported on the G20 High Level Principles On Organizing Against Corruption and practice in Germany in regard to corruption prevention.

**Paragraph 1, letter (c)**

*The Federal Government’s PR work*

The Federal Government’s press and PR work has long contributed to raising awareness among the general public for the issue of corruption.

The website of the Federal Ministry of the Interior provides information, including handouts and answers to FAQs, about corruption prevention (https://www.bmi.bund.de/EN/topics/administrative-reform/corruption-prevention/integrity-node.html) and about the Freedom of Information Act (https://www.bmi.bund.de/DE/themen/moderne-verwaltung/open-government/informationsfreiheitsgesetz/informationsfreiheitsgesetz-node.html), though in German only. The Federal Ministry of the Interior’s Rules on Integrity brochure contains key statutory provisions, general information and sample texts on the subject (for more details, see our responses to Article 8, paragraphs 2 and 3). The brochure also contains information in summary form.

The names of contact persons for corruption prevention are also listed on the individual federal ministries’ websites and/or in their organizational charts (see, e.g., the Contact Point of the Federal Ministry of Transport and Digital Infrastructure at <https://www.bmi.de/SharedDocs/DE/Artikel/Z/korruptionspraevention-im-bmvii.html> or of the Federal Ministry of Labour and Social Affairs at http://www.bmas.de/DE/Ministerium/Willkommen-im-BMAS/korruptionspraevention.html, in German only).

The website of the Federal Ministry for Economics and Energy provides information on corruption aimed specifically at the German business sector (www.bmi.bund.de <http://www.bmi.bund.de/>). It has also published a short brochure entitled “Avoiding Corruption” in cooperation with the Federal Ministry of Justice and Consumer Protection which focuses on combating the bribery of foreign public officials. The brochure is aimed specifically at businesses operating abroad (see our response to Article 12, paragraph 2, letter (b).

*Public education programmes, including schools and university curricula*

Schools and universities in Germany have introduced various education programmes and initiatives to raise awareness of the risks of corruption. Germany provided a comprehensive description of awareness-raising measures and education at the 8th meeting of the Open-ended Intergovernmental Working Group on the Prevention of Corruption in Vienna (21 to 23 August 2017), which was published on the UNODC website (see <http://www.unodc.org/documents/corruption/WG-Prevention/Art_13_Awareness-raising_measures_and_Education/Germany.pdf>).
**Instruction on basic public-service principles**

University law and business economics curricula include modules on basic public-service principles. Similar courses are taught to those studying general administration at the Federal University of the Applied Administrative Sciences and to trainees as part of their vocational training.

Instruction on the basic principles and relevant codes of conduct applicable to public-service employees is also generally included as part of new employees' induction process. Corruption prevention has become an integral part of such introductory events in many ministries and authorities.

Under Article 7 of the Federal Government Directive concerning the Prevention of Corruption in the Federal Administration (see our responses to Article 7, paragraph 1 and Article 8, paragraphs 1 to 3), employees are also instructed about the risks of corruption and the consequences of corrupt behaviour when they swear their official oath or take a pledge under the Act on Formal Commitments. Awareness should regularly be raised among those who work in areas especially vulnerable to corruption or who switch to a post in such areas, and staff are also to be given in-depth job-related instructions. Specially designed additional in-house training courses are increasingly available for this group of people, too.

Corruption prevention has been an integral part of various training events run by the Federal Academy of Public Administration (BAköV) since 2000 (see our response to Article 7, paragraph 1d). They help to further raise awareness of the issue of corruption among public administration staff. Additional in-house training events are also held in the ministries and the authorities within their remits.

**Paragraph 1, letter (d)**

Freedom of expression and of information are protected under the German Constitution (Article 5 para. 1 of the Basic Law). However, under Article 5 para. 2 of the Basic Law that freedom finds it limits in the provisions of general laws, general provisions on the protection of minors and the right to personal honour. In addition, the limits of the freedom of expression and of information can also result from conflicting constitutional law. Please see our responses to paragraph 1, letters (a) and (b) above as regards press freedom.

**Länder level**

Examples from Berlin described in the following supplement the aforementioned Länder measures.

Berlin plans to further develop the Berlin Freedom of Information Act into a Transparency Act, with the proviso that data not worth protecting will generally be made available on the Berlin Data Portal.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

**Processing of freedom of information requests in the Federal Ministry of the**
Interior

When processing requests under the Freedom of Information Act, the division responsible for handling freedom of information requests first asks the relevant organizational units whether any documents on the topic to which the requests relates are actually available within the Federal Ministry of the Interior. The competent division then checks back with the person filing the request to clarify further details regarding the request and provides them with information about fees charged. Administrative fees of between EUR 30 and a maximum of EUR 500 are charged for requests which need more than half an hour to process. No fees are charged if the division informs the person filing the request that no documents are available, that the request is to be refused on account of there being grounds for exclusion or where handling the request takes less than half an hour. Fees are charged in relation to only 7% of requests and generally of no more than EUR 100.

The unit competent for a specific request is responsible for writing a response for inclusion in the freedom of information notification (an administrative act). It also notifies the division responsible of the administrative effort involved if the information is not being treated as “simple information” (less than 30 minutes’ processing time) or the request is to be refused. The division responsible for freedom of information requests checks the consistency of the response and draws up the notice. Any additions or changes which may be necessary are coordinated with the competent specialist division. Any notifications which are to be (at least partially) granted are sent out as a formal administrative act with instructions about legal remedies, possibly together with the requested documents.

Objections to a notification can be filed within one month. Notification on an objection is generally issued within three months. Anyone who is not happy with this decision can lodge a complaint with the administrative court. An appeal on fact and law can be filed with the higher administrative court against an administrative court’s decision; an appeal on law may be filed with the Federal Administrative Court. Due to the lack of need for urgency, expedited proceedings are not possible in proceedings on a freedom of information request.

Statistics

The Federal Ministry of the Interior publishes annual statistics, broken down by ministry, on the number of freedom of information requests received and dealt with by the federal administration (i.e. the federal ministries and all the authorities within their remits). The statistics include the following information:

- Number of initial requests received in the reporting year
- Number of requests dealt with and notifications sent in the reporting year
- Number of times access to information was provided
- Number of times partial access to information was provided
- Number of rejected freedom of information requests
• Number of requests dealt with in another manner

• Number of cases in which a fee was charged

• Amount of the fees charged: number of cases < EUR 50; number of cases EUR 50 to EUR 100; number of cases > EUR 100

• Number of objections received in the reporting year

• Number of objections dealt with and notifications on objections issued in the reporting year

• Number of actions filed in the reporting year

• Number of actions dealt with in the reporting year

• Number of actions upheld, partially upheld and those dismissed

• Number of cases dealt with in another manner

The statistics can be downloaded in machine-readable form (in German) from the following website: <https://www.bmi.bund.de/DE/themen/moderne-verwaltung/open-government/informationsfreiheitsgesetz/informationsfreiheitsgesetz-node.html;jsessionid=A0D502F794E1E84FB2023D5853D31F47.2_cid295>
38. Paragraph 2 of article 13

2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The names of the federal and Länder agencies responsible for corruption prevention are known to the general public. They are, for example, included in the Federal Ministry of the Interior’s summary information (see our response to paragraph 1, letter (c)) and in the Rules on Integrity brochure, which is available online. In addition, interested citizens can find out about corruption prevention in the German federal administration at public events, for instance the Federal Government’s annual Open Day, when all the federal ministries are open to the public for an entire weekend. The relevant members of staff are on hand to talk to visitors and provide information.

The police stations and public prosecution offices responsible for prosecuting corruption offences are decentralized and generally known to the public. Anyone who has learned of a criminal offence or who suspects that one has been committed can turn to the prosecuting authorities, including anonymously.

Further, some authorities have created the post of an ombudsperson to whom staff, even those who are not employed in the administration, can turn to report a suspected case of corruption.

The names of the agencies responsible at Länder level can also be found online. In Brandenburg, for instance, the official anti-corruption officers, ombudsperson and the Corruption Prevention in the Land Administration Staff Unit each have their own website (www.antikorrubtion.brandenburg.de <http://www.antikorrubtion.brandenburg.de>). The interdepartmental Joint Corruption Investigation Group, which is responsible for prosecuting cases of corruption, includes specialist police investigators and public prosecutors. It is based in the offices of the Brandenburg Criminal Police Office and at Neuruppin Public Prosecution Office. The general public are aware of the group’s existence. Anyone can turn to the Joint Corruption Investigation Group (even anonymously) if they have learned of a corruption offence or suspect that one has been committed. Information about the tasks and powers of the Corruption Prevention Staff Unit, the role of official anti-corruption officers plus Land regulations can be found in the Directive of the Brandenburg Land Administration on Corruption Prevention in the Brandenburg Land Administration of 7 June 2011.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.
In addition to its contact person for corruption prevention, the Federal Ministry of the Interior also has an anti-corruption ombudsperson. Anyone can turn to the ombudsperson to pass on information about suspected cases of corruption relating to the Federal Ministry of the Interior and/or one of the authorities within its remit. The ombudsperson (who is a lawyer) is both ex officio and contractually obliged to maintain confidentiality, which is why the report itself is passed on to the Federal Ministry of the Interior but not the identity of the person making the report.

Berlin, for instance, has expanded its strategies for fighting corruption to include a whistle-blowing system. An internet-based, anonymous whistle-blowing system relating to corruption offences was launched in the Berlin Criminal Police Office on 9 February 2015. The web address was widely publicized. The system allows a virtual letterbox to be created in which information can be deposited, and it enables anonymous communication with the Criminal Police Office. In 2016 the anonymous whistle-blowing system received 178 tip-offs, primarily concerning the fraudulent activities of non-residential care services. In 17 of these cases the person giving the tip-off was prepared to continue communicating with the Criminal Police Office. Only a small number of tip-offs were ultimately passed on to the public prosecution office or to the Berlin Office of Public Prosecutors at Local Courts so that preliminary investigations could be launched. Reference to the whistle-blowing system and other information relating to corruption is available on the websites of the relevant Berlin authorities. The system has now become so widely known that the number of tip-offs has increased.

A system for notifying the Criminal Police Office of suspected cases of corruption was launched in Lower Saxony more than 10 years ago (see <https://www.mi.niedersachsen.de/themen/oeffentliches_dienstreicht_korruptionspraevention/korruptionspraevention_bekaempfung/korruptionsbekaempfung/korruptionsbekaempfung-in-niedersachsen-61893.html>). Information which does not concern any of the authorities in Lower Saxony or cases of corruption is passed on to the relevant Land or federal agencies.

A whistle-blowing system has also been established for citizens in Brandenburg. Brandenburg Police launched its Internet Police Station, a web-based app which is accessible 24/7 from anywhere in the world, on 13 February 2003 (<www.polizei.brandenburg.de <http://www.polizei.brandenburg.de/>>). This virtual police station is Brandenburg Police’s central Internet portal where citizens can both report a criminal offence and obtain information (interactively) and also find out about the work of the police in Brandenburg. A new user interface, the "virtual letterbox", was launched in 2004. It enables citizens to communicate directly with the police. In 2007 the "virtual letterbox" was then realigned to focus on tip-offs about corruption offences. Since then, citizens in Brandenburg have been able to use a procedure similar to email to communicate directly with the police, citing their personal details or pseudonymized personal details, or entirely anonymously. They can also use this method of communication simply to find out more about corruption. There is also the option of passing on information regarding cases of corruption to the prosecuting authorities via the Brandenburg Land Administration Corruption Prevention Staff Unit, ombudspeople and official anti-corruption officers.
39. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

None.

Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

(NO) No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.