

FEDERAL REPUBLIC OF GERMANY

(BUNDESREPUBLIK DEUTSCHLAND)



BACKGROUND AND LEGAL SYSTEM

LEGAL SYSTEM	Civil law system.
POLITICAL SYSTEM	Federal Republic.
HEAD OF STATE	President, elected by the Federal Assembly (<i>Bundesversammlung</i>) for 5 year terms.
HEAD OF GOVERNMENT	Chancellor, elected every 4 years by a majority of the <i>Bundestag</i> (German Parliament)
SUBNATIONAL ENTITIES	Germany is divided into 16 federal states (<i>Bundesländer</i>) (Baden-Württemberg, Bayern, Berlin, Brandenburg, Bremen, Hamburg, Hessen, Mecklenburg-Vorpommern, Niedersachsen, Nordrhein-Westfalen, Rheinland-Pfalz, Saarland, Sachsen, Sachsen-Anhalt, Schleswig-Holstein, and Thüringen).
SUBLOCAL ENTITIES	5 States are divided into 22 <i>Regierungsbezirke</i> , with the remaining States being divided into Districts (<i>Kreise</i>).
TRANSLITERATION SYSTEM	None.
LANGUAGES	Official Language: German.

CONSTITUTION

OFFICIAL NAME	<i>Grundgesetz</i> (Basic Law).
ENACTMENT	After approval by the Parliamentary Council, the <i>Grundgesetz</i> was enacted on May 23, 1949. It was adopted by a unified Germany on October 3, 1990.
CITATION FORMAT	GRUNDGESETZ [GG] [Constitution] art. <article> (F.R.G.).
Example	GRUNDGESETZ [GG] [Constitution] art. 51 (F.R.G.).

STATUTES

GOVERNMENT STRUCTURE	A bicameral legislature consisting of two chambers: the <i>Bundestag</i> (Federal Assembly) and <i>Bundesrat</i> (Federal Council). The <i>Bundestag</i> is considered Germany's Parliament and consists of 614 elected seats combining direct and proportional representation. The <i>Bundesrat</i> is composed of 69 delegates who represent their States. The number of delegates from a State is determined by its population.
LEGISLATIVE PROCESS	The Federal government, consisting of the Chancellor and heads of federal ministries, introduces most legislation. The <i>Bundesrat</i> reviews the legislation and passes it onto the <i>Bundestag</i> . Bills can also originate in the <i>Bundesrat</i> , which are then submitted to the <i>Bundestag</i> via the executive branch. The <i>Bundestag</i> can also introduce legislation, but it is first sent to the <i>Bundesrat</i> and then to the executive. The Joint Conference Committee resolves differences in versions of bills. A compromise bill becomes law after it has been approved by a majority of both houses and the cabinet, and has been signed by the president and counter-signed by the relevant cabinet minister.

ADMINISTRATIVE REGULATIONS

ADMINISTRATIVE SOURCES	Currently unavailable.
REPORTERS	<p>Federal Administrative Rules and Regulations: Federal Administrative Regulations are published in: <i>Bundesanzeiger</i> and <i>Gemeinsames Ministerialblatt</i> (Joint Gazette of Government Ministries), published by the Federal Ministry of the Interior.</p> <p>Individual federal administrative agencies may also have their own publications; for example:</p> <p><i>Bundesarbeitsblatt</i> (Federal Labor Law Gazette, published by the Federal Ministry of Labor).</p> <p><i>Bundessteuerblatt</i> (Federal Tax Gazette, published by the Federal Ministry of Finance).</p>
	<p>State Administrative Rules and Regulations: State regulations are published in official gazettes:</p> <p>Baden-Württemberg - <i>Gesetzblatt für Baden-Württemberg</i> Bayern - <i>Bayerisches Gesetz- und Verordnungsblatt</i> Berlin - <i>Gesetz- und Verordnungsblatt für Berlin</i> Brandenburg - <i>Gesetz- und Verordnungsblatt Brandenburg</i> Bremen - <i>Gesetzblatt der Freien Hansestadt Bremen</i> Hamburg - <i>Hamburgisches Gesetz- und Verordnungsblatt</i> Hessen - <i>Gesetz- und Verordnungsblatt des Landes Hessen</i> Mecklenburg-Vorpommern - <i>Gesetz- und Verordnungsblatt für das Land Mecklenburg-Vorpommern</i> Niedersachsen - <i>Niedersächsisches Gesetz- und Verordnungsblatt</i> Nordrhein-Westfalen - <i>Gesetz- und Verordnungsblatt für das Land Nordrhein-Westfalen</i> Rheinland-Pfalz - <i>Gesetz- und Verordnungsblatt für das Land Rheinland-Pfalz</i> Saarland - <i>Amtsblatt des Saarlandes</i> Sachsen - <i>Sächsisches Gesetz- und Verordnungsblatt</i> Sachsen-Anhalt - <i>Gesetz- und Verordnungsblatt des Landes Sachsen-Anhalt</i> Schleswig-Holstein - <i>Gesetz- und Verordnungsblatt für Schleswig-Holstein</i></p>

Thüringen - Gesetz- und Verordnungsblatt für das Land
Thüringen

CITATION FORMAT Currently unavailable.

Example Currently unavailable.

CODES

CODES Bürgerliches Gesetzbuch (Civil Code) (BGB)
 Gerichtsverfassungsgesetz (Court organization statute) (GVG)
 Grundgesetz (Basic Law) (GG)
 Handelsgesetzbuch (Commercial Code) (HGB)
 Sozialgesetzbuch (Social Insurance Code) (SGB)
 Strafgesetzbuch (Penal Code) (StGB)
 Strafprozeßordnung (Criminal Procedure Statute) (StPO)
 Verwaltungsverfahrensgesetz (Administrative law code)(VwVfg)
 Verwaltungsgerichtsordnung (Code of Administrative Procedure)(VwGO)
 Zivilprozeßordnung (civil procedure statute) (ZPO)

CITATION FORMAT <name of code> [<abbreviation>] [<code name in English>]
 <date of enactment>, <gazette of promulgation> [<abbreviation of gazette>] <volume number and/or page>, <section>, <paragraph>, <number>.

Examples Bürgerliches Gesetzbuch [BGB] [Civil Code] Aug. 18, 1896,
 Reichsgesetzblatt [RGBL] 195, § 793 Abs 2.

TREATIES AND CONVENTIONS

CITATION FORMAT Cite to BGBI. II and use citation form for statutes. Otherwise, cite to *Verträge der Bundesrepublik Deutschland*.

Examples 8 *Verträge der Bundesrepublik Deutschland* (ser. A) No. 47.

CASE LAW

JUDICIAL OVERVIEW

Due to the federal nature of the German government, the courts on the lower levels of the judicial hierarchy are state courts, and the courts in the higher levels are federal courts.

Each state except *Schleswig-Holstein* has its own constitutional court.

There are 3 different types of courts in Germany: ordinary courts (that deal with general matters), specialized courts (that deal with administrative, labor, social, fiscal, and patent law), and constitutional courts (that deal with judicial review and constitutional interpretation).

Ordinary courts are organized into 4 tiers. At the lowest level of ordinary courts are local courts. Above them are the regional courts, and above them are appellate courts (that actually have original jurisdiction for cases involving treason and anti-constitutional activity). The highest ordinary court is the Federal Court of Justice.

The highest court is the Federal Constitutional Court, but its jurisdiction is limited to constitutional matters. The highest court of appeal is the Federal Court of Justice.

The Federal Constitutional Court consists of 16 judges, half of which are elected by the *Bundesrat* and half by the *Bundestag*. Any decision requires agreement by 2/3 of the judges on the panel. The court is divided into 2 “senates” of 8 judges; each senate has its own chief judge. The first senate deals with basic rights in Articles 1-19 of the Basic Law and judicial review of legislation. The second senate decides constitutional disputes between government agencies and how the political process should be regulated.

CITATION FORMAT LONG FORM

<name of court> [<abbreviation>] [<name of court in English>]
<date of decision>, <volume number> <full name of collection> [<abbreviation of collection>] <page> (<pincite>)
(<country abbreviation>)

Example *Bundesgerichtshof* [BGH] [Federal Court of Justice] Apr 7, 2003, 154 *Entscheidungen des Bundesgerichtshofes in Zivilsachen* [BGHZ] 370 (372) (F.R.G.)

CITATION FORMAT
SHORT FORM <abbreviation of reporter> <volume>, <page> (<pincite>).

Example BGHZ 54, 366 (367).

COURTS OF ORDINARY JURISDICTION

COURT: DESCRIPTION *Bundesgerichtshof* (BGH) (Federal Court of Justice): Supreme Civil and Criminal Court

Civil Matters: *Entscheidungen des Bundesgerichtshofes in Zivilsachen* (BGHZ)
Entscheidungen des Reichsgerichts in Zivilsachen (RGZ)

REPORTER Criminal Matters: *Entscheidungen des Bundesgerichtshofes in Strafsachen* (BGHSt)
Entscheidungen des Reichsgerichts in Strafsachen (RGSt)

COURT: DESCRIPTION *Oberlandesgericht* (OLG): trial court for selected criminal matters and court of appeals.

REPORTER Civil Matters: *Rechtsprechung der Oberlandesgerichte in Zivilsachen* (OLGZ).

Criminal Matters: *Rechtsprechung der Oberlandesgerichte in Strafsachen* (OLGSt).

COURT: DESCRIPTION *Bayerisches Oberstes Landesgericht* (BayObLG): court of appeals for selected matters in Bavaria.

REPORTER Civil Matters: *Entscheidungen des Bayerischen Obersten Landesgerichts in Zivilsachen* (BayObLGZ)
Criminal Matters: *Entscheidungen des Bayerischen Obersten Landesgerichts in Strafsachen* (BayOblGSt)

COURTS OF CONSTITUTIONAL JURISDICTION

COURT: DESCRIPTION *Bundesverfassungsgericht* (BVerfG): federal constitutional court.

REPORTER *Entscheidungen des Bundesverfassungsgerichts* (FVerfGE).

COURTS OF ADMINISTRATIVE JURISDICTION

COURT: DESCRIPTION *Bundesverwaltungsgericht* (BVerwG): highest administrative court.

REPORTER *Entscheidungen des Bundesverwaltungsgerichts* (BVerwGE).

COURT: DESCRIPTION *Oberverwaltungsgericht* (OVG) or *Verwaltungsgerichtshof* (VGH): court of appeals.

REPORTER Cite to *Entscheidungen* of the court: either (OVGE) or (VGHE).

COURTS OF SPECIAL JURISDICTION

COURT: DESCRIPTION *Bundesfinanzhof* (BFH): supreme tax court.

REPORTER *Sammlung der Entscheidungen und Gutachten des Bundesfinanzhofs* (BFHE).

COURT: DESCRIPTION *Finanzgericht* (FG): tax trial court

REPORTER *Entscheidungen der Finanzgerichte* (EFG)

COURT: DESCRIPTION **Bundesarbeitsgericht (BAG): supreme labor court**

REPORTER *Entscheidungen des Bundesarbeitsgerichts* (BAGE)

COURT: DESCRIPTION **Landesarbeitsgerichte (LAG): labor court of appeals**

REPORTER Cite to Periodicals

COURT: DESCRIPTION	Bundessozialgericht (BSG): supreme social insurance court
REPORTER	Entscheidungen des Bundessozialgerichts (BSGE)
COURT: DESCRIPTION	Landessozialgericht (LSG): social insurance court of appeals
REPORTER	Cite to Periodicals
COURT: DESCRIPTION	Bundespatentgericht (BPatG): federal court for patent matters.
REPORTER	Entscheidungen des Bundespatentgerichts (BPatGE).

GERMAN LÄNDER (STATS)

STATE CONSTITUTIONAL COURTS	<i>Staatsgerichtshof</i> (StGH) or <i>Verfassungsgerichtshof</i> (e.g., VerfGH Bayern) (constitutional court of the land): Cite to the official reporter of the court: <i>Verfassungsgerichtshof</i> (e.g., VerfGH Bayern).
STATE CONSTITUTIONS	Cite to <i>Verfassung</i> and add the name of the land. Example: VERF. BAYERN
STATE STATUTES	<i>Landesgesetz</i> (LG): State Law <i>Landesverordnung</i> (LV): State Administrative Regulation
CITATION FORMAT	Cite to GVBl. of the individual land.
<i>Example</i>	GVBl. Bayern.

SOURCES

The CIA Factbook:
<http://www.cia.gov/cia/publications/factbook/geos/al.html>

FOREIGN LAW: CURRENT SOURCES OF CODES AND LEGISLATION IN JURISDICTIONS OF THE WORLD, THOMAS REYNOLDS & ARTURO FLORES, 1-39, 2004.

I LEGAL SYSTEMS OF THE WORLD: A POLITICAL, SOCIAL & CULTURAL ENCYCLOPEDIA 25-31 (Herbert M. Kritzer, ed., 2002).

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