

# THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY GERMANY

## ARTICLE 13 UNCAC

### PARTICIPATION OF SOCIETY

#### GERMANY (SEVENTH MEETING)

**In relation to participation of society (article 13)**, States parties and signatories may wish to provide information on measures that:

- Establish e-government mechanisms, online platforms, smartphone applications, mobile telephone-based reporting and social media to enhance the effective and efficient 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 fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption;
- Enhance the transparency of, and promote the contribution of the public to, decision-making processes, in particular through the use of online platforms to facilitate consultation with the public on issues relating to the prevention of and fight against corruption;
- Promote public information activities, including through the use of information and communications technologies, that contribute to non-tolerance of corruption, as well public education programmes;
- Respect, promote and protect the freedom to seek, receive, publish and disseminate information concerning corruption, in particular through online mechanisms;
- Provide public access, including through online mechanisms, to relevant anti-corruption bodies for the reporting, including anonymously, of any incidents that may constitute an offence established in accordance with the Convention.

Information sought may, in particular, include the following:

#### **In relation to enhancing the transparency of and promoting the contribution of the public to decision-making processes (article 13 (1) (a)):**

- Description of how ICT is used to promote citizen and stakeholder involvement in decision-making processes, such as through large-scale consultations, online platforms, working groups, task forces, citizen referendums and community meetings, and measures to promote such involvement;
- Description of ICT measures adopted to promote an institutional culture of transparency, open data, open-door policies and regular communication between the Government and civil society;
- Description of ICT measures adopted to allow members of the public to decide or contribute to decisions on how to allocate parts of the public budget in specific institutions;
- Description of ICT measures adopted to provide opportunities for individuals and groups outside the public sector to be consulted during legislative drafting processes;

- Description of the ways in which ICT is used to facilitate public consultations before regulations or other administrative policies are issued, and of any consequences of failure to adhere to the requirement to facilitate such public participation.

**In relation to ensuring that the public has effective access to information (article 13 (1) (b)):**

- Legislation, regulations, policies and procedures regarding public access to information through ICT, such as online platforms, including details regarding:
  - Means by which requests may be submitted (in writing, via Internet, by telephone);
  - The types of bodies required to publish information;
  - The scope of the information published;
  - Any information that must be submitted by the requester as part of the request for information;
  - Costs charged to submit a request
  - Applicable time limits within which the Government must respond to the request;
  - Grounds on which a request by a member of the public for information may be denied;
  - Description of staff or entity responsible for administering access to information requests;
  - Description of steps taken to ensure that existing laws, regulations, policies and procedures regarding access to information are widely known and accessible to the public;
- Description of the means by which the public is informed of how to access information.

**In relation to undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula (article 13 (1) (c)):**

- Description of public information (education and awareness-raising) activities that contribute to non-tolerance of corruption, particularly those using ICT, including specific initiatives targeting groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations;
- Description of various means and/or technologies that have been used for the purposes of undertaking public information activities;
- Description of the use of ICT in educational courses or modules that have been introduced in primary and secondary schools that include components on corruption or related issues such as ethics, civil rights or governance;
- Description of the use of ICT in university courses or modules that include components on corruption or related issues such as public administration, public procurement, ethics, criminal law or corporate governance.

**In relation to respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption (article 13 (1) (d)):**

Outlines of the procedures or regulations that ensure the freedom of the public to seek and receive information concerning corruption, in particular using ICT. States parties and signatories may wish to include the following information, if applicable:

- The extent to which such information is proactively and systematically published by the Government online;
- The extent to which such information is available upon online request for access to information by a member of the public;
- Any restrictions applicable to exercise of the freedom to seek, receive, publish and disseminate such information, in particular using ICT, including:
  - Restrictions necessary for respect of the rights or reputations of others (libel and defamation laws, etc.);
  - Restrictions necessary for the protection of national security or *ordre public* or of public health or morals;
  - Description of how such restrictions are applied in practice;
  - Description of procedures that allow a member of the public to apply for review of, or appeal against, the application of such a restriction by the Government.

**In relation to taking appropriate measures to ensure that the relevant anti-corruption bodies are known to the public and providing access to such bodies for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with the Convention (article 13 (2)):**

- Description of online public information campaigns that promote awareness of the existence of anti-corruption bodies;
- Description of the means by which members of the public are provided with access to such bodies, particularly through ICT, for the reporting of acts of corruption;
- Description of the operational mechanisms and applicable procedures for such reporting channels, including reporting obligations, information to be provided and whether reports may be made anonymously.

The Federal Government has adopted several decisions to foster participatory decision-making.

On 28 March 2012, the Federal Cabinet decided that draft bills of the Federal Government will be published online after they have been adopted by the Federal Cabinet and that, wherever suitable, the Federal Government intends to engage in broader public information or consultation prior to a Cabinet decision than is presently the case, with involvement of groups directly affected by the intended legislation. On 4 June 2014, the Federal Cabinet decided that the Federal Government will in future take even greater account of the experience of those affected when it develops new legislative proposals. According to the decision of the Federal Cabinet of 4 June 2014, the Federal Government frequently performs statistically representative surveys on the perception of the quality of the cooperation of citizens and the business sector with the public administration and the quality of the given legal framework. The website of the Federal Government initiative “amtlich einfach” contains additional feedback functionalities for the public on specific life events, the legal framework, and the performance of the public and state administrations.

The Federal Government is further developing its approach to take part in the new consultation approach of the European Commission for planned European initiatives. Dialogue and participation processes

Transparency, participation and close cooperation with citizens and civil society organizations (CSOs) are core principles of policy making in Germany. To foster better engagement with citizens and the voluntary sector, multiple dialogue processes have been established:

- Dialogue process “Charter for the Future”
- Dialogue process “Well-being in Germany – what matters to us”
- Dialogue process “Energy Grids”
- Participation process “Federal Transport Infrastructure Plan”
- Energy Transition Platforms
- Consultations within the framework of the Green/White Paper “Electricity Market for the Future”
- Sectoral dialogues “Strengthening the competitiveness of the German industry”

Live-streaming of public debates and public hearings in the German Bundestag (<https://www.bundestag.de/tv>) gives the opportunity to follow the public decision making process in a direct and transparent way.

The public can obtain information on request under the Freedom of Information Act ([http://www.gesetze-im-internet.de/englisch\\_ifg/](http://www.gesetze-im-internet.de/englisch_ifg/)). The Freedom of Information Act grants all natural persons and legal entities under private law the unconditional right to access official information held by federal authorities. Costs are laid down in the relevant regulation. (<http://www.gesetze-im-internet.de/ifggebv/index.html>). Requests can be submitted by email. An information request can only be rejected if one of the exceptions provided for in the Freedom of Information Act is fulfilled. Members of the public who requested information under the Freedom of Information Act may apply for review, if their request has been rejected, and may appeal to an administrative court (see sec. 9 para. 4 of the Freedom of Information Act, [http://www.gesetze-im-internet.de/ifg/\\_9.html](http://www.gesetze-im-internet.de/ifg/_9.html)).

The public relations work of the Federal Government has long helped raise public awareness of corruption. Amongst internal training means (seminars, e-learning, circulars), public information activities on anti-corruption are part of the Government’s information strategy. On its website ([www.bmi.bund.de](http://www.bmi.bund.de)), the Federal Ministry of the Interior provides information on corruption prevention and the Freedom of Information Act. Relevant material can be downloaded free-of-charge on the BMI-Website. The Federal Ministry's brochure “Rules on Integrity” for example lists the relevant regulations and contains general information, sample texts and a fact sheet. At the annual open house days the BMI is informing up to 8.000 visitors on the anti-corruption strategy and presents interactive learning and quizzes. The BMI regularly receives German and international visitor groups that are particularly interested in anti-corruption measures. At [www.bmwi.bund.de](http://www.bmwi.bund.de), the Federal Ministry for Economic Affairs and Energy provides the business community with specific information on corruption. Together with the Federal Ministry of Justice and Consumer Protection, the Federal Ministry for Economic Affairs

and Energy also published a small brochure, “Preventing Corruption”, on bribery of foreign officials that is addressed to businesses operating abroad.

Information concerning corruption is also published by the Federal Criminal Police Office in its annual Corruption Situation Report.

([http://www.bka.de/nn\\_193376/DE/Publikationen/JahresberichteUndLagebilder/Korruption/korruption\\_node.html?\\_nnn=true](http://www.bka.de/nn_193376/DE/Publikationen/JahresberichteUndLagebilder/Korruption/korruption_node.html?_nnn=true)), the Police Crime Statistics

([http://www.bka.de/EN/Publications/PoliceCrimeStatistics/2014/pcs2014\\_node.html?\\_nnn=true](http://www.bka.de/EN/Publications/PoliceCrimeStatistics/2014/pcs2014_node.html?_nnn=true)) - also partly available on the Open Data Portal - and the annual report

“Preventing corruption in the Federal Administration”

([http://www.bmi.bund.de/SharedDocs/Downloads/EN/Broschueren/2015/corruption-prevention-report-2014.pdf?\\_blob=publicationFile](http://www.bmi.bund.de/SharedDocs/Downloads/EN/Broschueren/2015/corruption-prevention-report-2014.pdf?_blob=publicationFile)).

At university, the curricula for law and business studies include workshops on the basic principles of public service. The Federal University of Applied Administrative Sciences also provides its students with such workshops, and public service trainees are offered such courses during their training.

Furthermore, new public employees are regularly informed about basic principles and the relevant rules of conduct in on-the-job orientation sessions. In many ministries and authorities, corruption prevention has become a key element of these orientation sessions. Pursuant to Article 7 of the Federal Government Directive concerning the Prevention of Corruption in the Federal Administration, employees are informed of the risk of corruption and the consequences of corrupt behavior when taking the oath of office or agreeing to abide by the requirements of their position. Staff members working in or transferred to areas especially vulnerable to corruption are supposed to be given additional, job-specific instruction at regular intervals. More and more public authorities also offer special in-house workshops for such staff members.

Since 2000, the fight against corruption has been an integral part of various advanced training courses offered by the Federal Academy of Public Administration (BAkÖV). This also helps alert public service staff to the risk of corruption. Furthermore, the ministries and their executive agencies offer in-house training sessions.

Restrictions applicable to exercise of the freedom to seek, receive, publish and disseminate information concerning corruption are provided for by the German Constitution. Article 5 para. 1 of the German Constitution protects the freedom of opinion and information in Germany. Pursuant to Article 5 para. 2 of the Constitution, this freedom finds its limits in the provisions of general laws, in provisions for the protection of young persons, and in the right to personal honor. The freedom of opinion and information may also find its limits in conflicting constitutional provisions.

The bodies responsible for preventing corruption are known to the wider public. For example, the fact sheet of the Federal Ministry of the Interior and the above mentioned brochure “Rules on Integrity”, which is available online, contain information on these bodies. The wider public also knows that local police offices and public prosecutors

offices are responsible for prosecuting corruption offences. Anyone who is aware of a criminal offence or has reason to believe that such a crime has been committed can contact the law enforcement authorities. Reports can also be made anonymously. Not only public service staff but also members of the public can report corruption cases online or by phone to the contact person on corruptions prevention, appointed in public authorities due to the Directive concerning the prevention of corruption. Some public authorities have commissioned ombudsmen for anonymous reporting or provide anonymous reporting online platforms such as the BKMS Compliance System.