

Open-ended Intergovernmental Working Group on Prevention
Ninth Meeting

Information on certain aspects of corruption prevention
GERMANY

Preface

Information is provided on the basis of the guidance note provided in Annex I to UNODC-document CU 2018/65/DTA/CEB and of the German Self-Assessment Checklist for the implementation of chapter 2 of the UN Convention Against Corruption under the second review cycle.

The UN Convention Against Corruption is binding Germany as a whole, this including the authorities of the federal states (Länder). Municipalities are regarded as Länder authorities.

In order to keep this document short, references to legislation are provided as internet URLs, as far as an English translation of legislation is available on the internet.

I. Information requested from States parties in relation to preventing and managing conflicts of interest (art. 7, para. 4)

1. 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, and in particular to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

1.1 Administrative procedure

Sections 20 and 21 of the Federal Administrative Procedure Act (as follows “APA”) and the equivalent administrative procedure laws applicable in the federal states (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 APA reads as follows:

“(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, also in the sense of the Civil Partnership Act,*
- 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 APA reads as follows:

“(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.

Legislation of the Länder, 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.

1.2 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 (as follows “RAPC”), 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 RAPC 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 RAPC 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. financ (e), spouse, civil partner, children, siblings):

“It shall be presumed that there is a conflict of interest where 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.”

1.3 Authorization and notification requirements regarding secondary employment

a) Civil servants (Beamte)¹

Rules intended to prevent conflicts of interests also apply in regard to any secondary employment which civil servants engage in. 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 seqq. 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

¹ In Germany, a distinction is drawn between two types of public service employees: civil servants (*Beamte*) and public service staff employed under collective agreements (*Tarifbesch ftigte*). Civil servants 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. *Tarifbesch ftigte*, in contrast, 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 (“TV D”).

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.

As a general rule, approval for secondary employment may only be issued for a limited amount of time, up to a maximum of five years, after which it lapses (section 99 (4), first sentence, of the Federal Act on Civil Servants). 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).

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 federal states (Länder) the leeway to introduce rules on any necessary exceptions to the duty of disclosure.² The Länder have made use of this possibility. The Federal

² Due to Germany's federal structure, a distinction is 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

Ordinance on Secondary Employment also contains detailed rules on secondary employment which are applicable to the federal administration.

Sanctions: Under section 5 of the Federal Disciplinary Act and the provisions of the disciplinary legislation applicable in the Länder, 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.

b) Employees (Tarifbeschäftigte)

Unlike civil servants, public service employees do not need to obtain approval for paid secondary activities. However, under section 3 (3) of the Collective Agreement for the Public Service (“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.

c) 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.

d) 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

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.

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 or her 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 Länder plan to introduce comparable rules at Länder 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.

1.4 Rules on Integrity

a) At the federal level

aa) Requirements for administrative staff members

Federal officials are subject to numerous rules and regulations for the prevention of corruption, including rules for dealing with and preventing conflicts of interest. These rules are set out in a brochure called “Rules on Integrity” which is available in both German and English on the Internet (see https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2014/rules-on-integrity.pdf?__blob=publicationFile). The federal agencies regularly use and distribute the brochure in the context of training courses and awareness-raising measures, as well as on other occasions, for instance visits by foreign delegations.

The Rules on Integrity contain inter alia guidelines on how to prevent and manage conflicts of interest. One example is the **Anti-Corruption Code of Conduct** (Annex 1 to the Federal Government Directive concerning the Prevention of Corruption in the Federal Administration, as follows “Anti-Corruption Directive”). It 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 with regard to conflicts of interest:

- *Separate your job strictly from your private life. Check to see whether your private interests might conflict with your work duties.*

- *Set an example: Show, through your behaviour, that you neither tolerate nor support corruption.*
- *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.*
- *If you suspect that somebody wishes to ask you for preferential treatment contrary to your duty, consult a colleague as a witness.*
- *Do your work in such a manner that it can pass review at any time.*
- *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.*
- *Support your workplace in detecting defective organizational structures that favour corruption.*
- *Take part in basic and advanced training on preventing corruption.*

Another example are the **Guidelines for Supervisors and Heads of Public Authorities/Agencies** (Annex 2 to the Anti-Corruption Directive). They 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 and in managing conflicts of interest. 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.

The Rules on Integrity also contain a **Circular on the ban on accepting rewards or gifts** issued by the Federal Ministry of the Interior (see no. 4 in the Rules on Integrity brochure). The Circular 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 Circular also contains guidance on how staff are to deal with invitations involving hospitality. 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.

The Rules on Integrity also contain the **General Administrative Regulation to Promote Activities by the Federal Government through Contributions from the Private Sector** (see no. 5 in the Rules on Integrity brochure https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2014/rules-on-integrity.pdf?__blob=publicationFile). It 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>).

bb) Transparency requirements applicable to Members of Parliament (German 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.

b) At Länder level

The same principles are applied at *Länder* level. The Federal State of 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:

https://www.mi.niedersachsen.de/themen/oeffentliches_dienstrecht_korruptionspraevention/korruptionspraevention_bekaempfung/korruptionspraevention-und--bekaempfung-62734.html.

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-integritaet.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.

1.5 Training or advisory services

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. This includes raising awareness of conflicts of interest. 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 (BAköV), 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.

2. 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, and in particular to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

No information can be provided on this question.

3. Do you consider that any technical assistance is required in order to allow you to fully implement this provision? If so, what specific forms of technical assistance would you require?

We do not require any technical assistance.

II. Information requested from States parties in relation to asset and interest disclosure (art. 8, para. 5)

1. Please describe (cite and summarize) the measures your country has taken, if any, (or is planning to take, together with the related envisaged time frame) to ensure full compliance with article 8 (5) of the Convention, and in particular 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.

1.1 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.

1.2 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 seqq. on confiscation) and the Code of Criminal Procedure (in sections 111b et seqq. 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.

2. Please outline the actions required to ensure or improve the implementation of the measures described above and any specific challenges you might be facing in this respect.

No information can be provided on this question.

3. Do you consider that any technical assistance is required in order to allow you to fully implement this provision? If so, what specific forms of technical assistance would you require?

We do not require any technical assistance.