

Germany 2017



Total: 79.89

Rule of Law

Independence of the Judiciary : 7.84

Judiciary in Germany is truly an independent third branch of power. There are just a few examples in the world where the constitutional court plays such a huge role in limiting (thus to a degree also shaping) political decisions by lawmakers or the executive, or checking the terms of the country's accession to bilateral or international treaties. At the federal states' or local level, judicial intervention against government's tendency towards omnipotence is not that robust, but anyway citizens enjoy high level of protection. Portal GAN asserts that "German judiciary is characterized by a high degree of professionalism and independence from political interference", while corruption is thereby not a problem. Citizens put huge trust into courts. Police is not corrupt, even though there are occasional complaints over its excessive use of force. Prison system is exemplary, often described by experts from the older democracies as a role model for them (besides Nordic systems). Intelligence services have considerable powers, yet they are subject to rigorous scrutiny by several layers of civic control.

Corruption : 8.1

Based on three pillars – social market economy with no excessive state intervention into the economy, developed legislation and institutions and sense of rule of law shared by most citizens, and the strong civil society with free and curious media – anti-corruption immunity in Germany is very strong. The country is, together with Luxembourg and United Kingdom, ranked 10-12 (out of 176 countries) in the Transparency International's Corruption Perceptions Index 2016, same as in 2015. Occasionally, some public procurement deals or huge state-sponsored infrastructure project raise suspicion. The rules against conflict of interest are sometimes circumvented. Big companies that earn tens of billions euro through exports and employ tens of thousands workers sometimes experience a blind eye by the government, over internationally accepted ecological or other rules, or over bribery abroad. Even the latter set of problems is increasingly well dealt with. Far more German politicians lately have been ousted because of plagiarism and unearned PhD diplomas than of even most remote suspicion of corruption.

Protection of Human Rights : 8.84

Germany has faced a miraculous transformation from a country that had experienced centuries of

autocracy and the two biggest totalitarian systems of the 20th century into one of the freest countries of the world, where human rights enjoy the highest level of protection. Through basic as well as life-long political education (e.g. via “Stiftung” network), a notion of traditional human rights such as life, security, safety, individual autonomy, property, movement, education, information, or association, is embedded in society and political culture. In some areas Germany has recently emerged as a “conscience of the EU”, such as in its treatment of refugees. Not least that it opened the gates for the victims of wars or dictatorships, but it has put considerable efforts and resources into their integration. Opposition to such attitude has, however, also increased in Germany. There is more hate speech against certain religious or ethnic groups, as well as attacks on asylum seekers, than before. Populism is in the rise in Germany too. Dealing with this new wave of intolerance requires wisdom. Each and every new legal limitation - such as June 2017 law that required social networks to have censored hate speech messages - bears a risk of limiting other, completely legitimate freedoms. Another law carried in June 2017 has but leveled Germany with the freest countries in the world regarding LGBT equality. Same-sex marriages were fully recognized, whereby conservative plurality in Bundestag was allowed a free vote. Germany is occasionally facing the same problem as other West European countries regarding slavery – namely smuggling and illicit treatment of servants by the rich tourists from less free countries. Human trafficking is robustly fought against, while this kind of mistreatment requires moderation, so as to prevent serious abuse of people while saving high-end tourism as an important part of the economy.

Political Freedom

Free and Fair Elections : 9.64

Germany has a tradition of free and fair elections. This continuity was confirmed on several federal-state elections during the period under review, all in the light of September 2017 Bundestag elections. German multi-party system allows political parties to compete in a free and unrestricted manner, unless their activities are posing threat to the constitution. Largely ceremonial figure in the country’s political life, President of Germany, was elected on 12th of February 2017 by the Federal Convention, after the Grand Coalition had announced that they would have one joint candidate, Frank-Walter Steinmeier from the Social Democratic Party - SPD. Beside certain disputes in the Government, between SPD and Angela Merkel’s Christian Democratic Union – CDU, due to migration crisis, it remained stable in 2017, with parties shifting their focus on parliamentary elections. Germany has a bicameral parliament which consists of the lower house – Bundestag, and the upper house – Bundesrat. The latter represents the country’s 16 federal states.

Absence of Unconstitutional Veto Players : 10

Germany doesn’t have unconstitutional veto players and democratically elected authorities have unchallenged power to govern the country. Mechanisms for dealing with the corruption are efficient, thus corruption among public officials is very rare. However, threat to country’s security is coming from extreme terrorism. Attack with massive injuries and 12 deaths happened in December 2016 in Berlin, for which ISIS claimed responsibility.

Freedom of Press : 8

German media landscape consists of wide range of print, online and broadcast media outlets that enjoy high level of freedom. Journalists are independent to freely express their views, however they are sometimes faced with a violence and intimidation by radical groups in society. The amendments that were put into practice at the end of 2016 gave Germany's foreign intelligence service – BND - a right to survey foreign journalists. Also, according to Reporters without Borders, economic crisis of print outlets and publishing houses started to slowly undermine media pluralism in the country.

Economic Freedom

Security of Property Rights : 6.95

Property rights in Germany are well protected. Judiciary is an efficient and functioning system, independent from out-of-court influence or of the executive power. Even though court dealings are lengthy, they are both predictable and reliable. Bankruptcy regulation provides legal environment that enables very high recovery rates, within a reasonable timeframe. Insolvency procedures are mostly implemented as a sale of a going concern, since this maximizes the sale value; reorganization procedures are often too costly and complex. There are specialized courts, such as for commercial, administration, labour and tax law, which provide an efficient framework in difficult cases. Out-of-court mechanisms, such as mediation or arbitration, exist and are commonly used. Court procedures could be upgraded via more automation in the process. On the other hand, property registration, a major prerequisite for protection of property, requires a complicated and lengthy procedure, incurring high cost due to notary fees and very high transfer tax of 6% of the property value. Property transfer could also be hurdled by preemptive rights of local municipalities. Obligatory public notary services, although inflating costs, increase security of the dealings. Foreign ownership is restricted only in several industries. Restrictions are mostly applied to transportation sector. Some of them stem from the EU legislation. German authorities recently reexamined the case of acquisition of the German semiconductor company Aixtron by the Chinese company Fujian Grand Chip Conductor, on the basis of national security, which led to annulment of the deal. e con•13D••

Size of Government: Expenditures, Taxes, and Enterprises : 5.17

Government expenditure in Germany is stable, standing at 44.5% of GDP in 2016. It is close to the European average, between frugal countries in transition and lavish public spending in Scandinavian countries. Unlike most European countries, Germany has recorded low budget surpluses since 2012. Public debt has been decreasing slowly but steadily, to 67% of GDP in 2016, which is near the pre-crisis level. Unemployment is slightly above 4%, less than half of the Euro-zone level, while growth, although modest, is based both on higher domestic demand and external demand for exports. German government, apart of its regulatory role, is mostly not active in the economy. Majority of state-owned enterprises (SOE) are restricted mostly to public utilities. They are operated by municipalities, but there are several important companies in which federal

government has majority (train transportation) or minority stakes (post office, or telecom). This is evident in the banking sector where the state still holds equity in banks that encountered difficulties during the financial crisis almost a decade ago. Although SOEs comply with the same rules as private companies, and are faced by hard budget constraints, the rail company has a record of investigations by the European Commission or by the Federal Cartel Office for possible market power abuse. In order to sustain the overall high tax consumption, high tax rates are necessary. Corporate income tax is 15%, while VAT is set at 19%, with the reduced rate of 7%. Income tax is progressive, with rates from 14% to 45%. There is also a "solidarity tax" of 5.5% on both corporate and personal income. Coupled with high social contributions, this leads to the overall high labour tax wedge - Belgium is the only European country with a higher tax wedge than Germany.

Regulation of Credit, Labour, and Business : 6.65

Regulation in Germany is overall business friendly. Starting a new business is not burdensome, nor expensive, but it requires as much as 9 procedures. The minimum paid-in capital of 12 500 euro is very high. On the other hand, getting electricity is very efficient, and inexpensive, the same as obtaining a construction permit. All regulations are generally upheld, and corruption or favouritism by government officials in Germany is very rare. Although there are only 9 annual tax payments, taxation regulation proves to be very complex and burdensome for businesses, posing obstacles to their unhindered functioning. Licensing procedures remain effective obstacles to entry, limiting competition and increasing prices in many sectors of professional services, which also affects other EU nationals. Labour regulations pose another area in which there are serious constraints on private entities. Regulation of working hours is flexible, but in other areas it is not: maximum length of fixed contracts is limited to just 24 months, while redundancy regulations impose high costs, in that notice periods for redundancy staff and their severance pay increase with their tenure, leading to a higher protection of more seasoned workers. The role of trade unions and especially of the workers' councils is very prominent in those procedures. Social dialogue is strongly developed in Germany, with strong industry-specific collective bargaining. The general minimum wage that was for the first time introduced in 2015, abandoning prior industry-specific minimum wages determined through collective bargaining, was slightly increased in 2017 to 8.84 euro per hour.

Freedom to Trade Internationally : 8.7

Freedom of trade is generally respected in Germany. As one of the founding members of the European Union, Germany implements the common European trade policy with its low tariff rates that remain considerable only for some agricultural products. However, non-tariff barriers remain in place, in the shape of different standards and certifications. Customs administration is very efficient, keeping cost of border and document compliance low. Good public transportation infrastructure successfully lowers freight costs, allowing for higher volume of trade. Railway transportation is still under dominant influence of SOEs. Federal railways were several times under supervision for breaching competition regulation. Foreign trade is immensely important for German economy, with robust exports led by manufacturing goods and a high current account surplus. Main trade partners of Germany are other European countries, such as France, Belgium, the UK and the Netherlands. Future political and economic ties (especially trade arrangements) between the UK and the EU after Brexit will have strong influence on German trade. Germany, alongside France and Italy, filed a request to the European Commission in 2017 for the ability of EU member states to block FDI on the basis of reciprocity. The high net immigration rate has recently halted due to a fall in recorded refugees and asylum seekers.