Federal Administration

Julia Fleischer

1 INTRODUCTION

The federal administration in Germany is embedded in the system of executive federalism in its functions and main tasks (see the chapter by Behnke/Kropp) and its structures and procedures follow a Weberian ideal-type bureaucracy. It is strongly shaped by constitutional and codified rules, which guide the structures, competencies and interactions between the different actors. The key features of the German federal ministerial administration are its major focus on policy formulation and its hierarchical organisational structure, whereby duties and responsibilities are assigned to federal ministries and their officials as key actors. Policy formulation follows intra-ministerial and inter-ministerial coordination processes designed to express and arbitrate bureaucratic expertise while acknowledging the political context (see the chapter by Veit/Jann). Against this backdrop, the aim of this chapter is to present the formal framework of federal bureaucracy in Germany, its key organisational features, the patterns and dynamics of policy formulation and coordination as well as discuss previous and current attempts for reform.

J. Fleischer (✉)
University of Potsdam, Potsdam, Germany
e-mail: fleischer@uni-potsdam.de

2 THE FORMAL FRAMEWORK FOR THE FEDERAL ADMINISTRATION

The German Basic Law (*Grundgesetz*) acts as the ‘legal backbone’ for the key principles structuring the federal government and gives the federal government and its administration wide-ranging responsibilities in policy formulation, whereas the state and local levels mostly engage in policy implementation (Article 65 of the Basic Law; see the chapters by Ruge/Ritgen and Schrapper). A single Article of the Basic Law outlines the three key principles structuring the ‘constitutional framework of executive action’ (Mayntz 1980: 142):

The Federal Chancellor determines and is responsible for the general policy guidelines. Within these limits federal ministers conduct the affairs of their respective portfolios independently and on their own responsibility. The Federal Government decides as a collegial body on important matters, particularly concerning differences of opinion between federal ministers. (Article 65 of the Basic Law)

Although these three principles distributing the executive power between the leadership of the chancellor (*Kanzlerprinzip*), the cabinet (*Kabinettsprinzip*) and the departmental ministers (*Ressortprinzip*) are perceived to be in permanent imbalance, in practice the third is the most recognised and protected. In addition, two rulebooks further specify the work of the cabinet and the federal administration. For the cabinet, the ‘Rules of Procedure of the Federal Government’ (*Geschäftsordnung der Bundesregierung*—GOBReg; see GMBI 22.10.2002) are issued by the cabinet and approved by the Federal President in 1951 (Article 65 of the Basic Law), and for the federal ministries, the ‘Joint Rules of Procedure of the Federal Ministries’ (*Gemeinsame Geschäftsordnung der Bundesministerien*—GGO; see BMI 2011) are formulated in consultation with all other federal ministries, approved by the cabinet and issued by the Ministry of the Interior since 1958.

The constitutional principle of *leadership by the chancellor* is expressed in several chancellorial privileges that contribute to the German ‘chancellor democracy’ (Hennis 1964). They include the chancellor’s right to recommend the appointment and dismissal of federal ministers to the Federal President (Article 64 of the Basic Law). Although the chancellor may also engage in portfolio allocation and therefore determine the number, remit

and size of federal ministries, in practice these processes are strongly shaped by coalition governance and the chancellor has limited influence over the political dynamics of portfolio allocation and ministerial (de-) selection, especially for those cabinet positions held by her/his own party. However, chancellors do have the prerogative to issue organisational decrees in order to organise the federal government (*Organisationserlass der Bundeskanzlerin*, Article 65 (1) of the Basic Law; Lehnguth and Vogelgesang 1988). These decrees are often issued after general elections and express the compromise of coalition parties in reallocating portfolios and the corresponding transfer of policy jurisdictions across federal ministries and agencies (see Table 5.1).

Since 1951, German chancellors have issued a total of 45 organisational decrees. The number of decrees issued per legislative period has fluctuated between zero and five, with the highest number after German reunification in 1991. The number of decrees issued by chancellors has slightly increased over time, particularly during the 1990s and early 2000s. That said, since the late 2000s, the chancellor has only issued one organisational decree per legislative period. In addition, the chancellor is responsible for formulating general policy guidelines, which are, inter alia, expressed in government declarations before parliament. In practice, these declarations are often prepared jointly by the chancellery and the affected federal ministries, and either summarise departmental policy initiatives or declare and explain changes to previous departmental policies. In practice, the chancellor's prerogative to draw up general policy guidelines is often used rather as an 'authority reserve' (Holtmann 2008) than a provision of policy goals that cabinet ministers and federal ministries are supposed to follow. Instead, coalition government, party competition, the relevance of the parliamentary parties and the departmental and cabinet principle limit this prerogative. One exception to this overall pattern is foreign and EU policy, where the principle of the chancellor providing general policy guidelines is more regularly applied (Nielauß 1988). However, even with German chancellors becoming increasingly engaged at the international and supranational level, these policies are still most often prepared between the chancellery and affected ministries, most notably the Foreign Office.

The constitutional principle of *leadership by the cabinet* refers to the collective responsibility for government decisions and is further codified in the GOBReg. German cabinet decisions are not prepared and predetermined in cabinet committees, albeit a few of these committees do exist. Instead, the cabinet's agenda is mostly discussed in advance between

Table 5.1 Chancellor's organisational decree of 14 March 2018

In accordance with Section 9 of the Rules of Procedure of the Federal Government, I order with immediate effect:

I.

The Federal Ministry for the Environment, Nature Conservation, Construction and Nuclear Safety receives the denomination Federal Ministry for the Environment, Nature Conservation and Nuclear Safety.

II.

The Federal Ministry of the Interior shall be given the denomination Federal Ministry of the Interior, for Construction and Community.

III.

The Federal Ministry of the Interior, for Construction and Community receives

1. from the portfolio of the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety the responsibilities for construction, construction industry and federal buildings, for urban development, housing, rural infrastructure and public building law, for the urban development matters of the spatial planning and demographic change;

2. from the portfolio of the Federal Ministry of Transport and Digital Infrastructure the responsibilities for spatial planning, the federal spatial planning plan, flood protection, European spatial development policy, territorial cohesion and demographic change.

The transfers of competences include their related European and international issues as well as general and strategic issues.

IV.

The Federal Chancellery shall receive from the portfolio of the Federal Ministry of the Interior, for Construction and Community the responsibilities for the IT management of the federation, for the IT Council secretariat, and for the joint IT of the federation.

V.

Number I. of the Federal Chancellor's Organizational Decree of 3 May 1989 (BGBl. I p. 901) is worded as follows:

The Federal Intelligence Service is subordinated to the head of the Federal Chancellery. Its representative is a state secretary or a head of department in the Federal Chancellery.

VI.

The details of the transition shall be agreed between the federal government members involved and notified to the head of the Federal Chancellery. The transfer of responsibilities under III.1. corresponds regarding its resources to the agreement of 22 May 2014 between the Federal Ministry for the Environment, Nature Conservation, Construction and Nuclear Safety and the Federal Ministry of Transport and Digital Infrastructure for the implementation of the Organisational Decrees of the Federal Chancellor of 17 December 2013.

Source: Federal Law Gazette (BGBl.) 2018, Part I, No. 10, p. 374

cabinet members, and the cabinet acts rather as a certification body. Hence, informal party bodies oftentimes manage the cabinet's agenda, especially the 'coalition committee', comprising the senior figures from the coalescing parties in government. Controversial issues are solved by

the cabinet, although the chancellor may chair a meeting of affected ministers prior to cabinet meetings (Section 17 GOBReg). Hence, the first arbiter for conflicts between cabinet ministers is the cabinet, with the chancellor playing a pivotal role in achieving a compromise. In practice, such conflicts are often solved by either re-defining the subject and thereby changing the number of affected ministries or by scheduling a coalition meeting, if ministers from different parties are involved. Formally the cabinet decides by majority—unless the chancellor rejects the majority decision with reference to the chancellor principle. By convention, German cabinet ministers rarely criticise their cabinet colleagues' proposals if their own jurisdiction is not affected. More generally, the cabinet mostly ratifies decisions already made via inter-ministerial coordination, or compromises moderated by the head of chancellery, and by various bodies of coalition governance.

The constitutional principle of *leadership by departmental ministers* addresses the individual ministerial responsibility of cabinet ministers for their ministry—which they conduct 'independently' and 'on their own responsibility' (Article 65 of the Basic Law). In general, the GOBReg assigns further competencies to cabinet members. The Minister of Finance enjoys a 'qualified veto' that 'can only be overruled by a simple majority in the cabinet supported by the Chancellor' (Section 26 (1) GOBReg). Similarly, the Minister of the Interior and the Minister of Justice may veto cabinet decisions if existing legal or constitutional regulations are violated (Section 26 (2) GOBReg). Furthermore, the GGO allocates responsibilities across ministries and thus shapes the exercise of ministerial responsibility for departmental ministers. The Ministry of the Interior and the Ministry of Justice must be involved in examining all legal norms for compatibility with the Basic Law and in all other cases where doubts arise as to the application of the Basic Law (Sections 45 (1) and 46 GGO). Furthermore, the Ministry of Justice participates in preparing the draft legislation (Section 46 GGO). The Ministry of Finance must give its consent in the case of provisions on taxes and other duties, or if the income or expenditure of the federation, the *Länder* or local governments is affected (Section 51; Annex 6.4 GGO). In addition, many other ministries must be consulted nowadays regarding specific issues affecting its portfolio, ranging from gender mainstreaming to regulatory impact assessment (Annex 6.9 GGO).

German cabinet ministers have no individual responsibility to parliament. Given that cabinet reshuffles are rare events, they are widely

regarded to acquire a departmental perspective in office. At the same time, they enjoy a high level of managerial autonomy and are responsible for policies within their own jurisdiction. However, departmental ministers only rarely undertake policy initiatives personally, and these initiatives are often limited to policies stipulated in the coalition agreement or confined to crises or highly sensitive and publicly debated issues, responses to critics of the ministry or issues suggested by the parliamentary party, the cabinet or influential political personalities (Mayntz and Scharpf 1975: 91). If a policy initiative is launched by the political top level, it receives utmost attention by line officials. The vast majority of the government's policies, however, is initiated and prepared by ministry officials. Following the notion of the departmental principle, they seek to implement and follow their ministry's policy agenda.

3 ORGANISATION OF THE FEDERAL ADMINISTRATION: MINISTRIES AND AGENCIES

More generally, the German federal administration is strongly shaped by the so-called *Rechtsstaat* tradition (Ziller 2008), which emphasises the rule of law and puts legal and formal conditions at the heart of the structure and organisation of government (see the chapter by Sommermann). Accordingly, formal processes, rules and directives apply and provide considerable stability to the administrative apparatus (e.g. König 1991). Moreover, bureaucratic decisions are to be taken in an objective, equitable, impartial and legal-rational manner (Ziller 2008; see the chapters by Zickow and Mehde). It follows that the federal administration is organised in a quasi-judicial fashion and enjoys at the same time strong continuity, which increases the predictability of bureaucratic behaviour in coordination processes.

As a consequence of the state structure and the corresponding distribution of competencies in executive federalism, the size of the federal administration is relatively small, yet it is a highly specialised and fragmented central government organisation. The current federal government comprises 14 federal ministries and the chancellor's office (see Table 5.2). The number of federal ministries is comparatively stable, ranging from 19 in the 1960s to 13 in the early 2000s. The internal organisation of these federal ministries and its subordinated agencies is often portrayed to resemble a Weberian ideal-type bureaucracy, characterised by a

Table 5.2 Federal ministries as of November 2019

Federal Ministry of Finance
Federal Ministry of the Interior, for Building and Community
Federal Foreign Office
Federal Ministry for Economic Affairs and Energy
Federal Ministry of Justice and Consumer Protection
Federal Ministry for Labour and Social Affairs
Federal Ministry of Defence
Federal Ministry for Food and Agriculture
Federal Ministry for Family Affairs, Senior Citizens, Women and Youth
Federal Ministry for Health
Federal Ministry for Transport and Digital Infrastructure
Federal Ministry for the Environment, Nature Conservation and Nuclear Safety
Federal Ministry for Education and Research
Federal Ministry for Economic Cooperation and Development

Source: Federal Cabinet [2018](#)

hierarchical set-up that promotes specialisation and the clear allocation and development of sectoral expertise, while simultaneously contributing to fragmentation and its unintended consequences for coordination.

According to the chancellor principle, the *chancellor's office* (or Federal Chancellery) acts as the main coordination body within the federal administration. Yet, it is less powerful than other government headquarters because of the strong departmental principle and the notion of ministerial responsibility (Fleischer [2011](#); see Fig. 5.1). The head of the chancellery acts as key coordinator of the federal government, formally he/she also sets the agenda for cabinet meetings and is often involved in arbitrating inter-ministerial conflicts if they reach the cabinet level (see below). However, the chancellery seldom intervenes in the cabinet agenda based on its own policy interests. Instead, cabinet governance and senior party members in government act as crucial agenda-setters for the cabinet.

In accordance with the role of the chancellery as key coordinator and arbiter of potential inter-ministerial conflicts, the chancellery is composed of seven directorates, which incorporate a range of units that ‘mirror’ the various federal ministries (*Spiegelreferate*; see Fleischer et al. [2018](#)). However, only four directorates truly mirror the rest of the federal administration, while the other three directorates are engaged in EU policy, digitalisation and innovation, and in supervising the intelligence services (as one of the few original tasks of the chancellery and servicing the federal commissioners for the intelligence services located at the chancellery).

Fig. 5.1 Organisational chart of the federal chancellery as of April 2018

The key task of these mirror units is to proactively engage with the mirroring ministry on its policy proposals prior to cabinet meetings. This includes regular communication and comment, but cannot include a hierarchical request for distinct substantial or other elements of these policy proposals. To facilitate these interactions, officials working in these mirror units are often on secondment from the very ministry that the unit is mirroring. These positions are regarded as springboards for faster promotions in the parent ministry.

The *federal ministries* follow the Weberian ideal-type bureaucratic organisation and are headed by a minister, that is, a political executive who is usually a senior party member. The German ministers are rarely outsiders to the political arena and thus only a few lack a party affiliation and are from the private sector. The federal ministries follow a strong division of labour and a strong hierarchical line organisation.

As a multi-layered branching hierarchy, they are made up of several layers of formal levels with their own types of units, namely the level of *directorates* directly subordinated to the political leadership, the *sub-directorates* and the *divisions*, which can be regarded as the ‘backbone’ of the federal administration and the core units of policymaking. Besides, each federal ministry incorporates a specific directorate responsible for its internal administration, including human resources, budgeting, legal affairs and so on (coined ‘Z Directorate’). Despite the widespread notion of the German federal administration following Weberian ideals, several rather unorthodox types of units can be identified inside the federal ministries as well. These include working groups, staff units tasked with particular responsibilities as well as e.g. federal commissioners and their support units (see Fleischer et al. 2018). More importantly, every German federal ministry hosts a leadership staff unit (*Leitungsbereich*) that is directly subordinated to the minister and engages in various functions and tasks, including policy advice, communication and press relations, and liaison with parliament and the cabinet (see Hustedt 2013). These leadership staff units have grown over the past decades and are mostly occupied by ministry officials rotating into these positions from the line organisation.

The minister is politically supported by one (or more) ‘parliamentary state secretaries’ who is not part of the internal hierarchical structure, but is a member of parliament and thus often represents the minister in parliament and elsewhere. In contrast, the administrative top officials are called ‘administrative state secretaries’ and often recruited through internal promotions. Together with their directly subordinated heads of directorates,

they represent the class of ‘political civil servants’, which are the formalised group of political appointees acting as a ‘transmission belt’ (Hesse and Ellwein 2012) that transmits political signals to the line bureaucrats and bureaucratic expertise to the political executives. A federal law enumerates the ranks in the federal administration allowing for such political recruitments and includes the heads of several federal agencies (Section 30 (1) *Beamtenstatusgesetz*).

Germany has a long tradition of *federal agencies* dating back to Prussian times when these organisations were created as the predecessors of the first government authority that later developed into the ministries. Currently, roughly 90 federal agencies exist, employing more than 90 percent of the federal bureaucratic workforce (Bach 2010). Federal agencies differ in their mandates and tasks: only very few are regulatory agencies with a strong regulatory authority, such as the Federal Competition Authority, the Federal Financial Supervisory Authority and the Federal Network Agency. Given that the federal administration implements very little policy, federal agencies are not usually involved in service delivery. Instead, they often provide policy advice and expertise or may perform administrative tasks and support functions (see the chapter by von Knobloch). However, the federal agencies often enjoy considerable autonomy vis-à-vis their supervising ministry, and, in contrast to other countries, the German federal administration has not set up a specific procedure for monitoring agencies or binding them to particular objectives (in the sense of a contract and contract management; see BMI 2008).

4 PRACTICES OF COORDINATION AND UTILISATION OF EXPERTISE

Despite the various constitutional and codified rules on the organisation of the federal government and administration that follow the German *Rechtsstaat* tradition and its demands for rule-bound behaviour (see the chapter by Sommermann), the German administrative practice at federal level is also strongly oriented towards cooperative administration (Benz 1994) and well prepared and accustomed to negotiating and bargaining, which is very visible at all levels of the inter-ministerial coordination process. At the same time, the federal administration seeks to include expertise from external actors in the inter-ministerial coordination process and has, therefore, established various means to organise this knowledge production.

4.1 *Levels and Patterns of Inter-ministerial Coordination*

The inter-ministerial coordination in the German federal administration can be distinguished into four ideal-typed dimensions that involve different actors and take place in different arenas. Firstly, in accordance with the departmental principle, line ministries prepare primary and secondary legislation, which is strongly shaped by the provisions of the Joint Rules of Procedure and mostly driven by ministry officials. Secondly, the executive coordination process unfolds within a distinct political context with strong dynamics of party competition. Hence, the leadership staff units within the federal ministries provide a genuine additional coordination loop. Thirdly, and in a similar vein, political appointees perform a crucial role in moderating and arbitrating bureaucratic expertise with political requests; they also prepare cabinet meetings and thus act as crucial gatekeepers for policy proposals to be dealt with in the cabinet. Lastly, the cabinet level itself provides various arenas that are either open to all members or exclusive to some cabinet members.

At the outset, the GGO stipulates the formal requirements for inter-ministerial policymaking by prescribing ‘ministry drafts’ (*Referentenentwürfe*) as key products (Section 45 (4) GGO). Accordingly, one ministry sponsors each initiative (*Federführung*) and ensures that all the other ministries concerned with the issue are consulted via co-signature (*Mitzeichnung*; Section 15 GGO). In practice, the ministry with the broadest jurisdiction on the issue usually serves as lead ministry; in cases of conflict over leadership, the cabinet decides. Moreover, the rules prescribe the formal inclusion of external stakeholders and organised interests as well as the German *Länder* and municipalities. The majority of policy proposals is prepared by ministry officials following these rules of taking the lead or co-signing a policy proposal initiated by another ministry. It is the prerogative of the lead ministry’s unit to decide which external actors to involve and how—yet following the aforementioned rules of always engaging with the *Länder*, municipalities and organised interests.

The typical pattern of inter-ministerial *coordination by ministry officials* can be described as ‘negative coordination’ (Mayntz and Scharpf 1975), whereby policy drafts presented by the lead ministry’s responsible unit to the units in the other ministries as co-signatories are primarily evaluated for their potential (negative) impact on these co-signing units’ remit and areas of responsibility. Negative coordination prevails as the most common coordination pattern because it serves both a need for keeping transaction costs at a reasonable level for all units involved and an opportunity

for co-signing units to express concerns and request changes if the policy draft violates their turf or contradicts their own existing and future policies. By contrast, ‘positive coordination’ refers to multilateral policymaking that involves all units potentially affected at the earliest stage possible and allows for discussion and deliberation on alternative actions. However, such processes are rather difficult to set up and conduct, as they require comparatively more resources and levels of trust between the participants—and they are not necessarily prone to result in solutions that can be presented to political superiors and the cabinet.

Moreover, the number of ministerial drafts that federal ministries navigate through the inter-ministerial coordination process differ considerably (see BT 2019). Of the 547 bills issued to parliament by the federal government during the past legislative period (2013–2017), the Ministry of Justice and Consumer Protection issued the highest share (18.1 percent), followed by the Ministry of Finance (17.6 percent) and the Ministry of the Interior (13.3 percent). The smallest number of bills (namely three) was issued by the Ministry for Economic Cooperation and Development (Deutscher Bundestag 2019). It follows that some ministries are more often involved in inter-ministerial coordination than others, not only as lead ministries (as the numbers above illustrate) but also as co-signing ministries. In addition, the timing of cabinet proposals has become more crucial over time. Given the German federal and electoral system, the federal elections are synchronised neither with elections at the state (and local) level nor with the elections to the European Parliament. Under current governing conditions with a coalition government in office that negotiated its legislative programme only after initial coalition talks between different parties failed, political contestations spill down to arenas at the lower levels of inter-ministerial coordination.

The level of *political appointees* performs a crucial transmission function between the bureaucratic expertise embedded in the line hierarchy of ministries, on the one hand, and the political demands and objectives of political executives, on the other. Accordingly, political appointees are the key gatekeepers for policy proposals prepared by ministry officials and also act as negotiators and as ‘final resort’ in inter-ministerial conflicts before the political level; that is, before ministers under the moderation of the head of chancellery get involved themselves. The key arena for political appointees to clear inter-ministerial conflicts that could not be resolved by departmental officials is their preparatory cabinet meeting under the chairmanship of the head of the chancellery, which is held a day before cabinet meetings.

The meetings are restricted to one administrative state secretary per ministry, although many federal ministries have two or three of these top officials. At the same time, the cabinet agenda can be rather wide-ranging, and it can happen that the representative of the ministry is not the top official heading the branch of the ministry that has been involved in preparing the policy proposal.

Those *arenas at the cabinet level* open to all cabinet members include cabinet committees as well as the cabinet meeting itself. Cabinet committees do not play a strong role in the German federal administration (compared to other European countries). They allow, however, for bringing together a set of federal ministries with responsibilities in a distinct policy issue and for evaluating policy proposals in a more comprehensive manner. Moreover, they are often supported by the distinct group of political appointees (administrative state secretaries and directors-general) that prepares and transmits the cabinet committee's work to the line hierarchy of affected ministries. A few cabinet committees have gained attention, including the current cabinet committee on digitalisation as well as the cabinet committee for climate protection. Hence, cabinet committees may also signal and communicate the cabinet's prioritisation of distinct issues or express the necessity to deal with broader cross-cutting issues in a more comprehensive manner. Moreover, the cabinet meeting itself may serve as a coordination arena.

Besides, the inter-ministerial coordination at the cabinet level also unfolds in arenas that are exclusive and only allow participation of a distinct group of cabinet members. In addition to the aforementioned arbitrations necessary to reach policy compromises, which are moderated by the head of chancellery and, thus, only invite those departmental ministers involved in the conflict, other arenas have been established, especially over the past legislative periods with grand coalitions between the Conservatives (Christian Democratic Union (CDU) and Christian Social Union (CSU)) and the Social Democrats (SPD) in office. For each of the three parties, a genuine arena has been established exclusively for their ministers in office in order to prepare policy coordination among those ministries led by the party. These arenas for party-driven coordination are also present in other areas of the German executive federalism system, most notably to prepare Bundesrat meetings involving *Länder* governments and administrations (see the chapter by Behnke/Kropp). For the federal government and administration, however, they are rather novel, as they separate all three parties in the cabinet rather than offering a combined arena for at least

those ministers from the CDU/CSU acting in parliament as a joint parliamentary group (*Fraktionsgemeinschaft*). Each of the three arenas is supported by an administrative state secretary who serves as a gatekeeper and involves subordinated ministry officials for monitoring and drafting policy ideas.

4.2 *External Expertise in Inter-ministerial Coordination*

Next to the highly specialised and well-equipped bureaucratic workforce inside the federal ministries and federal agencies, the federal ministries also generate and incorporate external expertise into their inter-ministerial coordination activities in various ways. Firstly, ministries establish and maintain *permanent advisory bodies and councils*. These advisory bodies may take different forms (see Fleischer 2015). Over the past decades, several cabinets have been particularly active in creating novel advisory bodies, especially the first Brandt cabinet in the late 1960s, but also the aftermath of the German reunification witnessed an increase in such advisory arrangements. A closer sectoral examination shows that a disproportionately large number of advisory bodies was set up in the areas of the interior, environment, health, food and consumer protection, while significantly fewer advisory bodies were established in the areas of economic cooperation, post and telecommunications, and justice (ibid.). The most prominent permanent advisory bodies include the German Council of Economic Experts (*Sachverständigenrat zur Begutachtung der gesamtwirtschaftlichen Entwicklung*) and the German Advisory Council on the Environment (*Sachverständigenrat für Umweltfragen*), which advise the corresponding ministry, generate data and produce reports on a regular basis.

The cabinet or individual ministers will occasionally establish ad hoc or *temporary expert commissions* to provide policy advice, often on major policy reforms or complex and cross-cutting issues that benefit from the generation and inclusion of external knowledge and advice. However, a crucial function of both permanent and temporary commissions is also the creation of legitimacy for distinct policy compromises or the utilisation of these bodies as a magnet for blame. The current coalition agreement has announced almost 20 new temporary commissions to address various policy issues and topics in its coalition agreement. In rare instances, these expert commissions are set up as an executive inquiry into policy scandals (see Fleischer 2016). Yet, the impact of these experts in permanent and

temporary arrangements is often unclear. Nevertheless, even though many of these bodies produce reports that may lack an immediate impact, they are often incorporated into political debates within the government and between government and parliament, or are made available to the general public.

Lastly, the German federal administration had already introduced tools of evidence-based policymaking in the 1970s. Since 2000, a *regulatory impact assessment* (*Gesetzesfolgenabschätzung*, GFA) has been required for every draft bill presented to parliament (via revision of the GGO; see the chapter by Kuhlmann/Veit). The GFA process assesses the intended and unintended effects of policy drafts and potential policy and instrumental alternatives. In 2009, the GFA was extended by incorporating the sustainability impact assessment into the GGO, thus stipulating the evaluation of potential environmental, economic and social consequences of all policy drafts submitted to parliament. As part of this sustainability impact assessment, all policy proposals must be assessed for their long-term consequences for Germany's National Sustainable Development Strategy and the UN Sustainable Development Goals.

5 THE GERMAN FEDERAL ADMINISTRATION AS A RELUCTANT YET MOSTLY UNCONCERNED REFORMER

The formal responsibilities for reforming the federal administration are scattered across the federal ministries. Despite some central tasks allocated to the Ministry of the Interior, especially in regulating the civil service, each ministry has its own directorate responsible for its internal administration—and thus also for its potential internal reforms. In other words, federal ministers are expected to exercise responsibility for their own ministry by managing its human resources, internal organisation and budget as well as its analogue and digital resources largely autonomously. Consequently, government-wide reforms are not put forward by a single key actor or by the chancellery. More importantly, given the federal state structure and corresponding assignments of tasks and functions, the federal administration is not as involved in service delivery as its counterparts in other countries and thus does not benefit directly or as much from potential reforms of its inner structures and procedures as other administrations. Nevertheless, two dynamics can be identified as recent reform trends at the federal level: on the one hand, the current scheme of regulatory impact assessment and sustainability impact assessment, which is

wide-ranging and well-equipped, also in comparison with other countries (see above), and, on the other hand, the digital transformation of society and administration, which is also putting pressure on the federal administration to introduce reform measures.

More generally, the recently advanced debate on the digitalisation of federal bureaucracy has indicated some reluctance to change existing structures and procedures (see the chapter by Mergel). A team explicitly coined ‘the agile team’ (Tech4Germany) that was originally set up as a temporary unit has very recently been extended and affiliated to the head of chancellery. Its task is to support and identify suitable digitalisation initiatives across the federal administration. Similarly, the federal ministries are now involved in so-called digitalisation labs bringing together federal, state and municipal actors as well as external actors and end-users in order to increase the acceptance of jointly developed solutions for the digitalisation of distinct public services, which the federal government committed itself to, namely to offer these services by the end of 2022 (Online Access Act 2017). In addition, other rather unorthodox organisational arrangements can be observed, mostly on a temporary basis. These include teams and working groups on digitalisation and digital topics; for example, the Ministry for Labour Affairs has an internal ‘think tank’ (*Denkfabrik*) experimenting with novel ways to organise its bureaucratic work. They also include policy labs for piloting novel ideas in the realm of digital transformation, for example, in the Ministry of Transport and Digital Infrastructure to discuss the future of mobility. Besides these more structural innovations, some procedural innovations can also be observed, for example, the piloting of artificial intelligence (AI)-supported crises prediction simulations in the Foreign Office and the Ministry of Defence, or the numerous online platforms to invite and incorporate external actors more strongly into policy design. Yet, as mentioned above, these initiatives are rather piecemeal and rely heavily on the support of the ministry’s political leadership as well as the initiative of line officials to foster innovative ways for executive decision-making and coordination. At the same time, the German federal government is not as advanced as other European governments in utilising and providing open data.

6 LESSONS LEARNED

The German federal administration is governed by various formal frameworks that result in a firm and hierarchical organisational structure supporting the principles of leadership by the chancellor and the cabinet, but especially the principle of leadership by individual cabinet ministers. This crucial departmental principle also strongly influences the practices of coordination and puts the key policy work inside the highly specialised federal ministries. These ministries rely not only on their highly skilled workforce but also on delegated agencies and their generation of expertise and information as well as external expertise. Following the distribution of competencies and the resulting lack of pressure for reform (as the federal level does not deliver very many services directly to the citizens), the federal administration has widely maintained its organisational and procedural patterns of federal policymaking over time. The more recent digital transformation, however, increases the need for adaptation in the rather fragmented patterns of policymaking in and by the federal administration.

REFERENCES

- Bach, T. (2010). Policy and Management Autonomy of Federal Agencies in Germany. In P. Lægreid & K. Verhoest (Eds.), *Governance of Public Sector Organizations: Proliferation, Autonomy and Performance* (pp. 89–110). London: Palgrave Macmillan.
- Benz, A. (1994). *Kooperative Verwaltung: Funktionen, Voraussetzungen und Folgen*. Baden-Baden: Nomos Verlagsgesellschaft.
- Bundesministerium des Innern (BMI). (2008). *Grundsätze zur Ausübung der Fachaufsicht der Bundesministerien über den Geschäftsbereich*. Berlin.
- Bundesministerium des Innern (BMI). (2011). Joint Rules of Procedure of the Federal Ministries (GGO). Retrieved from https://www.bmi.bund.de/SharedDocs/downloads/EN/themen/moderne-verwaltung/ggo_en.pdf?__blob=publicationFile&v=1.
- Deutscher Bundestag (BT). (2019). *Datenhandbuch zur Geschichte des Deutschen Bundestages seit 1990*. Retrieved from <https://www.bundestag.de/datenhandbuch>.
- Federal Cabinet. (2018). *Official Order of Precedence for the Federal Ministers and Rules for Reciprocal Representation by Members of the Government*, 14 March 2018.

- Fleischer, J. (2011). Steering from the German Centre: More Policy Coordination and Fewer Policy Initiatives. In B. G. Peters, J. Pierre, & C. Dahlström (Eds.), *Steering from the Centre: Strengthening Political Control in Western Democracies* (pp. 54–79). Toronto, ON: University of Toronto Press.
- Fleischer, J. (2015). Organisierte Expertise und die Legitimation der Verwaltung: Sektorale und strukturpolitische Dynamiken der Gremienlandschaft auf Bundesebene. *der moderne staat*, 8(2), 315–335.
- Fleischer, J. (2016). Accountability under Inquiry: Inquiry Committees after Internal Security Crises. In T. Christensen & P. Lægread (Eds.), *The Ashgate Research Companion to Accountability and Welfare State Reforms in Europe* (pp. 180–193). Surrey: Ashgate.
- Fleischer, J., Bertels, J., & Schulze-Gabrechten, L. (2018). *Stabilität und Flexibilität. Wie und warum ändern sich Ministerien?* Baden-Baden: Nomos-Verlagsgesellschaft.
- Hennis, W. (1964). *Richtlinienkompetenz und Regierungstechnik*. Tübingen: Mohr.
- Hesse, J. J., & Ellwein, T. (2012). *Das Regierungssystem der Bundesrepublik Deutschland* (12th ed.). Opladen: Westdeutscher Verlag.
- Holtmann, E. (2008). Die Richtlinienkompetenz des Bundeskanzlers—kein Phantom? In E. Holtmann & W. J. Patzelt (Eds.), *Führen Regierungen tatsächlich? Zur Praxis gouvernementalen Handelns* (pp. 73–84). Wiesbaden: VS Verlag für Sozialwissenschaften.
- Hustedt, T. (2013). *Ministerialverwaltung im Wandel: Struktur und Rolle der Leitungsbereiche im deutsch-dänischen Vergleich*. Baden-Baden: Nomos-Verlagsgesellschaft.
- König, K. (1991). Formalisierung und Informalisierung im Regierungszentrum. In H.-H. Hartwich & G. Wewer (Eds.), *Regieren in der Bundesrepublik—Formale und informale Komponenten des Regierens* (pp. 203–220). Opladen: Leske + Budrich.
- Lehnguth, G., & Vogelgesang, K. (1988). Die Organisationserlasse der Bundeskanzler seit Bestehen der Bundesrepublik Deutschland im Lichte der politischen Entwicklung. *Archiv des öffentlichen Rechts*, 113(4), 531–582.
- Mayntz, R. (Ed.). (1980). *Implementation politischer Programme I*. Königstein, Ts: Verlagsgruppe Athenäum.
- Mayntz, R., & Scharpf, F. W. (1975). *Policy-Making in the German Federal Bureaucracy*. Amsterdam; New York: Elsevier.
- Niclaß, K. (1988). *Kanzlerdemokratie. Bonner Regierungspraxis von Konrad Adenauer bis Helmut Kohl*. Stuttgart: Kohlhammer.
- Ziller, J. (2008). The Continental System of Administrative Legality. In B. G. Peters & J. Pierre (Eds.), *Handbook of Public Administration* (pp. 167–175). London: Sage.

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