

# Historical legacy and recent developments in the German higher civil service

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## Introduction

Civil service systems in advanced industrialized societies are the product of historical tradition and periodic attempts to reform and reshape them. While the *tradition* of a civil-service system predetermines the developmental 'grammar', attempts to *reform* a civil-service system respond to subjectively perceived needs to meet new functional demands on the system emanating from the environment of the civil service. Reform motives may originate in the socioeconomic environment and aim at changing the output of a system by increasing its professional expertise; not infrequently, however, they are triggered from within the political system with the aim of enhancing the capacity for political control. Furthermore, *civil-service change may occur unnoticed* for a certain period of time, until counteraction is taken or the new status is codified and legitimized. At the other extreme, *revolutionary change* that breaks with the inherited code occasionally takes place.

Whereas some Commonwealth countries are presently experiencing (administrative and) civil-service reforms emphasizing *managerialism* in running public affairs (Aucoin, 1988; 1990), this has not been a recent topic in Bonn, although the present coalition government has been a member of the international neo-conservative alliance since 1982 and has joined in the chorus for privatization (König, 1988). Nor is there any bureaucrat-bashing by politicians or the public. The status of the civil service and its principles of training, recruitment and performance have not basically changed in West Germany since its rebirth in 1949. Furthermore, government and opposition politicians in Bonn have repeatedly appreciated the professional performance of the ministerial bureaucracy in drafting the complex unification treaty with East Germany. This unchallenged position of the German civil service should be put into a historical perspective in a twofold way. First the German professional civil service is a product of the eighteenth century and it has undergone several adjustments and revolutionary changes during its roughly 200 years of existence. Second, the re-unification of Germany, following the implosion of the East-German state, poses problems of a

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secular dimension for the civil service in the unified country. Transition from one regime to the other may — at a first glance — appear simple in field offices.<sup>1</sup> Max Weber had already sarcastically remarked after the 1918 revolution that a fully developed bureaucracy, because of its functional indispensability in modern societies, normally carries on working for the victors and conquerors in the same way as it had done under the old regime. The situation in Germany today, however, is slightly different, in particular for the *higher* civil service in the country. This is because after 1945 East Germany broke with the traditional civil service. In order to put the present problems in context, I shall therefore refer to the historical heritage of the German civil service in section 2, focusing on *expertise and loyalty* as its two dominant imperatives. For, whatever the kind of change, revolutionary or planned, contemporary civil service systems are under pressure to find a balance between the functional imperatives of securing professional expertise and political responsiveness.

In section 3 the kind of expertise bred in the post 1949 West-German civil service will be discussed. By inspecting the training and career patterns of the federal administrative elite, a subtle change in the kind of expertise on which the federal bureaucracy is relying will become visible, that would go unnoticed if one merely analysed the stable civil service code. These trends point to increased importance for economic training, mixed external and internal careers as well as growing party politicization.

Section 4 will deal with the leitmotiv of expertise and loyalty from a subjective point of view as surveyed in the administrative elite in 1970 and 1987. These data enable us to investigate change during the very seventeen years when the emergence of managerialist thinking took place in other countries. Although training in economics and the in-house training programmes of the 1970s, which included management practice, should predispose the administrative elite in Bonn to emphasize managerialist job requirements, the data reveal a reverse trend consistent with weak technocracy allied with a pronounced political role.

The final section will indicate some of the measures taken to integrate the East-German public service into the traditional structure; the question will also be posed as to what the long range impact of the adaptation process might be on the entire civil-service system.

### **Civil service principles in retrospect**

The institutionalization of a professional civil service in Germany can be dated back (Siedentopf, 1983) to the codification in 1794 of the Prussian 'general law' (Allgemeines Preußisches Landrecht), a sort of constitution, which specified the duties and rights of the king's servants, redefined their role as public servants and established labour relations with 'the state' in terms of public law. With variations among the German principalities, it took yet another thirty years, for the additional essential features of the professional civil service, as we know it today, to develop; in particular before safeguards against arbitrary dismissal were legislated in disciplinary codes (1823) thus granting *de facto* lifelong

tenure. In addition pension rights were guaranteed (1825) and access to the civil service was regulated, with university training specified for the higher civil service. In 1873, after the declaration of the second German Reich, the civil service code, which was largely based on the Prussian codifications, became law. Just as the Prussian civil-service code had survived the 1848 revolution, the 1918 revolution not only preserved the professional civil service as an institution, but even granted it constitutional status. This tradition of the first German republic was revived, when Article 33, Section 5, of the 1949 federal constitution declared that the civil service should be ruled by its 'traditional principles', which, according to the reaffirmed jurisdiction of the constitutional court, implies the principles valid in 1919 and even in 1873. Since 1949 during the second republic, there has only been one basic attempt to reform the structure of the civil service, when between 1969 and 1973 the then social-liberal government set up a reform commission to revise the civil service. One of the aims of the reform was to abolish the distinction between civil servants proper and public employees whose terms of employment are regulated not by law, but negotiated as in normal labour relations. To abolish the distinction between these two status groups and the resulting duality of the public service, the constitution would have had to be changed, but the required two-third majority to do so was not available, because the Christian-Democrat opposition in the Bundestag and federal chamber (Bundesrat) supported the objections of the German civil service association (Deutscher Beamtenbund).

Therefore, the roughly 1.8 million civil servants of federal, Länder<sup>2</sup> and local governments enjoy a different status from that of the 2.7 million public employees predominantly engaged in clerical jobs and the health service, and the labourers. The traditional principles comprising the allegedly privileged *civil service* status are:

— guarantee of the institution of the civil service as such; unilateral regulation of status and salary by law as well as unilateral individual public law contracts; some restrictions on basic rights (e.g. the right to strike and the right to protect one's life as in the police!)

— protection and support by the state, which ensures that civil servants' pensions and health care are paid out of taxes (as opposed to the social insurance system of public employees);

— the obligation of the civil servant to devote his or her full work capacity to 'the state', to be politically loyal to the constitution and to observe party political neutrality when in office; and

— a career system (as opposed to job staffing for employees) and lifelong tenure; achievement principle in recruitment and promotion.

These principles, some of which can hardly conceal their origin in the patrimonial state, are specified in federal legislation and subsequent legislation for federal and Länder officials by the respective parliaments. Clearly, the last two sets of principles are of special importance to the present discussion; they were already reflected in Max Weber's concept of bureaucracy.

In contrast to the persistence of the traditional civil service in the West after the catastrophe of the Nazi regime, the institution of the civil service in East Germany was abandoned after 1945 in a revolutionary move and replaced by a uniform system of labour relations, which no longer differentiated between public functionaries, including cadres of the Communist Party, and 'peasants and labourers'. It goes without saying that the nomenclatura, the 'new class', knew how to grant themselves privileges. Furthermore, the notion of neutral execution of office, like the overarching concept of Rechtsstaat, was alien to the communist system, while loyalty to the party and explicit partisanship for the case of 'the masses' was the ultimate imperative. Thus, the problems of purging, re-educating and incorporating parts of those 1.8 million functionaries into the western system will be tremendous.

Secondly, the successive historical steps which give the institution of the civil service a constitutional quality are an extremely strong safeguard against basic reforms. Thus, the German civil service is very unlikely to be as easily reshaped by executive order as in the USA or under crown prerogative as in Britain. Nevertheless, with respect to training and career staffing the German civil service has always been able to be adapted by government regulation;<sup>3</sup> and personnel policy throughout the history of the German civil service has been handled in such a way as to secure political loyalty, not just to the crown, the state or the constitution, but also to the government of the day. These two aspects will now be illuminated in more depth.

### *Expertise*

The modern state, since its inception during the eighteenth century, cared about the qualification of its servants. Recruiting from the nobility did not satisfy the absolutist regime when it wished to carry through its mercantilist policy. During the first half of the eighteenth century special university chairs were established to teach cameralism and 'Policy-Wissenschaft' — literally: policy science — in order to supply the state apparatus with servants knowledgeable in the fields of public finance, population statistics, mining, road building, and so on. Bureaucratic recruitment gradually became related to educational achievements in the state-controlled universities, although throughout the eighteenth century training was still largely built on internship. Only after the Napoleonic wars and the subsequent reforms in Prussia including the creation of Berlin university (1810, with the philosopher Fichte as its first rector, and Hegel teaching), did university training become the rule for the stratum nowadays called the higher civil service. Concomitant with the transformation of the predominant policy of an absolutist welfare state towards a legal state allowing for economic liberalism, training in law, and in particular in public law, as it was gradually codified, became more important than the cameralist sciences (Bleek, 1972). After 1848, the general higher civil service — apart from technical personnel — was exclusively juridically trained. Administrative law came to replace the administrative sciences of the eighteenth century. Henceforth, public administration

(Verwaltungslehre) was almost exclusively taught as an appendix to public law. The functional link to the emerging Rechtsstaat is obvious. In this respect it is indicative that during the Nazi regime attempts were made to de-emphasize juridical training in favour of public management and leadership (Laux, 1986).

During the restoration of the republic after 1945 the so-called *monopoly of jurists* was re-established. Persons with other qualifications could enter the general higher civil service only after special examination by civil service commissions introduced according to the US example. During the early 1970s, however, there was a widespread consensus that leading civil servants were not adequately prepared for the actual job they faced in the area of management functions (Brinkmann et al., 1973). This led to two innovations. First economics and social science degrees were accepted as general entry qualifications equivalent to a law degree — at least for the federal higher civil service and some of the Länder.<sup>4</sup> Second, continuing education courses for higher civil servants were devised at the Federal Academy of Public Administration, founded in 1969 after the model of the British Civil Service College, and at the Speyer Academy, a postgraduate school inspired by the Ecole National d'Administration in 1947. Both institutions offer advanced training courses for the higher civil service in the fields of organization theory, budgeting, leadership, personnel policy, information technology and international organizations. Whereas the latter two subjects have gained in importance in the 1980s, courses in planning and policy analysis were removed from the programmes (BMI, 1989). It could be argued that further education programmes for higher civil servants have changed since 1969 in response to the rise and fall of Keynesian economics and of the notion of societal guidance. In a historical perspective, to a certain extent in 1969 the pendulum swung back to where training for the higher civil service had started from in the eighteenth century.

In East Germany, knowledge of public law was of no importance, since neither administrative courts nor a constitutional court existed, in other words — no Rechtsstaat. Blatant ideology and legal opportunism came to replace professional knowledge of law. Management skills that helped fit future functionaries into the existing authoritative state and party machinery which permeated economy and society were taught. Even knowledge in economics was not of the kind taught in the West. A look at the titles of doctoral theses reveals that economics was a mixture of Marxist–Leninist orthodoxy and commonsense.<sup>5</sup> Thus, for the first time after a change of regime in German history, professional competence turns out to be a core civil service problem, whereas in 1918 and 1945 political loyalty constituted the crucial weakness of the system. The lessons the Communists in East Germany learned from the 1918 transition from monarchy to republic had reinforced their ideologically rooted belief that the traditional civil service was the 'instrument of the ruling class' and, therefore, had to be abandoned. Political loyalty and explicit partisanship were deemed more important than professional expertise of any kind whatsoever.

*Political loyalty*

In systems that require (higher) civil servants to abstain from political activities and political parties, like the British and American civil service systems do, securing political loyalty might be less of a problem than in the German system, where, since 1848, civil servants have been granted the civil right to join political parties and to run for elective office, even while in active service. As a matter of course, neutralized civil servants will also hold political preferences and will, thus, more or less enthusiastically carry out the political agenda of a government. Therefore, subtle means for party-political streamlining are not alien to these systems. In Germany, though, a more drastic mechanism was institutionalized to purge the bureaucracy of officials overtly sympathizing with parties other than the governing ones. Under an absolutist regime political loyalty was hardly a problem, because political parties did not exist and the monarch was the common point of reference for all rival factions in the bureaucracy. However, immediately after the bourgeois revolution of 1848, the Prussians introduced an exception to the principle of permanence in office: a class of so-called *political civil servants* at the top of the administrative career system could now be put into *temporary retirement* if they were not in full political consent with the government. This reform was regarded as functionally necessary, because there was no incompatibility of office and mandate and civil servants could thus criticize their government in parliament. Although incompatibility of office and mandate on the same level of government was ruled out after 1949, the institution of political civil servant was kept.

Owing to careful selection of candidates for the higher civil service based on informal political criteria such as an old boy network, student fraternities, social origin and extensive unpaid apprenticeship, no oppositional 'elements' (Social-Democrats, Catholics or Jews) could get into the higher civil service before 1918, and conformity with the government, with few exceptions, was secured without making use of temporary retirements. After the 1918 revolution, however, and during the Kapp putsch in 1920 it was applied — modestly — to purge the civil service, in particular in Social-Democrat-ruled Prussia, where roughly 10 percent of the higher civil service were forced to retire (Derlien, 1987). In other Länder and at the Reich level the frequently changing government coalitions were unwilling or unable to bring the still predominantly monarchist-oriented civil service under the political control of republican party governments, even after the Weimar constitution had upgraded the civil service as an institution. After all, there was no internal elite reservoir of followers of the republican parties to appoint to vacancies in leading positions.

The practice of the Prussian SPD government to recruit — juridically trained — outsiders from the ranks of the trade unions and party officials provided the Nazis in 1933 with the justification for putting large numbers of political civil servants into temporary retirement and releasing the so-called 'Law for the Restoration of the Professional Civil Service'; this law served to purge the civil service racially and politically, while at the same time demanding political loyal-

ty to the new system (Mommssen, 1966). Judging from the intensity of the resulting purge, the Nazi personnel policy, based on the so-called 'enabling act' that suspended the Weimar constitution, was far more revolutionary than the personnel policy after 1918, because it did not confine itself to disciplinary law and the institution of the political civil servant.

Although the Nazis never succeeded in completely streamlining the civil service during their twelve-year reign (Rebentisch, 1989), *de-nazification* was the logical countermove administered by the Allied occupation forces after 1945. In the East, the political purge was much more severe, involving existential consequences like deportation to Siberia, the disappearance of people, the death penalty and concentration camp. It was technically more successful in the Soviet occupation zone, later the GDR, than in the western zones, because it was not subject to legal restraints. The purge in the East was closely linked to the abolition of the traditional civil service system. One of the consequences was non-professional recruitment on the basis of social class and party loyalty.

The post-war experience of the FRG with de-nazification (Fürstenau, 1969) might allow us to predict what will happen in East Germany now: the majority of the public service will be functionally indispensable; only the former elite and those who have committed crimes will be dismissed. Vacancies in top positions are being filled by importing higher civil servants (and judges) from West Germany — comparable in kind but not in number to the emigrants and other victims of the Nazi system, who took over leading positions after 1945. The legal basis for the purges of 1945 and 1990, though, was not the institution of the political civil servant. In both cases, the overthrown regimes were regarded as deviations from the traditional civil service, and officials automatically lost their contracts and had to be scrutinized for constitutional loyalty before re-employment. It should be mentioned in this context that West Germany, due to the experience during the first republic, throughout her forty-year history employed disciplinary measures against members of political parties declared unconstitutional or regarded as threatening the constitution: these were basically communists and, to a lesser extent, right-wing extremists. Integrating the East-German public service, whose leading members by necessity would have been Communist Party members, will not be possible without loosening the questionable practice in the West of scrutinizing applicants for constitutional loyalty (Braunthal, 1990).

#### *Balancing expertise and loyalty*

After a government change within a specific political regime the only formal mechanism for politically streamlining the federal higher civil service is still temporary retirement of the officials at the very top of the hierarchy: this includes state secretaries and division heads in the ministries as well as positions down to section heads in the foreign and intelligence services. Use of these instruments was made in particular during the only two fundamental changes in government experienced by the Federal Republic, in 1969 and 1982. In both

cases roughly every second state secretary and every third division head in Bonn were temporarily retired (Derlien, 1988). The cases of 1969 and 1982 demonstrate that the incoming governments carried on working with the majority of the administrative elite. Furthermore, most of the vacancies were staffed with candidates from within the ministries or experienced officials from Länder governments. At most 10 percent of the new appointments accepted by the civil service commission can be classified as outsiders.

To put this in a comparative perspective, the higher civil service in Bonn would take a middle position between the British and the US systems. While the first is designed to maximize permanency and expertise and takes political loyalty of the neutralized civil service for granted, the US system of having political appointees with high intersectoral mobility (Hecló, 1977; Mackenzie, 1987) is clearly designed to maximize political loyalty. In both extreme models, though, there seem to be forces that strive for a more balanced relationship between securing expertise and ensuring political loyalty. The smooth operation of the German system after government changes — notwithstanding some public turmoil over personnel policy — is an indication of the balance this system can achieve owing to the nineteenth century institution of political civil servants, who are, however, normally career civil servants (Derlien, 1990a).

This is not to deny that until recently the functional problem throughout German civil service history has been less to secure expertise than to secure political and constitutional loyalty — a logical consequence of the historical fact that in Germany bureaucracy predates democracy and not the other way round as in the USA.

### **Are traditional civil-service elements crumbling?**

Despite its constitutional conservation, the traditional West-German civil service has silently changed during the post-war period. I shall trace three developments in the federal administrative elite that have a bearing on civil-service principles:

1. the erosion of the monopoly of jurists;
2. the intrusion of mixed external and internal careers, which affects the notion of lifelong tenure; and
3. increasing party politicization, which is in conflict with civil-service neutrality and potentially jeopardizes the balance between expertise and loyalty.

#### *Diminishing monopoly of jurists*

Despite the triumph of juridical training over 'Policy-Wissenschaft' and cameralism during the nineteenth century, there have always been appointments of higher civil servants with other qualifications, e.g. medical doctors in the health departments or engineers in the traffic sector. Yet, these specialists had little opportunity to compete for top positions with the juridically trained generalists, who were expected to move between various policy areas. Therefore, many scientific observers assumed — and juridical faculties claimed — a monopoly of jurists in the higher civil service in Bonn. Recent research, based

on the analysis of the biographies of all political civil servants in office between 1949 and 1984 (Derlien, 1990b), however, has revealed that the monopoly of jurists was never total and has diminished over time. Altogether 65 percent of the administrative elite were juridically trained, economists were the second largest group with 12.6 percent, followed by engineers (5.7 percent).

The following figures are indicative of the increased circulation of the elite after 1945. The share of jurists in these top positions was initially (1959) a mere 69.7 percent, but this rose to 75.3 percent in 1966, before the grand coalition of Christian and Social Democrats (1966–69) was formed in response to what was then perceived to be an economic crisis (5 percent unemployment!). After 1966 the share of the jurists was reduced to a mere 59 percent in 1977, but this gradually recovered to 64.4 percent during the last Schmidt government and after the government change in 1982. This secular trend of diminishing importance for juridical training was compensated for by an increase in emphasis on training in economics, which between 1966 and 1977 went from 9.3 to 16.5 percent and subsequently dropped to 14.8 percent (1983). In particular state secretaries and Social Democrats among the administrative elite during the social-liberal period (1969–82) tended to be economists. Clearly, this reflects the importance of Keynesianism in the 1970s. Since these top civil servants were trained decades ago, the inflow of economists can hardly be attributed to opening the regular entry to the higher civil service to economists in the early 1970s. Rather, economists among the administrative elite might have supported this reform.

Nevertheless, jurists are still the backbone of the higher civil service, and the pendulum is likely to swing back in their favour, since jurists among the executive politicians after the government change of 1982 constitute an unprecedented 65 percent of those ministers and parliamentary state secretaries who had achieved a university degree (71 percent). In fact, there is a close association in the time series between the subjects studied by politicians and top administrators. This link indicates that executive politicians tend to appoint their closest administrative collaborators according to similarity in background.

To understand the still unchallenged position of jurists in the administrative system, three systemic aspects are worth noting. First, the state affinity of executive politicians in West Germany is mediated through the civil-service rather than through a genuine democratic political culture, which could never really develop in pre-war German history. Not only have most executive politicians studied law, but 34 percent come from civil-service families (compared with 49 percent of the administrative elite), and every third politician worked in the civil service before starting his political career.

Second, juridical training is standardized for all universities by a federal law which regulates the conditions for becoming a judge. Therefore, in order to educate the future administrative (and political) elite in Germany, it is not necessary to cultivate elite universities. The post-war administrative elite has as frequently studied in Berlin (22 percent) as in Munich (20 percent), followed by Bonn (16

percent) and Cologne (12 percent), Freiburg (11 percent) and Göttingen (10 percent). The homogeneity of the curricula is not only a functional equivalent of the social formation of an elite that takes place at the ENA or in the Oxbridge system; it also enables the higher civil service to move between the Länder and federal bureaucracy (Derlien, 1990c).

Third, German jurists do not specialize in subfields during their studies, but are trained in private and penal law as well as public (constitutional and administrative) law, and during internships before taking the second state examination they move between administrative, court and solicitor apprenticeships (Siedentopf and Grunwald, 1976). Thus, they are much more generally trained than lawyers in other countries. Implicitly, by applying the law they become familiar with numerous socioeconomic problems, and, as German law is fairly systematic, they get a thorough training in logical problem-solving. What they, allegedly, are not fit for when leaving university is managing public bureaucracies, because the field of public administration is of minor importance in the curriculum (today it is even optional) and the public law professors teaching the subject are hardly capable of introducing their students to modern organization theory, personnel policy, budgeting or policy science. In section 4 we will see to what extent knowledge in these areas is perceived as a job requirement.

#### *Opening restricted civil-service careers*

Ideally a future top administrator would typically enter the civil service, in the extreme case a federal ministry, immediately after university without any delay in other sectors of the labour market and would advance on the career ladder without inter-sectoral or even inter-agency mobility. Uninterrupted civil-service careers (including mobility between Länder and federal bureaucracy) could be found in 52.8 percent of the post-war administrative elite; another 17.6 percent revealed civil-service careers deferred by up to four years after leaving university, and 29.6 percent had gone through mixed external (more than four years) and internal careers. There is a close association between legal training and uninterrupted internal civil-service careers (71.2 percent), whereas a degree in economics is least typical (9.4 percent). In contrast, economists among the administrative elite are more often characterized by mixed careers than jurists. The developmental pattern behind these aggregate data is more important than this structural relationship: uninterrupted civil-service careers have become the exception among younger generations of elite civil servants. Again, the change from 1966 to 1969 accelerated this trend, when the share of deferred or mixed careers increased from 32 to 51.5 percent. This development seems to be irreversible, since after the change in government in 1982 unorthodox careers even amounted to 56 percent (Derlien, 1990b). Thus, the predominantly internal recruitment of top administrators reported earlier does not mean civil-service inbreeding, but before taking the last step on the career ladder, administrators have frequently collected professional experience in other sectors of the labour market. Mobility within the overall civil service system of federal, Länder and

local governments is also relatively high. Thus, on average, elite bureaucrats start an uninterrupted career in a federal ministry only at the age of forty-three years (with a standard deviation of nine years).

Although the beginning of the administrative career is increasingly deferred, it by no means lasts until the retirement age of 65 is reached. Elite positions as a state secretary or a division head in a federal ministry are occupied at an average age of 52.6 years, but retirement from this ultimate rank usually occurs five years later at the age of 57.6. This is basically the result of the application of temporary retirements. In Bonn it is said that retiring from active service at this age has become an informal norm, so that the administrative elite is firmly reckoning on a second or third professional career. Interviews with the federal elite (Derlien et al., 1988: 4) in fact demonstrate that every second top administrator is considering professional alternatives, with positions in the economic sector predominant (37 percent), which is considerably more than in 1970.

In fact, an analysis of the post-elite positions of those in office between 1949 and 1984 shows that occupations in private business, in public enterprises or public banks are most frequent. Examples are set by state secretaries like Otto Pöhl, who was appointed president of the Bundesbank; Lahnstein, who became managing director of one of Germany's largest media enterprises, or Rohwedder, who went into the steel industry and now heads the agency set up to privatize the East-German industrial conglomerates.

#### *Increasing party politicization*

A third trend underlying formal civil-service stability is increasing party politicization (Mayntz and Derlien, 1989). Although actively engaging in political parties is a civil right not withheld from the civil service, frequent membership of most top civil servants in the governing parties could have a devastating effect on civil-service morale and public trust in the neutrality of official conduct. Among the federal bureaucratic elite, party membership has spiralled from 28 percent in 1970 to 36.7 (1972), 51.7 (1981) and 57.3 percent (1987). Owing to temporary retirements in 1982/83 the dominant affiliation with the Social Democrats (1981: 30 percent) was turned around and the majority of the civil-service elite was affiliated with the Christian Democrats by 1987 (37.1 percent). As there is a clear rank correlation of frequency of party membership (69 percent of the state secretaries in 1987 were members of the governing coalition), non-party members and those with the wrong party affiliation are demotivated as to their further advancement. Paradoxically, even those elite members who are engaged in the ruling political parties complain about increasing party interference in appointments (Mayntz and Derlien, 1989: 397 ff.). There is no indication from performance that the historically inherited system of matched expertise and loyalty is getting out of balance. On normative grounds, though, a prevalence of party membership over professional performance in appointments to elite positions would not merely be unconstitutional, it would also move the West-German system dangerously close to the abolished East-German one — with

one decisive difference: in a competitive party system followers of all constitutional parties in principle have a chance to benefit from the spoils.

### **Role understanding and job requirements**

Having depicted the objective features and trends in the administrative elite, I now turn to the subjective side. There are two aspects to be dealt with that are related to what has been outlined earlier. First, in continuing the line of reasoning about balancing expertise and loyalty as well as increased party politicization, it is interesting to learn to what extent role understanding of the administrative elite in Bonn is technocratic or political. Second, after having observed that economic training and mixed careers have gained ground, it is tempting to investigate whether this has left traces in the manner in which the job requirements of top administrators are perceived.

#### *Political versus technocratic role understanding*

Although the majority of the administrative elite in 1987 as well as in the previous seventeen years perceived their role as distinct from that of politicians (Mayntz and Derlien, 1989: 394), the majority today like the inevitable political aspects of their job very much (78.5 percent), as opposed to only 45.2 in 1970 (Mayntz/Derlien 1989, 394). By the way, only every fourth parliamentary politician, including those of the majority factions, subscribe to this role understanding. In 1987, there was, in fact, no difference between jurists and economists with respect to the positive assessment of the political side of their job. However, relatively more jurists have come to like the political nature of their job since 1970 than economists, who in the majority of cases never had reservations. This political role understanding coincides with a low level of technocratic thinking (Aberbach et al., 1990) and a very modest degree of state authoritarianism, a combination of etatist and elitist attitudes (Derlien and Groß, 1990). In both respects, jurists take a middle position when compared with elite members with a different educational background.

Not only do higher civil servants accept the political rules of the game in which they are involved, they also ascribe more authority and accountability to executive politicians than they would claim for themselves (Mayntz and Derlien, 1989: 395). Furthermore, working against the political programme of a new government is strongly rejected by 80 percent and accepted by only 8 percent (Derlien et al., 1988: 26). If civil servants believed that the government's programme contained incorrect or insuitable points, 82 percent would first try to talk to their superiors and then, nevertheless, execute the orders. Almost one-third (27 percent), though, would rather leave active service (15 percent) or ask for transfer to another post (12 percent) instead of carrying out orders they could not accept on professional grounds (Derlien et al., 1988: 27). Consistent with insisting on their professional judgment, remonstrating and, if necessary, drawing personal consequences is the fact that the administrative elite reject in their self-assessment the role of party politician or spokesperson

of organized interests, but most strongly accept the roles of expert problem-solver, initiator of new projects and executor of politically set goals (Derlien et al., 1988: 14).

These indicators suggest that on the level of subjective role understanding, expertise as the most distinct role characteristic has not suffered from party politicization. The latter might have contributed to the widespread political loyalty of the federal bureaucracy and acceptance of the political context in which they operate. This holds true for the jurists as the backbone of the system no less than for economists.

#### *Perceived job requirements<sup>6</sup>*

Which characteristics do the administrative elite in 1987 deem important to perform their role? In the first place top civil servants regard *professional and intellectual qualifications* as an important job requirement. This has not changed since 1970. *Leadership* qualities, a category almost not employed in 1970, is the second most frequently mentioned personal characteristic and job requirement, followed by *social skills* (rank 2 in 1970). The ability 'to push things through', advisory quality to superiors and political sensitivity occupy ranks 4 to 6 according to frequency of mention in 1987. In 1970, however, the hierarchy of job requirements below professional qualification and social skills looked categorically different: management capabilities, including the ability to delegate, organize and budget; negotiating talent and ability to design policies followed in order of declining importance. The generalization may then be made that the job of a leading civil servant has changed considerably or at least its perception has been transformed markedly between 1970 and 1987. The enlightened textbook administrator, who is concerned with organizing, staffing and budgeting, who manages his or her department or division and has a strong commitment to policies, tends to be replaced by formal-rational political actors, who rely heavily on interpersonal relations and personal leadership qualities to promote their cause. Of particular interest might be the fact that top administrators in Bonn in 1987 were playing down what in other countries was emerging as managerialist thinking. Economists and jurists alike were less managerialist than they had been in 1970. This is the more surprising as top administrators more frequently consider a job in industry as an alternative and actually often start a second career in the economic sector.

The question has to be asked, therefore, whether the reality of jobs has changed or just the rhetoric of talking about jobs. If reality has changed and classical management techniques have lost importance, one could wonder why the German experience differs from what is going on in conservative governments in the Anglo-Saxon world. The changed perception of job requirements reflects less a regression of management practice or planning techniques than the result of a revaluation of these devices during the last twenty years. It has already been noted that the Federal Academy of Public Administration had downgraded the respective training programmes as early as the mid-1970s. During Helmut Schmidt's

chancellorship the politics of 'internal reforms' of the Brandt era were abandoned and replaced by what could be called 'charismatic crisis management'. Nevertheless, what had been institutionalized for planning and policy evaluation remained in operation. The Kohl government also changed nothing of the machinery, only the philosophy and the labels (Derlien, 1985).

An additional aspect that could help explain the paradox of management practice without management rhetoric is that the present government in Bonn, despite its declarations to the contrary, is not, in fact, involved in serious privatization that would deserve comparison with the British practice. The constitutional programmatic notion of a 'social market economy' as well as the social orientation of the Christian Democratic party per se do not allow the present government seriously to redress the state-society relationship; all that is done is internal administrative de-regulation by abandoning a couple of thousand outdated regulations. Privatization, being one of the major factors to which the emergence of managerialism is attributed, may therefore not impinge on the role perception of administrators in Bonn.

### **Conclusion**

It could well be that some sort of managerialism will experience a renaissance in Bonn and that the planning and evaluation system will be shifted into a higher gear in the near future. Restructuring and developing East Germany is such a tremendous financial and policy-making challenge that the smooth routine with which the voluminous two unification (and some other major) treaties were produced in just a couple of weeks in 1990 will not be sufficient.

This leads me back to the assessment of the higher civil-service system in Germany in terms of expertise and political loyalty. Abolishing the traditional civil service in East Germany after 1945 was an historical aberration similar to the perversion the civil service experienced during the Nazi era. In both cases not only was excessive stress put on political loyalty, but also the kind of expertise needed to run a democratic Rechtsstaat was no longer cultivated. Owing to divergent developments in the East and the West over the past forty-five years, Germany is, for the first time after a regime change, facing the problem of *politicized incompetence* of public functionaries. It is revealing that the East-German government during the 1990 negotiations with Bonn was advised by West-German aides, so that Bonn bureaucrats were virtually sitting on both sides of the table.

Clearly, the kind of expertise available in the federal bureaucracy — juridical generalists co-operating with 15 percent economists — is not doing a bad professional job. This mixture could develop without reforming the basic principles of the system which owes its stability to its constitutional foundation. There are also no indications that the bureaucracy is politically self-controlling or unresponsive. Certainly, the ever increasing party politicization is alarming; it is brought about by an over-emphasis on the loyalty aspect by the ruling politicians. However, as long as the practice of internal recruitment of the administra-

tive elite from the ranks of (mixed-) career bureaucrats does not change, the high level of expertise is unlikely to be sacrificed. Therefore, integrative measures laid down in the unification treaty and practiced since October 1990 are devised to purge politically and requalify the remaining personnel in the East. East-German bureaucrats are taking part in hundreds of training courses in the West and go through apprenticeships in the old Länder. On the other hand, West-German civil servants are being transferred, partly re-activated from old-age pension, to take over leading positions in the newly established Eastern Länder bureaucracies and, in particular, in the judicial system. The purge as to the political loyalty of those top functionaries who were not immediately dismissed during the revolutionary period is taking place case by case in a cumbersome procedure that will last for a couple of years. In view of the many victims of the Stalinist system, the process is unavoidable, but it is complicated by the fact that personnel files disappeared or were 'cleaned' during the interim government period in early 1990 and review commissions for scrutinizing professors and judicial personnel still have to be put together. The necessity of integrating some of the East-German functionaries into the higher civil service will probably lead to a renewed emphasis on traditional principles, in particular to more consciousness of the importance of career staffing, promotion according to professional achievement, and neutrality of performance, especially on the part of those administering personnel policy. The 'genetic grammar' of the civil service seems to be flexible enough to allow for reorientations without spectacular reforms.

## Notes

1. At midnight 2 October 1990 the German border guards at the Oder river changed uniforms. They replaced East German grey-blue with West German green uniforms displaying the symbols of the Federal Republic. Some of them had been trained in the West before, and West German colleagues had advised them since 1 July — the day of the monetary unification — how to execute EC customs regulations vis-à-vis Poland. When asked how he felt, a guard commented: 'The cloth is better.'

2. It should be noted that in Germany groups of officials enjoy civil-service status that in other countries have normal employee status: federal post and railway officials as well as school and university teachers (both Länder officials).

3. Thus, there is room for innovations on the Länder level as, for instance, recent attempts to further promising higher civil servants in particularly designed training programmes (Siedentopf and Hauschild, 1988).

4. It should be mentioned that in some universities a reform curriculum for juridical training was practised in the 1970s that incorporated social science elements and apprenticeship stages; the latter traditionally follows university training; cf. Siedentopf (1981) and Mercillon (1990).

5. Consequently, the few law faculties and the social science and economics departments in East Germany are being purged and remoulded with top priority now.

6. In this paragraph I draw on the marginals in Derlien et al. (1988: 9) as well as on advanced unpublished results of the CES II project conducted together with Renate Mayntz.

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