



Coordination practice

THE COORDINATION OF HOMELAND SECURITY POLICY IN GERMANY

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The coordination practices in homeland security policy in Germany came under severe pressure after the accidental disclosure of a radical right-wing terrorist cell in November 2011. Since then, pre-existing coordination practices have been scrutinised and reform proposals have been discussed in order to achieve a better coordination between the over 40 authorities that are involved in homeland security policy in the German federal system. Despite the key role of the federal Ministries of Interior and of Justice and their subordinated agencies, various other authorities are crucial, as well. The key coordination principle in homeland security in Germany is the separation principle, separating the offices responsible for intelligence and for police work. Next to the general high specialisation of public authorities in this policy area, this separation principle contributes to rather strong “siloism” as an obstacle to the coordination practices. The reforms that are currently discussed, however, aim towards more exchange of information and coordination, also diminishing these boundaries and enabling better horizontal and vertical coordination.



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Preface

This coordination practice is a result of research within COCOPS Work Package 5: The Governance of Social Cohesion: Innovative Coordination Practices in Public Management.

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The COCOPS project (Coordinating for Cohesion in the Public Sector of the Future) seeks to comparatively and quantitatively assess the impact of New Public Management style reforms in European countries, drawing on a team of European public administration scholars from 11 universities in 10 countries.

The specific objectives of Work Package 5 are:

- To search and identify emerging coordination practices and related steering instruments in public management in European public sectors.
- To compile a case study catalogue of such coordination practices with direct utility to public managers and the research community.
- To analyse the functioning of such coordination practices and to assess their value in countering public sector fragmentation and delivering public value.

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1. THE COORDINATION LANDSCAPE

Main country characteristics: GERMANY

General political-administrative structure

Germany is a federal country in which the division of competences between the federal level and the state level is organised according to specific functions. The federation is primarily responsible for the bulk of policy formulation, i.e. law-making, whereas the states are mainly charged with the implementation of policies. The states participate in federal policy-making through the second chamber of a legislative body composed of members of the state governments.

This functional division of competences has at least two consequences. Firstly, a considerable number of coordination activities are observable between the federal and state levels and also across the states. Vertical coordination efforts between the federation and the states vary between highly formalised arrangements, such as the mentioned legislative body, and rather informal activities, like regular contact to experts in policy domains (“brotherhood of experts”). Secondly, the delegated federal administration is comparatively small and restricted to a number of federal agencies.

Germany is a parliamentary democracy and can be classified as the cabinet-government type; hence the federal government is (generally) supported by a parliamentary majority. Federal governments are typically formed by at least two parliamentary parties which negotiate a coalition agreement subsequent to the general elections for the Parliament. Governmental stability in post-war Germany can be considered high.

The Federal Chancellor is elected by the Parliament, and it is part of the Chancellor’s prerogatives to decide about the allocation of portfolios and to appoint and dismiss departmental ministers. Three ministries, the Ministry of Defence, the Ministry of Justice and the Ministry of Finance are specifically mentioned in the constitution and are constitutionally protected guaranteeing their existence.

As in most other countries, the constitution barely provides specifications regarding the structure and organisation of the federal government. The constitution defines three principles according to which (1) the Chancellor exercises the authority to set general policy guidelines, (2) the Cabinet should decide collectively as a collegiate body and (3) departmental ministers independently perform the affairs of their ministries and policy domains (in the framework of the general policy guidelines). According to the traditional legal interpretation, these three principles are supposed to be equally respected during the day-to-day work of the government. According to empirical studies, however, the departmental principle has evolved as the most important one, hence, the single ministries are considered strong actors at the federal level.

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| | <p>The strong position of the single ministries results in the paradigm of negative coordination. In contrast to positive coordination, which is generally based on the idea that asking bodies for participation, contribution and input results in innovative and far-reaching coordination outputs, negative coordination implies least-common-denominator bargaining and can be described as follows: (1) The responsible ministry enjoys the policy initiative privilege – also excluding any hierarchical orders from one ministry to another or from the centre of government to ministries. (2) The bulk of coordination is performed at the section level of ministerial departments. (3) The division of responsibilities is strongly looked after by ministerial officials and thus commonly protected and reinforced – leading to the dominant normative understanding of coordination as “co-signature wars” between ministries. In general, government coordination is primarily oriented towards accomplishing individual departmental interests and less towards coherence within the government.</p> |
| <p>Coordination discourse</p> | <p>Overall, the public-sector-reform debate in Germany is not a salient issue of strong political debate; there is also no strong ideological divide between the political parties on the matter, mostly because it is not regarded as crucial for winning general elections. The German federal government has not been highly active in public-sector reform over the last few decades. Even though in each election period, the federal government has agreed on a public sector policy or programme, concrete reforms have been sparse, especially in the area of the New Public Management fashion. Reasons for that are diverse but can be traced back to specific features.</p> <p>Firstly, the above-mentioned division of labour between the federal and state levels often leads to many reforms being spilled over from the local to the Länder and eventually the federal level, reducing the overall reform pressure for federal governments.</p> <p>Secondly, the dominant <i>Rechtsstaat</i> tradition emphasises the importance of a legally-bound administration to assure legitimacy, implying weaker emphasis on efficiency and effectiveness in the public sector – which are widely regarded as key triggers of NPM-style reforms.</p> <p>Thirdly, the federal government initiated one of its wide-ranging administrative reform programmes in the late 1960s and early 1970s with the appointment of an external “Project Group Governmental and Administrative Reform” that scrutinised the federal government and issued several reform proposals. Yet, many of their proposals were not implemented and the general “planning euphoria” initiated by this project group faded away rapidly with the advent of the first economic crisis in the 1970s (mostly caused by the oil crisis) and the manifestation of a general and deeply-rooted discontent with wide-ranging administrative reforms. Put differently, the executive federalism and the mostly disappointing results of the extensive reforms in the 1970s made political actors believe that administrative reforms are not crucial to maximising votes in general</p> |

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| | <p>elections at the federal level, and it demonstrated to administrative actors that intended and unintended consequences and effects might not be as promising as hoped in the first place.</p> <p>Fourthly, there is a general and rather uncontested notion among political and administrative actors (but also among the general public) that the federal bureaucracy performs well and delivers results – according to the requirements of a bureaucracy deeply rooted in a <i>Rechtsstaat</i> tradition.</p> <p>Lastly, the German unification absorbed most of the federal government’s reform capacities in the early 1990s when other Western governments carried out NPM reforms. However, the German federal government conducted privatisation programmes, partly leading to the liquidation of East German industries.</p> <p>The most recent administrative reform programme of the current federal government emphasises areas such as e-government and partnerships as priorities. It only rarely addresses direct interactions between administrative authorities or services and the citizens.</p> |
| Policy area | <p>This coordination practice concerns homeland security, which follows mainly the key principles of executive federalism, distributing competencies between offices at the federal and state levels. As a result, the coordination practices involve various actors across the government levels. Moreover, homeland security policy in Germany is characterised by a particular aspect that differs from homeland security policy in other countries and to some extent increases the complexity of the issue: The principle of separating intelligence and police work. Drawing upon lessons from experiences of merging both functions during the Third Reich (the Secret Police of Nazi Germany, Gestapo), German homeland security policy strongly notes the separation of these two tasks – and this notion is highly recognised and protected by all actors involved. In practice, intelligence agencies and criminal police authorities refer very often to this separation principle in order to justify their neglect of information exchange. Put differently: The failures of pre-existing coordination practices, especially regarding information exchange, follow to a large extent this separation principle, despite the fact that these authorities are most often functionally overseen by the same ministry and informal contacts might exist.</p> <p>The critical episode unfolding after the accidental disclosure of the terrorist cell in 2011, however, initiated some debate over the need and implications of this principle in investigating and tracking domestic terrorism. In addition, previous reforms in the homeland security administration conducted in the aftermath of 9/11, most notably the extended competencies of police forces to gather evidence, already gave many actors and observers the impression that this principle is gradually weakened. Accordingly, the current reform debate includes advocates as well as opponents of further blurring the lines between intelligence and police work.</p> |

Moreover, several arrangements have been established to enable more collaboration across intelligence agencies and police authorities. In December 2004, the “Joint Terrorism Prevention Centre” (GTAZ) was established as a flexible structure without a formal head in order to enable mutual collaboration and contribution by various authorities, avoiding classic bureaucratic hierarchies and enabling joint activities without a formal lead – and the problematic formal conjunction of intelligence and police work. Yet, it is only responsible for Islamic terrorism and thus contributes to the general security architecture in Germany but not so much to the issue of homeland security, i.e. to preventing domestic terrorism.

The GTAZ served as a blueprint for the “Joint Extremism and Terrorism Prevention Centre” (GETZ), which was created as a response to the accidental disclosure of a terrorist cell in November 2012. It involves staff members from various agencies and other authorities at the federal and state levels, which remain in their previous oversight relations to their respective parent ministry. The lead is divided between the Federal Office for Protecting the Constitution and the Federal Criminal Police Office (BMI 2012). Next to the offices for protecting the constitution and the criminal police offices at the federal and state levels, which are supervised by the respective Ministries of Interior, it includes staff from the Federal Intelligence Agency, the Federal Police, the Customs Criminal Office, the Military Counter-intelligence Service, the Federal Office for Migrants and Refugees, the Federal Office of Economics and Export Control and representatives from the Federal Prosecutor General as well as Europol. The staff members from the various authorities meet regularly but no additional permanent structures have been established yet. It aims to link the evidence from centres for analysis, one operated by the intelligence services and the other by the criminal police offices. In addition, it entails nine different working groups on various issues, involving the different agencies and authorities.

This collaboration centre is explicitly responsible for domestic radical right- and left-wing terrorism (and thus in a sense accompanies the GTAZ with its focus on Islamic and foreign terrorism).

As a consequence, the major coordination practices follow patterns of negative coordination, which is strongly supported by the separation principle disconnecting intelligence from criminal police work. Various organisational arrangements have been set up, most notably the newly established GETZ, in order to reduce the resulting siloism in homeland security (BfV 2012). To a large extent, these arrangements resemble the arrangements established to combat international and particularly Islamic terrorism.

| 2. COORDINATION PRACTICE: The coordination of homeland security policy in Germany | |
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| 2.1. Substance | |
| Country | Germany |
| Area | Central government |
| Main characteristics of the practice | The governmental coordination in homeland security policy in Germany cuts across various policy sectors such as home affairs, justice, and defence. After the terrorist attacks in the US on the 11 September 2001, the coordination practices between the offices responsible for this area, mostly intelligence services and police authorities, have been amended several times. The accidental disclosure of a Neo-Nazi terror cell in November 2011 spurred extensive discussions on these pre-existing coordination practices. Severe coordination failures were identified as one of the main causes for the non-detection of the terror cell and its failed prosecution. |
| Background and initiation of the practice | <p>After the terrorist attacks in the US in September 2001, a first “security package” was adopted that included immediate policy responses to the alleged threat from (international) terrorism. Soon afterwards, a more comprehensive “security package II” was adopted, amending several federal laws in order to tighten the prosecution of international terrorism, proposing inter alia that the Federal Office for the Protection of the Constitution should cooperate more closely with other federal authorities such as the Federal Criminal Police Office, especially regarding the systematic exchange of data and information by establishing “information boards”. In addition, it expanded the competencies of the Federal Criminal Police Office and enabled it to seize cases from its Länder counterparts if they are not clearly of local or regional origin.</p> <p>After the Madrid bombings in 2004, the coordination practices between authorities in German homeland security administration were again amended, also because of the allegedly poor coordination between the Federal Office for the Protection of the Constitution and its Länder counterparts – which was, however, mostly in reference to the weak role of the federal office as the hub of the network. As a consequence, a “Joint Terrorism Prevention Centre” (GTAZ) was established in December 2004, with the primary task to coordinate the detection and prosecution of Islamic terrorism, involving 40 different authorities under two major branches, one intelligence and one police branch (BMI 2011). The GTAZ hosts several working groups consisting of officials from various authorities in homeland security at the federal and state levels.</p> <p>The disclosure of the terror cell had rather little effect on the GTAZ, also because of the differences between Islamic and domestic radical right- or left-wing terrorism. If anything, the GTAZ was partly uplifted in reputational</p> |

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| | <p>terms because it became the blueprint for the newly established joint centre for preventing domestic (radical left- and right-wing) terrorism, GETZ.</p> <p>The accidental disclosure of a Nazi terror cell in late 2011 put the German homeland security administration under severe pressure, especially because relevant information was available at different authorities but not sufficiently exchanged between them – which would have allowed a faster detection and prosecution.</p> |
| Time frame | <p>The current debate addresses explicitly the pre-existing coordination practices in the homeland security administration in Germany and their weaknesses, particularly with regard to the distribution of competencies and the exchange of information. These pre-existing coordination practices emerged mostly after the terrorist attacks in the US in 2001 and were subsequently amended over the past decade.</p> <p>Some of these pre-existing coordination practices emerged as temporary arrangements because certain competencies were initially granted with a limit of five years. More importantly, these provisions of distributing new competencies to various authorities in the area of homeland security were included with an explicit stipulation requiring official evaluations after these time periods of five years – which ended in an extension of these stipulations in late 2006. Yet, the evaluations focused more on these newly granted competencies of various authorities, e.g. to gain information from banks or telecommunications companies, rather than on coordination practices.</p> |
| 2.2. Structure and actors | |
| Basic features | <p>In general, the pre-existing coordination practices in German homeland security policy involve different government levels but also functionally separated offices responsible for intelligence and police work. In turn, though, they lack one governmental actor operating as the “key coordinator”. More importantly, these coordination practices are seemingly characterised by a strong notion of avoiding information exchange proactively by the various authorities, across the federal state structure but also across the two major types of authorities (intelligence agencies versus police authorities).</p> <p>Hence, the characteristics of the pre-existing coordination practices in German homeland security policy involve a complex set of authorities across geographical areas. They are, however, mostly conducted in top-down administrative procedures. In turn, they mostly involve legal instruments that are compulsory and leave only low discretion to the authorities in the policy area.</p> |

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| Main tools | <p>The main tools for the pre-existing coordination practices in homeland security policy in Germany are formal regulations, stipulating the formal mandate of the offices and authorities involved. Given the special features of this policy area, the coordination practices do not involve citizens directly. However, several technological solutions are key to the implementation and operation of the past coordination practices, first and foremost to ensure the collection and exchange of information (e.g. via joint databases).</p> |
| Main actors | <p>The German homeland security administration is dispersed across the federal and the Länder levels, amounting to approx. 36 authorities responsible for various aspects and involved to a varying extent. At the federal level, the Federal Criminal Policy Office (BKA) and the Federal Office for the Protection of the Constitution (BfV) are the two key actors; they are federal agencies under the functional supervision of the Federal Ministry of Interior. The BKA is responsible for prosecuting criminal offenses that are not of a strictly local or regional nature, yet it is not allowed to conduct preventive investigations. In contrast, the BfV gathers and analyses information on all crimes directed against the free democratic basic order (as expressed in the German constitution), against the existence and the security of the federation or one of its states, against the peaceful coexistence of peoples, or jeopardising foreign concerns of Germany by the use of violence or the preparation thereof. In addition, it carries out intelligence activities on behalf of foreign countries (counterintelligence) and contributes to protective security and counter-sabotage.</p> <p>Besides, the Federal Chancellery is responsible for the functional oversight of the Federal Intelligence Service (BND), which is mainly responsible for foreign intelligence but also involved in homeland security to some extent. Finally, the Ministry of Defence performs the functional supervision of the Military Counterintelligence Service (MAD), which monitors German soldiers for radical tendencies. The Chief of Staff at the Chancellery (ChefBK) acts as the “Federal Coordinator for the Intelligence Services” and thus hosts the “State Secretary Committee for Intelligence Services and Security” every week, discussing the current state of security, which is attended by parliamentary state secretaries from the Ministry of Interior, the Foreign Office, the Ministry of Defence and the Ministry of Justice as well as the Heads of the BND, the BfV, MAD and the BKA.</p> <p>At the state level, each state has its own State Criminal Police Office (LKA) as well as a State Office for the Protection of the Constitution (LfV). The criminal police offices at the Länder level are allowed to conduct preventive investigations into potential offenders of homeland security whereas the Länder offices for protecting the constitution mirror to a great extent the mandate of their federal counterpart, i.e. they observe potential terrorists at the domestic level, run undercover agents and gather and examine information.</p> <p>To sum up, the pre-existing coordination practices in the area of homeland</p> |

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| | <p>security policy in Germany involve political actors (cabinet members, agency heads) and administrative actors (ministry and agency officials). Although they do not involve private actors, some collaboration with the private sector exists, e.g. in setting up and maintaining the technical equipment for joint datasets used by several authorities.</p> <p>Those governmental actors at the federal level are engaged in a rather hierarchical structure, following the ministry with the formal lead (until now, the Chancellor did not make use of the Chancellor’s prerogative to seize the issue under her privilege to issue general policy guidelines). Similarly, those offices in the same federal state operate in a hierarchical structure, which may change according to the lead ministry. Between the offices at the federal and the Länder level, however, no formal hierarchy exists, and instead the dominant coordination pattern follows rather a network structure with certain offices acting as a hub (most often those at the federal level).</p> <p>In general, the political salience of homeland security policy is rather high, yet the secrecy of this policy area also obstructs further insights into the day-to-day degree of conflict within pre-existing coordination practices.</p> <p>The recent debate on reforming the homeland security administration in Germany includes various actors, most notably the federal and state Ministers of Interior and of Justice. In addition, parliaments at the different government levels conduct inquiries, including proposals for organisational changes to the previous architecture of security authorities in Germany in order to improve their coordination in horizontal and vertical terms. Next to the political parties and individual MPs, also the media play a strong role in informing the general public on the evidence presented in the inquiries as well as reporting on reform proposals. Lastly, several authorities present their own reform proposals and/or are engaged in internal organisational reforms as a response to the critical episode but also to the evidence presented by the inquiries on bureaucratic failures.</p> |
| <p>2.3. Impacts and effects</p> | |
| | <p>In light of the current reform debate and the extensive assessment of their failures, the pre-existing coordination practices in German homeland security policy appear very ambiguous and particularly susceptible to neglecting the exchange of information. Yet, this crucial consequence of the pre-existing coordination practices is not completely unintended in the sense that the formal division of competencies of offices responsible for intelligence services and the police is a key notion in German homeland security policy.</p> <p>Moreover, the current policy scandal leading to the various parliamentary inquiries and external expert evaluations (as well as the appointment of special envoys) informs about the ambiguous consequences of the pre-</p> |

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| | <p>existing coordination practices regarding transparency, control and particularly accountability. Especially the behaviour of the homeland security authorities vis-à-vis the parliamentary inquiries, most notably the destruction of official files before their submission to parliament, has significant negative effects on the trust of citizens in the public authorities engaged in this particular policy field.</p> |
| <p>2.4. Lessons learned and policy recommendations</p> | |
| | <p>At the time of writing, the reform debate on German homeland security policy unfolds and it is therefore too early to assess the potential lessons learned from the upcoming reforms for the coordination practices.</p> <p>However, the recent debate and its accompanying inquiries also suggest lessons learned from the previous coordination practice at work. Firstly, the crucial formal separation between offices responsible for intelligence and for police work is relevant and supposed to continue, but needs further specific conditionalities in order to allow more exchange of information between these authorities.</p> <p>Secondly, the almost classic division of responsibilities between offices at the federal and state levels will prevail (also due to constitutional concerns), but more centralisation might be necessary in order to take the lead in cases of national-security concerns. The current BKA legislation allows this “seizing by the centre” but is mostly administered through the well-experienced arrangements of consensual formats to cooperate between the different state levels. Instead, political actors seem to come to the agreement that domestic terrorism requires more lead and active top-down management by offices at the federal level.</p> <p>As such, the lessons learned so far are mostly in regard to both features of the politico-administrative system in Germany and policy-specific characteristics that are also entrenched in administrative structures. Hence, the centralisation tendencies implied by various reform proposals are not heavily discussed for other policy areas with a similar actor constellation facing a crisis such as climate change or the demographic challenge. The currently discussed solutions and attempts to reform the pre-existing coordination practices in homeland security policy in Germany may be useful for other countries, especially because they explicitly emphasise policy-related causes and consequences that are very likely to matter in other national context as well. Put differently: Although the separation principle is rather unique in Europe, the general characterisation of homeland security authorities as comparatively highly specialised authorities may also result in weak coordination and rather reluctant exchange of information elsewhere – further intensified by the policy-related feature of (organisational) secrecy as a core function and competence of any authority involved in homeland security policy.</p> |

| 2.5. Further information | |
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| Data and references | <p>This case study is mainly informed by official documents provided by governmental and parliamentary actors involved in homeland security policy in Germany. In addition, it draws upon documents and evidence issued in the aftermath of the recent detection of a Neo-Nazi terror cell in Germany in November 2011, especially the parliamentary inquiries and external expert evaluations.</p> <p>Bundesländer (BL). 2012. Strategiepapier zur Neuausrichtung des Verfassungsschutzes, 28 August 2012, Berlin. Available at http://celleheute.de/wordpress/wp-content/uploads/2012/08/Anlage-PI-186-Strategiepapier-Neukonzeption-des-Verfassungsschutzes.pdf.</p> <p>Bundesamt für Verfassungsschutz (BfV). 2012. Presseinformation des Bundesamtes für Verfassungsschutz (BfV) zum Start des Gemeinsamen Extremismus- und Terrorismusabwehrzentrums zur Bekämpfung des Rechtsextremismus/-terrorismus, des Linksextremismus/-terrorismus des Ausländerextremismus/-terrorismus und der Spionage/Proliferation (GETZ).</p> <p>Bundesministerium des Innern (BMI) (2011): Das Gemeinsame Terrorismusabwehrzentrum: Zusammenarbeit der Sicherheitsbehörden zur Bekämpfung des islamistischen Terrorismus, Berlin: BMI. Available at http://www.bmi.bund.de/SharedDocs/Downloads/DE/Themen/Sicherheit/Terrorismus/gtaz.pdf?__blob=publicationFile.</p> <p>Fleischer, Julia. 2012. Coordination Failures in the Dark? The Case of Homeland Security Administration in Germany. Manuscript.</p> <p>Sächsischer Landtag, Parlamentarische Kontrollkommission. 2012. Vorläufiger Abschlussbericht der PKK, 22 June 2012, Leipzig: Sächsischer Landtag. Available at www.lvz-online.de/f-Download-d-file.html?id=2354.</p> <p>Schäfer, Gerhard, Volkhard Wache and Georg Meiborg. 2012. Gutachten zum Verhalten der Thüringer Behörden und Staatsanwaltschaften bei der Verfolgung des "Zwickauer Trios", Erfurt. Available at http://www.thueringen.de/imperia/md/content/tim/veranstaltungen/120515_schaefer_gutachten.pdf.</p> <p>Staatsministerium des Innern des Landes Sachsen. 2012. Vorläufiger Abschlussbericht zum Fallkomplex "Nationalsozialistischer Untergrund", Vorlage an den Innenausschuss des Sächsischen Landtags, 25 June 2012. Available at www.lvz-online.de/f-Download-d-file.html?id=2352.</p> |
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