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DISSERTATION

“HUMAN RESOURCES MANAGEMENT MADE IN GERMANY: THE PERSONNEL
PRINCIPLES OF A WEBERIAN PUBLIC ADMINISTRATION”

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“A fully developed bureaucratic mechanism stands in the same relationship to other forms as does the machine to the non-mechanical production of goods”

Max Weber

CONTENTS

Introduction.....	3
Methodological and Research Framework.....	17
1. Human Resources Management in the German context: Defining and analyzing a “newcomer”.....	22
1.1. The epistemological diversity of the German HRM: Definitions, Labels and General Features.....	27
1.2. Auf welchen verschiedenen Weisen kann das Personal geleitet werden? Models of HRM and German approaches to personnel issues.....	39
1.3 Marginalization or gradual construction? HRM’s co-existence with the German environment.....	52
2. The German political system and its public administration: Federalism and personnel allocation under dialogue.....	61
2.1. Setting up the Federation: Implementation federalism and its administrative macrostructure.....	67
2.2. Civil service’s federalization and the notion of power’s distribution as personnel tasks’ allocation.....	82
2.2.1. A decentralized centralization? Public personnel’s density and the administrative predominance of “die Länder”.....	101
3. Analyzing the Federation’s public personnel: Examination of the in-service “Gestalt” of the “Beamte”.....	122
3.1. The legal framework and the scope of the German public service: Civil servants and public employees under administrative co-existence.....	124
3.2. Recruitment.....	139

3.3. Professional and Career Development.....	164
3.4. Remuneration.....	193
4. The philosophico-administrative ontology of a Weberian administration.....	205
4.1. Willkommen in der Verwaltung der Anwälte: Das Phänomen des Juristenmonopols und der Weg zur Weberianischen Verwaltung.....	207
4.2. Max Weber is still “alive“: Die Dominanz der hergebrachten Grundsätze des Berufsbeamtentums als berufliche Realität des Innendienstes.....	249
Conclusion(s).....	279
Bibliography.....	282

Introduction

A. The “unfamiliar” term

It was back in the years 2006 and 2009, when the term “human resources management” started being extensively used in the context of the wider, German politico-administrative discourse and, in particular, in the field of the German public administration. Despite the reluctant and non-holistic reform attempts of the previous “German decades” of 1970, 1980 and 1990, the federal reforms of 2006 and 2009 (Föderalismusreform 2006, Föderalismusreform 2009) with regards to given civil service’s regulations and “on-duty” prescriptions, achieved to bring out and spread the notion of “public personnel’s management” with a more stable and intense way.

Within an intertemporally centralized administrative system, which has been co-existed with a decentralized, political one for many decades, the above-mentioned reforms (2006, 2009) did not -as the previous ones- carry on a “holistic reformative” character, but were truly characterized by the -newly introduced- fact that their main core of functional existence was relevant to the “regulation” and guidance of issues concerning the “public human entity”¹.

Two (2) reforms, which did not suddenly discover that a given, “human capital” was working inside and in the favor of German state’s public sector, but highlighted that its “human units” could be handled with multiple ways, which, in turn, could be revised proportional to their needs, the ones of the citizens and, of course, the ones of the state.

The above entity (“state”) could be easily characterized as the main responsible actor for the delay of the introduction of the term “human resources management” in the field of the discourse concerning German public administration. Germany and the German masterminds with regards to the country’s public administration were always “conceptionally numb” when hearing or reading the above-referred notion – phrase². “Human resources management”, a pure Anglo-

¹ Christoph Reichard, “The study of Public Management in Germany: Poorly institutionalized and fragmented”, in *The Study of Public Management in Europe and the US: a comparative analysis of national distinctiveness*, Oxfordshire: Routledge, 2007, p.56

² Michael Bauer, “Public Administration in Germany: Problems and Potential of a Fragmented Community”, in *International Journal of Public Administration, Speyer: German University of Administrative Sciences Speyer*, 2018, p. 2-3

Saxon and, at the same time, “anti-German” term was -and to a great extent still is- perceived as one, which had nothing to do with the German nation’s particularities and its traditional organizational culture³.

In fact, according to Siedentopf, Sommermann and Hauschild, the term “Human resources management” was since ever represented in the field of German public administration, but satisfactory “covered” by the well-established notion of *German Etatism*⁴. Using the latter-mentioned term as a fruitful background, and, in particular, as a research motive, one has to mention that the main reasons why for the current research’s conduction are directly interrelated to it (German Etatism).

³Ibid, p.2-3

⁴ Heinrich Siedentopf, Karl-Peter Sommermann, Christoph Hauschild, “The Rule of Law in Public Administration: The German Approach” in *Speyerer Forschungsberichte 122 (3.Auflage)*, Speyer: Forschungsinstitut für Öffentliche Verwaltung Bei Der Hochschule für Verwaltungswissenschaften Speyer, 1994, p. 59, 61-63

B. The effects of German Etatism as the first reason why for research's conduction

As a first reason why, which justifies the need for the current research to be undertaken, one has to refer to the historical existence, the “ontology” and the function of German Etatism as such, i.e. as a central and crucial factor, which gradually shaped the stable being of an “Invincible State”, able to act as a superpower and, at the same time, as a regulator of each and every aspect inside its interior. Having been neglected at a big extent by the German academic community, the gradual development and dominance of such a “huge construction” (i.e. the German state in terms of practical configuration) made by the German Etatism, as well as its existence “against” the being and guidance of its own “lively units” (i.e. its people-citizens), formed one of the main reasons why the German, academic thought was focused for decades on the “Science of State”, without taking into consideration its “lively components”⁵.

The intertemporal construction of a “German Big State”, the intensive, epistemological occupation of the German academic community with it and, finally, its effect on the non-emerge of an early-born and pure “German human resources management” discipline within the country’s public sector, met a gradual, inter-chronical development, which has been differently expressed from decade to decade⁶.

Before one continues with a short, historical flashback of German Etatism and narratively describe how did it affect the early existence of a “German HRM”, he or she has to keep in mind the following: the above-referred argumentation concerning the negatively affected “German human resources management” because of the emerge of a powerful state mechanism, does not mean that the German state did not possess and achieve a certain way (or multiple ones) to handle, manage and guide the “amount” of personnel working for the public sector over and during decades. It simply means the absolute and ultimate dominance of the state over the “lively units”, as well as the univocal epistemological occupation with the state entity and the non-

⁵ Christoph Reichard, “The study of Public Management in Germany: Poorly institutionalized and fragmented”, in *The Study of Public Management in Europe and the US*, Oxfordshire: Routledge, 2007, p.42-44

⁶ Ibid, p.50-51

pluralism of personnel management techniques, which were totally governed and influenced by the spirit of the Weberian “Rule of Law”⁷.

The above-stressed gradual, historical configuration of a strong state culture, along with a strict supervision, monitoring and non – pluralism of management techniques in the field of personnel handling were aftereffects of a concrete state’s evolution over the centuries⁸.

German state’s and Etatism’s functional and existential dominance were firstly expressed during the late seventeenth (17th) and early eighteenth (18th) century, when, in the -later-called- “German space”, the idea of the creation of a state emerged, as well as an discipline occupied with it and its general handling and sociopolitical steering⁹.

Johann von Justi (1760), one of the most known academicians and dominant scholars of political science of the period, defined the “new-emerged” field-discipline of “*Policey-Wissenschaft*”¹⁰ as an absolutely political, legalistic and, at the same time, governmental one. It’s political character, which could be even evidenced by its name (“*Policey*” = policy), was to be combined from the beginning with economic features, in order for the Prussian space’s financial and sociopolitical development to be gradually achieved during the first years after the conduction of the Thirty Years War¹¹.

The Prussian region in the heart of Europe, as it emerged after the Thirty Years War, was not only seen and comprehended by the people-citizens as a purely “political” state under gradual, stable and continuing construction, but also as a “financial regulator”, whose main and central goal was to achieve a multi-level prosperity¹². It was a short and general preface with regards to an upcoming, successful and “sanctified” state, an independent regulator of a Hegelian nature,

⁷ Heinrich Siedentopf, Karl-Peter Sommermann, Christoph Hauschild, “The Rule of Law in Public Administration: The German Approach” in *Speyerer Forschungsberichte 122 (3.Auflage)*, Speyer: Forschungsinstitut für Öffentliche Verwaltung Bei Der Hochschule für Verwaltungswissenschaften Speyer, 1994, p. 3-5

⁸ Christoph Reichard, “The study of Public Management in Germany: Poorly institutionalized and fragmented”, in *The Study of Public Management in Europe and the US*, Oxfordshire: Routledge, 2007, p.50

⁹ Ibid., p.50

¹⁰ Ibid., p.50

¹¹ Ibid., p.50

¹² Ibid., p.50

which would be totally ready and legally responsible to implement its authority over its “lively components” over the next decades¹³.

The idea of a “superstate” continued to further exist until the end of the eighteenth (18th) century, something which was -at that time- characterized by the emerge of another discipline, the one of “Kameral Wissenschaft” (“Kameralistik”)¹⁴. The latter, contrary to the former (“Policey – Wissenschaft), followed a more mercantilistic way of thinking and acting and considered the state as, a financial regulator inside its own interior – national space. “Kameral Wissenschaft” and the empowered financial role of the state were official established after the introduction of the “*first academic chair of Kameralistik founded in 1727 at the University of Halle*”¹⁵.

The nineteenth (19th) century was probably one of the most important ones for the upcoming, independent German Etatism¹⁶. The above argument is here supported, mainly because of the further development of the “financial dominance” of the role of the state and, at the end of the century, the combination of the latter with the re-politicization of the entity as such, something which was mainly expressed by the Weberian school of thought.

In particular, the discipline of “Kameral Wissenschaft” was further academically and epistemologically expanded into three (3) different fields – branches at the beginning of the nineteenth (19th) century, i.e. into public finance and accounting, public economics (with its main focus on trade and agriculture) and state sciences¹⁷. According to Sabine Kuhlmann, the historical event of the German Unification under the Prussian State on the eighteenth (18th) January of the year 1871

¹³ Harald Fuhr, Julia Fleischer, Sabine Kuhlmann, “Federalism and Decentralization in *Germany: Basic Features and Principles for German Development Cooperation*”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.7,8

¹⁴ Christoph Reichard, “The study of Public Management in Germany: Poorly institutionalized and fragmented”, in *The Study of Public Management in Europe and the US*, Oxfordshire: Routledge, 2007, p.50

¹⁵ Ibid., p.50

¹⁶ Ibid., p.50

¹⁷ Ibid., p. 50

played a crucial role in the circumstantial abandonment of the notion of “financial regulator”, while it empowered the idea of the “State – Administrator” once again¹⁸.

The discipline – field of state sciences gained significant ground within the borders of the new, unified German state and the notion of “Staatswissenschaft”¹⁹ formed the best possible and fertile background, not only to express a “brand-new” and independent discipline with regards to the extensive knowledge of the state and its main functions, but also to provide the appropriate “conceptual fortune” for the later expressed Weberian approaches to the “*Rechtsstaat*” and the school of “*Heidelberger Denkweise*”²⁰.

The latter one, which was originally expressed by the sociologist Max Weber, was devoted and dedicated to the description of the entity of the state as the official “Ruler” and “Administrator”, not only with regards to facts and situations taking place inside its geographically defined region, but, above all, with regards to the personnel, which was going to be devoted to the nation state’s everyday function.

As it will be demonstrated throughout the last (5th) chapter’s pages, the Weberian prescriptions as an “amount” of “theoretical substance” of a whole, sociopolitical theory were the ones, which officially introduced the notions of the professional, state and rule-oriented civil service, its constitutionally prescribed principles and a given, strict type of in-service hierarchy, ruled and governed by the term of “Rule of Law” in the German context.

¹⁸ Harald Fuhr, Julia Fleischer, Sabine Kuhlmann, “Federalism and Decentralization in *Germany: Basic Features and Principles for German Development Cooperation*”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.7

¹⁹ Heinrich Siedentopf, Karl-Peter Sommermann, Christoph Hauschild, “The Rule of Law in Public Administration: The German Approach” in *Speyerer Forschungsberichte 122 (3.Auflage)*, Speyer: Forschungsinstitut für Öffentliche Verwaltung Bei Der Hochschule für Verwaltungswissenschaften Speyer, 1994, p. 3-5

²⁰ *Ibid.*, p. 3-5

C. Poor institutionalization and disciplinary fragmentation as further reasons why for current research's conduction

Having examined German Etatism as a main reason why for the “theoretical marginalization” of the study of public personnel’s management in the German context, and therefore, as a reason, which justifies the conduction of the current research, one has to here concentrate on the second (2nd) reason why, which can be also examined as a direct spin-off of it (German Etatism).

It is about one, which can be found in the field of literature as “poor institutionalization” or “disciplinary fragmentation” of the field of public administration within the German context, and, in particular, of the one of “human resources management” inside Germany’s public sector. In fact, one has to make clear that poor institutionalization and disciplinary fragmentation are two (2) different procedures and mistakenly considered as one (1)²¹. In more specific terms, the former leads to the latter, while both of them have the same point of reference: the today’s theoretical marginalization of the term “human resources management” inside the everyday function of German civil service.

The procedure – phenomenon of German HRM’s poor institutionalization is an aftereffect of the so-called historical “Lawyers’ dominance” inside German civil service²². According to Michael Bauer and Stefan Becker, the above-referred phenomenon has its historical roots back to the nineteenth century (19th), when the obtainment of a law degree was considered as the basic and most fundamental requirement for someone to enter to Germany’s civil service²³. According to the same researchers, that particular phenomenon continues to exist in the context of today’s German public administration, something which can be evidenced by the fact that the majority of the servants, who work on the upper – “high class” level of German administration, i.e. the Federal one, possess a legalistic background – “identity”²⁴.

As it will be seen in the framework of the last chapter (4) with regards to the analysis of the -still-existing- Weberian elements of today’s German public

²¹ Stefan Becker, Michael Bauer, “Public Administration in Germany: Precarious Present, Promising Future?”, in *European Perspectives for Public Administration*, Leuven: Leuven University Press, 2018, p.352

²² Ibid., p.352

²³ Ibid., p.352

²⁴ Ibid, p.352

administration, the phenomenon of “Lawyer’s dominance” and its maintenance inside the country’s administration, forms a amaranthine continuation of the principle of “Rule of Law”, and therefore, a “conceptional sequel” of the phenomenon of German Etatism²⁵. Besides, according to the latter one, the “Law” as a “lively” entity has to be firstly taught by legal experts, who work for the state and then strictly implemented and followed by all of its “personnel components” – servants on all of its functional spectrum.

In particular, Michael Bauer claims that the legal background, and mainly the one of the political civil servants of the “Bund Level” combined with the intertemporal “ticket-degree” for their entrance to the German civil service, did not only delay the institutionalization of public administration and personnel’s management as autonomous disciplines in Germany, but also led to their non-holistic legitimization as core-fields within German civil service since today²⁶. Specifically, the diachronic non-consideration of certain administrative skills, management techniques and personnel guidance according to principial strategies as fundamental and strictly required assets for the entrance to German public administration, along with the fulfillment of neuralgic positions inside it, led to the continuation of a Weberian, legalistic background inside the German civil service, which was -and still is- characterized by a continuing “Weberianization”, totally depicted and transfused to its organizational culture and personnel principles.

As Stefan Becker adds, the above-mentioned Weberian organizational culture influenced totally the considerations of civil servants and of the German society concerning the whole background of the German civil service²⁷. On the one hand, German citizens considered that they were ruled and governed by a majority of lawyers. On the other hand, candidate civil servants, trainees at the German civil service’s central and regional administrative units, as well as professional civil servants and officials considered themselves as “legalistic rulers – masterminds”,

²⁵ Heinrich Siedentopf, Karl-Peter Sommermann, Christoph Hauschild, “The Rule of Law in Public Administration: The German Approach” in *Speyerer Forschungsberichte 122 (3.Auflage)*, Speyer: Forschungsinstitut für Öffentliche Verwaltung Bei Der Hochschule für Verwaltungswissenschaften Speyer, 1994, p. 3-5

²⁶ Stefan Becker, Michael Bauer, “Public Administration in Germany: Precarious Present, Promising Future?”, in *European Perspectives for Public Administration*, Leuven: Leuven University Press, 2018, p.354

²⁷ *Ibid.*, p.354

totally responsible for the implementation of the Weberian “Rule of Law”²⁸. In other words, it was widely considered that the appropriate, correct handling of the German public administration and the expertise behind it could be found only in the special, academic and disciplinary background of law.

The above-described situation, the non-institutionalization of public administration as a field of knowledge with practical application inside the German, state context, led to its “disciplinary fragmentation”²⁹. The latter term – phenomenon was mainly evidenced after the decade of 1960, when the notion of “Public Administration” as an academic discipline became known in Germany³⁰. In the next two (2) decades after World War II, the new discipline, having derived from the United States of America, seemed to be confronted with internal conceptional problems.

The first one, described by Michael Bauer as the “problem of cleavages” refers to the disciplinary relation among public administration and law, political sciences, sociology and economics, whereas it describes the extent, to which the latter ones influence and affect the former epistemologically³¹. In particular, it is supported that public administration, especially in the framework of German case, does not form a “pure” and “full-blooded” discipline, but a wide field of study, which plays a substitutionary role to more “fundamental” ones, such as the above-referred.

The “problem of cleavages”, whereas the term “cleavage” refers to every other discipline than public administration, along with public administration’s “conceptional diffusion” into more, different, “theoretical layers – cleavages”, binds and establishes according to Michael Bauer, its disciplinary fragmentation.³²

The above term – phenomenon can be evidenced, because of the existence of two (2) different facts inside German public administration as a field of study since

²⁸ Stefan Becker, Michael Bauer, “Public Administration in Germany: Precarious Present, Promising Future?” in *European Perspectives for Public Administration*, Leuven: Leuven University Press, 2018, p. 352, 354

²⁹ *Ibid.*, p.352, 354

³⁰ *Ibid.*, p.354

³¹ Michael Bauer, “Public Administration in Germany: Problems and Potential of a Fragmented Community” in *International Journal of Public Administration*, Speyer: German University of Administrative Sciences Speyer, 2008, p. 7

³² Michael Bauer, “Public Administration in Germany: Problems and Potential of a Fragmented Community”, in *International Journal of Public Administration*, Speyer: German University of Administrative Sciences Speyer, 2018, p.8

today. The first (1st) one has to do with an internal division of its scholars into “theorists” and “practitioners”, i.e. two (2) different groups – philosophical and cultural ways of thinking inside the same field (German public administration)³³. “Theorists” are considered all these scholars, who study German public administration, but get involved in its more theoretical “layers”, such as sociopolitical issues and do their theoretical elements influence German public administration’s function, whereas as “practitioners” are considered all these scholars, who mostly carry on a “legal-legalistic” background and are occupied with the more practical aspects of it, such as issues concerning administrative law and its central principles.

The second (2nd) one can be seen through the current German, academic environment with regards to the teaching of national, as well as international, public administration at German universities. According to Christoph Reichard, that particular field of study is characterized by a non-holistic spread³⁴. In particular, according to data given by him, there are only under twenty (20) German universities offering undergraduate and postgraduate programs with regards to public administration, whereas only three (3) of them offer “*a small number of centers for public-sector teaching*”, i.e. “*the Deutsche Hochschule für Verwaltungswissenschaften Speyer (DHV), the Faculty of Administrative Sciences at the University of Konstanz and the Potsdam Center for Policy and Management at the University of Potsdam*”³⁵.

³³ Ibid, p. 7-8

³⁴ Christoph Reichard, “The study of public management in Germany: Poorly institutionalized and fragmented”, in *The study of Public Management in Europe and the US: a comparative analysis of national distinctiveness*, Oxfordshire: Routledge, 2007, p.54

³⁵ Christoph Reichard, “The study of Public Management in Germany: Poorly institutionalized and fragmented”, in *The Study of Public Management in Europe and the US*, Oxfordshire: Routledge, 2007, p.54

D. Setting Research Goal(s)

Having defined and analyzed the main reasons why the current research can be justified as a purposeful one, not only the whole thesis' central research goal has to be clearly set, but also the ones of each and every chapter.

In particular, it has to be clear that the main goal of the dissertation is to define and analyze the central principles and strategies, according to which the German, professional civil service is managed. Moreover, it has to be stressed that the analysis will be conducted according to a comparative and combinatorial research way of thinking and writing, i.e. the one, which will be able to produce the best possible results on depicting the German administrative principles, which govern the country's civil service, along with their Weberian, philosophical background.

At that particular point, the modern researcher has to keep in mind that, in the framework of the current project, an attempt will be made to escape from the conceptional dilemma with regards to whether German public administration in today's Germany could be characterized as a "Weberian" or "Neo-Weberian" one. The main argumentation will be here focused on consciously and selectively picking its main personnel principles, according to which the latter entity's everyday function takes place and to "tie them out" with the chronical, Weberian spirit – background of it, which shapes its main organizational tradition since today.

As it will be supported, such a research enterprise does not only require a clear definition of the labels' and terms' multiplicity of the notion of "human resources management" in the case study of Germany, but also an extended reference to the Weberian, administrative culture and its interconnection to today's German, federal political system.

In particular, the first (1st) chapter will be used as a post-introductory one. Before one goes deeper into its "intellectual roots", it must be clarified that Human Resources Management (HRM) will be analyzed as a wide, unified discipline, meaning that no special distinction will be made between "private" and "public" HRM, mainly because of the introductory character of the chapter, as well as the dialectical relation of management practices implemented to both sectors, which can functionally influence one another. Taking into consideration the analysis by Christian Scholz, the chapter will firstly aim to clearly depict HRM's diversity of definitions inside a national-German context (1.1.). Moreover, following the analysis

by Michael Müller, the chapter will present and shortly analyze the 4 different models of HRM, i.e. the “traditional personnel management”, the “pluralist HRM”, the “market-type personnel management”, and the “unitarist HRM” (1.2.).

Having referred to the above ones, the chapter will put the emphasis on the different “German-speaking” academic approaches to HRM, i.e. the “Stuttgart”, “Mannheim”, “Saarbrücken” and “Zürich” approach (1.2.). According to the analysis by Christian Scholz and Rüdiger Kabst, the above approaches will be described and defined as given and precise “German strategies” of personnel management. Last but not least, the first, post-introductory chapter will try to find out an ascertainment with regards to the existence of HRM inside Germany’s environment (1.3.). In particular, it will try to find out whether HRM exists as a “marginalized” discipline, rejected by the “German needs” of the country’s socio-financial conditions or has to be considered as an endeavor “under construction” (1.3.).

The main goal of the second (2nd) chapter will be to describe German Public Administration as one, which “naturally” fits -or is obliged to do so- into the German political system’s federal structure. In particular, it will try to define how does the latter influence the former, as well as the distribution of public personnel to the German three-layered governance. The chapter will start by defining the term “Federalism” according to the analysis by Andrew Heywood and will describe Germany as “unitary federation” according to the one by Sabine Kuhlmann (2.1.). Furthermore, a short overview of Germany’s political system will be given and a reference will be made to given principles of it (“cabinet” and “departmental” principle).

Moreover, the country’s political system will be here described as a complex one, mainly because of the interconnection of implementation federalism to the German three-layered governance have. The above argument will be conceptionally enriched by Berndt Keller’s analysis, according to which the distribution of administrative tasks, and thus, the one of personnel, follow the federal structure of the German political system (2.2.), something, which will be examined along with the administrative domination of the governmental layer of “die Länder” (2.2.1.). The latter argument will be enriched from data given by the German Ministry of Interior (“Bundesministerium des Innern”, “BMI”) and the Federal Statistical Office (“Statistisches Bundesamt”) which ascertain that public personnel’s strongest density can be found at the level-layer of “Länder” (2.2.1.).

The central research goal of the third (3rd) chapter will be to explore and analyze the ontology of German public personnel by examining its structure, traditional principles, internal procedures, labor relations system and recent trends. In particular, emphasis will be put on its dualistic structure: the analysis will be here mainly focused on the fundamental administrative distinction between civil servants and public employees, whereas the differences concerning their legal status will be stressed (3.1.). Furthermore, the traditional principles of the professional civil service will be analyzed by taking into consideration the German Basic Law (“Grundgesetz”), as well as the Federal Civil Service Act (“Bundesbeamtengesetz, BBG), which will be examined as a precise “Code of Administrative Ethics” that is still dominated by Max Weber’s tradition and influences German Public Administration’s character (3.2.). The above argument will be also analytically enriched in the framework of the next (4th) chapter.

Moreover, the German public personnel will be here described as a “lively entity”, vital features of its “functional existence” (Recruitment, Training, Mobility, etc.) will be critically analyzed, whereas their relation and relevance to the terms of “centralization” and “decentralization” will be taken into consideration (3.3.). In addition, German public personnel affairs in terms of labor relations and interests’ representation will be studied (3.4.), whereas two (2) recent trends (female and part-time employment) will be selectively presented (3.5.).

Fourth (4th) chapter’s main goal will be to set and ascertain the Weberian character of German Public Administration as the most fundamental feature of it. According to the analysis by Hans-Ulrich Derlien, the chapter will try to prove the non-familiarization of the German Public Administration with the transition from tradition to modernization. In particular, according to the analysis by Manfred Röber, the traditional principles of the professional civil service will be here again presented, but analyzed as dominant ones, which directly familiarize the German Public Administration with the Weberian philosophy (4.1.). In addition, public personnel’s functional features, such as training and collective bargaining will be described as ones, which carry on a centralized character, whereas the phenomenon of “flexibilization of work” through part-time employment will be examined as a deviating trend from the Weberian character of German public administration (4.2 and 4.3).

According to the analysis by Christoph Reichard, the sub-chapter 4.4 will aim to prove lawyers' working and professional dominance in the field of German Public Administration, whereas it will try to parallel the latter phenomenon to the principle of "Rule of Law" which derives from the Weberian tradition. Last but not least, according to the analysis by Gerhard Hammerschmid, an attempt will be made to present and analyze the implementation of the selective reform attempts ("Föderalismusreform 2006", "Föderalismusreform 2009", "Neues Steuerungsmodell", as well as the failed role of public managers in the German environment) as ones which further proved the Weberian character of German public administration (4.5.).

The conclusion will be conceptionally concentrated on each chapter's central ascertainties and arrive at the concern of some future key-challenges for the German Public Administration, such as the "confrontation" with the phenomenon of "Administrative Europeanization" and the functional and productive "alignment" with the other European countries' modernized administrations. In particular, the possibility of a future of administrative modernization will be examined, whereas an attempt will be made to answer to the question of its actual need's existence or not.

Methodological and Research Framework

The current chapter shortly refers to the methodology and research “paths” followed in the framework of the dissertation. In particular, it includes a short reference to the main aims of the methodological framework as such, the type of research, the type of chapters and their methodological row, as well as to the bibliography and research references, which are used during the whole project’s conduction.

In particular, the main aims of the methodological and research framework is to shortly describe the main research mentality and way of analytical thinking, according to which the current research is conducted. Furthermore, it tries to analyze how do the construction and the row of the chapters assist the extraction of the main research goal. Moreover, it refers to given bibliography and research references, which are used in the framework of the dissertation, as well as, it points out the way of bibliography’s and references’ researching, whereas it depicts their crucial assistance to the conduction of the whole project.

The research, which is here conducted can be described and characterized as a theoretical and descriptive one, because, in its wider extent, it is based on given bibliography and research references with regards to the German public administration and, in particular, to the personnel principles of the German civil service. However, an important mention must be made at that point with regards to the element of the project’s “time”, i.e. not only its thematic limitation according to precise periods of time, but also its time of conduction.

In particular, the project is not conducted according to a given division into certain periods of “German time” (for example: before or after the German Unification) or according to given “governmental periods” (for example: the Chancellery of Gerhard Schröder), in order for it to examine civil service’s personnel principles inside German public administration and its changes from period to period. On the contrary, the research is focused on the current, dominant situation, which has been established inside German civil service’s “management reality”, by taking as granted given changes and modifications, which have taken place on an intertemporal basis.

However, it has to be clarified that crucial and historical events of significant importance for the German civil service and its way of management or its “working existence”, such as the introduction and implementation of tools of the “New Steering Model” (“*Neues Steuerungsmodell*”) or the gradual privatization of the German, postal and railroad system, will enjoy specific reference.

As to the actual time of research’s conduction, it is consciously counted from the procedure of searching for bibliography and research references, i.e. from August of the year 2020 (08.2020) to the day and month of its official presentation to the Research and Examination Committee of the Department of International and European Studies of the University of Macedonia, i.e. during the spring semester of the year 2021.

As to the type of the chapters, it has to be stressed that each and every of them starts with the set and definition of a certain research goal, whereas it tries to directly reach it during its last paragraphs. In particular, the analysis in each and every chapter is guided by the set of the main – central research goal, while the “in-chapter” analysis is made according to official data, combined with personal opinions – arguments, which are justified and based on them (data).

In addition, each and every chapter closes and concludes with a short summarization of the data, trying to prove the accomplishment of the research goal, which was set at its beginning. The particular conclusions made at the end of it are used at the end of the project, in order to provide a fertile ground, on which the accomplishment of the whole dissertation’s research goal will be finally based and justified.

Moreover, one has to here mention that all the chapters are written and constructed in a given row, in order for a particular, “methodological flow” to be served. In more specific terms, the scheme “Theoretical approaches – Actual existence – Weberian presence” is here followed. In particular, the dissertation starts with the analysis of the multiple, theoretical and epistemological approaches with regards to the term “Human Resources Management” (HRM) in the case study of Germany (ch.1). Then, an attempt is made, in order describe and explore the current, actual existence of the field of German public administration, as well as, its co-existence with the German, federal political system and how does the latter politico-administratively influence the former (ch.2).

After the examination of the above ones, an initiative is undertaken, in order for the professional personnel principles to be analyzed and examined, according to which the management of the German civil service is guided (ch.3). Then, an attempt is made to prove the presence of the Weberian elements, found in the way, methods and strategies, according to which the whole German civil service functions (ch.4).

The above-described “methodological flow” of the chapters that characterizes the whole dissertation is consciously selected, because it achieves to develop a methodological way of analysis, which starts from basic, but, at the same time, specialized theoretical issues (epistemological approaches), continues with the extensive and critical examination of the present situation (politico-administrative relations and personnel principles analysis) and, at the end, it concludes by exerting individual inferences, which are based on data and analyses taken from already-examined aspects (Weberian presence and final conclusion).

As to the final element, which comprises the methodological and research framework, i.e. the one of bibliography, it has to be mentioned that it is composed by different features. In particular, the term “Bibliography” includes: a) official German legal – normative sources, b) official German data from Federal Agencies, c) official data from the OECD and the European Commission, d) sources from research center’s published works, e) sources from universities’ research repositories, f) literature sources.

As to the official German legal – normative sources, these were found either online or after requests’ sending to German agencies and institutions. Most of these requests were sent after online communication (email), whereas others after phone communication. Some examples of the most dominant of them are the German Constitution (“*Grundgesetz*”), the Collective Agreement Act of 1949 (“*Tarifvertragsgesetz von 1949*”), the Collective Agreement Act of 1969 (“*Tarifvertragsgesetz von 1969*”) and the last amendment – version (2016) of the Federal Civil Servants Law (“*Bundesbeamten-gesetz*”).

As to the official data from Federal Agencies, they were found online on the official websites of the agencies and were freely and legally downloaded. A characteristic example is the brochure entitled as “*The federal public service: a modern and attractive employer*”, which was found on the official [website](#) of the German Federal Ministry of the Interior (“*Bundesministerium des Innern*”, BMI).

With regards to the official data from the European Commission and the OECD, they were also found on their official websites and were freely and legally downloaded. A characteristic example is the European Commission's publication entitled as "*Public administration characteristics and performance in EU28: Germany*", found on the European Union's official [website](#).

As to the sources from research center's published works, they were found and downloaded either online from academic and [research websites](#) or after personal communication with the research centers. Examples of such research centers are the "Leibniz Information Center for Economics" ("*Leibniz – Informationszentrum Wirtschaft*") or the "WZB Berlin Social Science Center" ("*Wissenschaftszentrum Berlin für Sozialforschung*"). Along with the sources taken by research center's published works, one has to take into account published works by official, Federal employment organizations with international character, such as the one of the "German GIZ" ("*Deutsche Gesellschaft für Internationale Zusammenarbeit*"). Contributions of them to research works were freely and legally downloaded from German, official [websites](#), with which they cooperate.

As to the data and information found by universities' research repositories, they were also freely and legally downloaded from their [official websites](#). A characteristic example is the repository of the Middlesex University ("*Middlesex University Research Repository*"), where the published work entitled as "*Human Resource Management of US Multinationals in Germany and the UK*" was found.

With regards to the literature sources, they are divided into two (2) different categories: a) fundamental books concerning German public administration and b) research papers, articles and publications in written – type or online form.

As to the former ones, most of them were found at and borrowed from the Central Library of the University of Macedonia (UoM), as well as the Central Library of the Aristotle University of Thessaloniki (AUTH). Others, such as the fundamental book "Public Administration in Germany" by Klaus König and Heinrich Siedentopf were ordered and bought from inland and foreign bookstores.

As to the latter ones, some of them were also found at and borrowed from the Central Library of the University of Macedonia (UoM), as well as the Central Library of the Aristotle University of Thessaloniki (AUTH). Others were found on academic and research websites, such as the "New Approaches to Public Management" by Christoph Reichard, which was found on ["econbiz.de"](#).

Furthermore, it has to be mentioned that the research's conduction was based on two (2) further, valuable variables: the first (1st) one was the "method" of taking into consideration that in today's Germany exist two (2) different, main schools of thought with regards to German public administration, i.e. the "School of Speyer" ("*Universität Speyer*") and its research institute for administrative sciences ("*Forschungsinstitut für Öffentliche Verwaltung Speyer*") and the "School of Potsdam" ("*Universität Potsdam*"), located in the federal region of Brandenburg, which is one of the few German universities, which are famous for the organization and provision of master programs specialized in German public administration. The knowledge concerning the existence of these two (2) "schools of thought" assisted the whole research's conduction, because it guided it to the searching for books, publications and articles written, supervised and published by their professors and scholars.

The second (2nd) and last one has to do with the general way of searching for some of the above-referred sources on the Internet. That was based on searching by using and introducing key-words such as "German Public Administration", "German HRM", "traditional principles of the professional civil service" etc.

Last but not least, it has to be mentioned that, concerning the catalytic, theoretical elements which compose and determine the current project, it must not be implied that there is any effort of a bankrupt multiplication of already expressed and established opinions. On the contrary, the project has to be comprehended as an amalgam of a related to German public administration domestic and international bibliography. It is also aimed to refute all those arguments and opinions which have tried to undermine the specific gravity of this particular thematic, judging it as a "second-rate" one. All things considered, the interpretation's way of the issue's in question analysis, varies depending on the adopted analytical schemes and theoretical frameworks.

1. Human Resources Management in the German context: Defining and analyzing a “newcomer”

As it has been mentioned in the framework of the introduction, the research goal of the current chapter is to extensively and intensively examine and analyze the epistemological and ontological background of the term “human resources management” in the German context (1.1 and 1.2) and to come to a conclusion with regards to a possible ascertainment (or not) concerning its (non) marginalization (1.3).

In particular, the current chapter firstly aims to explore the multiplicity of definitions and “labels” with regards to the term “human resources management” inside the German environment (1.1). In the above framework, an etymological attempt will be made to comparatively examine the already used German definitions, which aim to render conceptional particularities to the “Muttersprache”, i.e. the German language, with the “full-blooded”, Anglo-Saxon definitions, labels and terms (1.1).

Moreover, it will be shown that the former ones, i.e. the German definitions and labels, in the framework of their “translations’ attempts”, try to be epistemologically accurate and precise when referring to human resources management’s intellectual roots, because they are confronted with the problem of transfusing meanings from language to language (1.1).

In addition, after the examination of different labels and definitions used among two (2) different languages, and thus, communicational systems, an extensive attempt of examination is made to describe and comprehend the multiplicity of epistemic and academic approaches concerning the term “human resources management” inside the German environment by gleaning and categorizing them according to different conceptional traditions and ways of thought (1.2).

In particular, the second sub-chapter (1.2) examines and analyzes the term “human resources management”, not only from a theorists’ point of view, i.e. the one of German academics and their theoretical and methodological approaches, but also from the point of view of the practitioners, i.e. all those people, who, in the field of the German working environment, practically apply and follow given strategic steps and techniques concerning personnel management (1.2). In addition, it has be at that point mentioned that, the latter ones (practitioners) are those, who are familiar with new, given trends of human resources management, which will be also examined in

the framework of the sub-chapter, along with their application to the case study of Germany (1.2).

Taking into consideration the two (2) different “types” of multiplicity, which will be presented and analyzed in the framework of the sub-chapters 1.1 and 1.2., the main theoretical and conceptional core of the third (3rd) sub-chapter (1.3.) is occupied with the crucial issue of the real existence and practical function of the term “human resources management” in the German context. In particular, after the examination of the multiplicity of its definitions and labels and the one of its academic and strategic approaches, the term “human resources management” is here (1.3) analyzed as to its perception by Germany’s working and academic environment, as well as to its influence on them.

In more specific terms, taking into consideration the way of HRM’s everyday application, its strategic and procedural background, as well as the approaches and theories concerning its functional existence inside Germany’s everyday “working reality”, an attempt is here (1.3) made to directly respond and answer to the question of whether the field as such (“Human Resources Management”) exists as a marginalized one or as one, which is critically perceived by the German officials. The current sub-chapter (1.3) will conclude by trying to ascertain the possible problematic existence of the term inside the German content, and thus, its marginalization, or to prove its selective application, and thus, its non-marginalization, but its critical reception.

Before one goes deeper into the chapter’s “intellectual roots”, they have to refer to given, pivotal elements of it and explain them from a multilevel point of view, because they will be used as significant guidelines, in order for the content of the chapter to be satisfactorily explained. In particular, one has to here pre-clarify the “dialectical communication” among the terms of “ontological background” and “epistemological background”, the non-division between private sector’s and public sector’s human resources management (HRM) and the characterization of Germany as a “newcomer”, in the field of HRM. These clarifications will be proved as useful ones, in order for the modern researcher to deeply understand the conceptual paths, which will be followed, as well as the methodological approach, which will be applied during the whole spectrum of sub-chapters.

As to the first one, i.e. the dialectical communication – relation among the terms of “ontological” and “epistemological” background of the term “human

resources management” in the German environment, it has to be mentioned that it mainly takes place as a procedure, which proves the twofold character of the field (HRM) as such, and, above all, the procedure of its co-construction by two (2) different levels. In particular, both ontological and epistemological background of the term “HRM” influence one another in the German context, because the “theoretical level”, i.e. the one of the academic and strategic approaches, influences the “functional existence” of the term as such and its practical implementation as a procedure, which “naturally fits” in the German working environment³⁶.

The above procedure of a “dialectical co-influence” can be also seen and examined in reverse. In particular, the theoretical level of approaches’ multiplicity does not only “supply” and “purvey” the one of practical implementation with all these important and functional tools used for HRM’s working application, but also, its practical implementation’s particularities and ways of application function as an “amplifier” for further theories’ production. In other words, one cannot be totally and ultimately certain with regards to the fact that the already established epistemological background and its theoretical and analytical tools univocally lead to the “lively configuration” and to a standardized, functional way of a German HRM.

In other words, the dialectical relation – communication of both levels – backgrounds, i.e. the ontological and epistemological one, and their co-influence expressed in the terms and in the framework of it, can be judged as the significant one, which assists the modern researcher to reach to a given and safe conclusion concerning the (non) marginalization of the term “Human Resources Management” in the German context. Besides, the above-referred assistance provided by the already mentioned dialectical relation, is the one, which is also used as an explanation’s tool, when one has to clearly express his or her opinion regarding German HRM’s “problematic existence” or critical reception³⁷.

As to the second (2nd) clarification, which has to be here clearly stressed, the modern researcher has to focus on the non-division between the private and public sector’s human resources management. Indeed, the current chapter functions as an exception in the “heart” of the whole project’s theoretical core. In particular, despite the fact that the whole project examines the term “Human Resources Management”

³⁶ Michael Müller, “Unitarism, Pluralism and Human Resource Management in Germany” in *Management International Review (mir)*, Berlin: Gabler Verlag, 1999, p. 466

³⁷ Ibid, p. 475-476

and its principal and functional application to the field of Germany's public sector, the current chapter is univocally occupied with the case study of German HRM's application to Germany's private sector, because the latter forms an ancillary tool and way – method of analysis, in order for the modern researcher to reach to a conclusion with regards to the (non) marginalization of the term in the public sector.

In other words, an analysis “in reverse” is here undertaken. Referring to the techniques' and strategies' multiplicity of HRM in Germany's private sector, a selective and focused reference is parallelly made to the fact of their absence from the field of public sector. That specific element will be extensively and precisely understood during the definitions' (1.1) and techniques' – strategies' analysis (1.2) of German private sector's HRM, whereas, it will be then used as an interpretative tool (1.3), in order for a final research statement to be formulated with regards to the (non) marginalization of the term in the field of public sector.

Given the above facts, one can comprehend that the term “Human Resources Management” is not here considered as a unified field, where private and public sector use and follow the same patterns and “strategic steps”. On the contrary, the exceptional and univocal reference to the German private sector's HRM, as well as to its internal developments, is here consciously made, in order for the comparative difference to the German public sector's to be shown and satisfactorily demonstrated. Besides, the extensive contrast between the German private sector's developed approaches and strategies and the German public sector's highly institutionalized and centralized environment, provide a fertile background as well as a significant research clue, in order certain inferences to be reported with regards to the (non) marginalization of the latter.

With regards to the third (3rd) and last clarification, which has to be here made, one has to explain and justify the characterization of Germany as a “country-newcomer” in the field of “Human Resources Management” in general. The above description is mainly made because of historical facts, as well as of the “intellectual origins” of the term and the way of its function in the German environment.

In particular, according to Rüdiger Kabst, Germany can be characterized as a “newcomer” in the field of human resources management, not only in private, but also in public sector, because of its non-timelessness concerning the academic – theoretical

and practical – executive familiarization with the term as such³⁸. In particular, as to the academic field, only after the year 1961, when the first chair of personnel management was academically established at the University of Mannheim, one can make a case with regards to the existence of a “pure beginning” of the field of HRM in the German environment³⁹.

Furthermore, the characterization of the “newcomer” applies to the German case, as well as to many other countries’ cases, because of the Anglo-Saxon epistemological origins of the term⁴⁰. As it will be discussed and analyzed during the chapter’s page, the term “Human Resources Management” was not born in Germany, and, as Michael Müller mentions, it was not even used in Germany for a long period after its “disciplinary arrival”, i.e. from 1961 to 1962⁴¹. Moreover, according to data given by Cranet-E survey “[...] only 10 per cent of the most senior human resource managers of German private sector firms [...] claimed to have the title ‘human resource director’ or ‘human resource manager’”⁴².

Last but not least, as it will be analyzed and demonstrated, Germany is and can be characterized as a “newcomer” in the field of HRM, from the point of view that the theoretical adoption and practical implementation of the term in the German case, provoked a wide theoretical juxtaposition between the “wave of Universalism”, which was expressed by the transfer of foreign values and strategies to the national-German context and the “German traditionalism”, which was expressed by the loyal implementation and application of “national approaches” to the German working environment⁴³.

³⁸ Michael Müller-Camen, Rüdiger Kabst, “HRM in the German business system: A review“ in *The International Review of Management Studies*, Mering: Rainer Hampp Verlag, 2005 p. 64-65

³⁹ *Ibid.*, p.64

⁴⁰ *Ibid.*, p.64

⁴¹ Michael Müller-Camen, “Enthusiastic Embrace or Critical Reception? The German HRM Debate”, in *Journal of Management Studies* 36 (4), New Jersey: Wiley Blackwell, 1999, p. 470

⁴² *Ibid.*, p.470

⁴³ *Ibid.*, p.466

1.1 The epistemological diversity of the German HRM: Definitions, Labels and General Features

As it has been already referred, current sub-chapter's main research occupation is to describe and demonstrate German HRM's epistemological diversity by gleaning its labels' and definitions' multiplicity, as well as to examine how do the latter ones form a crucial reason why for the non-existence of a "full-blooded" and distinctive German HRM field.

Along with the above argumentation, which forms the central consideration of the chapter, an attempt is here made to specifically explore the main reasons why, which serve and function as a stable background for the existence of the above-referred epistemological multiplicity – diversity, whose timelessness can be used as an argument in the framework of the final, theoretical discussion (1.3) concerning the (non) marginalization of the term "Human Resources Management" (HRM) in the German context.

Before one undertakes such a research initiative adapted to the peculiar German case, they do not only have to formulate and precisely express a general definition with regards to the "wide field" of human resources management, but also other, more specific ones, expressed by human resources management theorists and practitioners.

To begin with, as a general and "theoretically – epistemologically holistic" definition, one could distinct the one given by Gary Dessler. In particular, according to Gary Dessler, *"human resource management is the process of acquiring, training, appraising and compensating employees, and of attending to their labor relations, health and safety and fairness concerns."*⁴⁴.

Dessler selectively "picks up" as fundamental, ontological and terminological features of human resources management five (5) different procedures, i.e. the ones of planning, organizing, staffing, leading and controlling. According to his analysis, all these can be considered as ones, which are "located" in the heart of the field of human resources management⁴⁵.

⁴⁴ Garry Dessler, "Fundamentals of Human Resource Management", Essex: Pearson New International Edition, 2014, p.2

⁴⁵Garry Dessler, "Fundamentals of Human Resource Management", Essex: Pearson New International Edition, 2014, p.2

In particular, “Planning” can be seen and analyzed as the procedure of “*establishing goals and standards; developing rules and procedures; developing plans and forecasts*”⁴⁶, whereas “Organizing” is the one of “*giving each subordinate a specific task; establishing departments; delegating authority to subordinates’ establishing channels of authority and communication; coordinating the work of subordinates*”⁴⁷. Moreover, according to the same analysis, the procedure of “Staffing” has to directly do with the procedure of hiring and recruitment, as well as with the ones of “*setting performance standards [...] evaluating performance; training and developing employees*”⁴⁸.

In addition, according to Dessler, the procedure of “Leading” is the one of “*getting others to get the job done; maintaining morale’ motivating subordinates*”⁴⁹, whereas controlling is the one of “*setting standards such as sales quotas, quality standards, or production levels; checking to see how actual performance compares with these standards; taking corrective action as needed.*”⁵⁰.

Trying to acquire a multifarious research concerning human resources management’s definition, one could also refer to the analysis by Christian Scholz. According to him, the above-referred field, includes all these issues with regards to personnel’s recruitment, placement, training, payroll, rights, management and safety, which take place inside an organization of the public or private sphere and shape a relation of inputs and outputs⁵¹.

As “inputs”, according to the same researcher, one can define and describe all these procedures, which take place from the environment outside personnel, i.e. the organization in general and the manager in particular, and target-result to it, aiming to influence its performance’s results⁵². The latter ones, which are defined and described as “outputs” are all these outcomes given to and extracted by personnel’s

⁴⁶ Ibid., p.2

⁴⁷ Ibid, p.2

⁴⁸ Ibid, p.2

⁴⁹ Ibid, p.2

⁵⁰ Ibid, p.2

⁵¹ Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: Sage Publications, 1994, p.7

⁵² Ibid, p.9

performance, which will be utilized and exerted, in order the whole organization's performance and final operational results to be improved, boosted and strengthened⁵³.

Furthermore, according to Rüdiger Kabst, human resources management can be defined and described as *“the most valuable and unique assets within an organization. It is a wide field, which is directly occupied with the human capital of an organization, whose general handling and main leading concerns the responsibility of the managers.”*⁵⁴. The above-referred procedure of handling, leading and managing is expressed by the launching, innovation and implementation of concrete policies, which have to be followed by the organization in general and the manager – responsible in particular⁵⁵. These and their successful, functional implementation, which is linked to the achievement of organizational objectives and strategic plans, set and determine the success of the organization as a whole.

Moreover, according to Sandra Watson, human resources management can be defined *“as the procedure of managing, leading and monitoring all the efforts, skills or capabilities, which are contributed by a certain group of people to an employing organization and which form part of a wider exchange and are managerially utilized to enable the organization to continue its existence.”*⁵⁶. In addition, according to Michael Armstrong, human resources management can be defined as a *“strategic approach to manage, acquire, develop, motivate and gain the commitment of the organization's key resource, i.e. the people who work in it and for it.”*⁵⁷.

Taking into consideration the above-set definitions, as well as different determinations with regards to the “theoretical demarcation” of the human resources management, one can comprehend the fact that the term as such can be understood and interpreted by following multiple “intellectual paths”, whereas every theorist and researcher is able to depict it according to his or her own analytical and methodological, peculiar tools.

Making an attempt to overcome the theoretical and conceptual obstacles of the different existing approaches with regards to the same term's determination -

⁵³ Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: Sage Publications, 1994, p.9

⁵⁴ Michael Müller-Camen, Rüdiger Kabst, „HRM in the German business system: A review“ in *The International Review of Management Studies*, Mering: Rainer Hampp Verlag, 2005 p. 69-70

⁵⁵ *Ibid.*, p.69-70

⁵⁶ Sandra Watson, “HRM from a functionalist perspective: the views of line managers” in *Advances in Developing Human Resources* 9 (1), California Sage Publications, 2010, p.32-34

⁵⁷ Michael Armstrong, Stephen Taylor, “Armstrong's Handbook of Human Resource Management Practice”, London: Kogan Page Limited, 13th Edition, 2014 p. 4-5

especially those in the field of international organizations, such as the ethnocentric, polycentric etc. approaches-, one has to here take into consideration the already existed analyses' variation, in order to comprehend the fact that a terminological demarcation of the term as such was and is difficult to implement "by its birth", not only in the German case, but also in the equivalent ones of other European countries⁵⁸.

In the German case, the epistemological and terminological multiplicity, which, at the end of the day, led to the non-establishment of a "full-blooded" and distinctive "German HRM" was mainly caused and formed because of three (3) reasons why⁵⁹. These were characteristically different, but interlinked, so to "produce" one, given outcome, i.e. the non-existence of a unique, German human resources management field.

According to the analysis by Rüdiger Kabst and Michael Müller-Camen, the first (1st) reason why has to do with the term of the so-called "organizational culture", which can be not only observed in the case study of Germany, but also in the ones of other countries of the European continent⁶⁰. Taking into consideration the definition of organizational culture by Andrew Heywood, according to which "[...] is the special way [...] largely used in wide groups of a country's native population, in order organizational procedures within concrete conceptual contexts to be set in place [...]"⁶¹, one can here support that Germany's organizational culture was the crucial term – point, which did not only "theoretically confused" the whole discussion with regards to the field of human resources management, but also re-formulated the question of its functional existence.

In particular, after the term's "theoretical arrival" to Germany in the early 60s⁶², it became clear from the very beginning that the application of the American HRM principles were not just "confronted" with a phenomenon of a semantic and ideational multiplicity, but with one of an "existential crisis" in both spheres of theory

⁵⁸ Michael Müller-Camen, Rüdiger Kabst, „HRM in the German business system: A review“ in *The International Review of Management Studies*, Mering: Rainer Hampp Verlag, 2005 p. 69-70

⁵⁹ Ibid., p.69-70

⁶⁰ Ibid., p.64

⁶¹ Andrew Heywood, «Εισαγωγή στην Πολιτική» Αθήνα: Εκδόσεις Πόλις, 2^η Έκδοση, 2006, σελ. 284, 290

⁶² Michael Müller-Camen, Rüdiger Kabst, „HRM in the German business system: A review“ in *The International Review of Management Studies*, Mering: Rainer Hampp Verlag, 2005, p.64

and practice, because of the fact that their principal core and their particular prescriptions were already existing inside Germany's "working reality"⁶³.

Before one goes deeper into that first (1st) argument by giving a practical and simple example of the "conceptional conflict" between the German reality and the newly-arrived HRM principles, it is worth mentioning that, as Rüdiger Kabst notes, not only in Germany, but also in other countries like France, the practical obstacle of the organizational culture was truly combined with an already established and existed legal, social and European environment, which "[...] *limits the unchanged application of HRM ideas*"⁶⁴. The "problematic feature" of the above-referred phenomenon is that the institutional significance, which is, in every country's case, carried on by a given and concrete set of legal, social and politico-administrative institutions can always form an obstacle inside and during the procedure of re-establishing certain principles, tools, patterns and models on the already established ones⁶⁵.

The latter happens mainly because of two (2) directly interrelated facts, i.e. the notion of temporality and the one of utilization, which takes place inside and during the first (1st) one⁶⁶. In particular, the special historical and sociopolitical background, on which certain institutions have been established, as well as their inveterate utilization according to a certain way and during a specified period of time, render not only the re-establishment of them and of chronic ways of action as difficult, but also the establishment of new institutions and principles on the initial – "original" ones⁶⁷.

In fact, the dialectical combination between these two (2) facts proves the procedural difficulty of "change" or "re-change" the already established values, principles and institutions – parts of a given organizational culture by trying to "un-establish" or "re-establish them" by using different "theoretical ingredients".

Moving back to the reference to a practical example, which proves that the notion – term of "organizational culture" forms an obstacle to the transfer and establishment of non-native principles and values to a given, national context, it is

⁶³ Ibid., p.64

⁶⁴ Ibid., p.64

⁶⁵ Andrew Heywood, «Εισαγωγή στην Πολιτική» Αθήνα: Εκδόσεις Πόλις, 2^η Έκδοση, 2006, σελ. 284-290

⁶⁶ Ibid, p.284-290

⁶⁷ Ibid., p.284-290

important to firstly mention that this could be comparatively presented, from a combinatorial point of view, with the second (2nd) feature- characteristic, which, in the German case, formed a main reason why for an epistemological and terminological multiplicity to be manifested.

In particular, this, second (2nd), feature refers to a translation's confusion with regards to the word "Management", which was also expressed inside the German working environment's organizational culture. In more specific terms, according to Christoph Reichard, the Anglicism of the term "Management" did never totally and ultimately "fit" into the German environment, mainly because of the fact that it could be expressed, translated and said in communicational terms with the use of two (2) different German words, i.e. the ones of "Führung" and "Leitung"⁶⁸. These apply to two (2) different working positions-posts inside the German working environment at the same time, something which created and provoked functional repercussions in the field of the German, corporate organizational function and its normal operation.

In particular, the term "Führung", which grammatically and etymologically derives from the German verb "führen" means "Leadership", as well as "Administration"⁶⁹, whereas the term "Leitung", which derives from the German verb "leiten" also means "Leadership" and "Administration"⁷⁰. Despite the fact that, from the very beginning (i.e. the decade of 1960), there was not a term to correspond directly to the German equivalent ones, the above two (2), i.e. "Führung" and "Leitung", were corresponding, and still do so, to two (2) different posts inside the German working environment⁷¹.

In particular, as Christoph Reichard mentions, the term "Führung" of the German context corresponds to the post of the person who is responsible for the organization and implementation of the procedure of the "Unternehmensführung", i.e. the "Unternehmensführer", i.e. the Director of a whole department within an organization⁷². The terms of "Unternehmensführung" and "Unternehmensführer"

⁶⁸ Christoph Reichard, "New Approaches to Public Management" in *Public Administration in Germany*, Baden-Baden: Nomos Verlagsgesellschaft, 2001, p.1-2

⁶⁹ PONS Kompaktwörterbuch "Deutsch-Neugriechisch, Neugriechisch-Deutsch" Stuttgart: Ernst Klett Verlag GmbH, 2004, p.274

⁷⁰ Ibid, p.477

⁷¹ Christoph Reichard, "New Approaches to Public Management" in *Public Administration in Germany*, Baden-Baden: Nomos Verlagsgesellschaft, 2001, p.1-2

⁷² Christoph Reichard, "New Approaches to Public Management" in *Public Administration in Germany*, Baden-Baden: Nomos Verlagsgesellschaft, 2001, p.1

mainly correspond “to a goal-oriented, social/emotional guidance of co-workers”⁷³, while the terms “*Leitung*” and the procedure of “*Personalleitung*” correspond to the post-position of “*Personalleiter*”, who was and is the Deputy Director of an organization’s department, i.e. a person responsible mainly for steering and directing specific inter-departmental operations, whereas whose role is not occupied with the general supervision of the department or of the personnel, but with the implementational function of the guidelines issued to it⁷⁴.

Moreover, taking into consideration the fact that, as Christoph Reichard supports, the term management is not yet clearly expressed by one and only “pure” term in today’s Germany, one could easily comprehend that the translation’s confusion, along with the depicted example of “twofold correspondence” of it to two (2) different posts inside the country’s working environment, formed a fertile background for the epistemological and terminological diversity – multiplicity to be established.

In fact, the etymological and conceptual non-alignment of the term “Management” with the German, equivalent ones of “*Führung*” and “*Leitung*” did not only lead to a theoretical and semantic “confusion” of Germany’s organizational culture from the decade of 1960 since today, but also, their (“*Führung*” and “*Leitung*”) application to different working positions, charged with different departmental and inter-departmental duties, proved a functional reason why for the fact that the German environment was a “hostile” and unwelcoming ground for the adoption of the term “Management”.

The third (3rd) and last reason why, which led to the gradual, but stable establishment of the epistemological and terminological multiplicity in the framework of the German context, was the different perception of the whole procedure – term – field of “Human Resources Management” in the so-called “German-speaking space” (“*Deutschsprachiger Raum*”), i.e. the countries of Germany, Austria and Switzerland⁷⁵.

In more specific terms and in order for it to be from the very beginning clarified, the problem of that case does not have to do with the question of *how* is the

⁷³ Ibid., p.1

⁷⁴ Ibid., p.2

⁷⁵ Jan Krulis-Randa, “Grundsätzliche Überlegungen zur strategischen Unternehmensführung” in *Management Forum* 5, California: Sage Publications, 1985, p.91-110

whole field (i.e. “Human Resources Management”) defined, but *what* is precisely and specifically defined with the use of the term as such.

In particular, from the decade of 1960 to the one of 1990, the term’s use in Austria did not have to do with the general management of a given organization’s personnel and the internal, integrated “sub-procedures” to the main one, such as planning, organizing, staffing, leading, controlling, but was ultimately focused on the financial aspects of management, mainly by being concentrated on strategies, initiatives and measures with regards to personnel salary policies, which had to be followed and implemented by a given responsible department⁷⁶.

On the other hand, during the same period (1960-1990), the term’s use in Switzerland was considered as one, which mainly referred to administrative functions concerning personnel management, but were concentrated to its allocation inside a certain organizational environment⁷⁷. It was principally perceived as a term of organizing the “functional reality” inside an organization and, from that point of view, one could state the argument that it more connected to the general, Anglo-Saxon notion of “Human Resources Management”⁷⁸.

Despite its strong, administrative background, as it was expressed in the case of Switzerland, or its financial one, as it was expressed in the case of Austria, the term, at least from 1960 to 1990, did not carry on the “German perception” of a general personnel guidance, even if the latter one was expressed either as “*Führung*” or as “*Leitung*”, creating an organizational culture’s confusion inside national, institutional establishments⁷⁹.

It forms a reality that, from 1990 since today, Austria and Switzerland have already “softened” and “smoothed” their approaches to the theoretical and practical implementation of the term, including a more general and holistic interpretation of it, which, indeed seems to the ones of German “*Führung*” and “*Leitung*”⁸⁰. Despite the Austrian and Swiss “implementational resemblance” to the German model and HRM patterns, which are used today, their 30-year methodological and practical divergence can be judged as sufficient for forming a reason why for the today’s epistemological and terminological multiplicity.

⁷⁶ Ibid., p.91-94

⁷⁷ Ibid., p.93

⁷⁸ Ibid., p.93

⁷⁹ Ibid., p.93

⁸⁰ Christoph Reichard, “New Approaches to Public Management” in *Public Administration in Germany*, Baden-Baden: Nomos Verlagsgesellschaft, 2001, p.2

Having seen and examined the main reasons why, which functioned as the appropriate background – foundation, in order the above phenomenon (epistemological and terminological multiplicity) to be expressed and established in the case study of German environment, one has to be now focused on its main way of practical expression in the field of the German academia and working environment.

Defining as “epistemological and terminological multiplicity” the conceptional diversity, according to which the theoretical and functional existence of the term – field of “Human Resources Management” can be described, one has to precisely state that the phenomenon as such, as it has been during the above paragraph mentioned, can be found in two (2) different and distinctive areas, i.e. the academia and the working – business environment. In the framework of many researchers’ publications (for example: Christian Scholz and Michael Müller-Camen), the above ones are depicted to the terms – words “theory” and “practice”, where “theory” is used to depict German academia and “practice” to do so in the case of German working environment⁸¹.

Every modern researcher is here confronted with four (4) different cases – labels, which are used, in order for the term “Human Resources Management” to be rendered in the German case. According to Christian Scholz, two (2) of them are directly and exclusively found in the field of German academia, one (1) of them in the field of practice, i.e. the German working environment and one (1) is found in both fields, i.e. theory (academia) and practice (working environment)⁸². The analysis, which will be here conducted will start from the ones used and found in theory (academia), mainly because of their numerical majority, as well as of reasons of epistemological interest for the researcher.

In particular, according to Christian Scholz, the two (2) labels or “sub-definitions”, which are used today in the field of German academia and try to render the “full-blooded”, Anglo-Saxon one, are the ones of “*Personalwesen*” and “*Personalwirtschaft*”⁸³.

To begin with, the first (1st) one, i.e. the term “*Personalwesen*” can be translated as “personnel affairs” and mainly resembles the model, which was

⁸¹ Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: Sage Publications, 1994, p.4

⁸² Ibid, p.4

⁸³ Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: Sage Publications, 1994, p.4

implemented from the decade 1960 to the one of 1990 in Switzerland, as that has been described, from the point of view that the term is mainly focused on the administrative guidelines given to an organization's personnel, as well as the administrative function of it⁸⁴. In more precise terms and according to the analysis by Scholz, the use of the term could be described as an "anthropological" one, from the point of view that it is concentrated on the "lively units" of the organization and, above all, the allocation of tasks between them, the concrete and given strategies followed for their precise implementation, as well as the outcomes, which will be brought out by the whole procedure⁸⁵.

As Scholz supports, it is of significant importance that the "*Personalwesen*" and its usage in the field of German academia can be mainly monitored in the fields of political and social sciences, whereas the term takes into account the rights of the organization's personnel and tends to ignore in many cases the "upper-ranked" officials' functional and procedural existence⁸⁶.

The second (2nd) purely academic label – "sub-definition" of the term "Human Resources Management" in the German context – environment is the one of "*Personalwirtschaft*", which can be mainly found in the fields of economics and marketing and, according to Michael Müller-Camen, resembles to the so-called "strategic HRM", because it interprets personnel as a unit, which basically carries on a financial function and has to be integrated in the planning of the financial, strategic goals of the organization⁸⁷.

The above argumentation can be also proved by the fact that in the framework of another field of theory, i.e. the one of business management academic field, the "*Personalwirtschaft*" can be also found as "*Betriebswirtschaft*", i.e. as the financial function of the organization, something which directly and precisely denotes the personnel financial perception and its function as a variable "*into the thinking patterns of costs and benefits*"⁸⁸.

The third (3rd) term, a "mixed" one, which can be found in theory (i.e. the German academia), as well as in practice (i.e. the German working environment) is

⁸⁴ Ibid, p.4

⁸⁵ Ibid, p.4

⁸⁶ Ibid, p.4

⁸⁷ Michael Müller-Camen, "Enthusiastic Embrace or Critical Reception? The German HRM Debate" in *Journal of Management Studies*, 36 (4), New Jersey: Wiley Blackwell, 1999, p. 465

⁸⁸ Christian Scholz, "Human Resource Management in Germany" in *International Perspectives of Human Resource Management*, California: Sage Publications, 1994, p.4

that of “*Personalmanagement*”⁸⁹. According to Christian Scholz, the “*Personalmanagement*”, which can be found in the fields of political and social sciences, as well as the one of business administration, fulfills a procedural “conceptional mission”, from the point of view that it focuses on procedures followed by HR managers inside an organization, which targets to a given strategic orientation⁹⁰.

In particular, “*Personalmanagement*” “*considers the management of human resources as an active part of the whole management process*”⁹¹, while, according to Michael Müller-Camen, its origins are the ones, which, in comparative terms, resemble to the Anglo-Saxon term more than any other German label, from the point of view that they are focused on the generality of the whole management’s procedure, without being univocally occupied with the personnel as entity and its financial function’s issues⁹².

Moreover, the fourth (4th) label, which is the one of “*Personalverwaltung*” carries on an administrative and executive character, from the point of view that it is focused on the implementation of given policies and guidelines by the official(s) as to the “personnel’s handling” inside an organization⁹³.

That particular term – label of “*Personalverwaltung*”, i.e. the personnel administration, sets into the theoretical core of its analysis the role of the manager, who is here perceived as the “Administrator” (“*Verwalter*”), who ultimately undertakes to fulfill the pure, executive role of guiding the organization’s employees, in order efficient outcomes to be achieved⁹⁴.

To sum up, having explored and examined the main reasons why, which led to the gradual establishment and existence of the German case’s epistemological and terminological multiplicity (i.e. the “confusion” of Germany’s organizational culture, the non-alignment of the Anglo-Saxon term with the German ones, the conceptional divergence of the German-speaking countries from 1960-1990), as well as the way of its expression under four (4) different labels – “sub-definitions” which try to render

⁸⁹ Ibid., p.4

⁹⁰ Ibid., p.4

⁹¹ Ibid., p.4

⁹² Michael Müller-Camen, “Enthusiastic Embrace or Critical Reception? The German HRM Debate” in *Journal of Management Studies*, 36 (4), New Jersey: Wiley Blackwell, 1999, p. 467

⁹³ Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: Sage Publications, 1994, p.4

⁹⁴ Ibid., p.4

the notion of the Anglo-Saxon term in its wholeness (“*Gestalt*”), one can easily make the ascertainment that a German, “full-blooded” and nationally distinctive human resources management does not exist.

A precise answer to a possible question concerning its (non) existence could be a “tactful” one: it would recognize the existence of a pure, Anglo-Saxon theoretical construction, which is used as pattern and is attempted to be to a sufficient percent adjusted and adapted to the world of “German particularities”. According to that argumentation – theoretical path, it could be also mentioned that the above-referred adaptation’s attempt “naturally” produces its “functional aftereffects”, i.e. models and patterns, which resemble to the original one, are perceived differently in different areas (“academia vs working environment”) and have not yet achieved to be integrated as a unified field.

The above terminological “non-unification”, as well as the absence of a pure, German HRM field will be used as an argumentation’s background, in order a final judgement to be made in the framework of the sub-chapter 1.3, with regards to the (non) existence of a possible (non) marginalization of the “German HRM”.

1.2 Auf welchen verschiedenen Weisen kann das Personal geleitet werden? Models of HRM and German approaches to personnel issues

As it has been mentioned during the previous subchapter's context, there are four (4) different "German labels" of "Human Resources Management", which attempt to render the conceptional content of the pure, Anglo-Saxon, initial term ("*Personalwesen*", "*Personalwirtschaft*", "*Personalmanagement*", "*Personalverwaltung*")⁹⁵. Two (2) of them ("*Personalwesen*", "*Personalwirtschaft*") are used in the field of German academia, one (1) of them ("*Personalverwaltung*") in the field of German working environment, whereas one (1) of them ("*Personalmanagement*") is used in both fields⁹⁶.

The first (1st) main goal of the current subchapter is to examine the sub-approaches, which are "produced" by the above labels in the case study of Germany, or, as Christian Scholz uses the term, the particular "*focuses*"⁹⁷ of each and every of the above labels. Before one goes deeper into the content of the current subchapter, they have to pre-stress the fact that the focuses – approaches, which are going here to be analyzed are strictly academic (field of theory). Thus, they do not belong to the label of "Personalverwaltung", which is applicable only to the German academic environment ("field of practice").

In particular, one could here state that five (5) different, German, academic sub-approaches – "sub-focuses" of the above German labels will be extensively analyzed, with the exception of the German label of "Personalverwaltung", which is not "dispersed" to multiple, academic sub-approaches – "sub-focuses", not only because of its "on-the-job" character, but also, because its "dispersion" into different HRM strategies, which are directly applicable to the framework of the German working environment. The latter ones, will be also analyzed in the context of the current subchapter.

The central research goal of the current subchapter is to prove and manifest the further "conceptional dispersion" of the field of "Human Resources Management" in the case study of Germany, as well as its disciplinary fragmentation, which leads to

⁹⁵ Christian Scholz, "Human Resource Management in Germany" in *International Perspectives of Human Resource Management*, California: Sage Publications, 1994, p.4

⁹⁶ Ibid, p.4

⁹⁷ Ibid, p.11, 12

the non-establishment, and therefore, to the absence of a unified and distinctive “German HRM”. The above argument will be used as a pivotal fact – research datum in the framework of the final discussion with regards to the (non) marginalization of the HRM field in Germany.

Every modern researcher has to clarify from the very beginning that the five (5) academic “sub-focuses” – sub-approaches, which are “conceptional products” of the four (4) initial, German labels are the following: *a) Focus on Management, b) Focus on Controlling, c) Focus on Development, d) Focus on Information and e) Focus on Planning/Administration*⁹⁸.

To begin with, the first (1st) academic “sub-focus” is the one of “*Focus on Management*”, which forms a “conceptional spin-off” of the label of “Personalwesen”⁹⁹. Influenced by the latter, the “Focus on Management” is directed to the field of action inside HRM, and, in particular, it puts the emphasis on the administrative guidelines given to a certain group – “amount” of personnel, as well as on the different ways, according to which all those (guidelines) are implemented by it¹⁰⁰.

As Christian Scholz mentions, the “Focus on Management” can be characterized as an “action-oriented” academic approach, from the point of view that it analyzes and takes into consideration the personnel as the “lively machine” of the HRM field, i.e. the special, vivid component of the whole field, which finds its existence in the heart of the procedure of “management”¹⁰¹.

Furthermore, one has to here stress the fact that, according to the “Focus on Management”, the guidelines given to personnel, its management, its tasks and the certain outcomes-results, which will be achieved, cannot only be seen and analyzed from a managerial-administrative point of view, but, as in the case of “Personalwesen”, from an anthropological one¹⁰². According to the academic approach of “Focus on Management”, the above fact forms the main reason why the

⁹⁸ Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: Sage Publications, 1994, p.11, 12

⁹⁹ Ibid, p.11, 12

¹⁰⁰ Ibid, p.11

¹⁰¹ Ibid, p.11

¹⁰² Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: Sage Publications, 1994, p.11

“lively units” of personnel, i.e. the employees, are these, from which the whole analysis with regards to management has to start¹⁰³.

Moreover, the “anthropological core” of the “Focus on Management” and its tendency to set the personnel as the “starting point” of management’s procedure, forms the main reason why it is “scientifically dispersed” and widely used in multiple scientific fields, such as political science and sociology¹⁰⁴. In more specific terms, as Christian Scholz supports, the “Focus on Management” is “*influenced by more than one scientific disciplines*”¹⁰⁵.

Another “sub-focus”, which is directly “produced” by and connected to the initial German label of “Personalwesen” is the one of “*Focus on Information*”¹⁰⁶. One has to here clarify the fact that the notion – term “information” has to be interpreted by following a way of twofold thinking. In particular, “information” does not refer only to the current events and facts, which take place outside from an organization and can negatively or positively affect its function or dictate a change to its given operational ways, but also, from a communicational point of view, means the way, according to which this “portion” of information is communicated among the employer and the employees of the organization¹⁰⁷.

For example, as to the first (1st) interpretation of it, i.e. the one of “information as value”, the “Focus on Information”¹⁰⁸ tends to stress the fact that precise and accurate information with regards to the position of the organization in the field of international competition can be judged as pivotal and priceless, from the point of view of helping the organization to comprehend its “adversarial existence” comparatively to the others, aiming to finally improve it by being more productive, or by covering losses or by increasing its profits¹⁰⁹. It is exactly that aspect of information, which obliges Scholz to support that information, which derive from communication processes must be sure “*they are adequate*”¹¹⁰.

As to the second (2nd) interpretation, which is given with regards to the “Focus on Information”, it has to be stated that it mainly concerns the everyday

¹⁰³ Ibid., p.11

¹⁰⁴ Ibid., p.11

¹⁰⁵ Ibid., p.11

¹⁰⁶ Ibid., p.11

¹⁰⁷ Ibid., p.11

¹⁰⁸ Ibid., p.11

¹⁰⁹ Ibid., p.11

¹¹⁰ Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: Sage Publications, 1994, p.11

communication between the employer and the employees, including the transfer of “outside information”, as well as the normal and well-tempered “informative flow” among them, in order for the on-the-job tasks and procedures to be successfully implemented. As Christian Scholz supports, “Managers as well as employees want to be well-informed about key-business issues”¹¹¹, from the point of view that they have to possess the appropriate, technical knowledge with regards to their operational implementation, as well as to gradually construct communicational channels of on-the-job cooperation, which “[...] enables them to do their job effectively”¹¹².

Taking into consideration the “societal” character of the label of “Personalwesen”, whose “product” is the current sub-approach of “Focus on Information”, one could also mention the fact that the latter can be academically found in fields, such as the one of communication and mass media, because of the pointing out the exceptional role of the lively communication among individuals.

The third (3rd) sub-approach – “sub-focus”, which is considered as a “conceptual product” of “Personalmanagement” is the one of “Focus on Development”¹¹³. As a “product” of the former, it can be found in both fields – areas, i.e. the German academia and the German working environment. As Christian Scholz mentions, the so-called “personnel policy” is in the heart of “Focus on Development”, whose main goal is to practically develop the operational existence and the capabilities of the personnel within a certain organization¹¹⁴.

In particular, the word – term “development”, which is here used, does not only refer to the gradual and further integration of personnel to the organizational procedures, but also to its further, intensive training, in order for its on-the-job capabilities to be improved. Having its existential roots to the initial, German label of “Personalmanagement”, it focuses on personnel development as a procedure, i.e. it puts the emphasis on the certain, procedural steps, which have to be followed, in the fields of integration and training, whereas, at the end of day, it tries to measure the results-outcomes of the above procedures and to reach a given level of an “improved personnel”.

From that analytical angle, one can reasonably comprehend the “theoretical kinship” of the “Focus on Development” with “Personalmanagement”, taking into

¹¹¹ Ibid., p.11

¹¹² Ibid., p.11

¹¹³ Ibid., p.11

¹¹⁴ Ibid., p.11

consideration the above-referred argumentation with regards to the fact that “Personalmanagement” is and can be considered as the label, which mostly resembles to the Anglo-Saxon, “full-blooded” model of HRM, from the point of view that it seems to conceptionally adopt its managerial character, mainly by being selectively focused on personnel tangible management and further improvement.

The fourth (4th) academic approach – “sub-focus” is the one of “*Focus on Planning/Administration*”¹¹⁵. It forms a product of the central label of “Personalmanagement”, which means that it cannot only be found in the field of German academia, but also in the one of the German working environment.

That academic approach will not be extensively analyzed, mainly because it combines substantial features of two (2) of the already described “sub-focuses”, i.e. the one of “*Focus on Development*” and the one of the “*Focus on Information*”¹¹⁶. In particular, the sub-focus of “*Focus on Planning/Administration*” puts in its “theoretical heart” the relationship between the employer and the employee, with the exception of the fact that it is focused on how it is shaped during the procedure of planning and how can the well-developed communication among them lead to positive results’ achievement inside the organization¹¹⁷.

As one can reasonably comprehend, the “twofold descent” of the current sub-focus can be here evidenced, because of the fact that the latter borrows and uses given developmental features with regards to the administration and the improvement of the personnel (i.e. a feature taken-borrowed by the focus of “Focus of Development”), while putting in the center of its analysis the communicational aspects in the relationship among the employer and the employee and how the latter (“relation”) can function as a fertile background for productive results’ achievement (i.e. a feature taken-borrowed by the focus of “Focus on Information”).

The last “sub-focus”, which forms a “conceptual product” of the German HRM label of “Personalwirtschaft” (or “Betriebswirtschaft”) is the one of “*Focus on Controlling*”¹¹⁸. One can easily understand its theoretical and academic interrelation

¹¹⁵ Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: Sage Publications, 1994, p.12

¹¹⁶ Ibid., p.12

¹¹⁷ Ibid., p.12

¹¹⁸ Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: Sage Publications, 1994, p.11

and interconnection to “Personalwirtschaft”, because, as Christian Scholz supports, “Focus on Controlling”, “[...] means in a simplistic form the controlling of human resources as a cost factor.”¹¹⁹.

The financial character of the current sub-focus, and therefore, its relation to “Personalwirtschaft” can be manifested from the consideration of the field of HRM as an irremovable part of the field of production¹²⁰. In particular, controlling is here perceived as a procedure of measuring costs and benefits, which, at the end of the day, functions as a useful tool, in order financial benefits to be gained by the outcomes-results that will be achieved by the personnel’s performance¹²¹.

Furthermore, controlling is here directly linked to “Betriebswirtschaft”, because it basically combines the establishment and set of personnel strategic goals with outcomes of a financial nature, i.e. the functional prosperity of the organization, which will be an aftereffect of the achievement of a standard level of financial well-being¹²².

Having examined the five (5) German, academic “sub-focuses” – sub-approaches”, which are “products” of the initial labels of the dispersed field of “Human Resources Management” in Germany, one has to here concentrate on the fourth (4th) label, i.e. the one of “Personalverwaltung”¹²³, which was not referred during the above paragraphs as one, which includes or “produces” any “sub-focuses” – “sub-approaches”, mainly because of their academic application, which contradicts the fact that “Personalverwaltung” as such is the only label, which strictly applies to the field of practice, i.e. that of German working environment¹²⁴.

As a consequence, the analysis and research examination will be here exclusively focused on “Personalverwaltung” and will be confronted with the question if the latter “produces” or includes any “sub-focuses”, such as the other labels that apply in the field of German academia (theory).

The answer to that particular question can be easily found in the analysis by Christian Scholz, who supports that the central label of “Personalverwaltung” includes given, applicable strategies, which function exclusively in the field of

¹¹⁹ Ibid., p.11

¹²⁰ Ibid., p.11

¹²¹ Ibid., p.11

¹²² Ibid., p.11

¹²³ Ibid., p.11

¹²⁴ Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: Sage Publications, 1994, p.4

practice, i.e. they are directly applicable to the field of German working environment, whereas they do not form a part of the theoretical analysis by German academicians¹²⁵. It is of significant importance to stress that Christian Scholz uses the term “approaches” in order to describe the HRM “spin-offs” of “Personalverwaltung”, but the current research will use the term “strategies”, in order for them not to be confused with the previous ones (for example: the “sub-focus” of “Focus on Information”). Instead, the term “strategies” will be here used, because it implies better to the fact that they, i.e. the strategies, are tangible and directly applicable to the field of practice, i.e. the German working environment.

It has to be from the very beginning clarified that Christian Scholz gleans and categorizes four (4) different strategies, which are “products” of the central, initial label of “Personalverwaltung”. In particular, every modern researcher has to take into consideration the existence of the strategies of: a) Stuttgart, b) Mannheim, c) Zürich and d) Saarbrücken¹²⁶.

Before one proceeds to a further examination of them and expresses an opinion with regards to the meaning of their existence for the epistemological – terminological diversity – multiplicity of the German HRM, and therefore, its non-establishment as a unified and distinctive field, two (2) specific issues have to be here highlighted.

To begin with, the majority of them (three to four) are purely and “full-blooded” German ones, something, which proves the research’s focus on the German case of “Human Resources Management”. However, it is also significant to state that the “Zürich” strategy could be also here considered as a “German one”, taking into consideration the analysis made during the pages of the first (1st) subchapter (1.1) concerning the fact that the approaches and analyses in the “German-speaking space” (“Deutschsprachiger Raum”) can be considered as similar ones since the decade of 1990.

Secondly, it has to be prementioned that the last strategy, which will be here analyzed, i.e. the one of “Saarbrücken”, is exclusively devised by Christian Scholz. The fact that the strategy as such is constructed as a “working pattern” by an academician and carries on the name of his university demonstrates the “theoretical

¹²⁵Ibid., p.4

¹²⁶ Ibid, p.13

strength” of the academic thought, even when it comes to constructions, which are not going to be analyzed inside academic auditoriums, but to be practically implemented in the everyday life’s working environment.

Before one moves on to the examination and description of the different strategies, they have to mention that the analysis, which is going to be here followed, will not be dedicated to an extended reference to HRM features and procedures, which are relevant and repeated between the different strategies, but to selectively give prominence to the strategies’ core-characteristic(s) and to comparatively examine them.

In other words, the current methodological and analytical way does not aim to extensively describe a whole and general management’s procedure as it is “patterned” by each and every strategy (for example: planning, development, staffing, etc.), because such an attempt would probably require a whole chapter or the conduction of a whole research.

The selective presentation of the core-feature of each and every strategy will be here stressed as the one, which forms the crucial difference among them. The latter will be clearly manifested, for example, in the case of the fourth (4th) strategy, i.e. the one of “Saarbrücken”, whose one (1) and only difference, comparatively to the others, is the consideration of external phenomena, such as these of Europeanization and Globalization.

To begin with, the first (1st) strategy, “spin-off” of “Personalverwaltung” is the one of “*Stuttgart*”¹²⁷. The “Stuttgart strategy”, constructed by Karl-Friedrich Ackermann in 1986, puts the emphasis on the term of strategy and mentions that the on-the-job “Human Resources Management” field of practice has to be established on given, strategic procedures, which are mainly focused on personnel and its general, working environment¹²⁸. In particular, according to the “Stuttgart strategy”, certain “sub-strategies” in the fields of development, personnel appraisal, administration and personnel research have to exist and to be implemented.

In particular, the first (1st) “sub-strategy” of “*Stuttgart*” with regards to development (“*Personnel Development*”¹²⁹) emphasizes on the procedures of

¹²⁷ Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: Sage Publications, 1994, p.13

¹²⁸ *Ibid.*, p.13

¹²⁹ *Ibid.*, p.13

personnel training and its strategic and goal-oriented integration in the organization. Furthermore, it includes and prescribes a strict, regulative-normative framework, according to which the personnel development procedures have to take place¹³⁰.

It is worth mentioning that this first (1st) “sub-strategy” of “Personnel Development” is interconnected with the second (2nd) one, i.e. the one of “Personnel Appraisal”, from the point of view that the latter refers to the so-called “performance-related pay”, which depends on the personnel results, which can be achieved in the framework of the former one (“Personnel Development”)¹³¹. In more precise terms, the “sub-strategy” of “Personnel Appraisal” carries on a financial character, which combines personnel efficiency with standardized pay schemes, which have been established, after the conduction of an appraisal’s effort¹³².

Moreover, one could here observe a semantic interrelation between the third (3rd) and the fourth (4th) “sub-strategy” of the main-central “Stuttgart” strategy. The “sub-strategies” of “Administration” and “Personnel Research” put the emphasis on the role of the Administrator – Manager (“*Verwalter*”), whose goal is not only to construct given procedures or to issue certain guidelines for the personnel strategic handling, but to be also involved in the field – procedure of selection and recruitment¹³³. As Christian Scholz supports, the conduction of “*intensive research of the labor market and the regular employee interviews*”¹³⁴, i.e. the “Personnel Research”, has to comparatively exist along with the “administrative presence” of a person, who will be also responsible for certain policies formulation, which are going to be used as certain regulatory patterns with regards to personnel function.

Having referred to the main points of the “Stuttgart” strategy, one has to add that, as Christian Scholz mentions, according to the “Stuttgart” strategy, an organization is not obliged to parallelly adopt all of the above-stressed “sub-strategies” of the central one (i.e. the “Stuttgart”), because it (i.e. their adoption), as well as their combinatorial implementation depend on the organizational environment

¹³⁰ Ibid., p.13

¹³¹ Ibid., p.13

¹³² Ibid., p.13

¹³³ Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: SAGE Publications, 1994, p.13, 14

¹³⁴ Ibid., p.13

of the “entity” in question and, in particular, on its internal, organizational needs¹³⁵. Consequently, an organization could adopt and in practice follow the “Stuttgart” strategy, without implementing all of its sub-strategies. For example, it can implement the “sub-strategy” of “Development”, without practically adopting the element of “performance-related pay”, which is a feature of the “sub-strategy” of “Appraisal”.

The second (2nd), main strategy, which is implemented in the field of German practice and belongs to the label of “Personalverwaltung” is that of “Mannheim”, which was constructed and launched by Eduard Gaugler in 1983¹³⁶. The strategy of “Mannheim” can be characterized as an anthropological one, from the point of view that it emphasizes on the needs of the individual – employee with regards to his or her relation to the notions of working time and financial restrictions¹³⁷.

In more precise terms, as Christian Scholz supports, the strategy of “Mannheim” aims to the “[...] *humanization of working life under economic restrictions [...] in the field of working time [...] analyzes the impacts of its reduction and flexibilization and was the one of the first to encourage employees and employers to implement such systems.*”¹³⁸.

The above-referred “humanization” of working life and its conditions, as it can be understood, is here perceived as the gradual construction of a standard working environment, inside which the implementation of cutback policies and financial restrictions against the employee form a rare, unusual or non-existent phenomenon¹³⁹. At the same time, the “working personality” of the employee is here safeguarded and protected from phenomena such as intensive and repeated overtimes. Accordingly, it becomes easy to comprehend that the main difference between the “Stuttgart” and the “Mannheim” strategy is that the former is selectively concentrated on the “sub-strategies” of the HRM procedure, whereas the latter is focused on the individual – employee and the establishment of a “working – friendly” environment for him or her.

The third (3rd) strategy, the so-called “Zürich” strategy is constructed and developed by Jan Krulis-Randa and is also known as the “holistic strategy”, from the

¹³⁵ Ibid., p.13

¹³⁶ Ibid., p.14

¹³⁷ Ibid., p.14

¹³⁸ Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: Sage Publications, 1994, p.13, 14

¹³⁹ Ibid., p.13, 14

point of view that it includes and develops a “managerially holistic” pattern, pointing out three (3) important key-issues: a) the implementation of strategic HRM, b) the existence of a dominant administrator – manager and c) the anthropocentric approach to personnel¹⁴⁰.

Thinking in comparative terms, one could naively consider and support that the current “holistic” strategy of “Zürich” does not offer or bring out something “conceptionally new”, taking into consideration the already-mentioned “strategic prescriptions” of the “Stuttgart” strategy or the anthropocentric ones of the “Mannheim”.

Indeed, the “Zürich” strategy covers both these two (2) aspects, with the exception of personnel’s consideration. In particular, according to the analysis by Krulis-Randa, the personnel issues are not here interpreted as ones that tend to necessitate the gradual establishment of a “friendlier” working environment, as it happens in the case of “Mannheim”. Personnel is here interpreted as a “lively”, functional tool, whose existence and operation assists the main administrator – manager to come up with new, innovative ideas¹⁴¹. In other words, the personnel plays a totally functional role and its existence is not perceived as a “restrictive” one, from the point of view that “stops” or “prohibits” the manager to take and implement measures, such as cutback policies.

Therefore, it is exactly that particular, functional perception of personnel as a “source of ideas”, which differentiates the “Zürich” strategy from the one of “Mannheim” with regards to personnel management and handling, while differentiating the former (“Zürich”) from the one of “Stuttgart”, which does not include the element – feature of the direct communication among the employer – administrator – manager and the employee.

Before one moves on to the last strategy of “Saarbrücken”, they have to report that the above communication among the employer and the employee, in the framework of “Zürich” strategy, in the framework of which the employee offers and gives ideas to the employer, can be created according to two (2) different ways.

¹⁴⁰ Ibid., p.13, 14

¹⁴¹ Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: SAGE Publications, 1994, p.14

On the one hand, it can be created because of their lively communication, where the employee expresses himself or herself with regards to the on-the-job operational and functional procedures, i.e. when feedback is given to the employer¹⁴². On the other hand, by the “responses” of the employee to the prescribed policies, which are followed and implemented in the framework of the organization, i.e. his or her percent of successful integration to them and the performance-based outcomes that will be brought out¹⁴³.

The last, fourth (4th) strategy which is a “product” of the central label of “Personalverwaltung” is constructed and developed by Christian Scholz. Comparatively to the already-analyzed ones, Scholz makes one (1) and only pivotal difference. In particular, he puts the emphasis on the “external world”, i.e. the external procedures that take place outside from the working environment and how do these practically influence and affect its internal, operational field and its outcomes¹⁴⁴.

For example, in the framework of his analysis, emphasis is put on the phenomenon of Europeanization and how does the procedure of European integration shape the domestic, German labor market by shaping common on-the-job procedures, such as personnel recruitment, development, appraisals etc., as well as on the phenomenon of the Globalization and how does it affect the national personnel policies, taking into consideration the increased competition caused by it¹⁴⁵.

To sum up, having seen and analyzed multiple approaches and “sub-focuses”, as well as strategies and “sub-strategies” with regards to the field of “Human Resources Management” in the German context, one could logically come to the same conclusion, as the one expressed during the closing paragraphs of the first subchapter: the non-existence of one (1), unified and distinctive HRM field in the case study of Germany.

The already ascertained epistemological – terminological diversity – multiplicity of the field in the German framework (1.1), as well as its different approaches and strategies in both levels of theoretical (German Academia) and practical (German working environment), will be used as significant arguments in the

¹⁴² Ibid., p.14

¹⁴³ Ibid., p.13-14

¹⁴⁴ Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: SAGE Publications, 1994, p.15

¹⁴⁵ Ibid, p.15

framework of the discussion, which will be conducted in the next subchapter (1.3) with regards to the (non) marginalization of the whole HRM field in the German case.

1.3 Marginalization or gradual construction? : HRM's co-existence with the German environment

Having examined the central labels, approaches and “sub-focuses”, under and according to which the term “Human Resources Management” can be found and practiced in the case study of Germany, the current subchapter (1.3) will have the character of a conclusion and try to answer to the crucial research question with regards to the (non) marginalization of HRM in Germany.

In particular, the above-set phenomenon, whose (non) existence is the whole first (1st) chapter's research question, is here based on an analysis, which is conducted according to the already-mentioned and shaped arguments, as well as, to a new one, which will be here developed and presented.

In other words, current subchapter's (1.3) main research goal is to prove and support the fact that the field of “Human Resources Management” exists as a marginalized one in the case study of Germany, not only by using the previous subchapters' arguments, but also by introducing a last and stable one, i.e. the one of the position of Germany inside the juxtaposition – debate between the patterns – models of Traditional Personnel Management and Market-Type Personnel Management¹⁴⁶.

The above-referred “theoretical conflict” with regards to a values contradiction between them is here presented, because it can clearly represent and show a well-described image concerning a country's institutional and working environment and how working relations are constructed and developed inside it.

Accordingly, as it has been -and will be further- made clear, traditional and market-type personnel management represent two (2) different “theoretical sides” with regards to management's and working relations' development and organization inside a given, national context (in that case: the German one), whereas they give a clear image of how does the latter co-exist with a larger, institutional one by “shaping” it and being “shaped” by it¹⁴⁷.

Following that point of view and argumentation, one can support the a given “Gestalt” of national, working pattern is here shaped, depending on which “side” (i.e.

¹⁴⁶ Michael Müller, “Unitarism, Pluralism and Human Resource Management in Germany” in *Management International Review (mir)*, Innsbruck: Gabler Verlag, 1999, p.126,136

¹⁴⁷ Ibid, p.128,131

“traditional” or “market-type”) a country finds itself. Therefore, the inclusion of a country’s working and institutional environment” to one (1) of the two (2) sides, does not categorize it as a whole to a particular institutional and working field, but characterizes and shapes its organizational and working culture¹⁴⁸.

Taking into consideration the fact that the above-mentioned values’ juxtaposition between traditional and market-type personnel management shapes and determines the on-the-job values of a specific country, one could easily comprehend the main reason why it will be here comparatively and combinatorial examined along with the term of “Human Resources Management”· as Michael Müller mentions “[...] HRM not only offers a range of modern management techniques in much the same ways as lean production and re-engineering, but is also about values” and continues “[...] it impacts directly on culturally specific ways of doing things buttressed by national institutions and value systems.”¹⁴⁹.

As a consequence, it becomes at that case clear that the comparative examination of the field of “Human Resources Management” and the value inclusion of Germany to a given institutional and working field – side, and thus, to a working environment can be judged as justified and reasonable, whereas it becomes evident that it will later on lead to the extraction of given conclusions with regards to the German institutional – working environment and its (non) compliance with the notion of HRM.

To begin with, according to the analysis by Michael Müller, the terms of traditional and market-type management have to be clarified. Both of them can be defined as management and organizational theories – approaches with regards to the particular construction and existence of a given institutional and working environment¹⁵⁰.

In other words, they can be considered as different ways of organizing, managing and depicting the internal – national, institutional and working reality of a country, as well as its everyday function and existence¹⁵¹. At that point, it has to be

¹⁴⁸ Michael Müller, “Unitarism, Pluralism and Human Resource Management in Germany” in *Management International Review (mir)*, Berlin: Gabler Verlag, 1999, p.126, 136

¹⁴⁹ *Ibid.*, p. 126

¹⁵⁰ *Ibid.*, p.126,136

¹⁵¹ Michael Müller, “Unitarism, Pluralism and Human Resource Management in Germany” in *Management International Review (mir)*, Berlin: Gabler Verlag, 1999, p.126, 136

stressed that the terms “institutional” and “working” with regards to the description and definition of a country’s environment are considered and used as synonymous, from the point of view that they refer to certain working institutions, which comprise, compose and “produce” a country’s “labor reality”.

As it arises from the analysis by Michael Müller, the “organizational theories” of traditional and market-type personnel management differ from one another, as to the element of these factors by which a given, institutional – working environment is constructed¹⁵². In particular, the pivotal and core-characteristic of market-type management is the theoretical recognition and practical implementation of certain, management techniques, which target to the individual employee¹⁵³. At the same time, it does not only recognize and implement the latter ones, but also, does not take into its “organizational account” the operation of trade unions and, in particular, their embroilment in the determination and definition of labor and employee relations¹⁵⁴.

On the other hand, traditional personnel management supports exactly the opposite, i.e. the existence, intervention and active role of trade unions in the field of the determination of labor and employee relations, whereas it rejects the introduction of management techniques and the role of managers as main administrators and “labor navigators”¹⁵⁵. In other words, according to traditional personnel management implementation, the unions are these, which are responsible to determine, construct and shape the appropriate normative and regulatory framework, according to which the “entity” of labor relations have to be developed and regulated¹⁵⁶.

From a wider angle, the modern researcher can here observe a larger, ontological difference with regards to these analyses’ – theories’ background, taking into consideration their analytical “starting points”. In particular, one could support the fact that traditional personnel management takes into consideration the existence of institutions (in that case: German trade unions), which are responsible to govern and dictate given labor relations of the employees, whereas the market-type one, transfers and transfuses that exact responsibility to the managers, who are -in every

¹⁵² Ibid., p.126

¹⁵³ Ibid., p.126

¹⁵⁴ Ibid., p.126

¹⁵⁵ Ibid., p.126, 128

¹⁵⁶ Ibid., p.126, 127

particular case- responsible to guide and navigate according to objectively-used tools¹⁵⁷.

In other words, a researcher motivated by both theories' "value conflict" could reasonably evidence that they indirectly note a wider conflict with regards to the question of by whom must the personnel be guided and managed, either by the "impersonal sphere" of institutions or the lively, direct and "approachable" one of on-the-job managers.

Trying to adjust the whole "conflictual theoretical dialogue" in the case study of Germany's working environment, one has to pre-mention that, again, he or she is confronted with a "German peculiarity". In more precise terms and according to the analysis made by Michael Müller, it must be from the very beginning clear that Germany's working environment and labor relations cannot be characterized neither as totally "traditional" nor a "market-type" one¹⁵⁸.

Before moving on to a further explanation of the above argumentation and before characterizing Germany as a country, which is included to a given, standardized construction's way of labor relations' organization, one has to re-stress the fact that a conscious non-separation between public and private sector is going to be here made.

In particular, the latter "methodological peculiarity" happens mainly for two (2) different reasons why · on the one hand because it has been from the beginning of the chapter (1) clear that the "analytical rationale" will consider the HRM field as a general one, without any distinction between public and private sector, in order to ascertain the (non) existence of a possible "German HRM" in general. On the other hand, because, as it arises from the Müller's analysis, elements from both theories, i.e. "traditional" and "market-type" management, have been implemented in both Germany's public and private sector for given periods of time¹⁵⁹.

The above fact forms the most appropriate and fertile background, in order the modern researcher's analysis with regards to the "institutional – working categorization" of Germany to take place. In more precise terms, Germany belongs to

¹⁵⁷ Michael Müller, "Unitarism, Pluralism and Human Resource Management in Germany" in *Management International Review (mir)*, Berlin: Gabler Verlag, 1999, p.126-128

¹⁵⁸ *Ibid.*, p. 126

¹⁵⁹ *Ibid.*, p.129

an organizational theory, different than the already-described ones, the one of “Pluralism” (“*Pluralismus*”)¹⁶⁰.

The “theoretical existence” of “Pluralism” inside a given, working and institutional environment means the construction and shape of labor relations, according to a twofold-functioning pattern · on the one hand, they (i.e. the labor relations) are characterized by the element of HRM’s implementation, i.e. the existence of managers in implementing given, administrative and policy tools in the domain of personnel guidance, whereas, on the other hand, it means the parallel and already-existing, normative, regulatory construction of a (highly) centralized system, which includes certain, working institutions that dictate the everyday “functional being” of personnel issues, such as recruitment, staffing, development, training, appraisal etc¹⁶¹.

The main reason why Germany is included to the latter labor relations’ organizational theory (“Pluralismus”) is that it, indeed, borrows elements from both of the two (2) above-referred theories, i.e. traditional and market-type management, as “Pluralismus” exactly does¹⁶².

In particular, according to the analysis by Sabine Kuhlmann, the country’s labor relations in both public and private sectors have been determined during given periods and specific cases by “traditional”, as well as by “market-type” features¹⁶³. For example, as to the “market-type” ones borrowed by the public sector, one could refer to the case of the selective implementation of NSM (“New Steering Model”) managerial tools, which were used and practiced on West Germany’s first (1st) and third (3rd) layers of governance, i.e. the federal – central level of “Bund” and the local – municipal one of the “*Gemeinden*”, with regards to the introduction of the feature of personnel mobility and the one of the Anglo-Saxon “PRP” (“performance-related pay”)¹⁶⁴. The failed attempt of their holistic implementation in Germany’s public sector

¹⁶⁰ Michael Müller, “Unitarism, Pluralism and Human Resource Management in Germany” in *Management International Review (mir)*, Innsbruck: Gabler Verlag, 1999, p. 129

¹⁶¹ *Ibid.*, p.129

¹⁶² *Ibid.*, p.129

¹⁶³ Sabine Kuhlmann, Jörg Bogumil, Stephan Grohs, “Evaluating Administrative Modernization in German Local Governments: Success or Failure of the “New Steering Model”?”, in *Public Administration Review Vol. 68, No. 5*, New Jersey: Wiley-Blackwell, 2008, p. 853-854

¹⁶⁴ Sabine Kuhlmann, Jörg Bogumil, Stephan Grohs, “Evaluating Administrative Modernization in German Local Governments: Success or Failure of the “New Steering Model”?”, in *Public Administration Review Vol. 68, No. 5*, New Jersey: Wiley-Blackwell, 2008, p. 853-854

will be extensively discussed and analyzed in the last (4) chapter concerning German public administration's Weberian character.

Despite the fact that Germany is included in the conceptional framework of the organizational theory of Pluralism, and therefore, presents elements borrowed from traditional and market-type management, the character of its labor market institutions' set-up, along with the fact that the same working institutions apply in both public and private sectors, attests for the country's final working categorization to the side of "traditional personnel management"¹⁶⁵.

The above argument with regards to the implementation of a "Traditional Personnel Management", dictated by central, labor market institutions not only in public, but also in private sector, can be easily and practically evidenced by Müller's assertion, according to which "[...] *all firms operating in Germany should comply with the requirements of the three key labor market institutions of centralized collective bargaining, co-determination and initial vocational training*"¹⁶⁶.

Taking into consideration the above-mentioned excerpt arisen by Müller's analysis, one cannot only detect the three (3) different, German, traditional institutions that determine the field of labor relations in both public and private sectors (collective bargaining, co-determination and initial vocational training), but also, he or she can track down their characterization as "key", as well as retain the word "centralized".

Before one refers to them, it has to be stated that the extended analysis concerning their structure and applicable function inside the German public sector's working environment will be seen in the pages of the third (3rd) chapter, which will be dedicated to German civil service's issues. A short and selective reference is here given, in order to prove and present their "ontological contradiction" to HRM tools and how does this (i.e. the contradiction) affect the marginalization of the latter in the German case.

In particular, both three (3) institutions restrict the notion of "managerial autonomy"¹⁶⁷. The institution of co-determination, which is practically expressed as a procedure conducted by works councils and trade unions, is occupied with the

¹⁶⁵ Michael Müller, "Unitarism, Pluralism and Human Resource Management in Germany" in *Management International Review (mir)*, Innsbruck: Gabler Verlag, 1999, p. 127

¹⁶⁶ *Ibid.*, p. 127

¹⁶⁷ *Ibid.*, p. 126

employees' on-the-job rights, whereas gradually sets and establishes a standardized, normative and regulatory framework, which is considered as nonnegotiable¹⁶⁸. The latter restricts the feature of managerial autonomy, not only from the point of view that the manager or the state as administrators are not able to encroach given working rights, such as the eight-hour workday, but also, from the point of view that they cannot introduce and construct new on-the-job rights without the consent of the employees, expressed by the works councils during the procedure of co-determination¹⁶⁹.

Furthermore, along with the “restrictive power” of the procedure of co-determination and the “entity” of works councils, one can parallelly take into consideration the one of collective bargaining. The latter term includes the institution of works councils as well, but is mainly characterized by a financial perspective¹⁷⁰. In particular, collective bargaining refers to the procedure of standardization of salaries, which become an “object of bargaining” from the point of view that they cannot be increased or cut for a given period of time, until their next change, i.e. the next bargaining that will take with regards to “numerical printing”¹⁷¹. The latter restricts managerial autonomy, from the point of view that the manager cannot use HRM's financial tools, which will be adopted, either to give bonuses or to implement cutback personnel policies.

Last but not least, according to Müller, among those elements that characterize as “key” the institutions of the German working environment and attest for the kinship of Germany with the “Traditional Personnel Management” is the one of initial vocational training¹⁷². As it will be seen in the framework of the third (3rd) chapter, Germany is known for its working environment's “obsession” to the procedure of training, something which forms the main reason why some German training systems, such as the traditional one of “*Berufsausbildung*”¹⁷³ are widely known in the European continent.

¹⁶⁸Michael Müller, “Unitarism, Pluralism and Human Resource Management in Germany” in *Management International Review (mir)*, Innsbruck: Gabler Verlag, 1999, p.126

¹⁶⁹ Ibid., p.126, 127

¹⁷⁰ Ibid., p.126, 127

¹⁷¹ Ibid., p.126, 127

¹⁷² Ibid, p.127

¹⁷³ Pusch Wahlig Workplace Law, “Employment Law Overview: Germany 2019-2020”, Brussels: L&E Global: an alliance of employers' counsel worldwide, 2019, p.5

The institution of initial vocational training, also, demonstrates a “restrictive power” from the point of view that it concerns the establishment of a “tripartite system”¹⁷⁴, which includes the active presence and involvement of the state, employers’ organizations and trade unions, in order for a common procedure of employees’ training to be agreed. The latter, as the above-mentioned institutions, does not only apply to the public, but also to the private sector (employers’ organizations), which must cooperatively agree, along with the works councils and trade unions, on a given framework of training practices, through which the personnel’s further development could be achieved¹⁷⁵. The notion of managerial autonomy is here again restricted from the point of view that the manager – administrator cannot alone set a training framework according to his or her own policy tools, but to agree along with the above-referred institutions (works councils and trade unions) to a certain training and development plan, which will be applicable to all the employees.

To sum up with the whole first (1st) chapter’s content and in order to extract a final conclusion with regards to the central research question, i.e. the (non) marginalization of the term “Human Resources Management” in the German environment, one has to shortly recapitulate the main conceptional conclusions of all the subchapters so far.

As it became clear and proved in the first subchapter (1.1), the “Human Resources Management” term in the field of German academia exists as a dispersed one, from the point of view that there is not only one, unified and commonly accepted definition about it, but a “theoretical diffusion” of it into four (4) different labels, i.e. the ones of “Personalmanagement”, Personalverwaltung”, Personalwirtschaft”, “Personalwesen”. Not all of them refer and are applicable to the same field, but, as it became clear, two (2) of them (“Personalwesen” and “Personalwirtschaft”) refer to the field of academia, one (1) of them applies to the field of practice – German working environment (“Personalmanagement”) and one (1) of them (“Personalverwaltung”) applies to the field of practice.

The above fact is combined with two (2) other phenomena examined in the framework of the second (2nd) subchapter (1.2): a) the unprecise alignment of the Anglo-Saxon term “Management” with the German ones of “Führung” and “Leitung”

¹⁷⁴Michael Müller, “Unitarism, Pluralism and Human Resource Management in Germany” in *Management International Review (mir)*, Innsbruck: Gabler Verlag, 1999, p.127

¹⁷⁵ Ibid., p.127

and the parallel correspondence of them to different on-the-job posts (i.e. “Director” and “Deputy Director”) and b) the on-the-job sub-diffusion of the above-referred label of “Personalverwaltung” to four (4) strategies, i.e. “Stuttgart”, “Mannheim”, “Zürich”, “Saarbrücken”.

Despite the above, shortly-recapitulated non-existence of a distinctive and unified HRM field-term in the case of Germany, the third (3rd) subchapter (1.3) demonstrated the non-familiarization of the country’s institutional and working environment with the application of HRM techniques and tools. The latter was evidenced by the analysis of Germany as a country, which is more focused on the traditional personnel management than on the market – type one, mainly because of its labor market institutions and the active presence and predominance of works councils and trade unions in the field of labor relations’ (co)determination.

Taking into consideration all of the above facts, the modern researcher can come to the conclusion that the field of “Human Resources Management” in the case of Germany cannot only be characterized by the phrase of “disciplinary fragmentation” as it is expressed in the field of theory (German academia), but also by the one of “marginalization” as it is evidenced in the field of practice (German working environment).

2. The German political system and its Public Administration: Federalism and personnel allocation “under dialogue”

Having developed and set a given argumentation with regards to the main reasons why the term “Human Resources Management” exists as a marginalized field and discipline inside the German “theoretical” (academia) and practical (working environment) reality, current chapter’s research goal is twofold· on the one hand, it aims to describe the interrelation among the German political system and the German Public Administration and examine how does it influence the personnel allocation inside the German federal structure. On the other hand, it aims to prove that the special and peculiar type – way of personnel allocation of the German case study can be used as a first but stable argument of “Weberian proof” concerning the character – type of the whole structure of the German Public Administration.

In particular, the whole chapter will firstly (2.1) give a brief overview of the German political and administrative system, which will be mainly set on a theoretical and descriptive basis along with the politico-administrative characterization of the case study of Germany and its conceptional connection with the term of “Implementation Federalism” (*Vollzugsföderalismus*)¹⁷⁶.

Then, the chapter will set under its conceptual target (2.2) the special, dialectical relation – dialogue between the notion of the German political system and the German Public Administration (*Deutsche öffentliche Verwaltung – DöV*)¹⁷⁷, which will be examined and analyzed according to the practical terms of its functional existence. Except from the depiction and analysis of the above – referred relation, the chapter (2.2) will also try to prove how does that peculiar “dialogue” lead to a given politico-administrative “shape” of public personnel allocation between the main three (3) layers of governance inside the German federal structure.

After the depiction and analysis of that “shape” – politico-administrative structure in terms of personnel allocation, an attempt will be made (2.2.1.) stable arguments to be constructed with regards to the fact that the special way of “federal allocation” in the case study of Germany gives an important and crucial prominence

¹⁷⁶ Berndt Keller, “Germany: In the Bermuda Triangle of modernization, unification and Europeanization” in *Public Sector Employment Relations in Germany*, Crows Nest: Allen & Unwin, 2011, p. 1-2

¹⁷⁷ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.14

to a “centralized predominance” of the second (2nd) layer of governance inside the German, federal structure [i.e. the one of the federal states (“*die Länder*”)] over the others¹⁷⁸. In other words, an attempt will be conducted (2.2.1.) to manifest that the second (2nd) layer of governance inside the German, federal structure forms the administrative center of the whole structure as such in terms of personnel allocation.

All in all, the analysis, which will be followed during the whole chapter will be based on the existence and connection of two (2) different but interrelated variables, i.e. the German political system and the German Public Administration (*Deutsche öffentliche Verwaltung – DöV*)¹⁷⁹. These will not only be examined on a descriptive and theoretical basis (2.1), but also their spin-offs will be extensively and in practical terms analyzed, with the research focus being on the special type – form of personnel allocation (2.2). Last but not least, the above – referred type of personnel allocation will form a stable background, in order the “Länder” to be presented as the administrative center of the whole, federal and decentralized German structure, something which will be later on connected with the analysis of the last chapter of the project (4) with regards to the presentation of the Weberian administrative features.

In particular, the main research goal of the first (1st) subchapter (2.1) is to examine and analyze Germany as a unitary Federation (“*unitarischer Bundesstaat*”), which is defined and characterized by a special type of federalism, i.e. the “executive” or “implementation” federalism (“*Vollzugsföderalismus*”)¹⁸⁰. The presentation and consideration of Germany as a “unitarischer Bundesstaat” will be based on the analysis by Berndt Keller, while emphasis will be put on the main principles and subprinciples of the term “Federation”, i.e. the federal system of government, the separation of power and the phenomenon of local self – government¹⁸¹.

Moreover, considering the above – referred subprinciples as a stable background for further analysis, the term “Federalism” will be epistemologically defined according to the analysis by Andrew Heywood, whereas an equivalent but

¹⁷⁸ Hans-Ulrich Derlien, “German Public Administration: Weberian despite Modernization“, in *Comparative Bureaucratic Systems*, Lanham: Lexington Books, 2003, p.5

¹⁷⁹ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.14

¹⁸⁰ Berndt Keller, “Germany: In the Bermuda Triangle of modernization, unification and Europeanization” in *Public Sector Employment Relations in Germany*, Crows Nest: Allen & Unwin, 2011, p.4-5

¹⁸¹ Berndt Keller, “Germany: In the Bermuda Triangle of modernization, unification and Europeanization” in *Public Sector Employment Relations in Germany*, Crows Nest: Allen & Unwin, 2011, p.4-5

conceptionally different definition will be given for the special type of German federalism (“*Vollzugsföderalismus*”) according to the analysis by Berndt Keller.

Having set a strong theoretical basis with regards to the epistemological fundamentals, on which the analysis has to be established, the subchapter (2.1) will continue with a brief, general but meaningful presentation of the German political system. In particular, emphasis will be put on its federal structure and “nature”, while it will be described as a complex and peculiar construction, which includes three (3) different levels – layers of governance and five (5) different constitutional bodies. In the framework of the above analysis, a short reference will be made to the general, political and constitutional image of each and every level – layer of governance, as well as to some fundamental types, forms and examples of the phenomenon of political collaboration among them.

After the examination of the federal structure of the German political system, the equivalent one (i.e. federal) of the German Public Administration will be analyzed. In more specific terms, the “*Deutsche öffentliche Verwaltung – DöV*” will be examined as a federal one according to the analysis by the Division for Public Administration and Development Management (DPADM) of the Department of Economic and Social Affairs (DESA) of the United Nations (UN). In particular, an attempt will be made to analyze the German Public Administration as one, which structurally follows the federal elements of the German political system. The conceptional “path” which will be here followed, will be based on the depiction of a decentralized Public Administration, which includes not only different types, but also different, internal administrative levels.

The latter argumentation will be proved as one of the most important ones during the pages of the whole chapter, because it will set the most solid basis for the interrelation and interconnection among the German political system and the German Public Administration under the term of “implementation federalism” (“*Vollzugsföderalismus*”). The arguments of the next chapters (2.2 and 2.2.1.) will be later on based on that particular interconnection, being focused on its influence on the special, German politico-administrative “shape” as well as on the form – way of personnel allocation, which results to the administrative predominance of “*die Länder*”.

The latter theoretically set argumentation will form the best and most stable basis for the epistemologically smooth beginning of the second (2nd) subchapter (2.2).

Its main research goal will be to practically examine how does the above – analyzed interconnection between the German political system and the German Public Administration functionally influence the term of “power distribution”¹⁸² inside the German, federal structure.

In other words, that particular subchapter (2.2) will left behind the theoretical analysis and description of the notion of federalism, which can be seen and manifested in both fields of the German political system and Public Administration, and will be occupied with the question of how does their interrelation and co-existence influence the distribution of power, and thus, the distribution of tasks among the different levels – layers of the Federation shaping the allocation of personnel between them.

In order for the depiction of the distribution of power to be clear, the subchapter 2.2 will not present each and every level – layer of governance as a political structure, but as a politico-administrative “tank”, which carries on and includes given tasks. These tasks of each and every level – layer of governance will be extensively presented and examined, and then, their correspondence to certain branches will be demonstrated. In particular, it will be shown that, in the framework of the German “implementation federalism” (“*Vollzugsföderalismus*”) subsumes the level – layer of governance as such (Federation, Federal states, counties and municipalities) under a given branch (legislative, executive, judicial).

The above – referred interconnection between tasks of levels – layers and branches will take place, in order a given argumentation to be enough constructed, according to which, their distribution among the different levels – layers of governance does not only categorize each of them (levels – layers) to a specific branch, but also leads to a certain way of personnel allocation, something, which leads to the phenomenon of personnel federalization.

The reference to the latter one will form a herald for the beginning of the third (3rd) subchapter 2.2.1., whose main research goal will be to support the argument that even within a decentralized, federal structure, it is possible for features and structural elements of centralization to exist.

¹⁸² European Foundation for the Improvement of Living and Working Conditions, “Central Public Administration: Working Conditions and Industrial Relations – Germany”, in *International Publications*, New York: Cornell University ILR School, 2013, p. 1

In more specific terms, having described the decentralized political and administrative structure of the German Federation, as well as how does the functional interrelation among the political and the administrative system lead to a specific type of personnel allocation, and thus, to the phenomenon of personnel federalization¹⁸³, the current subchapter (2.2.1.) will aim to prove that the German personnel density is centralized in the second (2nd) layer of governance, i.e. the one of the federal states (“*die Länder*”).

The analysis will have to do with a type of “counter-argument”, from the point of view that it will contradict the assertion and description of the German “federal nature”, which will have been analyzed up to the point of the subchapter 2.2.1. That particular argumentation of the last subchapter will try to give prominence to the reasoning that inside the German, decentralized structure, the federal states (“*die Länder*”) enjoy an administrative predominance over all the other levels – layers of governance, forming the main administrative center of the Federation, from the point of view that their personnel density is the strongest one comparatively examined to the others.

The subchapter 2.2.1 will aim to explore and prove that the strong personnel density and its above-referred centralization in the second (2nd) level – layer of governance (“*die Länder*”) leads to the peculiar phenomenon of a decentralized centralization, i.e. the existence and administrative predominance of one politico-administrative level over the others inside the same, federal and decentralized structure.

In order the justification of the above argumentation with regards to the decentralized centralization to be clearly and extensively proven, the current, last subchapter (2.2.1.) will aim to justify the existence of the phenomenon as such (decentralized centralization) by connecting and interrelating it with the “nature” of the German, “implementation federalism” (“*Vollzugsföderalismus*”).

The whole chapter (2) will conclude with the last argumentation being the one of the last subchapter (2.2.1.) with regards to existence of the phenomenon of decentralized centralization and the administrative predominance of “*die Länder*” in terms of personnel allocation. That particular argumentation and the proof of the

¹⁸³ Hans-Ulrich Derlien, “The German public service: between tradition and transformation”, in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p.178

above – referred phenomenon's existence (decentralized centralization) will be later on used, in the framework of the last chapter of the whole project (4), where it will conceptionally contribute to the establishment of the whole thesis' research goal as to the Weberian character of the German Public Administration.

2.1. Setting up the Federation: Implementation Federalism and its administrative macrostructure

As it has been mentioned, the main goal of the current subchapter is to firstly examine and to discover in general and theoretical terms the conception of the principle of federalism· then it aims to present and analyze the case study of Germany as one, which is characterized and existentially defined by a decentralized political and administrative system.

The analysis will here start from the definition of the terms “Federation” and “Federalism” and will then try to correspond them to the special case of Germany by taking into consideration the specific structure of its political and administrative system. Before the above – referred correspondence to Germany’s case study takes place, it has to be prementioned that the main terms (i.e. “Federation”, “Federalism”) will be set under a largely politico-philosophical examination, which will not be adapted to a specific example of analysis, but will take into consideration some generally accepted, political criteria of the notion of federal structure.

According to the analysis by Andrew Heywood, as “Federation” can be described and defined a politico-legal structure, which is characterized by the establishment of a federal authority and the existence and function of federalism as the one and only form of political and administrative organization¹⁸⁴. Moreover, it forms a type of a decentralized political structure, which is characterized by the concentration, co-operation and gathering of small, in-state structures that develop relations of co-operation with the central core of the state¹⁸⁵.

Having defined the term “Federation” and before moving on to the examination of that of federalism, one has to pre-clarify the fact that different types of Federation can exist, as well as multiple ways of “institutional existence” and practical, political function of federalism. The goal, which is set here is not to undertake an analysis in comparative terms, which will move on to the procedure of comparing and contrasting politico-institutional and procedural features between the different existing federalisms, but to take into consideration a generally admitted and epistemologically correct way of federalism’s definition, which can correspond to

¹⁸⁴ Andrew Heywood, «Εισαγωγή στην Πολιτική», Αθήνα: Εκδόσεις Πόλις, 2006, σ. 232

¹⁸⁵ Ibid., p. 233, 234

different cases of political systems, i.e. the German, the American or the Swiss one, at the same time.

According to Andrew Heywood, federalism can be defined as a way of authority implementation which is characterized by the existence of political and legalistic structures within a political system, whose main and central functional goal is to disperse and distribute power between the institutions that comprise it¹⁸⁶. It does not prescribe the existence of a governance, which is composed of one (1) and only governmental level – layer, but of one, which is formed as a multi-layered and whose levels – layers do not exist under a regime of political or legal dependence¹⁸⁷.

Taking into consideration the above-referred feature of non-dependence between the different levels – layers of governance, and thus, its autonomous or, in many cases studies, semi-autonomous existence, one has to take into consideration the main subprinciples that directly and indirectly emerge from the principle of federalism. These are going to be here used as analytical variables and methodological “lines of guidance”, not only in the framework of the general and descriptive federalism’s examination, but also, later on, in the one of the case study of Germany.

In particular, the main and central subprinciples of the principle of federalism are : i) the existence of a federal, decentralized government with more than one (1) level – layer of governance, ii) the notion of the distribution of power among these levels – layers of governance, iii) the subprinciple of the local self-government, i.e. a peculiar regime of autonomy or semi-autonomy, which emerges from the distributed political authority and the prohibition of power’s impose from the one level – layer to the other¹⁸⁸.

With regards to the first (1st) subprinciple of federalism, an attempt will be here made, so the short reference – analysis to be concentrated in the political background of the two (2) or more different levels – layers of governance, as well as to their main political bodies, i.e. their parliaments.

In particular, the principle of federalism tries to construct and shape a consensus between two (2) or more, different – separated, autonomous or semi-

¹⁸⁶ Andrew Heywood, «Εισαγωγή στην Πολιτική», Αθήνα: Εκδόσεις Πόλις, 2006, σ. 232

¹⁸⁷ Ibid., p.232

¹⁸⁸ Harald Fuhr, Julia Fleischer, Sabine Kuhlmann, “Federalism and Decentralization in Germany: Basic Features and Principles for German Development Cooperation”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p. 9

autonomous levels – layers of state entities that are constructed and established, i.e. the federal – central government and its institutions and the federal states – regions – “*Länder*” – cantons etc.¹⁸⁹

Each one of these state entities possesses a separate Constitution, legal order, parliament, administrative institutions and judiciaries¹⁹⁰. That type of legal, political, administrative and judicial separation does not establish a kind of secession, which would be able to set the unity of a federal state in danger, but sets a fertile background for the establishment of a multi-layered legitimization that derives from the citizens - political members of the federal state¹⁹¹.

In more specific terms, that kind of legitimization, which is established in order to strengthen and improve the qualitative level of democracy within the federal state, is practically expressed by the existence of two (2) different “legitimization spectrums”: i) on the one hand, by the participation of the citizens in the procedure of designating and appointing a government and, thus, representing themselves in both central and regional levels, ii) on the other hand, by their ability to scrutinize the central – federal government which will be, at the end of day, appointed, irrespective of their politico-institutional “descent”, i.e. the federal state, to which they belong¹⁹².

Taking into consideration the establishment of the notion of government inside a federal state, one could comprehend that this first (1st) subprinciple does not just aim to institute different levels – layers of governance in order for a better politico-administrative organization to be established, but for a more important goal to be achieved: in order for a type of multiple-layered legitimization to be institutionally and politically set, which will directly and efficiently improve the quality of democracy within the federal state¹⁹³. As Berndt Keller argues, the above is in most of the cases parliamentary achieved, i.e. through the political and institutional existence of more than one (1) parliaments¹⁹⁴.

¹⁸⁹ Franz Lehner, Ulrich Widmaier, «Συγκριτική Πολιτική», Θεσσαλονίκη: Επίκεντρο, 2007, σ. 192, 193

¹⁹⁰ Rod Hague, Martin Harrop, «Συγκριτική Πολιτική και Διακυβέρνηση», Αθήνα: Κριτική, 2011, σ. 482

¹⁹¹ Andrew Heywood, «Εισαγωγή στην Πολιτική», Αθήνα: Εκδόσεις Πόλις, 2006, σ. 236

¹⁹² Ibid., p.235

¹⁹³ Ibid., p.236

¹⁹⁴ Berndt Keller, “The continuation of early austerity measures: the special case of Germany” in *European Review of labor and research Vol.20(3)*, California: Sage Publications, 2014, p. 388, 389

In particular, the above argument forms one of the practical proofs of the presentation of a multi-layered legitimization in the federal states, expressed in political and electoral terms¹⁹⁵. The institution of the parliament within a federal state does not only function as a means of representation for the citizens – political members of the federal community in the regional districts, but also forms a strong veto player in central governmental terms, i.e. depicts and embodies a vital “scrutinizing player” next to the central federal government¹⁹⁶. Despite the fact that the above – referred multi-layered legitimization which exists inside the structure of the Federation is also “personified” by the presence of more than one (1) Constitutions, Berndt Keller argues that the phenomenon as such can be better comprehended by the citizens in the case of federal parliaments’ existence, mainly because of their active participation in the different, electoral procedures of appointing them¹⁹⁷.

Having undertaken a short reference mainly concentrated in the political and institutional set-up of the first (1st) subprinciple of federalism (i.e. existence of federal government) and stressed the importance of the multi-layered legitimization, one has to move on to the second (2nd) subprinciple with regards to the distribution of power inside a federal state.

In accordance with the special terms of the principle of federalism, the distribution of power is determined by the existence of the Constitution¹⁹⁸. Despite the fact that, as it has been already referred, each federal state possesses and sets in action its own Constitution, which forms a source of political legitimization, the central, federal Constitution enjoys a special position and functions as the “political heart” of the whole Federation¹⁹⁹. In more specific terms, it stipulates and governs a strict relation of legal, political and administrative balance between the different levels – layers of governance which are established under the “functional existence” of the principle of federalism. It exists as the fundamental, legal text that attempts to institute a general, harmonic consensus between the central, federal government and

¹⁹⁵ Andrew Heywood, «Εισαγωγή στην Πολιτική», Αθήνα: Εκδόσεις Πόλις, 2006, σ. 235

¹⁹⁶ Franz Lehner, Ulrich Widmaier, «Συγκριτική Πολιτική», Θεσσαλονίκη: Επίκεντρο, 2007, σ. 192

¹⁹⁷ Berndt Keller, “The continuation of early austerity measures: the special case of Germany” in *European Review of labour and research Vol.20(3)*, California: Sage Publications, 2014, p. 388

¹⁹⁸ Andrew Heywood, «Εισαγωγή στην Πολιτική», Αθήνα: Εκδόσεις Πόλις, 2006, σ. 234, 235

¹⁹⁹ Andrew Heywood, «Εισαγωγή στην Πολιτική», Αθήνα: Εκδόσεις Πόλις, 2006, σ. 235

the federal states, as well as to prohibit a possible scenario of power impose of the one level – layer of governance to the other(s)²⁰⁰.

Furthermore, it establishes and clearly sets the legal and the administrative framework of the Federation, whereas it nominates and appoints an ever-present referee between its levels – layers. In particular, the Constitution of the Federation, implementing its legal right and taking advantage of its legal capacity to allocate and nominate competencies, carefully defines the specific tasks, which can be legally implemented and undertaken by each of the levels – layers of governance²⁰¹. In other words, it stipulates which level – layer does what, as well as tries to form a correspondence between given branches - functions of government (legislative, executive, judicial) and certain competencies. Due to the fact that the central, federal Constitution practically “personifies” a consensus between level and branches, which, at the same time, allocates tasks and responsibilities, each and every amendment of that particular consensus needs the approval of both sides – governmental levels, under specific but constitutionally set procedures of increased parliamentary authority, and thus, legitimization²⁰².

Furthermore, the Constitution stipulates the specific relation between the two (2) or more, different, but simultaneously – existing legal orders, qualifying and establishing the predominance of the federal – central one of the Federation over that of the regional-local level – layer²⁰³. In particular, every federal Constitution defines and stipulates that the federal - central legal order overcomes the regional – local and enjoys a predominance over it. Thus, the legal order of the Federation is the one which prevails and dominates over the one of the federal states, in possible cases of “legal conflicts” between them²⁰⁴.

In the above framework, the federal Constitution prescribes the existence of a “judicial referee” that is personified by a federal Court, whose constitutionally granted independence establishes it as a legitimate actor in the procedure of intervening between the legal orders of the two (2) or more, different levels – layers of governance. Its main aim is focused on solving their legal disputes, in the case that it is not feasible for them to be solved under the principle of regional law’s domination

²⁰⁰ Ibid., p.235

²⁰¹ Ibid., p.235

²⁰² Ibid., p.235, 236

²⁰³ Rod Hague, Martin Harrop, «Συγκριτική Πολιτική και Διακυβέρνηση», Αθήνα: Κριτική, 2011, σ. 488, 489

²⁰⁴ Andrew Heywood, «Εισαγωγή στην Πολιτική», Αθήνα: Εκδόσεις Πόλις, 2006, σ. 235

over the central one²⁰⁵. That kind of referee is able to practically grant the smooth function of the principle of federalism, under stable and constitutionally legitimized terms, as well as to manage it in cases of legal confusion.

The above – analyzed role of the Constitution and its function in terms of power distribution, forms the appropriate background for the third (3rd) subprinciple of federalism to be analyzed, i.e. the one of local – regional self-government. This subprinciple is “personified” by the constitutional existence of one (1) or more articles inside the fundamental, legal text of the central, federal Constitution, which stipulates that each and every region – state within the Federation possesses the legal right to define, set and administer its own internal affairs²⁰⁶.

The specific extent and limit, according to which that particular right can be implemented is also set by the central, federal Constitution, a fact which re-approves its central and vital role in the Federation’s legal structure²⁰⁷. Moreover, it has to be mentioned that the subprinciple of local autonomy must not be analyzed and examined in only positive and powerful terms, i.e. as one which grants to the regional – local level an autonomous existence along with a branch of privileges, powers and rights (separate constitution, legal order, parliament, judiciaries, administrative institutions), but as one which also secures the self-existence of the regional – local level in terms of a special, “politico-institutional defence”²⁰⁸. In particular, the subprinciple as such exists, functions and is interpreted as a personification of a restrictive power against the federal, central government and its possible pursuit of intervention in the regional – local affairs²⁰⁹.

In other words, the autonomy granted to the regional – local level of the Federation must not be exclusively comprehended as an executive expression of power, but as a politico-institutional “defensive line” of limitation of central government’s implementation of competencies over the federal states, in order for their internal affairs not to be influenced, ruled and governed by it²¹⁰. For example,

²⁰⁵ Rod Hague, Martin Harrop, «Συγκριτική Πολιτική και Διακυβέρνηση», Αθήνα: Κριτική, 2011, σ. 493

²⁰⁶ “Federal Republic of Germany: Public Administration Country Profile”, Division for Public Administration and Development Management (DPADM), Department of Economic and Social Affairs (DESA), United Nations, New York, USA, February 2006, p. 9

²⁰⁷ Ibid., p.9

²⁰⁸ Christoph Reichard, “Local Public Management Reforms in Germany”, in *Public Administration Vol. 81 No. 2*, Oxford: Blackwell Publishing, 2003, p. 346

²⁰⁹ Ibid., p. 346

²¹⁰ Ibid., p. 346

the federal states' power and right to possess a separate, regional – local parliament elected by general, direct, free, equal and secret ballots, does only form a pursuit of an institutional forum's construction that is able to scrutinize the work of the federal, central government, but also an attempt to stop its possible intervention in affairs of self-administration, such as the legal framework governing the universities (field of education)²¹¹.

Having defined the terms “Federation” and “federalism” and cited the most important, functional features of the latter, an attempt will be now made to correspond federalism's theoretico-political basis to given, fundamental, politico-institutional characteristics of the German political system, in order to manifest and demonstrate its decentralized “nature”, which will be proved as a vital feature with regards to the whole project's core.

The analysis will follow the exact row of the already-set subprinciples of federalism, adapted to the case study of Germany. In addition, it has to be clarified that a specific reference to the term of power distribution (2nd subprinciple) is not going to be here made, because of the extended reference dedicated to it in the second (2nd) subchapter of the chapter (2.2.). In other words, the analysis here is not going to specifically refer to specific branches of authority (legislative, executive, judicial) and their correspondence to given tasks – competencies, which are undertaken by the different, German governmental levels – layers. That particular correspondence between branches and tasks will be analytically examined in the subchapter 2.2., where a connection between the term “power distribution” and the phenomenon of “personnel federalization” (or “personnel allocation”) will be attempted.

To begin with, in the case study of Germany, the first (1st) subprinciple of federalism, i.e. the existence of a federal government, can be easily demonstrated by the stipulation of the twentieth (20th) article of the German Constitution, i.e. the German Basic Law (“*Grundgesetz*”) of the 23rd of May 1949 (23/5/1949), which clearly defines that the political system of the German state is the federal parliamentary democracy²¹².

²¹¹ Harald Fuhr, Julia Fleischer, Sabine Kuhlmann, “Federalism and Decentralization in Germany: Basic Features and Principles for German Development Cooperation”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p. 9

²¹² §20, Absatz 1, Satz 1, BGG

The political power is divided into and distributed to different levels – layers of governance. In fact, the German, established levels – layers of governance are three (3), i.e. the federal, central one (“*Bund*”), the federal state - regional one (“*Länder*”) and the local one along with its internal, administrative sub-districts (“*Kreisverwaltungen*”, “*Kommunen*”, “*Gemeinden*”) ²¹³. However, in many fields of literature concerning the German political system, one can find the consideration of the third (3rd) level – layer of governance as one which co-exists with and inside the second (2nd), i.e. the local level inside the regional.

In any case, irrespective of the methodological way of considering things and beyond the above – referred, clear depiction and definition of the German political system, the decentralized “nature” of it can be also evidenced and demonstrated by the institutional existence of parliamentary bodies that are representative of the different levels – layers of governance, as well as the institutional interrelation among them ²¹⁴. That particular interrelation, as it will be examined, establishes and grants the existence of the phenomenon of a “multi-layered” legitimization, which forms a political ever-present reality in the federal systems.

In particular, according to the Articles 38 of the German Basic Law (“*Grundgesetz*”), the federal, central level – layer of government (“*Bund*”) is appointed and designated by a specific parliamentary body, i.e. the Federal German Parliament (“*Bundestag*”), whose 598 members are elected after general, direct, free and secret elections, which take place every fourth (4th) year and are functionally and electorally based on a proportional system ²¹⁵. That particular parliamentary body represents the German “*unitarischer Bundesstaat*” ²¹⁶ as a whole and depicts the existence of a federal, but united nation.

On the other hand, according to the Article 39 of the German Basic Law (“*Grundgesetz*”) the federal states’ level – layer of governance (“*Länder*”) is

²¹³ Ibid.

²¹⁴ “Federal Republic of Germany: Public Administration Country Profile”, Division for Public Administration and Development Management (DPADM), Department of Economic and Social Affairs (DESA), United Nations, New York, USA, February 2006, p. 6

²¹⁵ §38, Absatz 1, Satz 1, BGG

²¹⁶ Berndt Keller, “Germany: In the Bermuda triangle of modernization, unification and Europeanization”, in *Public Sector Employment Relations in Germany*, Crows Nest: Allen & Unwin, 2011, p. 1, 2

represented by the Federal German Council (“*Bundesrat*”)²¹⁷, which participates in the institutional composition of the Federal German Parliament (“*Bundestag*”) as its “upper level”, separately representing each one of the federal – states and playing a special, political role as a “veto player”²¹⁸. Its sixty-nine (69) members derive politically from the governments of each one of the federal states, whereas the number of votes each one of these possesses in the politico-institutional framework of “*Bundesrat*” is proportional to its population²¹⁹.

Before one moves on to examination of the special veto role of “*Bundesrat*”, which forms a practical evidence of the feature of “mutli-layered” political legitimization that characterizes federal states, he or she has to here report the main difference between the bodies of “*Bundestag*” and “*Bundesrat*” according to comparative, electoral terms.

In more specific terms, the members of “*Bundesrat*”, in contrast with the ones of “*Bundestag*” are not directly elected, and thus, appointed to a given, institutional layout by the citizens – members of the federal structure²²⁰. The sixty-nine (69) “*Bundesrat*” members indirectly derive from the local governments of each and every “*Land*”, whose members politically and institutionally belong to the different federal states’ regional parliaments (“*Landtag*”)²²¹. Thus, only the federal states’ governmental members represent them to the German Federal Council (“*Bundesrat*”), whereas the latter forms a forum of expression of the sixteen (16) governments, which derive from sixteen (16) different “*Landtagen*”²²².

In more specific terms, each German citizen – member of the German “*Bundesstaat*” votes for his or her local representatives, who represent them to the local parliament (“*Landtag*”, 1st parliamentary body), by which the local – federal state government emerges. That particular government does not only represent the whole “*Land*” in “*Landtag*”, but also in the Federal Council (“*Bundesrat*”, 2nd

²¹⁷ §39, Absatz 1, Satz 1, BGG

²¹⁸ “Federal Republic of Germany: Public Administration Country Profile”, Division for Public Administration and Development Management (DPADM), Department of Economic and Social Affairs (DESA), United Nations, New York, USA, February 2006, p. 6

²¹⁹ *Ibid.*, p. 6

²²⁰ Harald Fuhr, Julia Fleischer, Sabine Kuhlmann, “Federalism and Decentralization in Germany: Basic Features and Principles for German Development Cooperation”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p. 11

²²¹ *Ibid.*, p. 11

²²² *Ibid.*, p. 11

institutional body). Proportionally to the population of the “Land”, and thus, the number of its governmental representatives in “Bundesrat”, a regional – local government (and thus, every German citizen) indirectly participates in the procedure of central policy formulation by the Federal German Parliament (“*Bundestag*”), as well as to the one of scrutinizing its members²²³.

In more specific terms, taking into consideration the Article 50 of the German Basic Law, the politico-institutional participation of “Bundesrat” in the procedure of scrutinizing the policy formulation by “Bundestag” makes the former a strong veto player²²⁴. Taking into consideration the Article 53, “Bundestag” has to legal capacity to block a legislative proposal, which derives from the central, federal level – layer of governance by voting against it²²⁵.

The above can be electively achieved by “Bundesrat” when voting against a given, federal proposal, in electoral terms and with an absolute majority, i.e. thirty-five (35) votes that derive from at least nine (9) federal states or with a majority of two thirds (2/3), i.e. forty-six (46) votes from at least nine (9) federal states when it comes to European legislation²²⁶.

Taking into consideration the above analysis, one can comprehend that the German citizen enjoys the special privilege to be an active, political member of multi-layered legitimized, federal polity. They vote for their representatives in the “Landtag”, who scrutinize the government which will be there designated. Then, the already scrutinized “Land” government expresses and represents the whole “Land” in the Federal Council (“Bundesrat”) along with the ones of the other federal states. Then, all the scrutinized “Land” governments scrutinize the federal, central one in the framework of the Federal German Parliament (“Bundestag”), which is directly appointed by the German citizens every fourth (4th) year.

Having already left aside the analysis of the term “power distribution” for the framework of the subchapter 2.2., one has to here move on to a short reference to the

²²³ Franz Lehner, Ulrich Widmaier, «Συγκριτική Πολιτική», Θεσσαλονίκη: Επίκεντρο, 2007, σ. 193, 194

²²⁴ §50, Absatz 1, Satz 1, BGG

²²⁵ §53, Absatz 1, Satz 1, BGG

²²⁶ “Federal Republic of Germany: Public Administration Country Profile”, Division for Public Administration and Development Management (DPADM), Department of Economic and Social Affairs (DESA), United Nations, New York, USA, February 2006, p. 6, 7

term “local self-government”, as it arises from the German Basic Law (“Grundgesetz”), which forms the fundamental, legal text of the whole Federation.

In more specific terms, according to the Article 28 each and every German federal state possesses its own constitution, parliament (“Landtag”), legal order, institutions and administrative regulations²²⁷. Again, as it has been mentioned in the above – analyzed, theoretical examination of federalism, the principle of local self-government, granted in the German case via that particular article (28), does not only stipulate the German federal states’ rights from a positive and “powerful” point of view, i.e. as a branch of powers comparatively set “against” the ones of the federal, central government, but also strictly defines the non-intervention of the latter in the internal, legal, political and administrative affairs of the former²²⁸.

Moreover, the Article 92 is based on the already – set prescription of the article 28 with regards to the federal states’, separate legal order and further establishes a special, legitimized referee between the federal states, which has to step in and undertake the appropriate legal action, in all those cases of possible legal conflicts²²⁹. According to the Article 93, the Federal Constitutional Court (“*Bundesgericht*”) is that specific and legally –by the Basic Law- appointed institution, which is responsible to make, express and publicize supreme court decisions in all the cases of legal confusion and contradiction created because of the co-existence of two (2) different legal orders²³⁰.

Having examined the federal and decentralized “nature” and structure of the German political system, one has to here discover the one the German Public Administration (“*Deutsche öffentliche Verwaltung – DöV*”). Its presentation will be a strictly structural one, i.e. no specific reference to given tasks of branches will be made, because, as it has already been clarified, they will be conceptionally connected to the phenomenon of personnel federalization in the framework of subchapter 2.2.

As Hans – Ulrich Derlien argues, the German Public Administration “*forms a part of the German republican polity*”²³¹, while its decentralized structure can be

²²⁷ §28, Absatz 1, Satz 1, BGG

²²⁸ §29, Absatz 1, Satz 2, BGG

²²⁹ §92, Absatz 1, Satz 1, BGG

²³⁰ §93, Absatz 3, Satz 1, BGG

²³¹ Hans-Ulrich Derlien, “German Public Administration: Weberian despite Modernization“, in *Comparative Bureaucratic Systems*, Lanham: Lexington Books, 2003, p. 1

evidenced by the fact that it includes different types and levels, as well as internal sublevels.

As to its types, one can distinguish two (2) of them: a) the direct and b) the indirect public administration. The direct public administration includes supreme and “sub-supreme”, i.e. secondary federal authorities. The examination of the German Public Administration’s decentralized structure along with its internal levels – layers and sublayers will be only focused on the direct, supreme federal authorities, because of their direct relevance to the project’s thematic core, as well as the easily-evidenced decentralization of their administrative macrostructure.

In the field of supreme federal authorities one can evidence and glean the federal – central government (“*Bundesregierung*”), as well as other, autonomous or semi-autonomous institutions, such as the Federal German Parliament (“*Bundestag*”), the Federal German Council (“*Bundesrat*”), the Federal Constitutional Court (“*Bundesgericht*”) and the Federal President (“*Bundespräsident*”), all of which, according to the data by the Federal Ministry of the Interior (“*Bundesministerium des Innern*”), develop and follow “their own administrative apparatus”, whereas they develop and construct institutional bonds with the Federal Government²³². A simple example, based on procedural prescriptions of the German Basic Law will be later on examined.

Having already examined in political – electoral terms the cases of “Bundestag” and “Bundesrat” as well as their politico-institutional existence in the framework of the decentralized, German political system, the analysis will be here focused on some of the aspects of the interior of the Federal Government in structural, administrative terms.

To begin with, according to the articles 62 and 63 of the German Basic Law, the federal – central governmental level – layer is shaped and constructed as a whole cabinet, which consists of the Federal Chancellor (“*Bundeskanzler*”), the Federal Ministers (“*Bundesminister*”) and the Federal President (“*Bundespräsident*”)²³³. Its main, institutional body is the Chancellor’s Office or “Federal Chancellery” (“*Kanzleramt*”). The Head of that particular Office, i.e. the Federal Chancellor forms the Head of the Federal Government (“*Regierungsleiter*”), while possessing a strong

²³² Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p. 15, 18

²³³ §62 und 63, Absätze 1 und 1, Sätze 1 und 1, BGG

role of coordinating the Government, which is mirrored by fourteen (14) individual ministries that represent and work on a different policy field²³⁴.

The politico-institutional existence and function of the Federal Government as a supreme institution of direct public administration is ruled and governed by three (3) different principles²³⁵. In particular, the “Chancellor principle” (“*Kanzlerprinzip*”) is the one which proves the above – refereed fact, i.e. the coordination role of the Chancellor (“*Kanzler*”) as the Head of the Federal Government, who must enjoy the political legitimization of the majority of the members of “*Bundestag*”. The principle of “Departmental Autonomy” (“*Resortprinzip*”) is the one which grants autonomy to the ministries in managing their departments and ensures that the Chancellor must not impose to the ministerial departments his or her specific way of administration, whereas the “Cabinet principle” (“*Kabinetsprinzip*”) influences the administrative structure of the Federal Government directly, because it establishes the institution of cabinet as a political forum composed of politicians, bureaucrats and specialists, which assists the work of ministries and participates, as a collective decision – making body in the field of policy formulation²³⁶.

Having described the main and central structure of the governmental level – layer of the Federal Government, it can be supported that it is more attainable for the decentralized structure of the “*Deutsche öffentliche Verwaltung*” to be proved by the internal, administrative macrostructure of the level – layer of “*Länder*”, as well as the one of “*Kreisverwaltungen*”, mainly because of their sublevels and sublayers²³⁷.

As to the “*Länder*”, Germany includes sixteen (16) federal states, i.e. three (3) city – states (Berlin, Bremen, Hamburg) and thirteen (13) area – states (Baden – Württemberg, Bayern, Brandenburg, Hessen, Niedersachsen, Mecklenburg –

²³⁴Kai Wegrich, Gerhard Hammerschmid, “Public Administration characteristics and performance in EU28: Germany”, in *Support for developing better country knowledge on public administration and institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion)*, Luxembourg: Publications Office of the European Union, 2018, p. 364

²³⁵ Ibid., p. 364, 365

²³⁶ Kai Wegrich, Gerhard Hammerschmid, “Public Administration characteristics and performance in EU28: Germany”, in *Support for developing better country knowledge on public administration and institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion)*, Luxembourg: Publications Office of the European Union, 2018, p. 364, 365

²³⁷ Roman Schnur, “Topical Problems of Administrative Reform in the Federal Republic of Germany”, in *Indian Journal of Public Administration Vol.14 (3)*, California: Sage Publications, 1968, p. 807, 808

Vorpommern, Nordrhein – Westfalen, Rheinland – Pfalz, Saarland, Sachsen, Sachsen – Anhalt, Schleswig – Holstein, Thüringen)²³⁸.

The in-Länder administration, which is a part of the whole structure of the direct, supreme German administration, is decentralized from the point of view that it is based and organized according to two – layer and three – layer systems, according to which the whole “Land’s” administration exists and functions.

The three – layer systems are also divided into two (2) different, internal levels – layers. In particular, they include an upper governmental level, a meso-level and a lower level. The higher (upper) level – layer corresponds to the government of the federal state, i.e. the already-described authority, which is elected by the majority of the “Landtag”. The meso-level is depicted to the politico-institutional presence of the President of each and every “Land”, who is appointed by the in-Land government, whereas the lower level includes all the other “Land” authorities (for example: Police) which are obliged to fulfill given purposes according to tasks nominated to them by the in-Land legal order²³⁹.

The two – layer systems of the in-Land public administration form an exception, which is although applied in practice· they can be only found in five (5) “Länder” (Saarland, Schleswig – Holstein, Mecklenburg – Western Pomerania, Brandenburg, Niedersachsen) since 2004²⁴⁰. These systems’ internal structure is also a decentralized one, including internal levels – layers. In more specific terms, it includes exactly the same levels - layers as the three – layered ones, with the exception of the non-existence of the meso-level, which was a result of the attempts of constitutional reforms of the above – referred federal states that led to the politico-institutional condensing of the posts of the land’s prime minister and the land’s president²⁴¹.

²³⁸ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p. 21

²³⁹ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p. 21, 22

²⁴⁰ *Ibid.*, p. 21, 22

²⁴¹ Kai Wegrich, Gerhard Hammerschmid, “Public Administration characteristics and performance in EU28: Germany”, in *Support for developing better country knowledge on public administration and institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion)*, Luxembourg: Publications Office of the European Union, 2018, p. 365, 366

Last but not least, Germany is divided into 295 districts (“*Kreise*”/“*Kreiverwaltungen*”), which are also administratively and geographically decentralized and sub-divided into 11.091 counties and municipalities (“*Kommunen*”/“*Gemeinden*”)²⁴². Inside the “*Kreisverwaltungen*”, the “decentralized co-existence” of two (2) different levels – layers of governance can be also evidenced. In particular, the counties form the administrative “high – upper” level, whereas municipalities form the “lower” one. Both of them appoint a local council, whose Head is either the county commissioner (in the case study of counties), who is appointed by the government of federal state’s “*Landtag*”, or the mayor (in the case study of municipalities) who is elected after in-*Gemeinden* elections.

To sum up, the decentralized structure of the German political and administrative system defines the country’s peculiar type of politico-institutional function and existence. Its different levels – layers of governance and the existence of different constitutions, legal orders, parliaments and regulations, as well as a multi-layered internal, administrative macrostructure, categorize the country in the case studies of federal states. However, it remains to be examined how are these two (2) determinant variables (political and administrative system) interrelated to each other and how do they contribute to the configuration of a peculiar type of personnel allocation under the “institutional umbrella” of the term “implementation federalism” (“*Vollzugsföderalismus*”).

²⁴² Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p. 22

2.2. Civil service's federalization and the notion of "power's distribution" as personnel tasks' allocation

The main research goal of the current subchapter (2.2.) is twofold. On the one hand, it attempts to examine the term "power's distribution" inside the German politico-administrative system and comprehend how it is dispersed to given branches of tasks under the existence and influence of the term "implementation federalism" ("Vollzugsföderalismus"). On the other hand, it tries to interpret how does the "Vollzugsföderalismus" contribute to the phenomenon of "personnel federalization" after having influenced the peculiar way of tasks allocation inside a given politico-administrative structure.

In particular, the current subchapter (2.2.) will firstly define the term "implementation federalism" as the peculiar type of German federalism and examine it comparatively to the already-analyzed "principal" type of "classical" federalism by taking into consideration their central differentiation point(s). Secondly, the "Vollzugsföderalismus" will be examined as a politico-administrative phenomenon, which is characterized by a twofold and "double" nature with regards to its influence on the function of a country's political system and the allocation of tasks inside it.

In more specific terms, on the one hand, it will be analyzed as a phenomenon that leads to a separation of tasks, leading to the consideration and function of each German level – layer of governance as one that directly and exclusively corresponds to a given branch of certain tasks (legislative, executive, judicial). On the other hand, it will be described as a system, which, despite its feature of tasks separation and categorization, includes the characteristic of collaboration between politico-administrative structures in the field of tasks implementation. In other words, it will be presented as a phenomenon of both procedures of tasks' dedication and tasks' co-implementation through administrative collaboration.

After the above-described analysis, the phenomenon of "personnel federalization" will be researched as an outcome of the existence and function of "implementation federalism" in the German case study. In more specific terms, it will be demonstrated how does the aspect – type – "nature" of tasks' dedication of "implementation federalism" lead to a certain type of personnel allocation within the German politico-administrative system.

Before one moves deeper into the analysis' conceptual roots, they have to chronologically and terminologically demarcate the issue under question. In particular, the examination of "implementation federalism" and the peculiar way, according to which it leads to a specific type of personnel allocation will here take into consideration the current situation inside the German politico-administrative system, i.e. it will concentrate to the tasks and personnel allocation during the year of research's conduction (2020). Moreover, as to the terminological clarification, the term "public servants" will be here used for all those employed in Germany's civil service, because their categorization in "civil servants" and "public employees" will take place in the framework of the next, third (3rd) chapter and according to the German terminology, which corresponds to the country's working environment and reality.

According to the analysis by Andrew Heywood, a clear, separated and terminologically demarcated definition concerning the term "implementation federalism" does not exist²⁴³. In particular, the term as such is included in the wider category of federalism, because, as the already-analyzed definition stipulates, it also refers to the way – type of authority implementation, which is characterized by the existence of political and legalistic structures inside a political system, whose main goal is to disperse and distribute the political power within a whole structure. It prescribes the existence of -at least- two (2) levels – layers of governance, none of which is subject to the other in legal and political terms²⁴⁴.

Trying to firstly set a descriptive and general image of implementation federalism, its main point – feature which exists as the one of differentiation between it and the "classical federalism" is related to implementation federalism's "twofold nature", which is expressed and depicted to its practical implementation inside the politico-administrative system, by which the latter is adopted²⁴⁵. In more specific terms, implementation federalism possesses the peculiar characteristic to combine the separation of tasks and delegation of them to given politico-administrative bodies,

²⁴³ Andrew Heywood, «Εισαγωγή στην Πολιτική», Αθήνα: Εκδόσεις Πόλις, 2006, σ.235

²⁴⁴ Ibid., p.232

²⁴⁵ Klaus Detterbeck, Wolfgang Renzsch, Stefan Schieren, "Föderalismus in Deutschland", München: Oldenbourg Verlag, 2010, p. 3,4

while “keeping alive” the possibility and giving the ability of their regular politico-administrative co-operation in the field of tasks’ implementation²⁴⁶.

In other words, in all the countries, by which it is adopted as the main form of politico-administrative organization and function (Australia, Canada, Austria, Germany)²⁴⁷, implementation federalism combines the “functional representation” of two (2) different types – ways of in-system – in-state organization by giving prominence and significant conception to the terms of “tasks’ distribution” and “functional collaboration” in terms of politico-administrative tasks’ implementation²⁴⁸.

In particular, the adoption of implementation federalism seems to be the one, which includes the operation of two (2) different organizational systems – patterns at the same time, which co-exist and form the main and central type of a given politico-administrative system’s configuration and functional setup (“*Systemsgestalt*”)²⁴⁹. As Klaus Detterbeck stresses, none of them overcomes the other or represents the main way – method of “Gestalt” by politico-administratively imposing its core features on the other, because the main conception and proof of existence of implementation federalism is the function and mutual co-existence of the procedures of tasks’ separation – distribution and collaboration when it comes to their implementation²⁵⁰.

The first (1st) “nature” – way of expression of implementation federalism can be seen and examined in the separation of politico-administrative tasks and delegation of them to given organizational structures, which are charged with their implementation²⁵¹. In more specific terms, in the framework of implementation federalism, constitutionally stipulated branches (legislative, executive, judicial) include certain tasks, which are delegated to given bodies, while the implementation of them (tasks) is functionally delimited among the bodies in terms of undertaking’s responsibility.

²⁴⁶ Klaus Detterbeck, Wolfgang Renzsch, Stefan Schieren, “*Föderalismus in Deutschland*”, München: Oldenbourg Verlag, 2010, p. 10, 11

²⁴⁷ Andrew Heywood, «Εισαγωγή στην Πολιτική», Αθήνα: Εκδόσεις Πόλις, 2006, σ.234

²⁴⁸ Klaus Detterbeck, Wolfgang Renzsch, Stefan Schieren, “*Föderalismus in Deutschland*”, München: Oldenbourg Verlag, 2010, p. 10, 11

²⁴⁹ Ibid., p.10

²⁵⁰ Ibid., p.8

²⁵¹ Ibid., p.8

That particular tasks' allocation, which derives from the fundamental, constitutional principle of powers' distribution is not only expressed by the delegation of tasks, but also by the constitutionally-set prohibition of tasks' undertaking by other bodies²⁵². In other words, the first (1st) "nature" of implementation federalism can be seen through its dual prescription of directly delegating tasks to bodies, as well as of strictly prohibiting the latter to undertake tasks, which are not under their responsibility. In any of the two (2) cases, the main "power of guidance" inside a system, where implementation federalism shapes the politico-administrative apparatus is the Constitution, which stipulates the exact correspondence between branches, tasks and bodies, that carry on constitutionally-set responsibilities.

The second (2nd) "nature" – way of expression of implementation federalism can be seen and examined by the politico-administrative collaboration between bodies that derive from different branches, something which is also demonstrated in the field of tasks' implementation²⁵³. This "lively" communication is in cases stipulated by the Constitution, but the latter does not form a general and standardized rule, taking into consideration ways, types and procedures of informal collaboration between bodies that derive from different levels – layers of governance, but co-operate, in order tasks to be implemented.

As it happens in the case of the first (1st) "nature" of implementation federalism, so with the second (2nd) one, a phenomenon of dualism in terms of expression can be evidenced. In particular, in the framework of the second (2nd) "nature" of implementation federalism, the collaboration in the field of tasks' implementation can be either expressed as a "transition of power" between legislative and executive bodies or as informal communication between executive bodies exclusively²⁵⁴.

In the first (1st) case, a legislative body, which is included in the first (1st) level – layer of governance inside a Federation and is charged with constitutionally-set responsibilities in the field of legislation transfers and diffuses the implementation of tasks to another body, which belongs to another level – layer of governance and is

²⁵² Klaus Detterbeck, Wolfgang Renzsch, Stefan Schieren, "*Föderalismus in Deutschland*", München: Oldenbourg Verlag, 2010, p. 8

²⁵³ Ibid., p.8

²⁵⁴ Andrew Heywood, «Εισαγωγή στην Πολιτική», Αθήνα: Εκδόσεις Πόλις, 2006, σ. 235

charged with constitutionally-set responsibilities in the field of policy execution. According to Andrew Heywood, the above case (1st) forms a typical and regular example of implementation federalism, because it directly depicts the disperse – diffusion of power from one branch to another and the transfer of tasks’ implementation from the legislative to the executive field²⁵⁵.

The second (2nd) case, which is also a practical example of implementation federalism that is located in the core of its existence, is related to the “communication” between different types of executive bodies deriving from different levels – layers of governance in the field of tasks implementation²⁵⁶. It is a phenomenon which can be examined and detected in the collaboration between bodies from different levels – layers of governance and is mainly expressed through the mutual co-influence among them and their co-participation in the same fora. As it will be seen in the analysis dedicated to the case study of Germany’s implementation federalism, the latter phenomenon is mainly expressed through the informal participation of in-Länder committees and expertise boards in the field of policy execution with regards to exclusive tasks of the Federal Government, as well as of sub-ministerial committees, boards and task forces of technocrats sent to the local – regional “Landtagen”, even when they decide on local – regional tasks.

Having set and examined the theoretical background of implementation federalism, one has to here adapt the above politico-administrative type of organization to the special case study of Germany by examining how it is expressed, as well as by taking into consideration the German Basic Law as the principal and fundamental text that sets the basis for an “implementation’s Federation”.

With regards to the first (1st) “nature” – way of expression of implementation federalism, i.e. the one of tasks separation and delegation of them to given branches, one can support that this can be mainly evidenced by the distribution of powers stipulated by the German Basic Law as well as their correspondence to given branches (legislative, executive, judicial), the correspondence of the two (2) of the

²⁵⁵ Andrew Heywood, «Εισαγωγή στην Πολιτική», Αθήνα: Εκδόσεις Πόλις, 2006, σ. 235

²⁵⁶ Ibid., p. 235

latter-referred branches (legislative and executive) to given levels – layers of governance and, last but not least, the German system of “*Kooperationsverbot*”²⁵⁷.

As to the type of power distribution stipulated by the German Basic Law, one could argue that its connection to the implementation federalism is a peculiar and worth mentioning one, because of the fact that the constitutionally distributed power and its exercise mainly depends and corresponds to one and given level – layer of governance in each case, laying within it²⁵⁸.

According to the Article 70 of the German Basic Law (“*Grundgesetz*”) combined with the official data given by the Federal Ministry of Interior (“*Bundesministerium des Innern*”), the power inside the Federal Republic of Germany is divided into three (3) different branches, i.e. the legislative, the executive and the judicial one²⁵⁹. According to Simone Burkhart, the distribution of power in the case study of Germany is unique, mainly because of two (2) reasons why: on the one hand, because of the fact that implementation federalism creates a connection between two (2) of the branches (legislative, executive) and the two (2) of the levels – layers of German governance (Bund, Länder)²⁶⁰. On the other hand, because of the fact that the “German distribution” does not only ensures the non-intervention of one branch to the tasks of another, but also the non-intervention of one level – layer of governance to the core tasks – competencies – responsibilities of another²⁶¹.

Moreover, the special, above – referred non-intervention can be further enriched and proved by the Article 30 of the German Basic Law, according to which, the particular way of the exercise of power in the framework of the federal states, forms an absolute matter of the states as such, unless the Basic Law prescribes otherwise²⁶².

²⁵⁷ Christoph Reichard, “Local Public Management Reforms in Germany”, in *Public Administration Vol. 81 No. 2*, Oxford: Blackwell Publishing, 2003, p. 346

²⁵⁸ Simone Burkhart, “Reforming Federalism in Germany: Incremental Changes instead of the Big Deal”, in *The Journal of Federalism*, Oxford: Oxford University Press, 2008, p. 343

²⁵⁹ §70, Satz 1, Absatz 1

²⁶⁰ Simone Burkhart, “Reforming Federalism in Germany: Incremental Changes instead of the Big Deal”, in *The Journal of Federalism*, Oxford: Oxford University Press, 2008, p. 343

²⁶¹ “Federal Republic of Germany: Public Administration Country Profile”, Division for Public Administration and Development Management (DPADM), Department of Economic and Social Affairs (DESA), United Nations, New York, USA, February 2006, p. 9

²⁶² §30, Satz 1, Absatz 1

Taking again into consideration the constitutional prescriptions of the Articles 70 and 71 of the German Basic Law, in order to comprehend the practical adaptation of “power distribution” under the “light” of implementation federalism, one can track down that the main and central “legislator” that is charged with the undertaking of the Federation’s legislation is the federal – central level – layer of governance, i.e. the one of Federal Government²⁶³. Having the Bundestag and -indirectly- the Bundesrat as its main legislative bodies, the Federal Government forms the main actor – decision-maker within the Federation. According to Simone Burkhart as well as to the prescription of the Article 71 of the German Basic Law the main, huge bulk of legislation is legislated and adopted at the federal – central level – layer of governance, whose prominent and core competencies being the ones in the fields – areas of citizenship, foreign policy and defence²⁶⁴.

Furthermore, the legislative predominance of the federal – central level – layer of governance over the others can be also evidenced by two (2) further proofs. Firstly, it can be comparatively shown by the fact that the exclusive legislative competence of the second (2nd) level – layer of governance (“Länder”) is, according to the Article 72, demarcated and limited to only few and unimportant areas, i.e. the ones of hunting, protection of nature, landscape management, land distribution, regional planning and management of water resources²⁶⁵. The above fact, as Simone Burkhart argues, also leads to an institutional meaninglessness of the regional – local parliaments (“Landtagen”) in terms of exclusive legislation’s production²⁶⁶. Secondly, it can be also comparatively seen by the “constitutional influence” of the Article 31 of the German Basic Law, which has been referred at the beginning of the current chapter and stipulates the supremacy of the Federation’s Law over the one of federal states²⁶⁷.

In the field of the executive branch, one is able to detect that the “pure” notion of execution inside the German, federal structure is symbolically personified by the Federal President and the Federal Cabinet, i.e. the Federal Chancellor and the Federal Ministers as the main “federal actors” – official institutional bodies that depict the

²⁶³ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p. 18, 19

²⁶⁴ §71, Satz 1, Absatz 1

²⁶⁵ §72, Satz 1, Absatz 1

²⁶⁶ Simone Burkhart, “Reforming Federalism in Germany: Incremental Changes instead of the Big Deal”, in *The Journal of Federalism*, Oxford: Oxford University Press, 2008, p. 343

²⁶⁷ §31, Satz 1, Absatz 1

term of “authority implementation” on a wide, federal level²⁶⁸. However, the executive power as tasks’ execution and implementation is practically represented by the second (2nd) level – layer of governance, i.e. the one of “Länder”²⁶⁹.

In particular, “Länder” form a personified “Executor”, who carries on a purely administrative function inside the German Federation and, according to the Article 83 of the German Basic Law, the policy implementation inside the “Bund” falls under its fundamental jurisdiction²⁷⁰. In particular, the German federal states, according to the above – referred Article, are not only charged with the practical policy implementation of the bulk of legislation voted and enacted by both main, legislative bodies of the whole Federation (Bundestag and Bundesrat), as well as by the regional – local parliaments (Landtagen)²⁷¹. Taking into consideration this huge bulk of legislation, one could evidence that federal states’ main executive tasks are concentrated on areas - fields like cultural affairs, schools – universities, police, as well as all the matters concerning the structure and organization of the whole regional – local administration²⁷².

The presentation and description of the judicial branch cannot be conducted, mainly because of two (2) reasons why: first of all, due to the fact that the phenomenon of implementation federalism can be detected, proved and evidenced in the field of legislation and policy implementation (legislative and executive branch), while not being reflected in the field of the judicial system and the one of cases’ litigation. On the other hand, it forms a branch, which does not correspond to a given level – layer of governance, so to demonstrate the principal core feature of the German implementation federalism, i.e. the correspondence of branches to given levels – layers of governance. In contrast with the legislative and executive branch,

²⁶⁸ Kai Wegrich, Gerhard Hammerschmid, “Public Administration characteristics and performance in EU28: Germany”, in *Support for developing better country knowledge on public administration and institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion)*, Luxembourg: Publications Office of the European Union, 2018, p. 375

²⁶⁹ Harald Fuhr, Julia Fleischer, Sabine Kuhlmann, “Federalism and Decentralization in Germany: Basic Features and Principles for German Development Cooperation”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p. 10, 11

²⁷⁰ §83, Satz 1, Absatz 1

²⁷¹ Simone Burkhart, “Reforming Federalism in Germany: Incremental Changes instead of the Big Deal”, in *The Journal of Federalism*, Oxford: Oxford University Press, 2008, p. 343

²⁷² Hans-Ulrich Derlien, “German Public Administration: Weberian despite Modernization“, in *Comparative Bureaucratic Systems*, Lanham: Lexington Books, 2003, p. 2, 3

which respectively correspond to the “Bund” and the “Länder” as procedures of tasks’ implementation, one could argue that the judicial one is not absolutely delegated to none of them. It would be so, in the case of judicial branch’s full and absolute correspondence to another level of governance, i.e. the third (3rd) one of counties and municipalities.

As it was formulated in the field of analysis of the executive branch of governance, the constitutionally stipulated distribution of power inside an “implementation Federation” further highlights and stresses the functional setup and politico-administrative configuration of implementation federalism as such. In the particular case study of Germany, as Simone Burkhart argues, the adoption of implementation federalism makes Germany a country – politico-administrative system, which clearly separates political and administrative responsibilities, whereas the main “existential pattern” of the whole system is based on a functional division of those responsibilities - competencies and their delegation to two (2) given levels – layers of governance, i.e. the Federation and the federal states²⁷³.

In other words, the practical expression and function of implementation federalism in the case study of Germany takes place through the establishment of a peculiar, politico-administrative “balance of power”, where the legislative one falls within the Federation and the executive within the federal states. This particular relation of allocation of policy formulation and policy implementation between the Federation and the federal states is the one that shapes their politico-administrative “existence”, from the point of view that the former focuses on legislation and enjoys limited administrative capacity, while the latter possesses administrative competencies and presents limited legislative involvement²⁷⁴.

Last but not least, an additional feature, which proves the first (1st) “nature” – way of expression of implementation federalism in the German case, i.e. the one of tasks’ separation and allocation of them to given levels – layers of governance, is expressed through the system – phenomenon of “*Kooperationsverbot*”²⁷⁵. The latter

²⁷³ Simone Burkhart, “Reforming Federalism in Germany: Incremental Changes instead of the Big Deal”, in *The Journal of Federalism*, Oxford: Oxford University Press, 2008, p. 343

²⁷⁴ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p. 14

²⁷⁵ Kai Wegrich, Gerhard Hammerschmid, “Public Administration characteristics and performance in EU28: Germany”, in *Support for developing better country knowledge on public administration and*

term means prohibition of cooperation and is directly and clearly expressed by given, constitutionally stipulated and exclusively dedicated competencies to certain levels – layers of governance.

These specially and directly nominated competencies are undertaken as precise tasks by different levels – layers of governance, as well as, are exclusively implemented by them. Two (2) of the most prominent examples will be here shortly examined and analyzed, each of which corresponds to a level – layer of governance.

In particular, according to the Article 73 of the German Basic Law, the matters of defence fall exclusively into the responsibility and competence of the Federation²⁷⁶. The above fact is enriched by the prescriptions of the Article 87(a) of the same text, which stipulates the establishment and function of the Federal Military Service (“*Bundeswehr*”), prescribing the responsibility of the central – federal level – layer of governance for its organization and administration²⁷⁷. Despite the directly and exclusive Federation’s responsibility of it, which is clear-stated by the German Basic Law, the non-intervention of the federal states in that particular responsibility could be also indirectly evidenced, taking into consideration the fact the existence of “*Bundeswehr*” is single and includes one, only and an overall army for the whole Federation, without leaving the right for each federal state to construct its own.

On the other hand, the Article 72(3) of the German Basic Law stipulates the exclusive competence of the federal states with regards to in-Länder regulations concerning the field of education²⁷⁸. It has to clarified that one does not here support the fact that the education as a wider and overall field is exclusively allocated as task to the second (2nd) level – layer of governance (federal states), because, in accordance with the clear statement of the Article 91(b) of the German Basic Law, education forms a concurrent competence between the Federation and the federal states²⁷⁹.

One is here occupied with the fact that the federal states posses the exclusive right to regulate and decide about their higher education institutions and the special legal and institutional environment that characterizes and defines them. In particular, the Article 72(3) of the German Basic Law stipulates and prescribes concurrent

institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion), Luxembourg: Publications Office of the European Union, 2018, p. 363

²⁷⁶ §73, Satz 1, Absatz 1

²⁷⁷ §87, Satz 1, Absatz 1

²⁷⁸ §72, Satz 3, Absatz 1

²⁷⁹ §91, Satz 2, Absatz 1

competencies between the Federation and the federal states, but also prescribes six (6) different subcategories, which form exclusive responsibilities and competencies of the federal states, with the sixth (6th) of them being the one that clearly defines their right to set and regulate the admissions framework to institutions of higher education, as well as the special requirements for the graduation from them²⁸⁰.

The second (2nd) “nature” – way of expression of implementation federalism, i.e. the one which creates a “lively communication” between the German levels – layers of governance and their bodies, is formed in contrast with the first (1st) one and establishes a different “functional image” of the phenomenon as such. In particular, it forms a way of expression which can be not only formally evidenced, i.e. through the prescriptions of the German Basic Law, but also informally, via collaboration of representatives of the German governmental levels – layers. Moreover, it is about a “nature of cooperation” which can be detected in both the legislative and executive field. The analysis will here refer to both of them, with the emphasis put on the executive one, from the point of view that more examples of “executive cooperation” will be manifested.

Before one immediately moves to the examples of implementation federalisms’ “cooperative nature”, they have to make clear that this particular “nature” can be seen through the adoption of a different way of interpretation in constitutional terms. In particular, scholars such as Gerhard Hammerschmid argue that the separation of tasks into branches and the dedication of them to levels – layers of governance is a feature which characterizes Germany as a politico-administrative system of “*shared responsibilities*”²⁸¹, from the point of view that it does not only include the distributive aspect of power combined with a politico-administrative isolation of each of the levels – layers of governance, but also the allotment of it among them, so none of them to be encumbered in terms of tasks’ implementation.

In other words, despite the practically evidenced examples of cooperation that co-exist with the phenomenon of tasks’ separation, implementation federalism is philosophically ruled by a spirit of responsibilities’ sharing which is mainly

²⁸⁰ §72, Satz 3, Absatz 6

²⁸¹ Kai Wegrich, Gerhard Hammerschmid, “Public Administration characteristics and performance in EU28: Germany”, in *Support for developing better country knowledge on public administration and institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion)*, Luxembourg: Publications Office of the European Union, 2018, p. 362

formulated in terms of constitutional interpretation²⁸². According to the latter, the distribution of power that is prescribed by the Article 70 of the German Basic Law is not only governed by a mentality of power distribution, but also by a tasks' decentralization among the levels – layers of governance, which is constitutionally combined with the grant of concurrent tasks (§74, 91a, 91b) that lead to a vertical collaboration between the levels – layers of governance. This particular analysis which is based on an “alternative” constitutional interpretation is responsible for the characterization of implementation federalism as “*cooperative federalism*”²⁸³ as well.

With regards to the field of legislation, the second (2nd) “cooperative nature” of implementation federalism can be clearly evidenced even by the prescriptions of the German Basic Law in the cases of the Articles 74 and 50. In more specific terms, according to the Article 74, the first (1st) level – layer of governance (Bund) possesses and enjoys concurrent legislative tasks, which are co-implemented with the second (2nd) level – layer of governance (Länder)²⁸⁴. The above means that the legislation which will be enacted must not only have the approval and authorization of both legislative bodies (Bundestag, Bundesrat) which are representing of the two (2) different levels – layers of governance respectively, but must also be incorporated into and voted as one legislative text that is commonly applicable to both of them²⁸⁵. One typical example is that of the fourth (4th) paragraph of the Article 74, which stipulates that the Federation and the federal states must commonly institute the legislation with regards to the residence and establishment of foreign nationals²⁸⁶.

Another constitutionally-set example of “legislative communication” between the two (2) levels – layers of governance is connected to the legislative collaboration of their two (2) legislative bodies. In more specific terms, the active participation of the members of Bundesrat in the legislative procedure followed in Bundestag when convening concerning EU legislation, forms one of the most prominent examples of

²⁸² Renate Mayntz, “*Föderalismus und die Gesellschaft der Gegenwart*”, Köln: Max-Planck-Institut für die Gesellschaftsforschung, Mai 1989, p. 11

²⁸³ Kai Wegrich, Gerhard Hammerschmid, “Public Administration characteristics and performance in EU28: Germany”, in *Support for developing better country knowledge on public administration and institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion)*, Luxembourg: Publications Office of the European Union, 2018, p.362

²⁸⁴ §74, Satz 1, Absatz 1

²⁸⁵ Hans-Ulrich Derlien, “German Public Administration: Weberian despite Modernization“, in *Comparative Bureaucratic Systems*, Lanham: Lexington Books, 2003, p. 2, 3

²⁸⁶ §74, Satz 4, Absatz 1

cooperation inside the German federation²⁸⁷. Trying not to repeat the electoral technicalities of the procedure which has been described at the beginning of the chapter, one could here mention that the prescriptions of the Article 50 of the German Basic Law do not only nominate Bundesrat as a strong veto player, but also give prominence to the European affairs as matters of a “concurrent interest”, which overcome the politico-institutional borders’ limitations between the federal states and concern the German Federation as a united nation²⁸⁸.

In the field of executive competencies, the “cooperative nature” of implementation federalism can be clearly detected by the prescriptions of the Articles 91a and 91b of the German Basic Law. In particular, the Article 91a stipulates the common responsibility among the “Bund” and the “Länder” with regards to the planning, financing and undertaking of initiatives concerning the overall improvement of regional economic structures, as well as the improvement of the agrarian structure and coastal preservation²⁸⁹. The implementation of this particular, common responsibility is by the Article based on and justified by the argumentation that the initiatives for both types of improvement are important not only for the German society as a whole irrespective of federal state, but also for the general improvement of the Federation’s living conditions.

Moreover, the common existence of both levels – layers of governance in the field of execution is further enriched by the prescriptions of the Article 91b with regards to the promotion of research, educational programs and education in general. In accordance with the first two (2) paragraphs of the Article 91b, one can again easily comprehend the common executive role, because of the fact that not only the cooperation in the field of agreements’ formulation is clearly stated, but also the undertaking of initiatives with regards to educational performance assessment through the common drafting of reports and recommendations²⁹⁰.

The constitutional prescriptions of the above-referred joint – concurrent tasks have led to the establishment of the German system of “Politikverflechtung” (“policy

²⁸⁷ Harald Fuhr, Julia Fleischer, Sabine Kuhlmann, “Federalism and Decentralization in Germany: Basic Features and Principles for German Development Cooperation”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p. 11

²⁸⁸ §50, Satz 1, Absatz 1

²⁸⁹ §91a, Sätze 1 und 2, Absätze 1 und 1

²⁹⁰ §91b, Sätze 1 und 2, Absätze 1 und 1

interconnection”)²⁹¹. The latter forms the most prominent feature of that, second (2nd) “cooperative nature” of implementation federalism and exists as an institutional “counterweight” to the system of “Kooperationsverbot”, which has been already examined as a feature of the first (1st) “nature” of implementation federalism that stipulates and institutes exclusive competencies through tasks’ separation²⁹². In other words, the “Politikverflechtung” institutes and legitimizes what is exactly by the “Kooperationsverbot” prohibited, i.e. the element of cooperation among the levels – layers of governance in the field of tasks implementation²⁹³.

The system of “Politikverflechtung” establishes a network of in-Bund comitology, which is exclusively charged with executive tasks and is exactly developed among the two (2) levels – layers of governance (Bund, Länder)²⁹⁴. These committees are established inside the parliaments of each federal state (“Landtagen”), as well as the Bundesrat and the Bundestag, whereas their personnel forms an “experts’ mixture” that derives from both Federal and federal states levels²⁹⁵. According to Burkhart, all these “*innumerable committees*”²⁹⁶ and their “executive setup”, which is composed of Federal and federal states’ Ministers, in-Länder bureaucrats and highly-educated research divisions co-operate, in order to formulate the organizational and executional plan of financing and implementing common programs between the Federation and the federal states (“*Finanzhilfen*”)²⁹⁷. The type and character of them concerns issues, which are included in the category of

²⁹¹ Simone Burkhart, “Reforming Federalism in Germany: Incremental Changes instead of the Big Deal”, in *The Journal of Federalism*, Oxford: Oxford University Press, 2008, p. 343, 344

²⁹² Kai Wegrich, Gerhard Hammerschmid, “Public Administration characteristics and performance in EU28: Germany”, in *Support for developing better country knowledge on public administration and institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion)*, Luxembourg: Publications Office of the European Union, 2018, p. 363

²⁹³ Simone Burkhart, “Reforming Federalism in Germany: Incremental Changes instead of the Big Deal”, in *The Journal of Federalism*, Oxford: Oxford University Press, 2008, p. 343, 344

²⁹⁴ *Ibid.*, p. 343, 344

²⁹⁵ Harald Fuhr, Julia Fleischer, Sabine Kuhlmann, “Federalism and Decentralization in Germany: Basic Features and Principles for German Development Cooperation”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p. 11

²⁹⁶ Simone Burkhart, “Reforming Federalism in Germany: Incremental Changes instead of the Big Deal”, in *The Journal of Federalism*, Oxford: Oxford University Press, 2008, p. 343, 344

²⁹⁷ *Ibid.*, p. 343, 344

the above-referred, constitutionally-set concurrent tasks of the “Bund” and “Länder” and will be, at the end of the day, financed and executed by both of them²⁹⁸.

The “executive cooperation” which is established by the system of “Politikverflechtung” can be examined in combination with the phenomenon of German agencification, i.e. the existence and function of Federal agencies inside the federal states²⁹⁹. In particular, according to the analysis by Tobias Bach and Julia Fleischer, the procedure of creating agencies inside a federal state, is not only characterized by the fact that the personnel from both levels – layers (Bund, Länder) co-operate in the framework of a common, institutional forum, but also by the fulfillment of the purpose of ministries’ relieve from “non-pure”, ministerial tasks³⁰⁰.

In more specific terms, in the framework of the federal agencies that are located outside the “bureaucratic core” of the Federal Government, personnel which is sent from the Federal Ministries develops bonds of co-operation with the in-Land one at federal agencies’ regional and local offices. That type of ministerial and non-ministerial personnel is mainly focused on policy formulation and execution with regards to tasks that exclusively concern the inland waterways, tax administration and border police³⁰¹.

Despite the institutional bond of these Federal Agencies which depict the Federal Government on the regional level, the latter does not directly intervene in the procedures of policy formulation and implementation, due to the fact that is indirectly represented by the “institutional existence” of the Federal Agencies, which ensures the executive cooperation between the Federation and the federal states³⁰². However, the direct participation of the Federal Government in the cooperative procedure of

²⁹⁸ Ibid, p. 343, 344

²⁹⁹ Tobias Bach, Jann Werner, “Animals in the Administrative Zoo: Organizational Change and Agency Autonomy in Germany”, in *International Review of Administrative Sciences* 76(3), California: Sage Publications, 2010, p. 444, 445

³⁰⁰ Tobias Bach, Julia Fleischer, Jann Werner, Christoph Reichard, “Public Sector Organization in Germany”, for the 2nd meeting of COST Action IS0601 “*Comparative Research into Current Trends in Public Sector Organization – CRIPO*”, Madrid: ENAP, September 2007, p. 1

³⁰¹ Tobias Bach, Julia Fleischer, Jann Werner, Christoph Reichard, “Public Sector Organization in Germany”, for the 2nd meeting of COST Action IS0601 “*Comparative Research into Current Trends in Public Sector Organization – CRIPO*”, Madrid: ENAP, September 2007, p. 1

³⁰² Tobias Bach, Jann Werner, “Animals in the Administrative Zoo: Organizational Change and Agency Autonomy in Germany”, in *International Review of Administrative Sciences* 76(3), California: Sage Publications, 2010, p. 446, 447

non-ministerial tasks implementation on the regional – local level is stipulated by the Article 84 of the German Basic Law. In particular, the latter ensures that the Ministers and the ministerial personnel enjoys and possesses the right to oversee the tasks implementation that takes place after the co-operation of the two (2) different levels – layers of governance. This constitutionally prescribed ministerial oversight does not only take place during the procedure of policy formulation, but also after the achievement of its final outcome³⁰³.

A further procedure of executive co-operation between the two (2) levels – layers of governance (Bund, Länder) is expressed by and depicted to the phenomenon, which can be found in the field of literature as “*Experten – Bruderschäfte*” (“Brotherhoods of experts”)³⁰⁴. According to Sabine Kuhlmann, the “Bruderschäfte” are created through the advisory participation of permanent representations of the federal states in Bundestag, when the latter convenes not only for the planning of policy execution concerning the constitutionally stipulated concurrent tasks, but also regarding the decision-making that is focused on the exclusive tasks of the Federation, such as the ones in the field of foreign policy³⁰⁵.

Moreover, the phenomenon of “Bruderschäfte” is ceremoniously depicted to the consultative participation of the ministerial research committees and divisions in the regional and local level. These do not only send personnel to the Federal Agencies as already described, but also indirectly consult and communicate with the regional governments in the field of in-Land policy execution by being based on their expertise and technical mastery³⁰⁶.

Having examined and described the decentralized, politico-administrative structure of the German case study and the peculiar type of influence of implementation federalism on it, one has to here make a first and short connection of them to the field of personnel issues by arguing on how the personnel allocation inside the German Federation is determined by them. In particular, both of the

³⁰³ Ibid., p. 446, 447

³⁰⁴ Harald Fuhr, Julia Fleischer, Sabine Kuhlmann, “Federalism and Decentralization in Germany: Basic Features and Principles for German Development Cooperation”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p. 11

³⁰⁵ Harald Fuhr, Julia Fleischer, Sabine Kuhlmann, “Federalism and Decentralization in Germany: Basic Features and Principles for German Development Cooperation”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p. 11

³⁰⁶ Ibid., p. 11

already-referred and described features (German politico-administrative structure, implementation federalism) determine the procedure of personnel allocation leading to a specific phenomenon, which can be found as “*Personalföderalisierung*”³⁰⁷ (“personnel federalization”) in the field of German literature.

In particular, as “*Personalföderalisierung*” is defined and characterized the procedure of personnel allocation inside a Federation, which is not only influenced by the setup of the decentralized structure as such, but also by the second (2nd) “nature” – way of expression of implementation federalism, i.e. the one of tasks allocation and dedication of them to given levels – layers of governance³⁰⁸.

Adapting that particular procedure to the case study of Germany, one has to firstly evidence the existence of two (2) different but interconnected reasons why for the existence and establishment of “personnel federalization”. The first (1st) one is related to the preexistence of an already decentralized, politico-administrative structure, which has already instituted and created two (2) different levels – layers of governance, which will be staffed with personnel³⁰⁹. The second (2nd) one concerns the first (1st) “nature” – way of expression of implementation federalism, which uses the above, already established structure – politico-administrative organization of the decentralized Federation and, as it has been examined, allocates different tasks to different levels – layers of governance³¹⁰.

In other words, the case study of Germany fulfills both of the two (2) significant prerequisites, in order for the phenomenon of “personnel federalization” to be expressed and further established³¹¹. on the one hand, the existence and establishment of different politico-administrative “spaces” (i.e. levels – layers of governance), to which the personnel will be allocated (Bund, Länder) and, on the other hand, the influence of the first (1st) way of expression of implementation federalism, according to which, as it has been shown, given types of tasks (legislative, executive) are dedicated to the above-referred “spaces”.

³⁰⁷ Lars Feld, Horst Zimmermann, Thomas Döring, “*Föderalismus, Dezentralität, Wirtschaftswachstum*”, in Vierteljahrshefte zur Wirtschaftsforschung, Berlin: Duncker & Humblot, 2003, p. 363, 364

³⁰⁸ Ibid., p.363, 364

³⁰⁹ Ibid., p.367

³¹⁰ Ibid., p.367

³¹¹ Ibid., p.362

In more specific terms, the procedure of “personnel federalization” is practically expressed and evidenced by an overall decentralization of the German public service in territorial, as well as in qualitative terms, i.e. in terms of tasks’ undertaking³¹². Its “diffusion” – allocation to the different levels – layers of governance of the decentralized Federation is in accordance with and correspondence to an allocation – separation of tasks among them. That particular procedure, according to which the allocation of public servants follows and is stipulated by the allocation of tasks inside the “implementation Federation” leads to a peculiar working categorization of the German civil service³¹³. The latter can be mainly evidenced by the fact that the public servants that belong to and are included in a given level – layer of governance are those who undertake the implementation of these tasks, which are dedicated to that particular level – layer under the politico-administrative influence of implementation federalism.

In other words, the “Personalföderalisierung” practically means that the allocation of public servants among the levels – layers in terms of employment is determined by the allocation of tasks to them³¹⁴. Specifically, it forms a procedure of determining the “qualitative profile”, i.e. the type – kind of public personnel employed in a given level – layer of governance based on the allocated tasks, which have been undertaken by that particular level – layer, something which forms a functional outcome of the existence of the first (1st) “nature” – way of expression of implementation federalism.

The procedure – phenomenon as such and the connection between its practical way of expression and the function of the structure – organization of the German “implementation Federation” can be easier comprehended when taking into consideration some convenient examples of professions, which have been already referred in the field of the examination of the influence of implementation federalism

³¹² Hans-Ulrich Derlien, “The German public service: between tradition and transformation”, in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p. 176-178

³¹³ Sabine Kuhlmann, Manfred Röber, “Civil Service in Germany: Between Cutback Management and Modernization”, in *Modernization of State and Administration in Europe: A France-Germany Comparison*, Opladen: Verlag für Sozialwissenschaften, 2006, p. 98-99, 102

³¹⁴ Lars Feld, Horst Zimmermann, Thomas Döring, “Föderalismus, Dezentralität, Wirtschaftswachstum”, in *Vierteljahrshfte zur Wirtschaftsforschung*, Berlin: Duncker & Humblot, 2003, p.364

on the politico-administrative structure of Germany. These examples demonstrate that each level – layer of German governance is characterized by certain categories of “federalized servants”, whose allocation shapes and determines the working profile of the level – layer as such, whereas they form a part of the same politico-administrative and working territory.

For example, as it has been already mentioned, the first (1st) level – layer of governance, i.e. that of Federation (“Bund”) is the one which is charged with the field of defence policy and the tasks that must be undertaken in the framework of it. The procedure of “personnel federalization” results in the fact that a military is employed only under the special working environment, conditions and regulations stipulated by the administration of that particular level – layer (“Bund”), as well as in the fact that his or her exclusive, working dedication to it shapes the “employment profile” of the level – layer as such by differentiating it from the second (2nd), which does not employ militaries.

In accordance with the above-mentioned example, the influence of “Personalföderalisierung” on the “qualitative categorization” of public servants in the levels – layers of German governance, as well as on the employment profile of each one of them can be also evidenced by the examples of the professions of a teacher working at an elementary school or a laborer employed in the field of regional water resources management, with both of them being employed in the second (2nd) level – layer of governance (“Länder”). Again, both of them qualitatively determine the employment profile of their territory of working occupation by being included in its working environment, conditions and regulations and by being exclusively occupied with particular tasks that are allocated and dedicated to it.

However, as it will be examined, that particular personnel allocation which follows the allocation of tasks among the levels – layers of governance under the influence of implementation federalism, is not mutually and equally expressed among them, as well as creates and constructs a phenomenon that philosophically and politico-administratively contradicts the German, decentralized structure.

2.2.1. A decentralized centralization? Public personnel's density and the administrative predominance of "die Länder"

The main research goal of the current subchapter (2.2.1) is to point out and examine a specific element of centralization, which exists as a pivotal one inside the decentralized structure of the German Public Administration. In particular, an attempt is here made, in order the administrative predominance of the second (2nd) level – layer of governance ("Länder") over the others to be brought out. This particular level – layer of governance will be proved as the main, administrative center of the whole Federation, a feature, which will be conceptionally combined with the Weberian theory of public administration in the framework of the dissertation's last chapter (4).

In more specific terms, the presentation and examination of the "Länder" as a level – layer of governance inside the Federation that depicts the element of administrative centralization, will be mainly based on the already-examined, first (1st) "nature" – way of expression of implementation federalism and the analysis conducted by Sabine Kuhlmann, according to which Germany forms a case study of a unitary federal state ("unitarischer Bundesstaat"). Then, the emphasis of the argumentation will be put on the contribution of the field of education to the administrative predominance of the federal states, as well as on the impact of crucial historical events of the country's modern history (German reconstruction after the World War II, German Unification, privatization of the Federal postal and railroad services) to their emergence as the bulwark of the phenomenon of public personnel centralization.

Before one moves on to the analysis, they have to pre-mention two (2) different things with regards to its spirit, as well as its chronological placement. As to the first one, the arguments that will be here developed do not aim to examine the German case study of public administration as one which is characterized by a centralized structure. Besides, the main conformation of it has been already examined and defined as a decentralized one. The analysis will be selectively focused on one but important feature of centralization, which exists inside the whole decentralized structure. Therefore, it will not be an analysis in structural, but in public personnel terms.

As to the second one, the situation of public personnel that will be taken into consideration is the present one, but its establishment as a “working reality” will be based on given, historical periods. In particular, the period after the completion of World War II and until the beginning of the decade of 1960 (1945 – 1960) will be used as the first (1st) and important historical axis, whereas the period after the German Unification and until the year 2000 (1990 – 2000) will be used as the second (2nd) one. The period that includes the last two (2) decades (2000 – 2020) will not be taken into consideration as a third (3rd) axis, because, as it emerged from the conducted research, the situation inside the German public service as to the issue under examination (administrative predominance of “Länder”) did not display any fundamental change but remained the same to the one observed in the second (2nd) axis.

First and foremost, the phenomenon of “personnel centralization” applies to the case studies of federal states and is directly related to the public sector and its employees³¹⁵. In more specific terms, “personnel centralization” can be defined as the occupational concentration of a federal state’s public personnel at a specific and given level – layer of governance of it³¹⁶. The public personnel is centralized at that level – layer of governance, from the point of view that its density at it is higher than the others, whereas the level – layer as such forms the administrative center of the whole federal state, meaning that it employs more employees comparatively to the others³¹⁷.

In other words, the term “personnel centralization” depicts a phenomenon of a “dense” and serried working occupation of public servants at a given level – layer of governance, which represents the “working core” of a federal state, from the point of view that their number (public servants) is higher than the one of all those servants employed at each one of the other levels – layers of governance³¹⁸.

However, it has to be clear that the phenomenon as such does not contradict the already-examined phenomenon of “personnel federalization”, because, as it will

³¹⁵ Lars Feld, Horst Zimmermann, Thomas Döring, “Föderalismus, Dezentralität, Wirtschaftswachstum”, in Vierteljahrshfte zur Wirtschaftsforschung, Berlin: Duncker & Humblot, 2003, p. 345

³¹⁶ Simone Burkhart, Philip Manow, “Kompromiss und Konflikt im Parteipolitisierten Föderalismus der Bundesrepublik Deutschland“, in Zeitschrift für Politikwissenschaft 16(3), Köln: Max-Planck-Institut für die Gesellschaftsforschung, 2006, p. 343

³¹⁷ Ibid., p.343

³¹⁸ Ibid., p.343

be demonstrated, they co-exist inside a federal, politico-administrative structure. In particular, the phenomenon of “personnel federalization” is the one which allocates public personnel to given levels – layers of governance in terms of tasks’ dedication, whereas the one of “personnel centralization” is the that, which figures out and reports the administrative center of the whole Federation in terms of permanent working occupation and of quantitative – numerical predominance of a given level – layer of governance over the others³¹⁹.

Taking into consideration the already-examined (2.2) qualitative feature of the phenomenon of “personnel federalization”, i.e. the one of allocating the public personnel to levels – layers of governance according to the tasks dedicated to them, one could here argue that “personnel centralization” forms an example of the procedure of recording the numerical outcome of public personnel allocation in quantitative terms and nominating a given, administrative center, i.e. a “working core” based on them³²⁰. In other words, the modern researcher is here confronted with two (2) phenomena, which do not only co-exist, but also complete each other, from the point of view that the latter (“personnel centralization”) can be described and examined as the outcome of the former (“personnel federalization”).

This particular, “lively” co-existence of the above phenomena, which combines qualitative and quantitative features, as well as the administrative predominance of the second (2nd) level – layer of German governance (“Länder”) and its designation as the administrative center of the whole German Federation in terms of personnel working occupation, is supported by the argumentation of Sabine Kuhlmann and her politico-administrative theory of “*der unitarische Bundesstaat*”³²¹ (the unitary federal state).

According to her theory, Germany forms a peculiar case study and can be characterized as a “*unitarischer Bundesstaat*”, from the point of view that it depicts a phenomenon of a decentralized centralization (“*dezentralisierte Zentralisierung*”), according to which, its politico-administrative structure is decentralized, whereas the public personnel allocation among the different levels – layers of governance is

³¹⁹ Harald Fuhr, Julia Fleischer, Sabine Kuhlmann, “Federalism and Decentralization in Germany: Basic Features and Principles for German Development Cooperation”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p. 10

³²⁰ Ibid., p.10, 11

³²¹ Ibid., p.10

centralized at the second (2nd) level – layer of governance (“Länder”), which represents the Federation’s administrative center because of its high personnel density³²².

In other words, one can here evidence that this particular argumentation is based on the co-existence between decentralization in terms of politico-administrative structure and centralization in terms of an administrative center’s existence, which employs higher number of public servants comparatively to the others. In particular, as it arises from the analysis by Sabine Kuhlmann, the German public personnel is “federalized” – “decentralized” because of the first (1st) “nature” – way of expression of implementation federalism and the dedication of tasks and “working units” to the “Bund”, “Länder” and “Gemeinden”, and, at the same time, is “centralized” because of the fact that it represents and demonstrates the highest density at only one of the above-referred levels – layers of governance, i.e. the federal states (“Länder”)³²³.

As it has been here supported, so it can be also evidenced by the analysis by Berndt Keller, the “personnel centralization” does not contradict or invalidate the fundamental “politico-administrative character” of the German structure, because it is occupied exclusively with the question of where is the highest “amount” of public personnel located inside the already decentralized, German politico-administrative structure³²⁴. In other words, it searches for the central, “German employer” who forms the core of employment in quantitative terms and functions as the working, administrative “machinery” of the whole German Federation.

According to Bill Niven and J.K.A. Tomanek, the second (2nd) level – layer of governance (“Länder”) was “destined” for forming the administrative center of the German Federation since the year 1945, when the latter did not even exist³²⁵. In particular, the forthcoming administrative dominance of the German federal states could be evidenced by the specific way, according to which the attempt of the reconstruction of the German, new, democratic state was about to be made. It was a project, which would be organized and conducted by the Great Powers of the period

³²² Harald Fuhr, Julia Fleischer, Sabine Kuhlmann, “Federalism and Decentralization in Germany: Basic Features and Principles for German Development Cooperation”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p. 13

³²³ Ibid., p.13

³²⁴ Ibid., p.13

³²⁵ Bill Niven, J.K.A. Tomanek, “*Dividing and Uniting Germany*”, Oxfordshire: Routledge, 2000, p.

(United States of America, Great Britain, France, Soviet Union), just after the end of World War II and would last until the declaration of West Germany as a sovereign state with the signing of the Paris Treaties in 1955³²⁶.

The whole attempt – narrative of the reconstruction of the German, new, democratic state was highly influenced by the postwar historical circumstances and mainly by the defeat of Germany in World War II, the overall disintegration of the country, as well as the absence of a German, central, political authority³²⁷.

According to J. K. A. Thomanek, the politico-administrative “shape” that was going to be given by the Allied Powers to the new, democratic (re)construction can be firstly evidenced by the decisions taken at the Conference of Yalta on February 1945, with regards to the division of Germany into four (4) separate zones, each of which would be handled by one (1) of the above-referred Great Powers³²⁸. The decision and its practical implementation, i.e. the existence of a decentralized and non-united state which was going to be divided into four (4) zones and function under the military, political and financial supervision of the Allied Powers, formed one of the most important proofs that a decentralized structure would emerge instead of a centralized one of a uniform state system³²⁹. Apart from the politico-administrative considerations, this particular preference in a decentralized structure was also characterized by a strong philosophical and emotional background, which was influenced by the fear of a possible German, national-socialist re-raise. The above one could occur because of the political, organizational and financial unity in the case of the re-establishment of a united, German nation state³³⁰.

The official establishment of the “Länder”, their emergence and existence before the establishment of the German Federation, as well as their gradual function as the first administrative centers of the divided Germany took place at the Conference of Potsdam on 7th and 8th May³³¹. The four (4) Allied Powers officially declared the establishment of a decentralized political system, whose four (4) main zones included politico-administrative “sub-zones”, which corresponded to the federal

³²⁶ Bill Niven, J.K.A. Thomanek, *“Dividing and Uniting Germany”*, Oxfordshire: Routledge, 2000, p. 12

³²⁷ *Ibid.*, p.13

³²⁸ *Ibid.*, p.12

³²⁹ *Ibid.*, p.13

³³⁰ *Ibid.*, p.11

³³¹ Bill Niven, J.K.A. Thomanek, *“Dividing and Uniting Germany”*, Oxfordshire: Routledge, 2000, p.12

states prescribed in every federal system and were going to be under the military, political and financial oversight of the respective Power which was responsible for each zone.

J. K. A. Tomanek supports that the establishment of “Länder” after the Conference of Potsdam formed one of the most pivotal steps for their gradual designation as administrative centers of the German Federation, which would be built progressively ten (10) years after the Conference, mainly because of three (3) reasons why: firstly, because of the fact that their emergence was combined with the establishment and installation of some principal, fundamental forms – elements - patterns and representative roles of public administration, which resembled to the ones of a united nation state, even if these were under the control of the Great Powers³³². For example, according to the Potsdam Agreement, each and every “Land” possessed a military commander, who was appointed by the Great Powers, depicted the notion of “military oversight” inside the “Land” and, at the same time, possessed a kind of political power³³³.

Secondly, the above-referred political power of the administrative role of the appointed, military commander along with the principle of local self-government, which was also granted by the Potsdam Agreement, facilitated the establishment of the first postwar administration of the federal states. In other words, the military commander of each Land, as a pattern – role of public administration, led to the existence of given indications of the establishment and function of a gradually organizing public administration³³⁴. In particular, the military commander of each and every “Land” had the political power to propose to the Power of the zone the introduction of regional, representative structures, as well as of administrative departments³³⁵.

In more specific terms, most of such proposals made by the military commanders were not only accepted by, but also co-organized with the Powers of the zones as a whole, something that led to the emergence of the federal states’ parliaments (“Landtagen”), which were responsible for the political decisions inside

³³² Ibid., p.13

³³³ Ibid., p.13

³³⁴ Ibid., p.12

³³⁵ Bill Niven, J.K.A. Tomanek, *“Dividing and Uniting Germany”*, Oxfordshire: Routledge, 2000, p.13

the “Land”, as well as to the organization of administrative departments, which were mainly occupied with the fields of finance, transportation and communication of the federal state³³⁶.

As J. K. A. Thomanek supports, both these first steps of administrative organization were strictly determined by the Great Powers in terms of decision-making and politico-administrative implementation, and, at the same time, the introduction of the German presence in terms of representative personnel took place, mainly after the year 1945³³⁷. The latter can be mainly seen by the gradual nomination of German representatives in the “Landtagen”, as well as the progressive appointment of German public personnel in the field of “in-Land” administration occupied with tasks such as the organization of public, medical units³³⁸.

The third (3rd) reason why, which characterizes the Potsdam Conference and its Agreements as an important “sign” of the later-established administrative dominance of the “Länder” has to do with the fact that the federal states started to enjoy a pivotal, comparative advantage in terms of preexistence over the forthcoming German Federation³³⁹. In other words, exactly after the end of War, a given mentality was adopted by the Great Powers with regards to the handling of the “German case”, according to which, the whole organizational planning for the structure of the new, democratic state, was going to be made from the base and with the assistance of politico-administrative “materials” that would form the stable “background” of the Federation³⁴⁰.

In particular, even if the modern researcher takes into consideration the year 1955 as the one of the official establishment of the postwar German Federation because of the declared sovereignty of West Germany, or the year 1990 because of the Unification of two (2) “Germanies”, the principal idea – plan of reconstructing a whole nation by gradually and politico-administratively organizing individual areas of it, as well as by introducing tasks, formed a significant reason why for the progressive

³³⁶ Ibid., p.14

³³⁷ Ibid., p.11, 12

³³⁸ Ibid., p.13

³³⁹ Harald Fuhr, Julia Fleischer, Sabine Kuhlmann, “Federalism and Decentralization in Germany: Basic Features and Principles for German Development Cooperation”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.9

³⁴⁰ Harald Fuhr, Julia Fleischer, Sabine Kuhlmann, “Federalism and Decentralization in Germany: Basic Features and Principles for German Development Cooperation”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.9

configuration of “Länder” as administrative centers³⁴¹. it was about an already-constructed and functioning project until the official establishment of German Federation, commonly developed and agreed among the “oversighting Powers”, whereas its tasks’ allocation and gradual implementation depicted the first, successful signs of the postwar German public administration, which was “under (re)construction”.

According to Hans-Ulrich Derlien, a further fact, which determines and renders the German federal states as the administrative center of the whole Federation is their exclusive occupation with this field, which concentrated and attracted most of the public servants inside the country over time, i.e. the one of education³⁴². In particular, not only since the official enactment of the German Basic Law (1949) or the declaration of sovereignty of West Germany (1955), but also up to the last decade, education did not only form an occupational field under the responsibility of “Länder”, but also one, which employed the most public servants inside the German Federation³⁴³. Moreover, it is of significant importance that many scholars of German Public Administration, such as Manfred Röber tend to support the fact that because of the strong public personnel density evidenced in the field of education, one can argue on a “*general administrative dominance of Länder*”³⁴⁴.

However, before one moves to a qualitative analysis based on numerical data given by the OECD, the Federal Ministry of Interior (“Bundesministerium des Innern”, BMI) and the Federal Statistical Office of Germany (“Statistisches Bundesamt”), in order for the strong public personnel density of “Länder” to be examined, the historical background behind the existence of the German federal states as the administrative center of the Federation, as well as their “employment domination” in terms of educational public personnel have to be firstly examined.

³⁴¹ Ibid., p.9

³⁴² Hans-Ulrich Derlien, “The German public service: between tradition and transformation”, in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p. 172-174

³⁴³ Sabine Kuhlmann, Manfred Röber, “Civil Service in Germany: Between Cutback Management and Modernization”, in *Modernization of State and Administration in Europe: A France-Germany Comparison*, Opladen: Verlag für Sozialwissenschaften, 2006, p.98

³⁴⁴ Sabine Kuhlmann, Manfred Röber, “Civil Service in Germany: Between Cutback Management and Modernization”, in *Modernization of State and Administration in Europe: A France-Germany Comparison*, Opladen: Verlag für Sozialwissenschaften, 2006, p.98

In particular, according to the analysis by Jann Werner, the second (2nd) level – layer of governance started to gradually form and shape the administrative center of the Federation in the beginning of the decade of 1960, mainly because of the employment prosperity of the field of education³⁴⁵. The latter field, as well as its rise and working success formed one of the most important elements of the narrative concerning the (re)construction of a new, democratic state, which was introduced by the Christian Democratic Union's (CDU) government of Konrad Adenauer in the post-World War II years³⁴⁶.

As Jann Werner supports, the main "*Leitbild*"³⁴⁷ (i.e. "guiding model") of the new, democratic state was set into function since Adenauer's first year in the German Chancellery (1949), but its practical function, results and implementation can be mainly evidenced by the year 1960³⁴⁸. In particular, the above-mentioned "*Leitbild*" was the one of "*Aktive Politik*" and formed the main organizational and existential philosophy of the German state by the year 1974, when the political authority of the Federation lied in the hands of the Social-Democratic Party (SPD) of Willy Brandt³⁴⁹. Taking into consideration the year 1960 as its starting point, the "*Aktive Politik*" was launched, supported and implemented by four (4) different Chancelleries in total, i.e. the ones of Konrad Adenauer (1960 – 1963), Ludwig Erhard (1963 – 1965), Kurt Georg Kiesinger (1966 – 1969) and Willy Brandt (1969 – 1974)³⁵⁰.

The "*Leitbild*" of "*Aktive Politik*" was characterized by three (3) significant features, which gave prominence to the field of education, as well as facilitated the establishment of "*Länder*" as the crucial administrative units of the whole Federation³⁵¹.

As to the establishment of "*Länder*" as the central, administrative units, it has to be stressed that the "*Aktive Politik*" was built and based on the above-referred,

³⁴⁵ Jann Werner, "State, Administration and Governance in Germany: Competing traditions and dominant narratives", in *Public Administration Vol. 81 No. 1*, Oxford: Blackwell Publishing, 2003, p. 105, 106

³⁴⁶ *Ibid.*, p.105, 106

³⁴⁷ *Ibid.*, p.105

³⁴⁸ *Ibid.*, p.105, 106

³⁴⁹ Christoph Reichard, "Local Public Management Reforms in Germany", in *Public Administration Vol. 81 No. 2*, Oxford: Blackwell Publishing, 2003, p. 347

³⁵⁰ Jann Werner, "State, Administration and Governance in Germany: Competing traditions and dominant narratives", in *Public Administration Vol. 81 No. 1*, Oxford: Blackwell Publishing, 2003, p.106

³⁵¹ *Ibid.*, p.106

first, administrative “steps” conducted by the Great Powers concerning the German case, exactly after the end of the War, i.e. it was about a policy, which did not attempt to reconstruct what had been already reconstructed by the Allies, whereas it did not cancel the gradual allocation of administrative and political tasks to the “Länder”³⁵². In other words, the existence and function of the federal states as the gradually developing and pivotal “administrative units” of the Federation remained the central, organizational idea of the whole German public administration.

In addition, the latter was further enriched and conceptionally empowered by the “staatliche Planung” (state planning) of the “Leitbild” of “Aktive Politik”, which, influenced by the prescriptions of the Article 28 of the German Basic Law as well as the organizational spirit of implementation federalism, prescribed the hierarchical, top-down model of policy making, where the federal – central level – layer (“Bund”) was the responsible one for policy formulation and the federal state one (“Länder”) for the policy execution – implementation³⁵³. According to Jann Werner, the “vertical prescriptions” of this particular guiding model and the dedication of a clearly executive role to the federal states, were responsible for the further, stronger designation of “Länder” in the center of the German public administration³⁵⁴.

As to the prominence given to the field of education by the “Aktive Politik”, and therefore, the further, administrative empowerment of “Länder”, which were - and still are- responsible for it, one has to stress the term of “*Daseinvorsorge*” (“providing for one’s life”)³⁵⁵. In particular, the field of education, was further strengthened by the “Daseinvorsorge”, a clearly political initiative in the field of internal policy’s implementation, which prescribed the fact that the state should provide to the citizens all the adequate services (for example: education and health), which formed a prerequisite for social and financial development of the German society as a whole³⁵⁶.

In fact, the idea of “Daseinvorsorge” can be firstly found in the writings of Carl Schmitt and the attempts made by the Nazi regime for social policy’s

³⁵² Ibid., p.107, 108

³⁵³ Ibid., p.108

³⁵⁴ Jann Werner, “State, Administration and Governance in Germany: Competing traditions and dominant narratives”, in *Public Administration Vol. 81 No. 1*, Oxford: Blackwell Publishing, 2003, p.108

³⁵⁵ Ibid., p.107

³⁵⁶ Ibid., p.107

formulation³⁵⁷. However, it was re-adopted, re-launched and re-introduced by the “Aktive Politik” in the framework of the new, democratic, reconstructed state, but in a completely different manner. In particular, the latter guiding model tried, among the other things, to emphasize on the pivotal role of the national, free and public education provided to the German citizens by the German state, as well as attempted to parallel it to the procedure of democratization during the first post-War years³⁵⁸.

In other words, the “Daseinvorsorge” did not only aim to the provision of basic services required for German citizens’ survival, but also attempted to contribute to a national plan of educational policy’s construction, whose implementation was about to start from the responsible, administrative units for it, i.e. the federal states. These do not only report high numbers of public educational employment since the beginning of the decade of 1960, but were also then considered as the main and true units, in which the procedure of democratization, which was expressed through the broadening of education, was taking place³⁵⁹. This particular “employment domination” of the German federal states in terms of educational public personnel was about to be expressed during all the post-War decades.

In more specific terms and trying to conduct an analysis based on quantitative and numerical data, in order for the diachronic, educational, strong, public personnel density of “Länder” to be clearly depicted, it has to mentioned that the field of education met a heyday since the beginning of the decade of 1960, counting 361.800 public servants who represented a percentage of 12,2% of the whole German public administration at that time³⁶⁰. Moreover, according to Hans Joachim von Oertzen, this particular number (361.800) of people employed in the field of education soared up to 743.300 by the beginning of 1980, whereas the whole sector as such, formed the one with the highest “employment blast” within a decade (1960 –

³⁵⁷ Ibid., p.99

³⁵⁸ Ibid., p.107, 108

³⁵⁹ Jann Werner, “State, Administration and Governance in Germany: Competing traditions and dominant narratives”, in *Public Administration Vol. 81 No. 1*, Oxford: Blackwell Publishing, 2003, p. 107, 108

³⁶⁰ Hans-Ulrich Derlien, “The German public service: between tradition and transformation”, in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p. 172, 174, 175

1980) recording a rise of public employment with a percentage of 242,9% (from 361.800 to 743.300 employees)³⁶¹.

Moreover, according again to data given by Hans-Ulrich Derlien, the number of public servants employed in the field of education, and thus, being under the administration and working environment of “Länder”, met a further increase during the next decade (1980 – 2000), when it recorded a total of 1.600.000 public servants (year:2000), who represented a percentage of 31,7% of the public servants of the whole German public administration at that time³⁶².

In addition, the numerical dominance of the field of education, as well as the public personnel density of the second (2nd) level – layer of governance (“Länder”) can be further detected by taking into consideration the official percentages of public employment totals, which were recorded almost one (1) decade later, i.e. in the year 2008. In particular, 78,3% of the total education public servants were employed in the “Länder” by the year 2008, whereas federal states’ strong public personnel density apart from the field of education can be further evidenced by the fact that 66% of the total police servants were also employed in the same level – layer of governance (“Länder”)³⁶³. Moreover, 97,8% of the total legal services servants were employed in the “Länder”, whereas 42,7% of the total general administration servants were employed in the same working area³⁶⁴.

Returning back to the “educational domination” as well as the strong, public personnel density of the second (2nd) level – layer of governance, the modern researcher has to take into consideration more recent data given by the OECD, the Federal Ministry of Interior (Bundesministerium des Innern, BMI) and the Federal Statistical Office of Germany (“Statistisches Bundesamt”). These data demonstrate that the field of education continues to be the strongest one in terms of public personnel density inside the German Federation, something that further proves the

³⁶¹ Dr. Hans Joachim von Oertzen, “Public Personnel Management in the Federal Republic of Germany“, in *International Review of Administrative Sciences*, California: Sage Publications, 1983, p.211, 212

³⁶² Hans-Ulrich Derlien, “The German public service: between tradition and transformation”, in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p.174

³⁶³ Hans-Ulrich Derlien, “The German public service: between tradition and transformation”, in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p.178

³⁶⁴ *Ibid.*, p.178

argument of the designation and existence of the “Länder” as the German administrative center until today.

In more specific terms, examining comparatively the data published by OECD and the BMI, one can firstly track down that, despite the decrease of all those people employed in the German public sector from 4.640.000 (year: 2014)³⁶⁵ to 4.609.190 (year: 2016)³⁶⁶, the field of education formed the one, which recorded the scarcest employees’ losses, recording a slight fall from 1.350.342 (year: 2014) to 1.349.430 employees (year: 2016)³⁶⁷. Moreover, according to the data given by the Federal Statistical Office of Germany, the two (2) public servants’ categories that comprise the field of education, i.e. the public servants employed in schools and daycare, as well as those employed in universities, were the ones with the highest numbers until the year 2016, recording the numbers of 831.115 and 518.315 public servants respectively³⁶⁸.

In addition, according to the same survey, the salient level – layer of governance inside the German public administration for the year 2016 and in terms of public employment was the one of “Länder”, whose total public employment numbers were boosted by above-reported educational public personnel ones. In particular, the general public employment share in the German public sector recorded a percentage of 50,9% at the federal state – “Länder” level, 31,2% at the local – “Gemeinden” level and 9,8% at the central – “Bund” level in the same year (2016)³⁶⁹.

According to Hans-Ulrich Derlien, a further factor, which led to the strengthening of public personnel density of the “Länder”, as well as to their establishment as the administrative center of the whole “Bund” since today, was the

³⁶⁵ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.11

³⁶⁶ Kai Wegrich, Gerhard Hammerschmid, “Public Administration characteristics and performance in EU28: Germany”, in *Support for developing better country knowledge on public administration and institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion)*, Luxembourg: Publications Office of the European Union, 2018, p. 360

³⁶⁷ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.17

³⁶⁸ Kai Wegrich, Gerhard Hammerschmid, “Public Administration characteristics and performance in EU28: Germany”, in *Support for developing better country knowledge on public administration and institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion)*, Luxembourg: Publications Office of the European Union, 2018, p.360

³⁶⁹ *Ibid.*, p.360

German decade of 1990³⁷⁰. The latter one brought out two (2) historical events, which caused structural changes for the whole country, i.e. the German (Re)unification in 1990 and the adoption and implementation of the “Leitbild” of “*Schlanker Staat*” by Helmut Kohl’s government since 1990 and during the whole decade (1990)³⁷¹.

It has to be mentioned at that point, that the short analysis, which will be conducted here, will not be focused on the historical details and technicalities with regards to the above-referred events’ historical background. Instead, as it is conceptionally stipulated by the analytical mentality of the current subchapter (2.2.1.) so far, emphasis will be put on the changes caused to public personnel density of the German levels – layers of governance and on the question of how did these changes contribute to the further establishment of “Länder” as the center of German public administration in terms of public employment since today.

To begin with, it forms an undisputable reality that the above-referred events (German reunification, “*Schlanker Staat*”) and the changes brought out by them, besides their strong, historical importance, can be characterized and defined as structural, from the point of view that they led to fundamental developments and updates in the fields of Germany’s geography, politics, administration and economics³⁷². On the one hand, the German (Re)unification caused a geographical, as well as politico-administrative change of the country’s structure because of the integration of a whole, new state³⁷³, whereas, the adoption and implementation of “*Schlanker Staat*” inaugurated a period of change for the country’s financial policy, mainly because of the introduction of a “liberalization wave” under Helmut Kohl’s governance³⁷⁴.

In terms of personnel density, the German decade of 1990 was the one which further designated the “Länder” as the main and strong administrative center of the whole Federation³⁷⁵. In particular, the historical event of (Re)unification of 1990 was

³⁷⁰ Hans-Ulrich Derlien, “The German public service: between tradition and transformation”, in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p.172

³⁷¹ *Ibid.*, p.178

³⁷² Hans-Ulrich Derlien, “The German public service: between tradition and transformation”, in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p.171, 172

³⁷³ *Ibid.*, p.171, 172

³⁷⁴ Jann Werner, “State, Administration and Governance in Germany: Competing traditions and dominant narratives”, in *Public Administration Vol. 81 No. 1*, Oxford: Blackwell Publishing, 2003, p.108, 109

³⁷⁵ Hans-Ulrich Derlien, “The German public service: between tradition and transformation”, in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p.176-178

the one, which directly increased the number of personnel in the second (2nd) level – layer of governance (“Länder”), whereas the adoption and implementation of the “Leitbild” of “Schlanker Staat” since 1990, was the one, which indirectly increased the federal states’ personnel. In fact, as it will be seen, it was about a “Leitbild” implementation, which firstly and mainly decreased the public personnel density of the central – federal level – layer of governance (“Bund”), so the “Länder” public personnel density could be seen as an increased one, comparatively examined with the rapid decrease of “Bund”³⁷⁶.

As it has been already proved and examine, the gradual administrative domination of “Länder” in terms of public personnel density took place since the beginning of the decade of 1960 due to the employment prosperity of the educational field. However, the federal states’ further strengthening in terms of public personnel density during the decade of 1990 was not only based on that preexisted domination, but also on the subgovernmental expansion of the whole German public administration, which took place because of the German (Re)unification in 1990³⁷⁷.

In more specific terms and according to Manfred Röber and Sabine Kuhlmann, the German (Re)unification strengthened the “image” of federal states’ public personnel density, because it transferred and integrated to them a huge personnel “amount” of an overstaffed, centrally-organized, communist state³⁷⁸. In more specific terms, the Article 13 of the Unification Treaty of 1990 stipulated the direct transfer and integration of public servants employed in the cultural and social facilities of the Eastern “Länder” to the ones of the new, (re)unified state³⁷⁹. Taking into consideration the data given by the “Statistisches Bundesamt” and used by Manfred Röber and Sabine Kuhlmann, the modern researcher can argue on the fact that a whole state was “attached” to a preexisted one in terms of public personnel employment. the former East Germany included 42 public servants per 1000

³⁷⁶ Hans-Ulrich Derlien, “The German public service: between tradition and transformation”, in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p.176-178

³⁷⁷ Ibid., p.178

³⁷⁸ Sabine Kuhlmann, Manfred Röber, “Civil Service in Germany: Between Cutback Management and Modernization”, in *Modernization of State and Administration in Europe: A France-Germany Comparison*, Opladen: Verlag für Sozialwissenschaften, 2006, p.99

³⁷⁹ Ibid., p.98,99

inhabitants, i.e. almost 2.100.000 public servants were transferred from the Eastern “Länder” and “merged” to the “new Germany”³⁸⁰.

The results brought out after the (Re)unification in terms of public personnel density, can be evidenced by taking into consideration the numerical changes detected even in the first year after the historical event as such, i.e. during and just after the transition from the year 1990 to the year 1991. In particular, the number of public servants in big cities like Berlin, Hamburg and Munich increased abruptly from proximate 5.000 to 10.000 within the first two (2) months³⁸¹, whereas the public employment during that first year (1990 – 1991) recorded an increase of 38%³⁸². Furthermore, the number of public servants in the whole, new, (re)unified Germany recorded an increase from 4.600.000 million (1990) to 6.700.000 million (1991)³⁸³. At the same period, the public personnel density of “Länder” remained the strongest one in the framework of the whole, (re)unified Federation, recording a percentage of 40,2%, whereas “Bund” recorded a percentage of 32,5% and “Gemeinden” a percentage of 27,3%³⁸⁴.

The German (Re)unification and the (re)construction of a “big state” in terms of public sector’s employment, led to the adoption and implementation of the “Leitbild” of “Schlanker Staat” (“Lean State”) by the government of Helmut Kohl, who had undertaken the governance of West Germany since 1982³⁸⁵. According to Thorsten Schulten, the “Schlanker Staat” can be defined as an attempt to depict the slogan “*less state – more private*”³⁸⁶. It was, in other words, the gradual construction of a state, which would aim to be “self-reduced”, i.e. it would attempt to abolish and

³⁸⁰ Ibid.

³⁸¹ Sabine Kuhlmann, Manfred Röber, “Civil Service in Germany: Between Cutback Management and Modernization”, in *Modernization of State and Administration in Europe: A France-Germany Comparison*, Opladen: Verlag für Sozialwissenschaften, 2006, p.99

³⁸² Hans-Ulrich Derlien, “The German public service: between tradition and transformation”, in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p.172

³⁸³ Ibid., p.172

³⁸⁴ Ibid., p.172

³⁸⁵ Jann Werner, “State, Administration and Governance in Germany: Competing traditions and dominant narratives”, in *Public Administration Vol. 81 No. 1*, Oxford: Blackwell Publishing, 2003, p.108, 109

³⁸⁶ Torsten Brandt, Thorsten Schulten, “Privatization and liberalization of public services in Germany: the postal and hospital sectors” in “Privatization and liberalization of public services in Europe” (“Privatization of Public Services and the Impact on Quality, Employment and Productivity”), Brussels: European Commission’s 6th Framework Program, 2007, p.39

tackle the “*overburdened and overblown historical condition*”³⁸⁷ of the integration of a communist state machine and to become more flexible and efficient in terms of administrative services’ provision, while reducing its staff and implementing a wave of financial liberalization³⁸⁸.

According to Jann Werner, the main and central conception of the “Leitbild” of “Schlanker Staat” was to be introduced by Helmut Kohl’s government in West Germany in the year 1984³⁸⁹. The main idea and the plan for it was that it would be firstly implemented on the “Gemeinden” level, but the historical event of the (Re)unification in 1990 confounded that particular idea and stressed the need for its gradual implementation from the central – federal level – layer of the (re)unified Federation (“Bund”)³⁹⁰.

The main tool of “Schlanker Staat” was the “Neues Steuerungsmodell” (“New Steering Model”), a strategy – pattern which stipulated a “change of steering” in the field of Germany’s financial policy, aiming to the whole state’s financial modernization, in order for it to be adapted to the new, societal developments after the (Re)unification, as well as to increase the overall efficiency of its public services³⁹¹. The main means, with the use of which the goal of financial modernization would be achieved by the “Neues Steuerungsmodell” was the introduction of a wave of gradual deregulation, restructuring and final transfer of national monopolies to private companies (“Aktiengesellschaften”)³⁹². In other words, the “Neues Steuerungsmodell” was aiming to gradually abolish the “nature” of state-owned infrastructures and to promote private industry patterns in the field of labor relations³⁹³.

³⁸⁷ Sabine Kuhlmann, Manfred Röber, “Civil Service in Germany: Between Cutback Management and Modernization”, in *Modernization of State and Administration in Europe: A France-Germany Comparison*, Opladen: Verlag für Sozialwissenschaften, 2006, p.99

³⁸⁸ Sabine Kuhlmann, Manfred Röber, “Civil Service in Germany: Between Cutback Management and Modernization”, in *Modernization of State and Administration in Europe: A France-Germany Comparison*, Opladen: Verlag für Sozialwissenschaften, 2006, p.99

³⁸⁹ Jann Werner, “State, Administration and Governance in Germany: Competing traditions and dominant narratives”, in *Public Administration Vol. 81 No. 1*, Oxford: Blackwell Publishing, 2003, p. 108, 109

³⁹⁰ *Ibid.*, p.108, 109

³⁹¹ Berndt Keller, “Germany: In the Bermuda triangle of modernization, unification and Europeanization”, in *Public Sector Employment Relations in Germany*, Crows Nest: Allen & Unwin, 2011, p.24

³⁹² *Ibid.*, p.24

³⁹³ *Ibid.*, p.24

Before one moves on to the numerical depiction of the changes caused in terms of public personnel density because of the introduction and implementation of the “Neues Steuerungsmodell”, they have to stress the center of gravity, as well as the gradual character of its implementation. In more specific terms, as it has been already referred, the center of its implementation gravity was the central – federal level (“Bund”), because of the fact that Helmut Kohl’s government went on through to the decision to gradually deregulate and privatize the fields – sectors with the second highest public personnel density, just after the one of education, i.e. the ones of postal communication and transportation, which, as responsibilities, laid in the hands of the first (1st) level – layer of governance (“Bund”)³⁹⁴. In particular, following the 809.200 public servants employed in the field of education in 1990, 439.000 public servants were employed in the Federal Postal Service (“Deutsche Bundespost”) in the same year and 246.600 public servants were employed in the Federal Railroad Service (“Deutsche Bundesbahn”) as well (1990)³⁹⁵.

As to the gradual character of the implementation of the “Neues Steuerungsmodell”, it has to be clarified that the latter took place through different steps and phases of progressive deregulation, expressed by mutual, short reforms, as well as through one, central and common -for both postal and railroad services- constitutional amendment³⁹⁶. In other words, the implementation of NSM did not abruptly change the nature, legal framework and terms of employment of public services, adapting them suddenly to the situation and conditions of private sector. In both cases, i.e., the one of Federal Postal Service and the one of Federal Railroad Service, two (2) reforms took place, in order for the legal framework of their employment conditions to be changed. In particular, the “Postreform I” and “Bahnreform I” which took place in 1990, along with the “Postreform II” and “Bahnreform II” which took place in 1994 converted both public services to public limited companies, whereas the constitutional amendment of the Article 143, which

³⁹⁴ Jann Werner, “State, Administration and Governance in Germany: Competing traditions and dominant narratives”, in *Public Administration Vol. 81 No. 1*, Oxford: Blackwell Publishing, 2003, p.109

³⁹⁵ Hans-Ulrich Derlien, “The German public service: between tradition and transformation”, in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p.180

³⁹⁶ Torsten Brandt, Thorsten Schulten, “Privatisation and liberalisation of public services in Germany: the postal and hospital sectors” in “Privatization and liberalization of public services in Europe” (“Privatization of Public Services and the Impact on Quality, Employment and Productivity”), Brussels: European Commission’s 6th Framework Program, 2007, p.42, 43

took place in the year 1994, stipulated the non-inclusion of the employees of both sectors to the legal framework and the employment terms of the German public sector³⁹⁷.

The implementation of the “Neues Steuerungsmodell” since the beginning of the decade of 1990, the gradual deregulation and privatization of the postal and railroad services, as well as their influence on these sectors’ personnel density can be depicted by the data given by the “Statistisches Bundesamt” and used by Hans-Ulrich Derlien. A loss of personnel can be seen for both of the fields in question, and therefore, a loss of central level’s personnel (“Bund”), because of the cutback policies and layoffs implemented in the framework of the privatization policies stipulated by the “Neues Steuerungsmodell” of the “Schlanker Staat”. In more specific terms, the above-referred number of 439.200 public servants of the Federal Post Service (“Deutsche Bundespost”) in the year 1990, was reduced to 266.200 employees by the year 2000, whereas the above-referred number of 246.600 public servants of the Federal Railroad Service (“Deutsche Bundesbahn”) in the year 1990 was reduced to 73.600 employees by the same year (2000)³⁹⁸.

Furthermore, someone who conducts a short, numerical report of the whole German decade of 1990 and takes into consideration both the events of German (Re)unification, as well as the adoption of Kohl’s “Schlanker Staat” can detect a further and stronger designation of “Länder” as the Federation’s administrative center in terms of public personnel density. In more specific terms, during the period 1990 – 2000, the “Länder” public personnel was the one and only, which, in contrast with the other levels – layers of governance that faced a public personnel decrease, achieved to increase its public personnel density³⁹⁹. In particular, during the period 1990 – 2000, the public personnel density of the first (1st) level – layer of governance (“Bund”) fell from the percentage of 32,5% (1990) to the one of 13,2% (2000), whereas the public personnel density of the third (3rd) level – layer of governance (“Gemeinden”) slightly

³⁹⁷ Torsten Brandt, Thorsten Schulten, “Privatisation and liberalisation of public services in Germany: the postal and hospital sectors” in “Privatization and liberalization of public services in Europe” (“Privatization of Public Services and the Impact on Quality, Employment and Productivity”), Brussels: European Commission’s 6th Framework Program, 2007, p. 42, 43

³⁹⁸ Hans-Ulrich Derlien, “The German public service: between tradition and transformation”, in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p.180

³⁹⁹ *Ibid.*, p.176-178

fell from the percentage of 32,4% (1990) to the one of 31,8% (2000)⁴⁰⁰. In contrast with the above levels – layers of governance, the second (2nd) one (“Länder”) increased, strengthened and empowered significantly its public personnel density, recording an advance from the percentage of 40,2% (1990) to the one of 50,5% (2000)⁴⁰¹.

As it became clear and proved with the use of data given by the “Statistisches Bundesamt”, the explanation for the above phenomenon of unilateral personnel increase, which was exclusively evidenced at the second (2nd) level – layer of governance (“Länder”) can be based on the special way of expression and implementation of both phenomena, i.e. the German (Re)unification and the “Schlanker Staat” with regards to their influence on all the governmental levels’ personnel density.

On the one hand, the former (German reunification) “boosted” federal states’ public personnel density and strengthened their central, administrative position, because of the examined prescription of the Article 13 of the Unification Treaty, which stipulated the “Eastern personnel’s” integration to the second (2nd) level – layer governance (“Länder”) of the (re)constructed Germany. On the other hand, the latter (“Schlanker Staat”) was unilaterally implemented, from the point of view that its gradual, liberalization policies began from the central – federal level – layer of governance, aiming to the progressive deregulation and privatization of the postal and railroad services, while leaving the “Länder” untouched and intact in terms public personnel lay-offs, and therefore, further and indirectly establishing their role as the central administrative units of the whole Federation.

To sum up, one can support that, despite the fact that Germany forms a typical case study, which is characterized by the existence of a decentralized politico-administrative system, a pivotal element of centralization is located inside its “decentralization’s heart”: the administrative domination of the second (2nd) level – layer of governance (“Länder”) in terms of public personnel density and its existence and function as the administrative center of the whole Federation. That particular element of centralization, which contradicted the analytically-examined, decentralized

⁴⁰⁰ Hans-Ulrich Derlien, “The German public service: between tradition and transformation”, in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p.176-178

⁴⁰¹ *Ibid.*, p.176-178

German Federation's politico-administrative structure, formed the central argumentation of the whole, second (2nd) chapter and will be later on, in the framework of the fourth (4th) chapter, conceptionally combined with the Weberian theory of the "Administrative Center", in order to contribute to the whole project's research goal, i.e. the Weberian nature of the German public administration.

3. Analyzing the Federation's public personnel: examination of the in-service "Gestalt" of the "Beamten"

The main research goal of the whole chapter (3) is to discover and examine the aspects of the in-service existence and function of the German public servants. In particular, the chapter is, at first, occupied with the legal regime, to which the German public servants pertain, while being focused on their legal and working differentiation into "Beamten" and "Angestellte"; putting the emphasis on the former ("Beamten"), it then examines the procedure of their recruitment by taking into consideration the four-layered (4-layered), German, administrative pyramid of the different "Diensten"; thirdly, the chapter focuses on the professional career development of the "Beamten" as well, while being concentrated on the procedures of training and mobility; last but not least, as to the German system of remuneration, specific reference is made to the four (4), different, "Federal Pay Scales" of remuneration, to which the German "Beamten" pertain, depending on their profession, as well as to their "administrative position" inside their field of occupation – service.

Before one moves on to the presentation and analysis of each and every subchapter of the third (3rd) chapter, two (2), pivotal comments have to be made with regards to the used, fundamental, research sources, as well as the followed and here-adopted analytical methodology.

As to the main sources used for each and every subchapter's construction, it has to be stressed that, despite the useful information found in the field of bibliography concerning the subjective analysis of significant scholars of the field of the German public administration, the current chapter uses the fundamental, legal sources – texts, which govern and stipulate the specific "Gestalt" of the German civil service, as well as regulate and define the "working reality" and environment of its "working units". In particular, apart from the German Basic Law ("Grundgesetz"), which has been already used in the framework of the previous chapter (2), the Federal Civil Service Act ("Bundesbeamtengesetz", BBG), as well as the Federal Civil Service Remuneration Act ("Bundesbesoldungsgesetz", BBesG) are seriously taken into research consideration, in order for the analysis and examination of the German civil service's management to be conducted.

As to the methodology followed, the current chapter takes into consideration the fundamental principles of public administration as pivotal guidelines, which find application to the case study of the German civil service. In other words and in reverse, the chapter puts the research emphasis on the fact that central and significant “administrative features” with regards to the “Gestalt”, actual function and working reality of the German civil service can be adapted to the main, fundamental principles of public administration.

In particular and with regards to the whole thematic field of the principles of public administration, the research focus is specifically concentrated here on a given category of them, i.e. the one entitled as “Public Service and Human Resource Management”⁴⁰²; detailed emphasis is put on the main principles of the latter, and concretely, on the ones of the scope and the legal framework of the civil service, the procedure of recruitment, the professional and career development, as well as the remuneration system of the civil servants⁴⁰³. After the conduction of an analysis of them in general terms of human resources management, their precise correspondence and exact adaptation to the case study of the German “Beamten” takes place, along with the “institutional assistance” of the above-referred, German, legal, fundamental sources.

Last but not least, it has to be stressed that, as to the analysis’ mentality and the way – style of writing, the latter are mainly descriptive ones, from the point of view that an attempt is made, in order for the working reality, environment, situation and internal procedures of the German civil service to be described with the most accurate and precise way. However, along with the valid description, an attempt of justification and constitutional interpretation takes place when examining comparatively the fundamental principles of the category of “Public Service and Human Resource Management” and the legal – institutional prescriptions of the German texts – sources.

⁴⁰² Dimitris Skiadas, “Principles of Public Administration and Public Financial Management: Concepts and Categories” in *The University of Macedonia MIPA Book: Essays on the Functioning of the World Community*, Thessaloniki: University of Macedonia Press, 2018, p.219

⁴⁰³ Ibid., p.219

3.1. “The legal framework and the scope of the German public service: civil servants and public employees under administrative co-existence”

The main research goal of the current subchapter is to describe extensively the structural existence of the German civil service, as well as to discover and analyze its main scope. In particular, the phenomenon of “administrative Dualism” (“*Verwaltungs dualismus*”⁴⁰⁴) inside the German civil service will be here described as one that leads directly to a clear quantitative distinction – categorization of German public servants into two (2) different categories, which are characterized by different, legal and working backgrounds and environments. Furthermore, an argumentation will be developed as to the main reasons why the analysis of the whole dissertation is directed to the category of “civil servants” and not to the one of “public employees”. Last but not least, an attempt will be made to analyze the term of the “scope” of the German civil service, as well as to discover the main means, according to and through which the latter term (“scope”) can be politico-administratively expressed.

First and foremost, before one moves on to the analysis, he or she has to define and clarify the term “administrative Dualism” (“*Verwaltungs dualismus*”), as well as to discover its main characteristics that lead to the establishment of different legal and working conditions inside the same “administrative entity”, i.e. inside the German civil service. In other words, the modern researcher does not only have to clearly stress the main and central definition of the phenomenon as such, but also to precisely highlight the main features – “administrative components” of it, as well as the main ways, according to which the latter lead to the gradual installation of an administrative “dualistic reality”.

As “administrative Dualism” (“*Verwaltungs dualismus*”) can be defined and described the in-civil service phenomenon which influences, characterizes and stipulates the structure of a given administrative “entity” in terms of its legal and working organization and configuration⁴⁰⁵. As it becomes clear by the definition, the modern researcher has to be here concentrated to the terms’ “structure” and the phrase “legal and working organization”, in order for the phenomenon to be extensively

⁴⁰⁴ Martin Behrens, “Arbeitgeberverbände -auf dem Weg in den Dualismus?” in *WSI Mitteilungen*, Köln: Bund Verlag, 2013, p.473,474

⁴⁰⁵ *Ibid.*, p.473,474

clarified. As it will be demonstrated, these terms are interrelated in the framework of the phenomenon's conception, whereas they are, at the end of the day, reflected to the civil service's way of lively, administrative existence⁴⁰⁶.

In particular, with the use of the term "structure", the phenomenon of the administrative Dualism influences the specific, organizational setup and conformation of a given "administrative body" - civil service, i.e. it clearly sets the administrative conditions and stipulates the organizational configuration, under which it functions and exists⁴⁰⁷. In other words, it defines the main organizational scheme and administrative foundations, on and according to which a given civil service is based, established and structured.

The above-referred "structure" of the administrative entity of a given civil service does not form a general term, but, especially in the case of administrative Dualism, is mainly concentrated to the notions of the legal and working characteristics⁴⁰⁸. In particular, the structure stipulated and established by the phenomenon of administrative Dualism puts the emphasis on the legal and working organization of the administrative entity (civil service) on which it is implemented, from the point of view that it defines concretely the legal conditions, under which the entity as such is subsumed, as well as the specific working environment that is stipulated and installed by the them⁴⁰⁹.

In more specific terms, one could here argue on the fact that administrative dualism is mainly concentrated to and based on two (2) different "pylons", which can be characterized and considered as important enough, because they can stipulate and define the final structure, and thus, the main way of existence of a given administrative entity (civil service), i.e. the legal and working one⁴¹⁰. In other words,

⁴⁰⁶ Martin Behrens, "Arbeitgeberverbände -auf dem Weg in den Dualismus?" in *WSI Mitteilungen*, Köln: Bund Verlag, 2013, p.475

⁴⁰⁷ Peter Böckli, "Konvergenz: Annäherung des monistischen und des dualistischen Führungs- und Aufsichts-system" in *Handbuch "Corporate Governance": Leitung und Überwachung börsennotierter Unternehmen in der Rechts- und Wirtschaftspraxis*, Köln: Dr. Otto Schmidt Verlag, 2010, p.259,260

⁴⁰⁸ Martin Behrens, "Arbeitgeberverbände -auf dem Weg in den Dualismus?" in *WSI Mitteilungen*, Köln: Bund Verlag, 2013, p.474,475

⁴⁰⁹ Ibid., p.475.476

⁴¹⁰ Peter Böckli, "Konvergenz: Annäherung des monistischen und des dualistischen Führungs- und Aufsichts-system" in *Handbuch "Corporate Governance": Leitung und Überwachung börsennotierter Unternehmen in der Rechts- und Wirtschaftspraxis*, Köln: Dr. Otto Schmidt Verlag, 2010, p.460 -462

the legal “pylon” has to do mainly with the fact that it is related to the specific conditions, in the framework of which the administrative entity in question (civil service) is structured and established, whereas the working “pylon” refers to the special and precise environment, inside which the latter-referred entity exists and manifests its special ways of function and action⁴¹¹.

Furthermore, before one moves on to the analysis of the expression of administrative Dualism in the case study of Germany, they have to firstly highlight the fact that, as it has been indirectly stressed, the above – referred notions of “legal and working organization” develop a special bond of interrelation, because they develop the ability to combine the structural installation and organization of given and precise working conditions with the establishment of an existential framework – environment, stipulating by that way the way of the administrative entity’s existence as a whole⁴¹².

In more specific terms, as it will be later on demonstrated, the subsumption of a given administrative entity (civil service) to precise legal provisions and prescriptions develops, establishes and creates, from an organizational point of view, the specific working environment, under which, the entity as such bases its functional existence, i.e. the particular ways and procedures of its action⁴¹³.

The latter mainly happens because of the fact that the existence of the notion of “Law” includes and concentrates the legal power to set and stipulate given and precise conditions, frameworks and regulations, under and according to which a final way or ways – environments of existence can be configured and conformed⁴¹⁴. In other words, throughout the existence and implementation of the above-referred power of law, which can be seen in the case study of administrative Dualism and is expressed to the one of the German civil service as well, a main and central “transfer” takes place, which is mainly demonstrated by the fact that the stipulations institutionalized by the law are transferred to the procedure of a given administrative environment’s construction while determining the special way(s) of its existence⁴¹⁵.

⁴¹¹ Ibid., p.460-462

⁴¹² Ibid., p.460-462

⁴¹³ Ibid., p.460-462

⁴¹⁴ Ibid., p.460-462

⁴¹⁵ Peter Böckli, “Konvergenz: Annäherung des monistischen und des dualistischen Führungs- und Aufsichts-system” in *Handbuch “Corporate Governance”: Leitung und Überwachung börsennotierter Unternehmen in der Rechts- und Wirtschaftspraxis*, Köln: Dr. Otto Schmidt Verlag, 2010, p.464

Trying to adapt the above argumentation to the special case study of Germany, it has to be clarified the German administrative Dualism can be mostly detected to the field of the German personnel, from the point of view that it leads to the configuration and conformation of a particular personnel structure in the framework of the German public administration⁴¹⁶. In particular, the central “area” – field, in which one is able to comprehend and highlight the existence and function of the German administrative Dualism is the one of the country’s civil service⁴¹⁷. The latter assertion does not mean that the phenomenon as such cannot be evidenced or analyzed in the framework of another subarea of the whole field of the German public administration, but, in the here-examined case study, its legal, working and administrative impact on the country’s civil service, as well as the existence and the implementation of its main characteristics can be easily recognized and stressed from a research point of view.

The phenomenon of the administrative Dualism of the German case leads to a dual, distributed structure of the German civil service, from the point of view that the country’s public personnel is categorized, divided and differentiated into two (2) different categories of public servants⁴¹⁸. In particular, the above-referred, in-civil service phenomenon establishes, installs and follows an administrative pattern, according to which the public servants are categorized into two (2) different legal and working groups, which correspond to a different legal status, as well as to differentiated special terms of employment⁴¹⁹.

Before one moves on to the presentation and analysis of the different public servants’ groups, it has to be stressed that, at a first glance, both of the above-referred terms of administrative Dualism, i.e. the legal and the working organization, seem to be here fulfilled. In particular, the administrative Dualism of the German case, as well as the main differentiation brought out by it, does not only include a given, legal background, as well as a working one⁴²⁰. In other words and in accordance with the

⁴¹⁶ Lorenz Lassnigg, “Duale oder “dualistische“ Berufsbildung: Gemeinsamkeiten und Unterschiede Österreich-Schweiz-Deutschland” in *Jahrbuch der berufs- und wirtschaftspädagogischen Forschung* 2016, Opladen: Verlag Barbara Budrich, 2016 p.23,24

⁴¹⁷ Ibid., p.23-24

⁴¹⁸ Ibid., p.23

⁴¹⁹ Dr. Hans Joachim von Oertzen, “Public Personnel Management in the Federal Republic of Germany”, in *International Review of Administrative Sciences*, California: Sage Publications, 1983, p.210

⁴²⁰ Kai-Andreas Otto, “Civil Service Salary System in Germany and Recent Reform Trends”, presented to the *Conference on Civil Service Salary Systems in Europe*, Bucharest, Romania, 25 April 2007, p.2

general pattern – scheme of administrative Dualism, which has been during the above paragraphs described, the one adapted to the German case, is established and based on two (2) different “pylons” as well, i.e. the legal and the working one⁴²¹. Besides, as it will be highlighted, the legal “pylon”, as in the case of the described general pattern – scheme, forms the one, which “transfers” its power to the working one in the German case as well.

The legal “pylon”, i.e. the legal organization, which is structured, constructed and set by the administrative Dualism in the German case study is based on the term of the employment contract⁴²². The latter forms the main and fundamental evidence, which clearly defines the concrete and precise legal status of the German public servants, according to which they are categorized and distributed to different categories⁴²³. In accordance with the description of the general pattern – scheme of the administrative Dualism, the legal text of the employment contract, which carries on and depicts the power of law, sets a clear, legal differentiation between the two (2) different types of German public servants, which is also transferred and “personified” to a precise working differentiation that is expressed through the existence of different working environment(s) for the German personnel types as such⁴²⁴.

Trying to escape from a possible analysis with regards to the question of why is the phenomenon of administrative Dualism expressed in the case study of Germany’s public administrative system -most of the German public administration scholars attribute the phenomenon to clearly historical reasons which derive from the period of the 18th and 19th century when the servants of the German Kaiser were categorized according to his mandates and depending on their salary and

⁴²¹ Dr. Hans Joachim von Oertzen, “Public Personnel Management in the Federal Republic of Germany”, in *International Review of Administrative Sciences*, California: Sage Publications, 1983, p.210

⁴²² Hans-Ulrich Derlien, “German Public Administration: Weberian despite Modernization”, in *Comparative Bureaucratic Systems*, Lanham: Lexington Books, 2003, p.7

⁴²³ Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at *EGPA-Conference for PSG 9 “Public Administration and Teaching”*, Toulouse, 8-10 September 2010, p.4

⁴²⁴ Sabine Kuhlmann, Manfred Röber, “Civil Service in Germany: Between Cutback Management and Modernization”, in *Modernization of State and Administration in Europe: A France-Germany Comparison*, Opladen: Verlag für Sozialwissenschaften, 2006, p.91

profession⁴²⁵-, the analysis will be here focused on the legal differentiation brought out and expressed because of the existence of the employment contract and not on the working environment constructed by the German administrative Dualism. The above choice is made because of the fact that the latter, i.e the “produced” working environment, as well as the working differences between the groups will be in general terms presented throughout the next subchapters of the third (3rd) chapter with regards to the procedures of training, remuneration, mobility, promotion and career development of the German civil service.

The legal “pylon” of the phenomenon of the German administrative Dualism forms the main answer to the question of how is the phenomenon as such expressed in the German case, because of the above-referred creation of two (2) distinctive, purely legal, and thus working, groups of German public servants, i.e. the ones of “Civil Servants” (“*Beamte*”⁴²⁶) and of “Public Employees” (“*Tarifbeschäftigte*”⁴²⁷). The existence and function of both these groups inside the German civil service determines the legal, and thus the working, way of its actual background’s construction, as well as the configuration of its practical and “lively” structure, from the point of view that the main working units of the administrative entity, i.e. the servants of the whole service, exist and function as two (2), differentiated legal – working categories – groups of servants, which attach importance to the main and central functional character of the German civil service as a whole⁴²⁸.

With regards to the German Civil Servants (“*Beamte*”), one can easily argue on the fact that they correspond to the “traditional type” of the public servant, from the point of view that their legal status, as well as the special terms of their employment are governed by public law, whereas their special legal position, as it will be seen in the framework of the scope of the German civil service, includes strict

⁴²⁵ Berndt Keller, “After the end of stability: Recent trends in the public sector of Germany” in *The International Journal of Human Resource Management*, Oxfordshire: Routledge, 2011, p.2333

⁴²⁶ Kai Wegrich, Gerhard Hammerschmid, “Public Administration characteristics and performance in EU28: Germany”, in *Support for developing better country knowledge on public administration and institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion)*, Luxembourg: Publications Office of the European Union, 2018, p.369

⁴²⁷ Berndt Keller, “Employment relations without collective bargaining and strikes: the unusual case of civil servants in Germany” in *Industrial Relations Journal*, Oxford: Brian Towers, 2020, p.4

⁴²⁸ “Federal Republic of Germany: Public Administration Country Profile”, Division for Public Administration and Development Management (DPADM), Department of Economic and Social Affairs (DESA), United Nations, New York, USA, February 2006, p.12

duties and sanctions⁴²⁹. In particular, the legal status of the German civil servants is defined and precisely determined by given and concrete principles, articles and provisions, which can be found in the framework of the two (2) most fundamental texts concerning the German civil service, i.e. the German Basic Law (“*Grundgesetz*”, GG) and the Federal Civil Service Act (“*Bundesbeamtengesetz*”, BBG)⁴³⁰.

In more specific terms and trying to comprehend the central and pivotal way, according to which the legal status of the German civil servants is determined by the power of law under the notion of administrative Dualism, the modern researcher has to concentrate his or her analytical and scientific focus on the paragraph 4 of the Article 33 of the German Basic Law, as well as on the Article 2 of the Federal Civil Service Act. Both of these passages do not only strictly stipulate the special type of the employment contract, in the framework of which the German civil servant has to be subsumed as a “legal” or “administrative entity”, but also clearly set and determine their legal status, comparatively to the category of “public employees”⁴³¹.

In particular, according to the prescriptions of the paragraph 4 of the Article 33 of the German Basic Law, the German civil servants and their legal status are characterized by the existence of an employment contract, which is governed by the rules, the principles and the regulations of the German public law, whereas the Article as such considers the official German institutions as the main employers of the German civil servant, who is appointed by them and owes to be abided by a relation of loyalty with them⁴³². Furthermore, the legal status of the German civil servant is indirectly established and determined by the specific passage – sentence of the Article 2 of the Federal Civil Service Act, which stipulates the employer ability, granting to

⁴²⁹ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.9

⁴³⁰ European Foundation for the Improvement of Living and Working Conditions, “Central Public Administration: Working Conditions and Industrial Relations – Germany”, in *International Publications*, New York: Cornell University ILR School, 2013, p.2

⁴³¹ Dr. Hans Joachim von Oertzen, “Public Personnel Management in the Federal Republic of Germany”, in *International Review of Administrative Sciences*, California: Sage Publications, 1983, p.210

⁴³² §33, 4 GG

the latter (“employer”) the right to have and recruit only those servants, who are considered as “Beamte” and their legal status is governed by public law⁴³³.

On the other hand, the German “Public Employees” (“Tarifbeschäftigte”) form a differentiated legal and working group inside the German public administration, from the point of view that they are represented by a different legal status than the one of the German civil servants, whereas their employment contract is regulated and governed by the regulations, the principles, the articles and the provisions of the German private law⁴³⁴.

Before one moves on to the analysis and description of the legal status of “Tarifbeschäftigte” and to the question of how it is influenced mainly by the Federal Civil Service Act, he or she has to clarify -for historical reasons- that the group as such (“Tarifbeschäftigte”) was, until 2005, subdivided into two (2) different, working subcategories, which, however, corresponded to the same legal status and regulations⁴³⁵. In more specific terms, the German working reform (“*Tarifreform*”) of the year 2005 was the one which brought out crucial, structural changes in the framework of the group of “Tarifbeschäftigte”⁴³⁶.

In particular, since 2005 and because of the above-referred “*Tarifreform*” the two (2) public employees’ subcategories of the blue-collar workers – laborers (“*Arbeiter*”⁴³⁷) and the white-collar employees (“*Angestellte*”⁴³⁸) have been merged and unified into the one (1) and central category of “Tarifbeschäftigte”, because of the fact that their legal status was exactly the same, i.e. it was ruled and governed by the regulations of the German private law⁴³⁹. Taking the latter legal situation as a pivotal reason, the “*Tarifreform*” of 2005, as an initiative which was aiming to merge working categories inside the German civil service, as well as to unify all those public servants who were subsumed to the same legal framework, proceeded progressively to

⁴³³ §2 BBG

⁴³⁴ Hans-Ulrich Derlien, “German Public Administration: Weberian despite Modernization”, in *Comparative Bureaucratic Systems*, Lanham: Lexington Books, 2003, p.7

⁴³⁵ Berndt Keller, “Employment relations without collective bargaining and strikes: the unusual case of civil servants in Germany” in *Industrial Relations Journal*, Oxford: Brian Towers, 2020, p.4

⁴³⁶ *Ibid.*, p.4

⁴³⁷ Berndt Keller, “After the end of stability: Recent trends in the public sector of Germany” in *The International Journal of Human Resource Management*, Oxfordshire: Routledge, 2011, p.2332-2333

⁴³⁸ *Ibid.*, p.2332-2333

⁴³⁹ *Ibid.*, p.2332-2333

the above-referred, unified category of public employees working under the German private law framework, i.e. the one of “Tarifbeschäftigte”⁴⁴⁰.

With regards to the legal status of the above-referred group, as it has been already stressed, it can be mainly indirectly detected and evidenced by the Federal Civil Service Act. In more specific terms, according to the paragraph 2 of the Article 5 of the “Bundesbeamtengesetz”, the legal status, as well as the duties and tasks of the German civil servants cannot be transferred to all those employees whose status and terms of employment are governed and regulated by the prescriptions and the provisions of the German private law⁴⁴¹. The above, clear statement of the fifth (5th) Article of the Federal Civil Service Act, according to the analysis by Berndt Keller, defines the fact that the Act as such is only applicable to the category of “Beamte”, leaving aside from the field of its application the whole category of “Tarifbeschäftigte”, whose status and terms of employment are governed and regulated by the general labor regime regulations, meaning that they work under private law contracts and collective and wage agreements, which are not “standardized” as the acts of appointment of “Beamte”, but unilaterally negotiated between the employer and the employee⁴⁴².

Taking into consideration the above-highlighted reference to the respective paragraphs and articles of both texts of the German Basic Law and the Federal Civil Service Act, as well as the analysis conducted by Berndt Keller with regards to the non-inclusion of the “Tarifbeschäftigte” to the latter text, one has to here clearly state the main reasons why this fundamental differentiation of the legal status between the two (2) different German public servants’ groups stipulates the univocal scientific occupation with the first (1st) category of German public servants, i.e. the one of the German “Civil Servants” (“Beamte”).

In other words, having studied and analyzed -in accordance with German, fundamental legal sources- the fact that the legal status and terms of employment of the two (2) public servants’ categories are differentiated, the main reasons why have to be here stressed, because of which the current chapter (3rd), as well as the last one (4th) will be concentrated exclusively to the analysis of the case study of “Beamte”.

⁴⁴⁰ Ibid., p.2332-2333

⁴⁴¹ §5, 2 BBG

⁴⁴² Berndt Keller, “After the end of stability: Recent trends in the public sector of Germany” in *The International Journal of Human Resource Management*, Oxfordshire: Routledge, 2011, p.2332-2333

First and foremost, the most important reason why for the above-referred, univocal research focus has to do with the power of law and the strict character of its special and precise stipulations⁴⁴³. In particular, the modern scholar of German public administration has to consider as public servants the category of “Beamte”, because of the fact that the latter assertion is determined and stipulated by the above-analyzed Article 5 of the Federal Civil Service Act⁴⁴⁴.

In other words, because of the fact that the Act as such considers as public servants only those, whose legal status and terms of employment are governed and regulated by the German public law, and, at the same time, does not consider as public servants all those who do not fulfill the latter-referred, specific requirement, the research focus as to the German public servants’ analysis has to be a “Beamte-oriented” one, from the point of view that it has to follow and implement the guidelines of the “Bundesbeamtengesetz” as the legal and fundamental German civil service’s text⁴⁴⁵, as well as the analysis that can be conducted in the framework of its legal prescriptions.

In particular, in order for the above argument to further enriched, one has to here refer to a fact, which will be in the framework of the last (4th) chapter presented, but its short reference here can assist the fertile character of the latter paragraph’s argument as well. In more specific terms, as it will be examined in the fourth (4th) chapter with regards to the Weberian character of the German public administration as a whole structure, the fifth (5th) paragraph of the Article 33 of the German Basic Law clearly stipulates that the German traditional principles of the professional civil service (“*Hergebrachte Grundsätze des Berufsbeamtentums*”⁴⁴⁶) -maybe the most dominant and significant sight of the “Weberian presence” inside the German public administration- are only applicable to all those public servants, whose legal status and terms of employment are governed and regulated by public law, i.e. only to the category of the German civil servants (“Beamte”)⁴⁴⁷.

⁴⁴³Kai-Andreas Otto, “Civil Service Salary System in Germany and Recent Reform Trends”, presented to the *Conference on Civil Service Salary Systems in Europe*, Bucharest, Romania, 25 April 2007, p.2

⁴⁴⁴ Ibid., p.2

⁴⁴⁵ Kai Wegrich, Gerhard Hammerschmid, “Public Administration characteristics and performance in EU28: Germany”, in *Support for developing better country knowledge on public administration and institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion)*, Luxembourg: Publications Office of the European Union, 2018, p.369

⁴⁴⁶ §33, 5 GG

⁴⁴⁷ §33, 5 GG

Secondly, the univocal research occupation with the category of “Beamte”, which will be here conducted is also justified, because of the fact that it follows precisely the scientific patterns set by renowned scholars of the German public administration, who clearly share the view that the category of “Beamte” forms the “full-blooded” category of the German public servants, because it is “[...] *the one and only group which is governed by the traditional principles of the professional civil service and thus, closest to the Weberian ideal type of civil servant*”⁴⁴⁸. The latter argumentation as well as the justification of the research choice of the modern researcher to be univocally focused on the analysis of “Beamte” as the principal servants’ category of the German civil service can be further enriched by the scientific claim made by the “European Foundation for the Improvement of Living and Working Conditions”, which, in a research cooperation with the “ILR School” of the Cornell University, came to the conclusion that “*the inclusion of public employees to the German public service should be considered as an exception, because they are employed on a basis under private law*”⁴⁴⁹.

Thirdly, the univocal, research occupation with the category of “Beamte” can be also justified with the use of statistical data given by the Federal Statistical Office of Germany (“Statistisches Bundesamt”) and used by dominant scholars of the German public administration, such as Heinrich Amadeus Wolff, Sabine Kuhlmann and Berndt Keller, who extensively argue on the biggest conceptional gravity of “Beamte” towards the group of the German “Tarifbeschäftigte” by being concentrated on the fact that the former group is bigger, and thus, more significant than the latter, taking into consideration and referring to quantitative terms of population⁴⁵⁰.

Despite the fact that, according to the here-conducted analysis, the numerical dominance of one group over the other does not form the main and most important reason why for the latter’s cancellation in the field of the research analysis, it is of great importance to explore given numerical data used by the above-referred

⁴⁴⁸ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.9

⁴⁴⁹ European Foundation for the Improvement of Living and Working Conditions, “Central Public Administration: Working Conditions and Industrial Relations – Germany”, in *International Publications*, New York: Cornell University ILR School, 2013, p.2

⁴⁵⁰ Heinrich Amadeus Wolff, “The Civil Service in Germany” in IUS-Publicum Network Review: Annual Report 2011, Madrid: IUS-Publicum, 2011, p.2

researches, in order to indeed demonstrate and conclude that the special group of “Beamte” forms the most dominant one in quantitative terms inside the German public administration.

In particular, according to data given by the research conducted by Heinrich Amadeus Wolff, the greater part of employment relationships in the field of the German civil service were governed by public law by the year 2011⁴⁵¹, whereas, according to data given by Christoph Reichard, the percentage of “Beamte” inside the German civil service by the year 2016 reached a number of 40%⁴⁵². In contrast with the latter, the percentage of “Tarifbeschäftigte” by the same year reached a number of 23%⁴⁵³, whereas during the period 2011 – 2016 the percentage of “Beamte” remained “fairly stable”, but the one of “Tarifbeschäftigte” “has decreased”. The above numerical dominance over the German civil servants over the German public employees can be also seen and detected from the analysis conducted by Sabine Kuhlmann, who clearly states that “Civil servants account for roughly 40% of the total workforce in Germany’s public sector. This proportion has been fairly stable for more than 15 years.”⁴⁵⁴.

Moreover, the last argument, which justifies the univocal and specific research occupation with the category of “Beamte” and is, at the same time, directly interrelated to the research goal of the whole subchapter is the term of the “scope” of the Federal Civil Service Act, which is clearly set and defined in its first (1st) Article (“Article 1”). According to the latter one, the Act as a whole is clearly and absolutely applicable to all those servants, whose legal status classifies them to the category of the German civil servants⁴⁵⁵.

The latter means that a precondition – requirement is set for the implementation of the Article’s specific regulations and prescriptions, i.e. the

⁴⁵¹Ibid., p.2

⁴⁵² Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at EGPA-Conference for PSG 9 “Public Administration and Teaching”, Toulouse, 8-10 September 2010, p.3

⁴⁵³ Berndt Keller, “Negotiated Change, modernization and the challenge of unification” in *Public Service Employment Relations in Europe*, Oxfordshire: Routledge, 1999, p.49

⁴⁵⁴ Sabine Kuhlmann, Manfred Röber, “Civil Service in Germany: Between Cutback Management and Modernization”, in *Modernization of State and Administration in Europe: A France-Germany Comparison*, Opladen: Verlag für Sozialwissenschaften, 2006, p.91

⁴⁵⁵ §1, 1 BBG

existence of a public law's background, to which the public servant has to be subsumed⁴⁵⁶. Due to the above-referred, clear statement of the Federal Civil Service Act, as well as because of the fact that it forms -along with the German Basic Law- the most fundamental, legal source for the German civil service, the consideration of the German "Beamte" as the "full-blooded" civil servants as well as the concentration and focus of the whole analysis on this particular category can be considered as justified ones⁴⁵⁷.

Taking as an important research motive the reference to the term of "scope" of the Federal Civil Service Act, one has to here concentrate to the scope of the German civil service as a whole, as it derives from it. Before doing so, it has to be clearly stated that the scope of the German civil service can be concretely found in the framework of the Article 60 of the Federal Civil Service Act, which is, at the same time, concerned with the basic duties and obligations of it⁴⁵⁸.

Analyzing them and taking into consideration their main and basic conception, one could easily argue on the fact that the existence of this particular administrative and working "entity" (German civil service) includes two (2) fundamental and pivotal "receivers", from the point of view that the German civil service as a whole is obliged by the law (in this case: "Bundesbeamtengesetz") to orientate its function, ways of action and duties' implementation to them. These are the German people, as well as the German democratic regime⁴⁵⁹.

In more specific terms, the scope of the German civil service, stipulated by the Article 60 of the Federal Civil Service Act, is not only set by the legal source – text as such and as a duty, but also as an obligation, from the point of view that, especially the first (1st) paragraph of the Article, sets and defines the strict limits, in the framework of which the German civil service has to express and channel its functions and actions⁴⁶⁰. In particular and with regards to the German people, the German civil service carries the duty and is obliged to serve them as a whole⁴⁶¹. The latter is strictly

⁴⁵⁶ §1, 1 BBG

⁴⁵⁷ Kai Wegrich, Gerhard Hammerschmid, "Public Administration characteristics and performance in EU28: Germany", in *Support for developing better country knowledge on public administration and institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion)*, Luxembourg: Publications Office of the European Union, 2018, p.369

⁴⁵⁸ §60, 1 BBG

⁴⁵⁹ §60, 1 BBG

⁴⁶⁰ §60, 1 BBG

⁴⁶¹ §60, 1 BBG

linked to three (3) but interrelated things: first of all, to the fact that the German people form a pivotal part of a united polity, which represents the polity as such and as a whole, as well as to the fact that the service of those people – entity is synonymous to the service of the whole polity⁴⁶².

Secondly, the service of the German civil service to the German people as a whole is related to and combined with the principle of non-discrimination, which is granted by the Article 9 of the Federal Civil Service Act, according to which, not only the entrance to the German civil service, but also the services offered by it, must not be characterized by a discriminatory application and way – type of implementation, i.e. the German people as a whole must have the right to enjoy the services of the German civil service regardless from nationality, religion, sex, political beliefs, disabilities and personal relationships⁴⁶³.

Thirdly, with regards to its relation to the German people again, the German civil service has to serve the public good and take care of the interests of the public⁴⁶⁴. That particular prescription of the Article 60 mainly aims to grant the fact that the administrative – working “entity” of the country’s service will not be manipulated by a given political or financial elite, in order to serve its own interests and by ignoring and cancelling the good and the interests of the public⁴⁶⁵.

In more specific terms, the service of the “German public” provided by the German civil service aims to grant and determine its clear, pure and official public character, from the point of view that it must be a “tool” used by the German people, which, at the same time, expresses and fulfills the interests of them, as well as their common good⁴⁶⁶. The latter, along with the fact that the current-analyzed prescription of the Article 60 of the “Bundesbeamtengesetz” aims to block and rule out the implementation and realization of a possible scenario, according to which the German civil service could be transformed to a “lapdog” of a given minority, binds the fact that the German civil service must exist and function in a democratic manner, which is determined and characterized by the service to the needs and the good of the majority⁴⁶⁷.

⁴⁶² §60, 1 BBG

⁴⁶³ §9, 1 BBG

⁴⁶⁴ §60, 1 BBG

⁴⁶⁵ §60, 2 BBG

⁴⁶⁶ §60, 1,2 BBG

⁴⁶⁷ §60, 1 BBG

The above-referred fact is directly linked to the last provision of the Article 60 of the Federal Civil Service Act, according to which the scope of the German civil service must be subsumed to the spirit of the German democratic regime⁴⁶⁸. In more specific terms and according to the Article, “Beamte” have to commit themselves to the free, democratic, basic order, as well as to promote its preservation⁴⁶⁹.

One could here focus on the fact that this particular provision of the Article 60 refers directly to the German “Beamte” and does not mention the German civil service as a wide and general “entity”, because it tries to put the emphasis on the personal commitment of each and every “working unit” of the German civil service, i.e. each and every “Beamte”, reporting the fact that his or her commitment to the free and democratic order does not only have to do with the democratic procedures and values followed and implemented during the practical fulfillment of the civil service’s work, but also with the fact that the conception and the practical impact of the offered services must not be opposed to some of the fundamental principles of democracy, such as the ones of freedom and equality, but to serve their regular and fertile application⁴⁷⁰.

Last but not least, the commitment of the German civil servants to the free and democratic order, which is stipulated by the scope of the German civil service⁴⁷¹, is also depicted to the aim of the preservation of the regular and peaceful existence and function of the German democratic regime, meaning that the democratically defined and set scope of the German civil service does not only refer and target to the establishment and determination of a “democratic presence”, but is also considered as a main and central “safety valve” for the further development and perpetuation of the German democratic regime in the future⁴⁷².

To sum up, having defined and analyzed the phenomenon of administrative Dualism and having stressed the main reasons why the category of “Beamte” forms a case of “full-blooded” civil servants, the analysis has to now be concentrated on the second (2nd) pillar of the above-referred administrative “entity”, i.e. the procedure of recruitment.

⁴⁶⁸ §60, 1 BBG

⁴⁶⁹ §60, 1 BBG

⁴⁷⁰ §60, 1 BBG

⁴⁷¹ §1, 1 BBG

⁴⁷² §60, 1 BBG

3.2. “Recruitment”

The central and main research goal of the current subchapter (3.2.) is to be extensively occupied with the procedure of recruitment followed and implemented in the framework of the German civil service. In particular, the current subchapter aims to shape and give a concrete definition of the phenomenon of recruitment, as well as to comprehend its special way of function and expression in the case study of the German “Beamte”.

In more specific terms, after the creation and development of a clear definition, the here-conducted analysis will categorize the procedure of the German recruitment into three (3) different stages – thematic modules, in order for the ontology, the central features and the particularities – technicalities of the procedure as such to be fully and extensively comprehended.

The above ones will be mainly occupied with the beginning of the procedure of “*Personalaufbau*⁴⁷³”, i.e. the way according to which it starts, the requirements that must be fulfilled by the employee in order for him or her to be recruited, i.e. the required qualifications for entrance to the German civil service and, last but not least, the type of the recruitment as such, i.e. to which service – class of servants or, in general terms, field of occupation will the employee be recruited⁴⁷⁴.

To begin with, as it has been clearly set as one of the research goals of the current subchapter, the modern researcher has to firstly establish a concrete and precise definition of the procedure as such, in order for the analysis to be further developed, and then, to be applied to the German case study. The latter assertion means that the here-analyzed case study requires from the modern researcher to selectively pick up or individually develop a general definition of the procedure of recruitment, which can be considered as applicable to all the case studies of multiple countries, as well as working systems, organizational frameworks and environments,

⁴⁷³ Hans-Ulrich Derlien, “The German public service: between tradition and transformation”, in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p.187

⁴⁷⁴ “Federal Republic of Germany: Public Administration Country Profile”, Division for Public Administration and Development Management (DPADM), Department of Economic and Social Affairs (DESA), United Nations, New York, USA, February 2006, p.12,13

and then, to adapt it to the special features and characteristics of the here-examined case study, i.e. the one of the German civil service.

In this particular case study, the definition which will be used, in order for the procedure of recruitment to be analyzed according to a general pattern – theoretical framework is the one, which has been already mentioned and described in the framework of the first (1st) chapter with regards to the analysis and definition of general human resources management's terms, i.e. the definition of recruitment set, given and developed by Garry Dessler. The latter one will be here used, with the emphasis being put on to the “entity” of personnel, as well as its working integration and participation in the field of occupation, in which it is recruited.

In particular, according to Garry Dessler and as it has been already referred, the procedure of recruitment is identified with the one of hiring and staffing inside a given and concrete field of working occupation⁴⁷⁵. In more specific terms, the words “hiring” and “staffing” refer to the addition and enrichment of the above-referred field of occupation with new “units” of personnel, i.e. with new employees, something which clearly shows and demonstrates the fact that the procedure of recruitment as such emphasizes on and is occupied with the personification of all those “units” employed in the field as a whole, as well as their existence inside it⁴⁷⁶.

According to the same researcher, the above-referred procedure and its tendency to be “conceptionally centralized”, i.e. focused, on the “units” of personnel forces the way for it to be emphasized on the procedure of personnel units' integration as well⁴⁷⁷. In more specific terms, according to Garry Dessler, the “Personalaufbau” refers also to the procedure of integration of each and every personnel unit in the working interior and environment of the field of occupation as such, whereas the term “integration” can be considered as the procedure of following given organizational steps and policies of incorporation and embedding, in order for the working “units” – employees to have the ability to participate in procedures of the field of occupation, such as the ones of setting goals, working to realize them, as well as to further develop them for the profit of the occupational field as a whole⁴⁷⁸.

⁴⁷⁵ Garry Dessler, “Fundamentals of Human Resource Management”, Essex: Pearson New International Edition, 2014, p.115

⁴⁷⁶ Ibid., p.107-108, 115

⁴⁷⁷ Ibid., p.115-116

⁴⁷⁸ Garry Dessler, “Fundamentals of Human Resource Management”, Essex: Pearson New International Edition, 2014, p.115-116

In particular and from that point of view, the procedure of recruitment could be considered and characterized as part and partial with the one of working integration, meaning that they develop a dialectical “working communication”, i.e. the procedure of hiring new employees or staffing a given field of occupation with new “working units” requires and demands their further inclusion and incorporation in the field as such, as well as their practical and fertile initiation into the occupation field’s plans, goals, achievements and development⁴⁷⁹. In other words, the procedure of recruitment as such does not only aim to just hire an employee, in order for the field of occupation to be numerically increased or developed from a working point view, but to “transform” the employee to a working “unit”, which will be able to think and act according to the framework shaped and created by the field occupation, in the above-referred terms, i.e. plans, goals, achievements and further development⁴⁸⁰.

Taking into consideration the above-set argumentation, one could consider and support the aspect that the procedure of recruitment can be characterized and defined as a twofold one. In more specific terms, the employee – working “unit” is not only recruited to and hired by a given field – “area” – working environment, but, at the same time, he or she is “recruited” to a new role, i.e. the one of the actual and practical “personification” of the occupational field as a whole, in terms of their special and holistic dedication to the field’s working framework and procedures, such as the ones already referred (plans, goals, achievements and development)⁴⁸¹.

Furthermore, one is able to further analyze the definition of the procedure of recruitment by taking into consideration the etymological “roots” of the term as such in its German version, i.e. by further analyzing the German term “Personalaufbau”⁴⁸². In more specific terms, the “Aufbau” of “Personal” refers to its gradual construction, from the point of view that the “entity” of personnel is not only taken into consideration as a “tank” of employees which, with the assistance of the procedures of hiring and staffing, constructs the human resources area of the field of occupation, but also as a procedure of implementing the “Aufbau” in the newly-arrived employees

⁴⁷⁹ Ibid., p.115-117

⁴⁸⁰ Ibid., 108-109, 116

⁴⁸¹ Ibid., p.108-109

⁴⁸² Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: SAGE Publications, 1994, p.4

and facing them as the main “personifications” of the field of occupation, after their successful integration into it⁴⁸³.

Having extensively defined, analyzed and set the substance, the conception, as well as the theoretical framework of the term – procedure of recruitment, one has to here completely and fully adapt and adjust it to the here-examined case study, i.e. the one of the German civil service.

Trying to shape, construct and develop an analysis, which will be comprehensible enough as to its substance and main conceptions, one has to clarify that the procedure of the German “Personalaufbau” is here categorized and divided into three (3) different stages: the ones of “Stage A”, “Stage B” and “Stage C”. Before moving on to their description, two (2) main notes have to be mentioned with regards to them and their theoretical existence.

First of all, the gleaning of the different stages aims to simplify and clarify the comprehension of the procedure of the German recruitment as such, mainly in the meaning of its practical and actual expression, i.e. how does it start, which are the specific, concrete and precise formal criteria and requirements that must be met and fulfilled in order for it to be considered as complete and valid, to which German fields of occupation does it lead, result and end etc. All in all, the above-described categorization of the procedure as such into three (3) different stages (A, B, C) aims to give to the modern researcher the ability to understand its substance, as well as its actual way of function and expression.

Secondly, one could support the fact that this particular categorization of the “Personalaufbau” into the above-referred stages (A, B, C) is indirectly stipulated by the prescriptions of the Federal Civil Service Act, which are related to the procedure of recruitment of the German “Beamte”, i.e. the prescriptions and regulations of the Articles seven (7), eight (8), nine (9) and seventeen (17) of the “Bundesbeamtengesetz”.

In particular and taking into consideration the whole text – legal source of the Federal Civil Service Act, the procedure of hiring “Beamte” to a field of occupation inside the German public administration is not clearly and directly prescribed by one and only Article of the “Bundesbeamtengesetz”, but can be found as a procedure

⁴⁸³Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: SAGE Publications, 1994, p.4

which is dispersed to different prescriptions of different Articles in its institutional framework (BBG), i.e. it originates from different “legal areas” of the same text, which prescribe and describe different “steps” and procedures that must be followed in the framework of “Personalaufbau” of the German civil service.

The first (1st) stage of “Personalaufbau” inside the German civil service (“Stage A”) is the one of the open call (“*öffentlicher Anruf*”⁴⁸⁴) made and conducted by the field of occupation, i.e. the agency, the organization, the public working field in general, which is in need of personnel’s hiring and wants to start with the procedure of recruiting new working “units”⁴⁸⁵. The “öffentlicher Anruf” is clearly prescribed and stipulated by the Article eight (8) of the Federal Civil Service Act, which emphasizes and reports two (2) different conditions, by which the procedure of the “öffentlicher Anruf” as such has to be ruled and governed: its public character, as well as its inclusion and subsumption to the administrative authority responsible for the whole procedure of recruitment, i.e. the field of occupation that is in need of recruitment⁴⁸⁶.

In more specific terms and according to the prescriptions of the Article 8 of the “Bundesbeamtengesetz”, the character of the open call must be public⁴⁸⁷. The modern researcher can here consider that the Federal Civil Service Act, legally, institutionally and loyally follows the already-set spirit of the prescriptions of its first (1st) Article (Article 1) with regards to the scope of the German civil service, whose character must be public as well⁴⁸⁸. In accordance with the notion of the public spirit of the scope of German civil service, i.e. the fact that the latter is created and constructed by the German people for the common good and successful service of the German people, the term “public” here is related to the openness of each and every procedure, which has to be followed and implemented, in order for the public character of the whole German civil service to be practically and actually granted⁴⁸⁹.

⁴⁸⁴ §8, 1 BBG

⁴⁸⁵ Kai Wegrich, Gerhard Hammerschmid, “Public Administration characteristics and performance in EU28: Germany”, in *Support for developing better country knowledge on public administration and institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion)*, Luxembourg: Publications Office of the European Union, 2018, p.371

⁴⁸⁶ §8, 1 BBG

⁴⁸⁷ §8, 1 BBG

⁴⁸⁸ §1, 1 BBG

⁴⁸⁹ §8, 1 BBG

Trying to adapt the term of “*Öffentlichkeit*”⁴⁹⁰ (“openness”) to the procedure of “*Personalaufbau*” (“recruitment”), the “*Anruf*”⁴⁹¹ (“call”) has to public from the point of view that it must be openly publicized either by an official Act, i.e. a legal text, enacted by the public authority – field of occupation which starts the procedure of recruitment, or an official announcement by it that must not carry on a strictly legal character, but has to be one of an official background, from the point of view that it has to officially adduce its legal and institutional “origins” which must clearly derive and originate from the field of occupation⁴⁹². The latter ones could have the form of an official publication on the official website of the public authority – field of occupation⁴⁹³.

Secondly, the public character of the “*öffentlicher Anruf*” during the procedure of recruitment and in the framework of staffing the German civil service with new “*Beamte*” can be achieved and fulfilled by the fact that the open call as such must be openly and publicly accessible, from the point of view that each and every German citizen is able to be easily and directly informed with regards to the event of the beginning of recruitment conducted by a given German public authority⁴⁹⁴. The latter, i.e. the open access that characterizes the open call is granted by and depends on the latter-analyzed feature, i.e. the publication of the open call, from the point of view that the “*öffentlicher Anruf*” can be easily and directly accessed only in the case that it will be previously publicized⁴⁹⁵. As a result, each and every German citizen is able to have access to and inform themselves herself on the open call conducted by the public authority by requesting its proceedings in order to discover and examine the open call or finding it online on the official website of the authority⁴⁹⁶.

Thirdly, the public character of the open call of recruitment, which is stipulated by the Article 8 of the Federal Civil Service Act can be fulfilled and

⁴⁹⁰ §8, 1 BBG

⁴⁹¹ §8, 1 BBG

⁴⁹² “Federal Republic of Germany: Public Administration Country Profile”, Division for Public Administration and Development Management (DPADM), Department of Economic and Social Affairs (DESA), United Nations, New York, USA, February 2006, p.18

⁴⁹³ Ibid., p.18

⁴⁹⁴ §8, 1 BBG

⁴⁹⁵ §8, 1 BBG

⁴⁹⁶ “Federal Republic of Germany: Public Administration Country Profile”, Division for Public Administration and Development Management (DPADM), Department of Economic and Social Affairs (DESA), United Nations, New York, USA, February 2006, p.18

granted by its characterization by a value background, which is highlighted by the notion of non-discrimination⁴⁹⁷. In more specific terms and in combination to the ninth (9th) article (Article 9) of the “Bundesbeamtengesetz”, the public character of the open call is also guaranteed by the fact that it must not exclude and rule out from the procedure of “Personalaufbau” given candidates, who apply to a given public authority, because of their sex, descent, race, religion, ethnicity, political views and beliefs⁴⁹⁸.

In other words and in accordance with the above-referred prescriptions, the public character of the open call is part and partial with the non-exclusion of given groups of the German population from the action of participating in the procedures set and announced by the open call, and thus, from the possible scenario of their recruitment to the German civil service⁴⁹⁹. Besides, the true and real substance of the term “public”, which is dedicated to the procedure of “öffentlicher Anruf” means that none of the German citizens must be ruled out from the procedure of “Personalaufbau” because of any reason⁵⁰⁰. Instead, each and every “unit” of the wide, public “entity” of the German people, has to be taken into consideration as a possible candidate – future entrant to the German civil service in general, as well as to the public authority conducted the open call in particular⁵⁰¹.

As to the second (2nd) point which has to be mentioned with regards to the “öffentlicher Anruf” of the procedure of the German recruitment and which is stipulated by the prescriptions of the Article 8, the modern researcher has to be occupied with the “nature” of the regulation of the open call as such. In more specific terms and as it is stipulated by the Article 8, the open call must be regulated by the field of occupation, which is about to begin with the procedure of recruitment⁵⁰².

In particular, the legal content of the Article 8 gives to the field of occupation the exclusive and absolute right and authority to create, regulate and publicize the open call for the recruitment⁵⁰³. The latter means that the “öffentlicher Anruf” can be shaped according to the personnel needs of the field of occupation, i.e. the number and the qualitative features of the employees who will be recruited by it, but above

⁴⁹⁷ §9, 1 BBG

⁴⁹⁸ §9, 1 BBG

⁴⁹⁹ §9, 1 BBG

⁵⁰⁰ §9, 1 BBG

⁵⁰¹ §9, 1 BBG

⁵⁰² §8, 2 BBG

⁵⁰³ §8, 2 BBG

all, it signifies the fact that the latter (i.e. field of occupation) is characterized by given and concrete autonomy which is granted and guaranteed by the Federal Civil Service Act⁵⁰⁴. From the point of view of the latter-referred autonomy, the field of occupation is able to autonomously take the decision for recruiting new “units” – employees without taking the consent of a higher authority, whereas it possesses the right to autonomously regulate the type, the form and the content of the open call, as well as to handle the whole procedure of recruitment⁵⁰⁵.

In other words, the Article 8 of the “Bundesbeamtenengesetz” concedes a total administrative and regulatory autonomy to the field of occupation in question with regards to the conduction, application and implementation of the whole procedure of recruitment, without guaranteeing a similar right to another politico-administrative actor in terms of practical and influential participation in it, meaning that each and every field of occupation has the legally and institutionally guaranteed right to exist, act and function as the highest and most powerful authority, when it comes to issues of internal procedures and organization concerning the gradual and strategic working construction of its interior, such as the one of “Personalaufbau”⁵⁰⁶.

Having examined and extensively analyzed the first (1st) stage of the German procedure of recruitment (“Stage A”) with regards to the conception as well as the fundamental background of the “öffentlicher Anruf”, one has to now proceed to the second (2nd) stage (“Stage B”) concerning the requirements for recruitment, as it arises from the seventh (7th) article (Article 7) of the Federal Civil Service Act.

Before one moves on to the main core of the analysis, he or she has to clarify two (2) different facts with regards to the second (2nd) stage, i.e. the one of requirements (“Voraussetzungen”).

First and foremost, the here-conducted analysis concerning the requirements needed for the entrance to the German civil service takes place after the examination and analysis of the open call conducted by the field of occupation, because of the fact that the practical and actual examination of the requirements in the real-time span of the procedure as such (“Personalaufbau”) takes place after the conduction of the open call by the field of occupation as well⁵⁰⁷.

⁵⁰⁴ §8, 2 BBG

⁵⁰⁵ §8, 2 BBG

⁵⁰⁶ §8, 2 BBG

⁵⁰⁷ Kai Wegrich, Gerhard Hammerschmid, “Public Administration characteristics and performance in EU28: Germany”, in *Support for developing better country knowledge on public administration and*

In other words, the analysis follows the procedural row of the “administrative life” which takes place in real terms and does not consider the requirements as “prerequisites” for the open call to be conducted or for the participation of a candidate civil servant in the procedure of “Personalaufbau” to take place. Besides, the modern researcher has to take into account the fact that the field of occupation openly publicizes the “öffentlicher Anruf” without taking into consideration if “all” or “the most” of the candidates – applicants fulfill the needed requirements for recruitment, as well as it does not have the right to rule out, cancel and delete the will of an applicant to participate in the procedure of “Personalaufbau”, even if they do not fulfill the formal – typical “Voraussetzungen” needed for the occupation of the post.

The second (2nd) fact, which has to be stressed and highlighted before one moves on to the analysis of the issue of “Voraussetzungen” has to do with their restrictive character, which is of a double “nature” and background, from the point of view that they are theoretically institutionalized by the prescriptions and regulations of the Article 7 of the Federal Civil Service Act, but, at the same time, they are practically implemented and find application when the procedure of “Personalaufbau” takes place, and in particular, when their examination forms one of the most important reasons why for the admission (“Zulassung”) or the rejection (“Ablehnung”) of a given candidate – applicant.

In more specific terms, in both views and aspects, i.e. the theoretical – institutional depiction of the “Voraussetzungen” in the Federal Civil Service Act as well as their practical implementation and “expression” via their examination during the procedure of “Personalaufbau”, one can clearly detect and evidence their restrictive character, from the point of view that they set and define given conditions, which must be met and fulfilled by the candidate – applicant, in order for him or her to enter to the German civil service⁵⁰⁸. As it has been already mentioned, these do not possess such a restrictive power in order for it to be able to delete the applicants’ application rights, but is expressed as a way of limitations’ setting.

In other words, the requirements which are stipulated and institutionalized by the “Bundesbeamtengesetz” set, define and determine a concrete framework – environment, inside which the qualifications – assets of the applicant – candidate for

institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion), Luxembourg: Publications Office of the European Union, 2018, p.371

⁵⁰⁸ §7, 1 BBG

the German civil service has to “suit”, from the point of view that the meeting and fulfillment of this framework by the applicant – candidate is able to depict his or her general “working profile”, according to which, the final assessment with regards to their possible “Zulassung” or “Ablehnung” will be made⁵⁰⁹.

According to the above argumentation, the requirements’ framework - environment, which is set the by Article 7 of the Federal Civil Service Act and must be fulfilled by the applicant – candidate for a certain field of occupation, forms the main, central and decisive factor, according to which the “qualitative shaping” of the “Beamte” takes place, from the point of view that it sets the first and main conditions that must be accomplished and satisfied by the perspective civil servants, before their official entrance to the German civil service⁵¹⁰. It forms, in other words, a tool of shaping of “working personalities”, in the framework of which, the latter, i.e. the German civil servants have to be characterized by the fulfillment and the completion of a core of already-set conditions and prerequisites, which will be “transfused” to the qualitative “body” – “personality” of the German civil service, in the case of a possible “Zulassung” of them⁵¹¹.

Having defined and analyzed the initial and general character of the requirements’ framework – environment, which is set and stipulated by the Article 7 of the “Bundesbeamtengesetz”, one has to proceed by naming, itemizing and analyzing each and every requirement, as well as to mention and highlight its crucial, conceptional combination to the procedure of the German “Personalaufbau”.

First and foremost, it has to be clarified that the requirements set by the Article 7 of the Federal Civil Service Act, which allow for entrance to the German civil service are four (4) in number. a) the ethnicity – nationality requirement, b) the democratic requirement, c) the training requirement and d) the qualification requirement⁵¹².

As it will be shown and evidenced, they are differentiated and categorized according to their conceptional character, meaning that two (2) of them are objective ones and two (2) of them are subjective ones⁵¹³. In particular, the first two (2), i.e. the ethnicity – nationality and the democratic requirement, are objective ones, whereas

⁵⁰⁹ §7, 1 BBG

⁵¹⁰ §7, 1 BBG

⁵¹¹ §7, 1 BBG

⁵¹² §7, 1 BBG

⁵¹³ §7 BBG

the last two (2), i.e. the training and the qualification requirement, are subjective ones. It has to be mentioned that with the use of the terms “objective” and “subjective”, the modern researcher means the following: the “objective” ones are these, which find application to each and every field of occupation and have to be fulfilled by all the applicants – candidate civil servants, whereas the “subjective” ones are these, which are set, defined and differently as well as autonomously organized by each and every field of occupation, meaning that they differ from the one “administrative area” to another⁵¹⁴.

The first (1st) objective requirement for recruitment to the German civil service, which is stipulated by the first (1st) paragraph of the Article 7 of the Federal Civil Service Act is the ethnicity – nationality requirement⁵¹⁵. Because of its objective character, it must be fulfilled by each and every applicant – candidate for recruitment to the German civil service⁵¹⁶. Furthermore, it has to be stressed that the term – phrase “ethnicity – nationality” which is clearly stated in the first (1st) paragraph of the article in question (Article 7) does not possess a strict background, from the point of view that it does not set and define as a prerequisite the possession of the German nationality as an obligatory condition which must be met by each and every applicant – candidate “Beamte”, in order for them to enter to the German civil service⁵¹⁷.

In contrast with the above argumentation, which would not only be a restrictive, but, above all, a nationalistic one, the “ethnicity – nationality” requirement has to be interpreted in combination with the first (1st) paragraph of the Article 116 of the German Basic Law, according to which, inside the territorial framework of the Federal Republic of Germany, as a “German person” (“Inländer”⁵¹⁸) cannot only be considered the individual who possesses the German nationality, but also an individual, who carries on the nationality of another member state of the European Union, as well as the nationality of another member state – part of the Agreement on the European Economic Area, as well as the nationality of a third country, to which the Federal Republic of Germany and the European Union have a contractual right of recognition of professional qualifications⁵¹⁹.

⁵¹⁴ §7 BBG

⁵¹⁵ §7 BBG

⁵¹⁶ §7, 1 BBG

⁵¹⁷ §7, 1 BBG

⁵¹⁸ §116, 1 GG

⁵¹⁹ §116, 1 GG

This particular consideration of the prescriptions of the Article 116 of the German Basic Law and, above all, their comparative examination with the Article 7 of the Federal Civil Service Act is precisely stipulated by the Article 7 as such, which leads every reader and modern researcher to the official text of “Grundgesetz”, and specifically, to its Article 116, in order for the term of “German nationality” in terms of working qualifications to be taken into consideration⁵²⁰.

In other words, the modern researcher can here argue on the fact that the already-examined public character of the “öffentlicher Anruf” as well as the one of the whole procedure of the German recruitment are enhanced by the prescriptions of the Article 116 of the German Basic Law via their reproduction by and depiction to the text of the Article 7 of the Federal Civil Service Act. In more specific terms, the already-analyzed public character is further established, because the “Bundesbeamtengesetz” follows a clearly politico-economical definition of the term – phrase “ethnicity – nationality” and not a racial one, which would be incompatible with the democratic spirit of the institutional legitimacy of the Federal Republic and its fundamental legal texts – sources, which are responsible for the establishment of a democratic polity, as well as its day-to-day depiction through their clear stipulations⁵²¹.

In more specific terms, the latter, i.e. the “ethnicity – nationality” requirement and, above all, its contribution to the further establishment and enrichment of the public character of the procedure of the German “Personalaufbau”, is institutionalized by the fact that the Article 7 stipulates the latter-referred exceptions in defining the term – phrase “ethnicity – nationality”, i.e. it recognizes the possession – occupation of a “politico-financial ethnicity – nationality” and not of a “full-blooded”, German one⁵²². In particular, the latter is recognized as a synonymous to a non-German one via the legal and politico-institutional acceptance of a “political nationality”, which is expressed through the membership to and participation in the political community of a state other than Germany, i.e. either another member state of the European Union and party to the Agreement on the European Economic Area or -according to the already-mentioned stipulation of the Article 7 of the “Bundesbeamtengesetz”-, a third state to

⁵²⁰ §7, 1 BBG

⁵²¹ §7, 1 BBG

⁵²² §7, 1 BBG

which the Federal Republic and the European Union have recognized professional qualifications⁵²³.

Having extensively analyzed the notion of the “ethnicity – nationality” requirement, the modern researcher has to proceed to the second (2nd) one, i.e. the democratic requirement. As it has been already stated, the latter one, stipulated by the second (2nd) paragraph of the Article 7 of the Federal Civil Service Act is characterized by an objective character – background, from the point of view that it must be fulfilled by each and every applicant – candidate “Beamte”, irrespective of the field of occupation, to which he or she will dedicate their service⁵²⁴.

According to the second (2nd) paragraph of the Article 7, each and every German civil servant has to fulfill his or her tasks and offer their services according to the basic democratic order⁵²⁵. The meaning and the conception of this particular paragraph has to be interpreted and comprehended according to a twofold way of analysis. In more specific terms and according to the prescription of the second (2nd) paragraph of the Article 7, each and every German civil servant does not only have to offer his or her services and to fulfill their tasks by serving the democratic regime, but also to demonstrate the required administrative ethos, in order for the maintenance and preservation of the democratic spirit in the framework of the German civil service to be granted⁵²⁶.

The above-referred behavior of acting democratically and according to the basic democratic order, as well as of maintaining this particular behavior in the framework of services’ service must be here, shortly analyzed. In more specific terms and with regards to the procedure of requirements’ fulfillment for recruitment, the advocacy to the democratic order refers mainly to the special way, according to which the services must be delivered by the German civil servant⁵²⁷. In particular, the offer, delivery and implementation of them by them must not exclude and rule out given groups of population or certain individuals, as well as not selectively serve others⁵²⁸.

In other words, the second (2nd), “democratic requirement” does not just refer to the existence of a democratic regime, whose fundamentals and value conceptions

⁵²³ §7, 1 BBG

⁵²⁴ §7, 2 BBG

⁵²⁵ §7, 2 BBG

⁵²⁶ §7, 2 BBG

⁵²⁷ §7, 2 BBG

⁵²⁸ §7, 2 BBG

are already established by the German Basic Law, but to the establishment of an on-the-job “democratic code of ethics”, which is mainly expressed by and depicted to the behavior of the German civil servant towards each and every German citizen, to whom he or she has to deliver their services without any discrimination⁵²⁹. Besides, this particular preservation of an in-work democratic order, which has to characterize the “administrative behavior” of the “Beamte” as well, is one of the most significant examples that clearly demonstrate the fact that the democratic character of the political system is and must be reflected and transfused to the administrative one via the latter’s working “units”, i.e. the German civil servants.

As to the third (3rd) requirement, i.e. the one of training, it has to be stressed that it will not be here analyzed, because of the fact that a whole subchapter (3.3) is dedicated to the procedure of training as such, mainly by putting the emphasis on its main substance and central conception, as well as on its way of conduction in the framework of the German civil service. However, the point which must be here shortly re-stressed is that, as it will be later on (3.3) shown, the “training requirement” carries on a clearly subjective character and background, from the point of view that each and every field of occupation inside the German civil service possesses by the “Bundesbeamtengesetz” the right to set, define and organize its own training procedures as desired by it⁵³⁰. The latter means that the German civil service, because of the subjective feature of the “training requirement” is characterized by multiple and heterogenous training procedures, which differ from the one field of occupation to another.

The fourth (4th) and last recruitment’s requirement, to which the “Stage B” of “Voraussetzungen” results, is the “qualifications” (“*Qualifikationen*”⁵³¹) requirement. It is also stipulated by the Article 7 of the Federal Civil Service Act, but its theoretical interpretation as well as its practical existence and implementation can take place by taking into consideration the prescriptions of the Articles 9 and 17 of the “Bundesbeamtengesetz”.

According to the “Qualifikationen” requirement, in order for a “Beamte” to be admitted to the German civil service, he or she has to firstly completed and fulfilled all of the above-analyzed requirements, i.e. the ones of ethnicity – nationality,

⁵²⁹ §7, 2 BBG

⁵³⁰ §7, 3(a) BBG

⁵³¹ §7, 3(b) BBG

democratic order and training, as well as to fulfill all the formal requirements set and defined by the field of occupation, to whose working environment they want to enter⁵³².

In more specific terms and taking into consideration the special way, according to which the paragraph 3b of the Article 7 is formulated, the modern researcher could here argue on the fact that the character of the “qualifications requirement” is a conclusive one, from the point of view that it is so constructed, as to safeguard that each and every “Beamte” is able to continue to and pass from the procedure of the German “Personalaufbau”, only in the case of strictly meeting the above-described conditions⁵³³. In other words, it functions as an “institutional tool”, as a “safety valve”, not only with regards to the procedure of securing a given qualitative level of candidates’ profile in terms of hiring, but also with regards to the safeguarding of a precise framework of equal qualifications’ establishment, from the point of view that all those applicants – candidate “Beamte”, who will fulfill this last requirement (“Qualifikationen”), will fulfill the three (3) central and main qualifications set by the Federal Civil Service as well⁵³⁴.

However, the fourth (4th) requirement of “Qualifikationen” can also function as a connection bond between the first two (2) stages (“Stage A” and “Stage B”) and the third (3rd) one (“Stage C”), from the point of view that the Article 7 clearly stipulates that fact that each and every applicant – candidate “Beamte”, apart from the already-referred conditions, has to fulfill and meet precise and concrete formal qualifications, which are autonomously set by his or her perspective field of occupation⁵³⁵.

The latter prescription of the Article 7 with regards to the qualifications requirement and the demand that is set by it concerning the fulfillment of formal qualifications, can be evidenced by the stipulations of the Article 9 of the Federal Civil Service Act as well, which clearly defines that fact that a formal – institutional way of ensuring and establishing an environment of non-discrimination during the “Personalaufbau” procedure is the definition and setting of formal requirements by the field of occupation, which have to be fulfilled by all the applicants – candidate

⁵³² §7, 3(b) BBG

⁵³³ §7, 3(b) BBG

⁵³⁴ §7, 3(b) BBG

⁵³⁵ §7, 3(b) BBG

“Beamte” during the procedure as such, irrespective of their sex, race, religion, political beliefs, personal relationships etc.⁵³⁶

Furthermore, the prescriptions of the same article and text (Article 7, BBG) can be examined in combination with the stipulations of the Article 17 of the “Bundesbeamtengesetz”, according to which the final assessment of the “qualitative profile” of an applicant – candidate “Beamte” by each and every field of occupation, must take place by being based on formal, educational qualifications, which are considered as ones of pivotal and significant importance by the field of occupation as such, in order for the hiring of the applicant – candidate “Beamte” to take place⁵³⁷.

As a result of the conceptional analysis of the above ones, the modern researcher could here conclude that the fourth (4th), “Qualifikationen” requirement, as it has been supported, does not only grant and guarantee the first three (3) requirements’ fulfillment, but also clears the way for the precise establishment and stipulation of formal requirements necessarily set by the fields of occupation for recruitment, something that forms the main and central feature of the third (3rd) stage of recruitment (“Stage C”).

The fact that the qualifications’ requirement forms a kind of a “transitional path” between the “Stage A” and “Stage B” with the “Stage C” via the setting of precise, formal requirements, works and functions as a feature, which concretely enriches the above-supported, subjective “nature” – character of the “Qualifikationen” requirement, from the point of view that each and every field of occupation, as it will be examined during the “Stage C”, determines the required formal qualifications by its own volition⁵³⁸.

The third (3rd) stage of the procedure of the German “Personalaufbau” (“Stage C”) refers to the type of the procedure of recruitment (“*Art des Personalaufbaues*”⁵³⁹) as such, meaning that it has to do with the field of occupation, to which the applicant

⁵³⁶ §9, 1 BBG

⁵³⁷ §17, 1 BBG

⁵³⁸ Kai Wegrich, Gerhard Hammerschmid, “Public Administration characteristics and performance in EU28: Germany”, in *Support for developing better country knowledge on public administration and institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion)*, Luxembourg: Publications Office of the European Union, 2018, p.372

⁵³⁹ Klaus König, “Education and Advanced Training for the Public Service in the Federal Republic of Germany” in *International Review of Administrative Sciences*, California: Sage Publications, 1982, p.206

– candidate “Beamte” will be recruited⁵⁴⁰. It is not depicted to and stipulated by a given and precise prescription of the Federal Civil Service Act, but it indirectly emerges from the latter-referred, fourth (4th) “qualifications requirement”, from the point of view that a series of qualifications determine the profile of an applicant – candidate “Beamte”, and thus, configure his or her choices, and thus, lead them to recruitment to given fields of occupation⁵⁴¹.

The modern researcher could consider that the “Stage C” is located in the “procedural heart” of the German “Personalaufbau”, taking into consideration the fact that the examination of the servants’ qualifications takes place, which can be followed by a possible appointment of them to a given field of occupation⁵⁴². In other words, the “Stage C” forms the “procedural moment”, when given applicants – candidate “Beamten” are distributed to given field of occupations, according, first of all, to their application and, above all, to the formal qualifications, which consist their candidacy’s profile.

In order for any scholar of the field of the German public administration to comprehend the “Stage C” of the German “Personalaufbau”, its central conceptions and meanings have to be firstly clarified. In particular, the German system of “*Laufbahngruppen*”⁵⁴³ (“career groups”) is located in the “heart” of the German “Stage C” and the analysis of the latter can take place only through the extensive definition and content setting of the former.

In more specific terms, the German system of “Laufbahngruppen” is the main key-point for one to understand the “Stage C” (“*Art des Personalaufbaues*”⁵⁴⁴) of the German recruitment, because it forms the central, main, one and only career system, in which all the recruitment procedures of all the fields of occupation inside the German public administration are included⁵⁴⁵. In other words, it can be clearly defined

⁵⁴⁰ Ibid., p.206

⁵⁴¹ Klaus H. Goetz, “Senior Officials in the German Federal Administration: Institutional Change and Positional Differentiation” in *Bureaucratic Elites in Western European States: A Comparative Analysis of Top Officials*, Oxford: Oxford Scholarship Online, 2003, p.154

⁵⁴² Ibid., p.154

⁵⁴³ Berndt Keller, “Negotiated Change, modernization and the challenge of unification” in *Public Service Employment Relations in Europe*, Oxfordshire: Routledge, 1999, p.50

⁵⁴⁴ Klaus König, “Education and Advanced Training for the Public Service in the Federal Republic of Germany” in *International Review of Administrative Sciences*, California: Sage Publications, 1982, p.206

⁵⁴⁵ Berndt Keller, “Negotiated Change, modernization and the challenge of unification” in *Public Service Employment Relations in Europe*, Oxfordshire: Routledge, 1999, p.50

as the German public sector's career system, in the framework of which, the whole German public sector is divided, included and categorized into a working system of four (4) different "Gruppen" ("groups")⁵⁴⁶.

In more specific terms, the German system of the "Laufbahngruppen" can be easily and comprehensibly depicted to the following theoretical scheme: each one of the four (4) groups constitutes one and only service, and thus, the number of services is also four (4). Each one of these four (4) services corresponds exclusively and absolutely to one and only administrative class, and thus, the number of the administrative classes is also four (4)⁵⁴⁷. Trying to depict this particular, theoretical scheme with simpler terms and to one sentence, one could consider that the German system of the "Laufbahngruppen" is a system of "four groups – four services – four classes". It is, in other words, a "four-layered" system of recruitment, taking into consideration the fact that the numeration of groups, services and administrative classes must not follow a cumulative way of counting, but one of a precise and clear correspondence between the four (4) groups, services and classes⁵⁴⁸.

Before one moves on to the analysis of each and every "Laufbahngruppe", they have to name them, as well as to shortly clarify some technicalities that arise from their analysis by the most of the German literature sources.

The first (1st) group of German civil servants constructs the "Higher" service ("höherer Dienst"), which corresponds directly to the "Administrative" class. The second (2nd) group of German civil servants constructs the "Higher – intermediate" service ("gehobener Dienst") and corresponds directly to "Executive" class. The third (3rd) group of German civil servants constructs the "Intermediate" service ("mittlerer Dienst"), which corresponds directly to the "Clerical" class, whereas the fourth (4th) group of German civil servants constructs the "Ordinary" service ("einfacher Dienst"), which corresponds directly to the "Sub-clerical" class⁵⁴⁹.

⁵⁴⁶ Hans-Ulrich Derlien, "The German public service: between tradition and transformation", in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p.187

⁵⁴⁷ Berndt Keller, "Negotiated Change, modernization and the challenge of unification" in *Public Service Employment Relations in Europe*, Oxfordshire: Routledge, 1999, p.50

⁵⁴⁸ Kai-Andreas Otto, "Civil Service Salary System in Germany and Recent Reform Trends", presented to the *Conference on Civil Service Salary Systems in Europe*, Bucharest, Romania, 25 April 2007, p.3

⁵⁴⁹ Berndt Keller, "Negotiated Change, modernization and the challenge of unification" in *Public Service Employment Relations in Europe*, Oxfordshire: Routledge, 1999, p. 50

Before one moves on to the analysis of each and every group – service – class, it has to be reported that all the cases of the here-studied literature sources concerning German public administration follow a top-down approach to the German system of “Laufbahngruppen”, meaning that all the here-examined scholars start their analysis from the first (1st) group of German civil servants (“Higher” service, “Administrative” class). Thus, the analysis, which will be here conducted, will follow the same analytical pattern.

Secondly, it must be made clear that the system of the “Laufbahngruppen” represents a clear and strict separation of groups, services, classes, and thus, professions inside the German civil service⁵⁵⁰. The latter means that each and every group – service – class includes given and separated fields of occupation, required qualifications, training schemes, remuneration schemes etc.⁵⁵¹ Taking into consideration the fact that given subchapters are dedicated to training (3.3.) and remuneration (3.4.), the “Laufbahngruppen” system will be here analyzed in terms of qualifications for recruitment, whereas an indicative profession of the country’s public sector will be referred when analyzing each and every group.

The first (1st) group of German civil servants, which constructs the “Higher” civil service and corresponds to the “Administrative” class, consists of judges as well as of leading bureaucrats mainly employed at “Bund” and “Länder” level, with the main working occupation of the latter being the one of preparing legislative drafts as well as observing and monitoring the loyal and precise implementation of laws⁵⁵².

In terms of formal qualifications requirements of the “Beamte” who are employed in this particular group, one has to report the fact that they must have obtained a university degree in fields such as the ones of law, economics, political and administrative sciences, as well as a master’s degree in the same fields⁵⁵³. After their application to the field of occupation and in the case of a possible admission of them to it, they enjoy a short-term appointment. In particular, they must complete a two-

⁵⁵⁰ Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at *EGPA-Conference for PSG 9 “Public Administration and Teaching”*, Toulouse, 8-10 September 2010, p.14

⁵⁵¹ *Ibid.*, p.14

⁵⁵² Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.16

⁵⁵³ Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at *EGPA-Conference for PSG 9 “Public Administration and Teaching”*, Toulouse, 8-10 September 2010, p.7

year (2-year) working tenure in the framework of public institutions others than their desired field of occupation⁵⁵⁴. These public institutions are selected by the latter (desired field of occupation), they temporarily recruit the newcomers “Beamte” to auxiliary posts whose background – character and main tasks concern law and public administration, whereas the whole, two-year (2-year) tenure of a newcomer “Beamte” must be graded at the point of its final completion and according to the German grading, top-down system of scales, which range from one (1) to five (5) with the mark of one (1) being the “Excellent”⁵⁵⁵.

After the successful completion of their short-term, two-year (2-year) tenure, they must sit the German state examinations (“*Staatsexamen*”⁵⁵⁶), in order to be recruited to their desired field of occupation. The final appointment and designation of them to it depends on their written performance on the “*Staatsexamen*”, as well their performance demonstrated and the grade (1 – 5) achieved during their two-year (2-year) tenure at the public institution, to which they had been temporarily recruited⁵⁵⁷.

Before one moves on to the analysis of the next, i.e. the second (2nd) group, three (3) observations have to be here made. First of all, Germany, in contrast with other countries such as France, which possess a given and organized National School of Public Administration for all the candidate civil servants for their “Higher” service, does not possess something similar⁵⁵⁸. This is the main reason why it has constructed a complex and enduring system of recruitment for all those “Higher”, elite bureaucrats, which is, in fact, based on three (3) different procedures, i.e. the preliminary application of the applicant to the field of occupation, the two-year (2-year) probationary tenure and the successful completion of the “*Staatsexamen*”⁵⁵⁹. As it has been mentioned, only after the fulfillment of the above-described procedure, the

⁵⁵⁴ Ibid., p.7

⁵⁵⁵ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.17

⁵⁵⁶ Ibid., p.17

⁵⁵⁷ Ibid., p.17

⁵⁵⁸ Ibid., p.16

⁵⁵⁹ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.16,17

German “Higher” civil servant is able to be recruited to their desired field of occupation.

Secondly, as to the existence and establishment of a two-year (2-year) probationary tenure, it can be considered that it forms a possible way of substituting the existing “gap” of the operation of a National School of Public Administration in Germany, from the point of view that it fulfills a necessary and significant part of a civil servant’s career, i.e. the one of an initial, preliminary service, which would not exist at all, in any other case of its non-establishment. Thirdly, the above-described, two-year (2-year) tenure is not considered as training in the framework of the German civil service but counts as a regular -even preliminary- service, because, as it will be examined and demonstrated in the subchapter of “Training” (3.3.), it includes training “paths” which are differentiated to the tenure as such⁵⁶⁰. These will be there (3.3.) analyzed.

Two (2) of the most characteristic professions of the second (2nd) group of German civil servants, which constructs the “Higher-intermediate” service and corresponds to the “Executive” class are these of the policemen and teachers⁵⁶¹. As to the formal qualifications, which must be met and fulfilled at the time of the open call’s conduction by the field of occupation, these are the graduation from a German high school, which requires twelve (12) to thirteen (13) years of schooling attendance, the completion of the German, national educational examination of “Type A” (“*Deutsches Abitur*”), which qualifies for entrance to a German, public university (“*Universität*”) or a university of applied sciences (“*Fachhochschule*”), as well as a degree obtained by the latter⁵⁶².

After a first, possibly successful evaluation of their profiles – candidacies by the perspective field of occupation, they must sit, as in the case of the first (1st) category, the nationwide, written examinations (“*Staatsexamen*”⁵⁶³). These, again, as in the case of the “Higher” civil service, must be graded according to the German

⁵⁶⁰ Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at *EGPA-Conference for PSG 9 “Public Administration and Teaching”*, Toulouse, 8-10 September 2010, p.5

⁵⁶¹ *Ibid.*, p.8

⁵⁶² Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.17

⁵⁶³ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.17

grading, top-down system of scales, which range from one (1) to five (5) with the mark of one (1) being the “Excellent”⁵⁶⁴. After the successful completion of the “Staatsexamen” and depending on their written performance, the candidate “Beamte” for the “Higher-intermediate” service may be invited to a job interview, which is conducted by their desired field of occupation⁵⁶⁵.

After the successful completion of the interview and in the case that they will be accepted by field of occupation, they achieve and grant the status of “candidate civil servant” (“*Beamtenanwärter*”⁵⁶⁶) for themselves. The latter means that they have to successfully fulfill and pass a three-year (3-year) probationary tenure in the working framework of their desired and perspective field of occupation⁵⁶⁷. After the successful completion of the latter, they are recruited by the above-referred field⁵⁶⁸.

Before one moves on to the analysis of the third (3rd) and the fourth (4th) group – service – class, a short, comparative reference has to be here made between the first (1st) and the second (2nd) one. In more specific terms, in contrast with the first (1st) group – service – class, one can ascertain that the second (2nd) one is characterized by the inclusion and the existence of more procedural steps with regards to the final and definite recruitment of the “Beamte” to the perspective field of occupation.

In particular, contrary to the three (3), already-numerated steps required for recruitment to the “Higher” service, the ones for recruitment to the “Higher-intermediate” service are four (4), taking into consideration that they include the initial application to the field of occupation, the attendance to and successful completion of the “Staatsexamen”, the invitation to an interview and, last but not least, the successful completion of the three-year (3-year) period of the probationary tenure of “Beamtenanwärter”.

Secondly, as to the formal requirements, contrary to the “Higher” service, where a university degree as well as a master’s degree form the required conditions for the submission of the initial application to the field of occupation, in the case of “Higher-intermediate” service, the application to the latter field does not require the

⁵⁶⁴ Ibid., p.17

⁵⁶⁵ Ibid., p.17

⁵⁶⁶ Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at *EGPA-Conference for PSG 9 “Public Administration and Teaching”*, Toulouse, 8-10 September 2010, p.8

⁵⁶⁷ Ibid., p.8

⁵⁶⁸ Ibid., p.8

possession of a master's degree, whereas the possession of a degree obtained from a university of applied sciences (*"Fachhochschule"*⁵⁶⁹) is considered as sufficient.

Thirdly, in contrast with the two-year (2-year) probationary tenure, which is required in the case of the "Higher" service, the equivalent one in the case of "Higher-intermediate" service lasts for three (3) years. Furthermore, in the case of "Higher-intermediate" service, the candidate "Beamten" implement this probationary tenure in the framework of their desired field of occupation and are recruited to it after its termination, whereas the ones ("Beamten") of the case of the "Higher" service implement this probationary tenure in the framework of a public institution – field of occupation other than their desired one⁵⁷⁰.

Contrary to the already-referred groups – services – classes, the third (3rd) and the fourth (4th) ones are less complex and demanding in terms of formal qualifications, whereas, as it will be shown, they are mainly based on the same pattern and procedural steps.

In more specific terms, the third (3rd) group of German civil servants, which constructs the "Intermediate" service and corresponds to the "Clerical" class is based on a simple system of two (2) procedural steps in terms of recruitment⁵⁷¹. In particular, after the conduction of the required "öffentlicher Anruf" by the field of occupation, the applicants – candidate "Beamte" have to submit their applications, with the main formal requirements of them being the ones of the possession of a high school diploma, whereas a university degree is not required⁵⁷².

Furthermore, the candidate "Beamte" of the third (3rd) group – service – class, whose indicative example of occupational field is the one of the servants who work at the German, municipal customer service departments

⁵⁶⁹ Kai-Andreas Otto, "Civil Service Salary System in Germany and Recent Reform Trends", presented to the *Conference on Civil Service Salary Systems in Europe*, Bucharest, Romania, 25 April 2007, p.4

⁵⁷⁰ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, "Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany's Dual Public Administration Education", Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.17

⁵⁷¹ Hans-Ulrich Derlien, "The German public service: between tradition and transformation", in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p.187

⁵⁷² Kai-Andreas Otto, "Civil Service Salary System in Germany and Recent Reform Trends", presented to the *Conference on Civil Service Salary Systems in Europe*, Bucharest, Romania, 25 April 2007, p.4

(“*Kundendienstabteilungen*”⁵⁷³), after a possible acceptance of their application and working admission to the field of occupation, have to successfully pass a two-year (2-year) probationary tenure in the framework of desired field of occupation for them⁵⁷⁴. After the termination of this particular tenure, they are directly recruited to the service⁵⁷⁵.

Last but not least, the fourth (4th) group of German civil servants, which constructs the “Ordinary” service and corresponds to the “Sub-clerical” class, includes professions such as the one of the German street cleaners, whereas it follows exactly the same “recruitment steps”, i.e. the same procedure for the recruitment of the candidate German civil servants to the service, as the above-analyzed ones of the third (3rd) group – service – class⁵⁷⁶.

The two (2) and only differences to the above-described procedure of the third (3rd) group have to do with the fact that the candidates of the fourth (4th) one are not obligated to possess a high school diploma, but a ten-year (10-year) period of German schooling is considered as sufficient for the handling of their application to the field of occupation⁵⁷⁷. Moreover, contrary to all the other groups, the fourth (4th) one forms the only exception with regards to the probationary tenure of the admitted servants⁵⁷⁸. In particular, the latter is optional for them and they are given the right to skip it and to be directly recruited to the field of occupation, after their successful application’s submission⁵⁷⁹.

To sum up, having defined and analyzed the procedure of the German “Personalaufbau”, examined extensively its stages, as well as the German system of

⁵⁷³ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.17

⁵⁷⁴ Sabine Kuhlmann, Manfred Röber, “Civil Service in Germany: Between Cutback Management and Modernization”, in *Modernization of State and Administration in Europe: A France-Germany Comparison*, Opladen: Verlag für Sozialwissenschaften, 2006, p.94

⁵⁷⁵ *Ibid.*, p.94

⁵⁷⁶ Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at *EGPA-Conference for PSG 9 “Public Administration and Teaching”*, Toulouse, 8-10 September 2010, p.9

⁵⁷⁷ Hans-Ulrich Derlien, “The German public service: between tradition and transformation”, in *The State at Work*, Cheltenham: Edward Elgar Publishing, 2008, p.187

⁵⁷⁸ *Ibid.*, p.187

⁵⁷⁹ *Ibid.*, p.187

the “Laufbahngruppen”, one shall now proceed to the study on the German training system, taking into consideration its connection to each and every “Laufbahngrupp” and its differentiations from service – class to service – class.

3.3. Professional and Career Development

The central research goal of the current subchapter (3.3.) is to define and analyze extensively the term of professional and career development as a procedure – phenomenon, which is directly combined with the existence and function of civil servants inside a given administrative framework. In particular, the here-conducted analysis starts with the formulation of a precise and concrete definition concerning the latter-referred phenomenon (“Professional and Career Development”), as well as with a short examination of its conceptional background and its sub-procedures.

After the above-described analysis’ conduction, the research emphasis is exclusively put on the main and central sub-procedures of the professional and career development, i.e. the ones of training and mobility. The latter, in the framework of univocally-oriented examination to the case study of Germany, are adapted and implemented to the case of the German civil servants (“Beamte”) inside the country’s public administration.

To begin with, before one moves on to the definition of the notion of the professional and career development, they have to justify the main reason why its analysis takes place after the one of recruitment. In particular, according to Gary Dessler, the modern researcher has to be occupied with the professional and career development after the analysis concerning recruitment, because the former forms the continuation of the latter in terms of on-the-job reality, from the point of view that the recruitment of an employee to a given field of occupation is followed by the gradual development of their career⁵⁸⁰.

In other words, the professional and career development forms the continuity of the working row, which binds the procedure of hiring an employee to a field of occupation with the one of starting their working progress and advancement in the framework of it⁵⁸¹. The latter “on-the-job sequence” forms the main procedure, which answers to the question of how does the career of an employee continue after their

⁵⁸⁰ Garry Dessler, “Fundamentals of Human Resource Management”, Essex: Pearson New International Edition, 2014, p.185-186, 190

⁵⁸¹ Ibid., p.190

recruitment to the field of occupation, whereas this particular row of the actual, real-time working life stipulates the analytical row that must be here conducted⁵⁸².

As to the concrete definition regarding the professional and career development, one has to follow again the analysis by Gary Dessler and use concrete, scientific terms. In particular, according to the above researcher the professional and career development can be defined as a series of actions undertaken by a given field of occupation, which, at the same time, aim to assist all those people employed in the framework of the field to acquire further qualifications, skills, knowledge and experiences that will be proved as useful and productive ones for their further development in the domain of their career⁵⁸³.

Taking the above definition as a research motive, one has to concentrate the research thought on two (2) different fields, i.e the ones of the background and the ends of the professional and career development. As to the background of the latter-referred notion, it can be detected that it mainly concerns and includes the element of professionalism, as well as the one of development.

In particular, inside the scientific framework of the definition of the professional and career development, the element of professionalism can be seen in the fact that the character of the “series of actions” referred by Gary Dessler can be described as professional and formal, from the point of view that these, i.e. the actions, are professionally structured and organized by the field of occupation⁵⁸⁴. In particular, the series of action which are organized, in order for the professional and career development of the employees to take place, are based on given plans created and constructed by given units inside the field of occupation, which are responsible for the working advancement and development of the employees⁵⁸⁵.

This particular element of a professionally-constructed procedure is interrelated to the element of development, from the point of view that all the plans developed by the on-the-field professionals aim to have a positive effect and impact on the professional “image” and “existence”, i.e. on the career, of each and every employee, meaning that they try to boost and upgrade their performance in the

⁵⁸²Garry Dessler, “Fundamentals of Human Resource Management”, Essex: Pearson New International Edition, 2014, p.185-186

⁵⁸³ Ibid., p.198

⁵⁸⁴ Ibid., p.198

⁵⁸⁵ Ibid., p.198-199

domain of their professional occupation⁵⁸⁶. In other words, an attempt is made in the framework of the professional and career development, in order for the qualitative profile of each and every “working entity” to be enriched, strengthened and empowered with further capabilities and qualifications. These could refer to the further, formal knowledge achieved via educative certifications or participation in educative seminars or to on-the-job experiences such as the change of posts inside the field of occupation⁵⁸⁷.

As to the ends of the notion of professional and career development, which emerge from the above-referred definition, one could stress the fact that they are two (2), they have a totally different character, but aim to the same goal. In more specific terms, the first (1st) end is the one of the field of occupation, which, as it has been mentioned, carefully and professionally organizes the procedure of professional and career development by being based on given, development plans⁵⁸⁸. In other words, the field of occupation as the first (1st) end of the whole procedure is responsible for the undertaking of the initiative to set the basis for the professional and career development of the “working unit”⁵⁸⁹.

The second (2nd) end of the whole procedure of professional and career development is the “working unit” as such, from the point of view that each and every employee becomes the main and central receiver of the procedure set by the field of occupation, as well as the most significant actor, who is responsible for its actual implementation and further continuation of conduction⁵⁹⁰. In more specific terms, in contrast with the first (1st) end of the field of occupation that demonstrates and signifies the beginning of the procedure, the second (2nd) one of the employee – receiver clearly shows that the professional and career development is constructed on a given aim and arrives to its end when the latter is fulfilled.

The professional development of the employee – “working unit” in terms of career’s and profile’s further upgrade forms a “turning point”, which does not only define the rationale of the whole procedure’s construction, but also sets its termination

⁵⁸⁶ Garry Dessler, “Fundamentals of Human Resource Management”, Essex: Pearson New International Edition, 2014, p.191, 198

⁵⁸⁷ Ibid., p.191

⁵⁸⁸ Ibid., p.190-191

⁵⁸⁹ Ibid., p.190

⁵⁹⁰ Garry Dessler, “Fundamentals of Human Resource Management”, Essex: Pearson New International Edition, 2014, p.192-193

in terms of final goal's accomplishment⁵⁹¹. In particular, the existence of the second (2nd) end, i.e. the one of the working unit – receiver, means that the notion of the professional and career development is made for the employee, as well as it results to the employee, meaning that the central and main goal is their (employees') improvement, whereas the whole procedure is considered as a finalized one when this particular improvement is practically fulfilled⁵⁹².

Having defined and examined the notion of the professional and career development, one has to clarify that the latter does not form a one-dimensional procedure, from the point of view that it includes sub-procedures, which have to be separately analyzed, while comprising it⁵⁹³. As it has been already set in the research goals' introductory paragraphs, these sub-procedures, which are here examined, are the ones of training and mobility and are adapted to the case study of Germany, in order for the function of the professional and career development of "Beamten" in the framework of the German civil service to be comprehended.

As to the first (1st) sub-procedure, i.e. the one of training, its definition has been mentioned from the very beginning. In particular, according to Gary Dessler, as training can be defined "[...] *the process of teaching new or current employees the basic skills they need to perform their jobs.*"⁵⁹⁴.

Taking this particular definition as a research motive and being based on the words and phrases of "process", "skills" and "perform their jobs", the modern researcher can clearly comprehend the main reasons why training is considered as an endogenous (sub)procedure of the field of human resources management, and thus, the reason why for its here-made reference.

In more specific terms, Dessler's considerations with regards to the interrelation between human resources management and training can be even evidenced by the definition of the former, which was used in the framework of the first (1st) chapter of the project, according to which "*Human Resource Management is*

⁵⁹¹ Garry Dessler, "Fundamentals of Human Resource Management", Essex: Pearson New International Edition, 2014, p.198

⁵⁹² Ibid., p.198

⁵⁹³ Ibid., p.187

⁵⁹⁴ Ibid., p.187

the procedure of acquiring, training, appraising and compensating the employees and of attending to their labor relations, health and safety and fairness concerns”⁵⁹⁵.

Furthermore, the above-referred researcher’s argumentation on the interrelation between the latter-mentioned fields can be also detected by the definition of a sub-procedure of human resources management, i.e. the one of staffing, which is directly related to the employees as “working units”, and thus, to the procedures of their recruitment and training. In more specific terms and according to Dessler, staffing has to do with the procedure of hiring and recruitment, as well as with the ones of “*setting performance standards [...] evaluating performance; training and developing employees [...]*”⁵⁹⁶.

The above definitions given by Gary Dessler, as well as the conceptional link between training and human resources management that justifies the here-conducted training’s analysis, are also enriched by the argumentation developed by Christian Scholz, who clearly supports the fact that training is theoretically and practically linked to the field of human resources management, because of their strategic character⁵⁹⁷.

In particular, the latter-referred element (strategic character) forms a significant reason why training has to be considered as a procedure, which is part and parcel with the field of human resources management, whereas Scholz shares the view that this particular strategic character is transfused from the whole field, i.e the one of human resources management, to the one of training⁵⁹⁸. The notion of strategic training, which is created in this case forms a significant sign of relevance between human resources management and training as a whole, because, according to Dessler, it is based on concrete and precise training plans, which aim to the employee as a “working unit”, as well as to the strengthening and empowerment of its performance⁵⁹⁹.

⁵⁹⁵ Garry Dessler, “Fundamentals of Human Resource Management”, Essex: Pearson New International Edition, 2014, p.2

⁵⁹⁶ Ibid., p.2

⁵⁹⁷ Christian Scholz, “Human Resource Management in Germany” in *International Perspectives of Human Resource Management*, California: SAGE Publications, 1994, p.3

⁵⁹⁸ Ibid., p.14

⁵⁹⁹ Garry Dessler, “Fundamentals of Human Resource Management”, Essex: Pearson New International Edition, 2014, p.187, 188

In other words, the alignment of training with strategy and its goal to boost employees' performance through given plans and concrete steps, does not only form a proof of its relation to the whole field of human resources management, and thus justifies its here-conducted analysis, but also corresponds theoretically to the words - phrases "process", "skills" and "perform their jobs", which are used by Gary Dessler in the framework of the initial definition of training⁶⁰⁰.

In more specific terms, the above-referred words – phrases demonstrate and prove the fundamental, strategic character of training as an on-the-job procedure, from the point of view that they establish it as a concrete-constructed process, which is based on given steps -in this case training plans are depicted to the latter word- that aim to "equip" the "working unit" – employee with brand new skills or empower and improve the already-possessed ones by it, in order for a given, satisfactory performance to be demonstrated, and thus, for a job – task to be fulfilled⁶⁰¹.

In particular, the modern researcher can here comprehend the fact that the fundamental, strategic character of training is bound by a well-constructed, theoretical and, at the same time, practical scheme of "process – skills – job performance", which stipulates the development of a precise, on-the-job procedure⁶⁰². The latter, at first, takes place as a theoretical plan of training steps, it is then transformed into the learning of skills and finally implemented to the mission of a job's performance⁶⁰³.

Having examined and proved the strategic character of the procedure of training, and thus, justified its here-made reference, one has to adjust it to the case study of the German civil service. In the German case, one is able to find out a wide, theoretical and epistemological conflict between German human resources management's scholars and the ones of the field of German public administration concerning the ontological background of the procedure of training. In particular, the former tend to support that training is most of a "private nature" meaning that it forms an element of the private sector's working environment, whereas the latter share the view that training exists in the framework of the German public sector as well⁶⁰⁴.

⁶⁰⁰ Ibid., p.187

⁶⁰¹ Ibid., p.188

⁶⁰² Ibid., p.187, 188

⁶⁰³ Ibid., p.187, 188

⁶⁰⁴ Sabine Kuhlmann, Manfred Röber, "Civil Service in Germany: Between Cutback Management and Modernization", in *Modernization of State and Administration in Europe: A France-Germany Comparison*, Opladen: Verlag für Sozialwissenschaften, 2006, p.93, 94

The central argument of the latter is mainly based on two (2) different prescriptions, which derive from two (2) different articles of the Federal Civil Service Act, i.e. the prescriptions of the third (3rd) paragraph (paragraph 3a) of the Article 7 and the prescriptions of the first (1st) paragraph of the Article 16 of the “Bundesbeamtengesetz”⁶⁰⁵.

Both these articles of the Federal Civil Service Act vindicate the argumentation of the “theoretical group” of the scholars of German public administration, whereas they clearly, institutionally stipulate and prove the fact that the procedure of training is not only intertwined with the German civil service, but is also set and defined as a concrete prerequisite in the framework of a German public servant’s “working life”⁶⁰⁶.

Having consciously bypassed the analysis of training as a requirement for recruitment in the framework of the last subchapter (3.2.), one has to now stress and highlight the fact that, according to the above-referred articles (§7,3a and §16,1, BBG), training is considered as a procedure, which is necessary and essential for each and every “Beamte”, and thus, has to be taken into the research consideration as part and parcel with a career inside the German civil service⁶⁰⁷.

In more specific terms and according to the prescriptions of the paragraph 3a of the Article 7 of the Federal Civil Service Act, training is institutionalized as a strict requirement for the undertaking and beginning of a career in the German civil service⁶⁰⁸. Three (3) statements have to be mentioned here with regards to the analysis of the article’s prescriptions.

Firstly, the stipulation of training as such by the Act proves again the fact that training has to be considered as a mandatory procedure inside the German civil service without any research doubt – reason for theoretical conflict. Secondly, the article as such does not clarify precisely if the procedure of training forms a requirement that must be fulfilled before or after the time of a German civil servant’s recruitment. Although, it has to be considered as a requirement for recruitment, which, however, takes place after the conduction of recruitment as such, because it is officially offered only by given programs organized by the fields of occupation, as well as because of the fact that a newcomer “Beamte” does not have the capability to

⁶⁰⁵ Ibid., p.94

⁶⁰⁶ Ibid., p.94

⁶⁰⁷ §7, 3a und §16, 1, BBG

⁶⁰⁸ §7, 3a BBG

train themselves before the recruitment and through officially recognized methods by the service. In other words and according to the Article 7 of the “Bundesbeamtengesetz”, training forms a kind of “post-requirement”, which has to be fulfilled in subsequent time, i.e. the one after the recruitment’s conduction⁶⁰⁹.

Thirdly, the fact that training is defined and institutionalized as a requirement, which has to be fulfilled after the recruitment, confirms the strategic character of the procedure as such, from the point of view that it ascertains the existence of plans – steps organized by the field of occupation, which have to assist the procedure of employees’ skills development, and thus, the empowerment of their on-the-job performance⁶¹⁰.

In particular, one could consider that training is here defined as a mandatory procedure, which takes place strategically inside a “post-environment”, in the framework of which, after the recruitment of “Beamten”, their working advancement in terms of skills is expressed and developed, in order for their in-service tasks to be successfully completed. This particular “post-recruitment environment” is strategically constructed by the field of occupation, because it bargains and invests on the procedure of employees’ on-the-job preparation, as well as the development of their skills and the empowerment of their performance, which will be based on training programs – strategic steps that are included into this particular preparation⁶¹¹.

The above argumentation is also enriched by the prescriptions of the Article 16 of the Federal Civil Service Act, which penetrates the limitations of the “working time” of the recruitment of “Beamten” and establishes training as a mandatory requirement inside the above-referred “post-recruitment environment”, from the point of view that it stipulates its fulfillment’s necessity during the whole career of the “Beamten”⁶¹². In other words and according to the prescriptions of the Article, training does not only become an endogenous element of the in-service career due to the fact that it accompanies the “working unit” throughout its in-service development, but also, its strategic character is further enriched by being based on the

⁶⁰⁹ §7, 3 BBG

⁶¹⁰ Garry Dessler, “Fundamentals of Human Resource Management”, Essex: Pearson New International Edition, 2014, p.187, 188

⁶¹¹ Ibid., p.187, 188

⁶¹² §16, 1 BBG

institutionalized mentality, according to which the German civil servants have to improve themselves in terms of skills and performance until the end of their career⁶¹³.

As it becomes clear by the analysis of the Article 7 and 16, which confirms the initial definition of training given by Gary Dessler, training in the case study of the German civil service is also constructed as a strategic “*process*”⁶¹⁴, which tries to ascertain that the “*Beamten*” will develop the appropriate and needed “*skills*”⁶¹⁵, in order for their “*job performance*”⁶¹⁶ to be fulfilled, as well as strengthened and empowered.

Trying to discover and examine how does the procedure of training find application to the case study of the German “*Beamten*”, the modern researcher has to follow the same analytical way as the one followed in the case of recruitment, i.e. the analysis has to be adapted to each and every group – service – class of “*Beamten*”, in order for comparisons to be made and similarities or differences to be found.

Furthermore, it has to be prestressed that the here-conducted analysis will follow a precise theoretical scheme, which is based on a concrete, three-dimensional background. The latter is constructed on three (3) different terms, i.e. the ones of organization, content and example. The above-referred background means that the analysis of the training procedure in each and every group – service – class of German civil servants will be firstly based on the description and examination of the organization of the procedure by the field of occupation, it will then focus on its content and it will finally make a reference to a concrete example of the training procedure as such, in order for the training of each and every group – service – class to be enough and sufficiently comprehended.

As to the organization of the training procedure, which is implemented to and followed by the first (1st) group of “*Beamten*”, i.e. the “*Higher*” service – “*Administrative*” class, it has to be made clear that it takes place during the two-year (2-year) probationary working tenure, which was analyzed in the framework of the previous subchapter (3.2.) concerning the procedure of recruitment. The training

⁶¹³ §16, 1 BBG

⁶¹⁴ Garry Dessler, “*Fundamentals of Human Resource Management*”, Essex: Pearson New International Edition, 2014, p.187

⁶¹⁵ *Ibid.*, p.187

⁶¹⁶ *Ibid.*, p.187

program followed by the German “Higher” service is called “*Referendariat*”⁶¹⁷. Taking into consideration the already-referred fact that a central, national school of public administration does not exist in the case study of Germany⁶¹⁸, the training program of “*Referendariat*” is organized and offered by multiple public institutions in different, German federal states, as well as by the Federal Academy of Public Administration (“*Bundesakademie für öffentliche Verwaltung*”⁶¹⁹), which, although, does not form a central, educative unit for the training of the candidate “*Beamten*”⁶²⁰.

A characteristic example which is mentioned by the scholars of German public administration as an indicative one for the phrase “public institutions”, in order for the contributor to these training programs’ construction to be clearly comprehended, is that of the German universities, which are famous for their research tradition in the field of German public administration⁶²¹. As it has been mentioned in the framework of the first (1st) chapter, these are the Universities of Potsdam, Konstanz and Speyer⁶²². They assist the organization of the training program of “*Referendariat*” through the scientific contribution of their academicians, who make good use of their technical – technocratic knowledge for the content’s construction of the program⁶²³.

As to its content, the “*Referendariat*” program -whose duration takes two (2) years, lasting the same as the two-year (2-year) probationary working tenure of the “Higher” service- can be characterized as a twofold one, from the point of view that it strictly combines the field of theory with the one of practice. In particular, during the first (1st) year of “*Referendariat*”, the trainees attend courses on fields such as administrative and international law, public administration and economics, which are organized by public institutions that are of the same field and “nature” as those to which the “*Referendariaten*” will be recruited in the future⁶²⁴. During the second (2nd) year of “*Referendariat*” they have to implement practically what they have been taught during the first (1st) year, and thus, they are obliged to teach courses such as the

⁶¹⁷ Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at *EGPA-Conference for PSG 9 “Public Administration and Teaching”*, Toulouse, 8-10 September 2010, p.5

⁶¹⁸ *Ibid.*, p.6

⁶¹⁹ *Ibid.*, p.6

⁶²⁰ *Ibid.*, p.6

⁶²¹ *Ibid.*, p.6

⁶²² *Ibid.*, p.6

⁶²³ *Ibid.*, p.6

⁶²⁴ Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at *EGPA-Conference for PSG 9 “Public Administration and Teaching”*, Toulouse, 8-10 September 2010, p.5-7

above-referred ones (administrative and international law, public administration, economics) to the newcomers “Referendariaten”, whereas their acquired knowledge and teaching performance are assessed by specialists’ committees and professors of the public institutions⁶²⁵.

A precise example, which can be here mentioned, in order for the content of the “Referendariat” to be sufficiently comprehended is the one of all those candidate “Beamten”, who want to be recruited to the German judiciary. The type of “Referendariat”, which applies to them is called “*Rechtsreferendariat*”⁶²⁶ and according to it, irrespective of the court or the law agency, to which they will be recruited, they have to attend one-year (1-year) courses on the above-referred fields – disciplines in the framework of a federal state’s Judicial Academy (“*Justizakademie des Landes*”⁶²⁷).

After the successful completion of the courses’ attendance, they do not have to sit any type of examination, but must teach the courses they have attended to the new candidates for the German Judiciary. The procedure of teaching lasts for one (1) year, is evaluated by judges and academicians who are invited to the procedure and are responsible for the candidates’ assessment, whereas the successful termination of the “*Rechtsreferendariat*”⁶²⁸ training program signals the beginning of a new judge’s career in the “Higher” civil service of Germany⁶²⁹.

Having examined the “Referendariat” as the model training program for the “Beamten” of the German, “Higher” service, it has to be stressed that the equivalent one (training program) of the second (2nd) and third (3rd) group of “Beamten”, i.e. of

⁶²⁵ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.11, 16

⁶²⁶ Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at *EGPA-Conference for PSG 9 “Public Administration and Teaching”*, Toulouse, 8-10 September 2010, p.7

⁶²⁷ *Ibid.*, p.7

⁶²⁸ Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at *EGPA-Conference for PSG 9 “Public Administration and Teaching”*, Toulouse, 8-10 September 2010, p.7

⁶²⁹ *Ibid.*, p.7

the “Higher-Intermediate” and “Intermediate” service, is the same for both of them⁶³⁰. In other words, the “Executive” and the “Clerical” class of the German civil service follow and implement the same training program, whereas the organization and the substance – content of it are not differentiated between the above-referred classes⁶³¹.

As to its organization, the training program implemented to and followed by the latter services is the so-called “*Berufsausbildung*”⁶³² program, which takes place during the two-year (2-year) probationary working tenure of the German “Beamten” and lasts two (2) years. In particular, the “Berufsausbildung”, which, in the field of the English literature can be also found as “VET” (“Vocational and Educational Training”⁶³³) program, is organized by public and private universities, universities of applied sciences and colleges, which offer specialized training programs for candidate “Beamten” of the second (2nd) and the third (3rd) group when they have obtained the already-analyzed status of candidate civil servants (“Beamtenanwärter”)⁶³⁴.

As to its content, depending on the field – discipline required as fundamental knowledge in their field of occupation, the candidate “Beamten” acquire theoretical knowledge during the first (1st) and the second (2nd) year of the “Berufsausbildung”, whereas they practically implement the acquired knowledge via their participation in another public institution during these two (2) years⁶³⁵. In other words, a “Beamtenanwärter” of the second (2nd) or the third (3rd) group, undertakes a two-year (2-year) probationary working tenure in the field of occupation to which they want to be recruited and, at the same time, they participate in the two-year (2-year) “Berufsausbildung”, according to which they attend theoretical courses to a given institution and train themselves by implementing this knowledge in the framework of another institution.

In fact, the “Beamtenanwärter” possesses three (3) different statuses: the one of the employee because of the two-year (2-year) probationary working tenure, the

⁶³⁰ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.12, 13

⁶³¹ Ibid., p.12, 13

⁶³² Ibid., p.12

⁶³³ Ibid., p.12

⁶³⁴ Ibid., p.14

⁶³⁵ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.11-16

one of the student because of the theoretical courses of the “Berufsausbildung” and the one of the trainee because of the implementation of the acquired theoretical knowledge from the “Berufsausbildung”. It is about an inclusion of the “Beamtenanwärter” in a field of occupation as an employee, in one as a trainee and in an educational institution as a student. Because of this particular “triple status”, i.e. the one of the employee and the two ones given by the “Berufsausbildung”, the “Beamtenanwärter” gain a monetary bonus of 900€ per month, irrespective of their basic salary⁶³⁶.

A typical example, which can be found in the field of literature with regards to the “Berufsausbildung” of the second (2nd) and the third (3rd) groups of the German “Beamten” is the one the teachers of the German elementary schools (“Grundschulen”). In particular, they undertake their two-year (2-year), probationary working tenure in an elementary school and, at the same time, they participate as “Beamtenanwärter” in the “Berufsausbildung”⁶³⁷. Because of this particular participation, they attend extra courses in public universities, which include didactics in fields such as mathematics and, at the same time and while working, they undertake a traineeship in another elementary school, where they teach exclusively the courses that they attend in the framework of their university programs (e.g.: mathematics)⁶³⁸.

Having referred to the training programs of the first three (3) groups of the German civil servants, it has to be mentioned that the last one, i.e. the “Ordinary” service – “Sub-clerical” class, does not include the procedure of training⁶³⁹. As it was stressed in the framework of the recruitment’s analysis, where the example of the German streetcleaners was highlighted and the non-existence of a probationary

⁶³⁶Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at *EGPA-Conference for PSG 9 “Public Administration and Teaching”*, Toulouse, 8-10 September 2010, p.8

⁶³⁷ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.14-15

⁶³⁸ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.14-15

⁶³⁹ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.11

working tenure for them was stressed, so in the one of training, it can be seen that the civil servants of the “Sub-clerical” class form the one and only group inside the German civil service, which is directly admitted and recruited to the service – field of occupation after their application’s acceptance⁶⁴⁰.

Taking into consideration the already-analyzed training schemes, the modern researcher can come to given conclusions: firstly, it is obvious that the structure of training inside the German civil service is a dualistic one, from the point of view that two (2) differentiated training schemes exist (“Referendariat”, “Berufsausbildung”), they are the dominant ones and represent the three (3) first groups of German civil servants. Secondly, both of the above-cited groups that comprise the dualistic structure of the German training system are twofold ones, from the point of view that, as it was evidenced, they strictly combine theory and practice. Thirdly, as it can be comprehended, the procedure of training is not separated from the one of the probationary working tenure, but, instead, it takes place at the same time with it, taking into consideration the fact that the first two (2) years of the participants in the “Referendariat” and in the “Berufsausbildung” are characterized by the existence of two (2) different statuses, i.e. the ones of the employee as well as the trainee.

Having extensively examined the procedure of training inside the German civil service, one has to move on to the analysis of the second (2nd) sub-procedure of the professional and career development, i.e. the one of mobility (“*Mobilität*”⁶⁴¹), because the latter, as it will be evidenced, develops and maintains an interrelation to the former.

First and foremost and as to its definition, mobility can be defined as the “on-the-job movement” of the employees inside a given working environment – field of occupation⁶⁴². The existence and actual manifestation of this particular “working movement” has to correspond and answer to precise research questions, such as the ones of who is the actor – main unit of the mobility procedure, when and under which circumstances does he or she move, as well as where and why does he or she do so.

⁶⁴⁰ “Federal Republic of Germany: Public Administration Country Profile”, Division for Public Administration and Development Management (DPADM), Department of Economic and Social Affairs (DESA), United Nations, New York, USA, February 2006, p.14

⁶⁴¹ Berndt Keller, “Employment relations without collective bargaining and strikes: the unusual case of civil servants in Germany” in *Industrial Relations Journal*, Oxford: Brian Towers, 2020, p.18

⁶⁴² *Ibid.*, p.18

The central actor – main unit of the mobility procedure is the employee, who is employed at a given field of occupation⁶⁴³. The whole procedure of mobility takes place for them and is organized because of them, as well as because of the possible developments and changes that may happen throughout their career. It has to be stressed that the mobility as a working, on-the-job procedure cannot take place without the employee as the main and dominant subject of a given working environment, as well as without the existence of the probability for their careers to be “shaped” by their own volition throughout their services’ provision⁶⁴⁴.

In other words, “Mobilität” exists because, first of all, of the existence of the employee, who is located to the conception center of the whole of procedure as such and, secondly, because of the potential and the working right of the latter-referred working entity, i.e. the employee, to change, develop or modify via multiple ways their career⁶⁴⁵. In particular, the procedure of mobility requires and signalizes the existence of an “employed unit” at a field of occupation, which possesses the legal capability to alter its career according to its own decision and will, and thus, to take control over a possible development and working progress of it⁶⁴⁶.

The existence of the above-referred “working unit” – employee is the one that stipulates the time of the procedure of the mobility as well, from the point of view that it defines when does the mobility take place exactly⁶⁴⁷. In more specific terms, the mobility can take place and be manifested as a whole procedure, only after the completion of the procedure of recruitment of the working unit – employee⁶⁴⁸. In other words, the time of the employee’s recruitment functions as the crucial turning point, from which and on, the procedure of mobility can take place.

In particular, the exact “placement” of the procedure of mobility throughout the continuum of time depends on the prior fulfillment of the procedure of recruitment, meaning that the latter forms a pivotal requirement for the manifestation

⁶⁴³ Dr. Hans Joachim von Oertzen, “Public Personnel Management in the Federal Republic of Germany“, in *International Review of Administrative Sciences*, California: Sage Publications, 1983, p.215

⁶⁴⁴Garry Dessler, “Fundamentals of Human Resource Management”, Essex: Pearson New International Edition, 2014, p.249

⁶⁴⁵ Garry Dessler, “Fundamentals of Human Resource Management”, Essex: Pearson New International Edition, 2014, p.249

⁶⁴⁶ Ibid., p.249

⁶⁴⁷ Ibid., p.249

⁶⁴⁸ Ibid., p.249

and actual function of the former⁶⁴⁹. The fact that the mobility of the employee requires their legally institutionalized and established occupation to a given post inside a certain working field is not only reasonable, but also demonstrates and proves the existence of an in-service and on-the-job continuity, from the point of view that one procedure succeeds the other, whereas this particular “working row” that is created manifests the main structure’s fundamentals of the in-service procedures.

The argumentation for the fact that the latter-referred “working sequence” between the procedure of recruitment and the one of mobility is reasonable, is fundamentally based on the fact that the mobility as such can be decided by the “working unit” – employee only after the possession of this particular “identity” – status, i.e. only after the time of their official, legal designation and appointment as employees by the service as such, something which requires the formal and successful fulfillment of the whole procedure of recruitment.

Furthermore, after the fulfillment of recruitment and the possession of the working right for an employee to decide for their mobility, the question – case of where does the mobility take place has to be clearly comprehended. In particular, the “place” – area, in which the procedure of mobility takes place, concerns the field of service⁶⁵⁰, from the point of view that the “working unit” – employee expresses its “working move”, i.e. manifests and embodies the element of mobility by having the ability to move from service to service⁶⁵¹.

In more specific terms, the on-the-job mobility expressed and manifested by the employee, takes a shape, which could be characterized as a vertical one, from the point of view that, as it happens in the case study of the German civil service, the “working unit” has the ability to “climb” or “descend” the “administrative pyramid” of the different groups – services – classes of servants inside a given civil service’s working environment⁶⁵². In particular, the employee is able to demonstrate a

⁶⁴⁹ Ibid., p.249

⁶⁵⁰ Dr. Hans Joachim von Oertzen, “Public Personnel Management in the Federal Republic of Germany”, in *International Review of Administrative Sciences*, California: Sage Publications, 1983, p.215

⁶⁵¹ Garry Dessler, “Fundamentals of Human Resource Management”, Essex: Pearson New International Edition, 2014, p.247-248

⁶⁵² Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at *EGPA-Conference for PSG 9 “Public Administration and Teaching”*, Toulouse, 8-10 September 2010, p.9

hierarchical motion between the different “administrative levels” of servants, and thus, to change, modify and alternate their in-service position, which is stipulated by the different working conditions that dominate inside each and every “working level’s” environment⁶⁵³.

This particular, in-service and between-the-“working levels” capability for employees’ mobility, as well as its vertical character and background demonstrate the fact that the content and the “working conception” of recruitment can be changed and modified because of the existence of the procedure of mobility, from the point of view that they do not bind the “working unit” – employee inside a given field of occupation, but offer to it the chance to moderate in-service environment and conditions⁶⁵⁴. In other words, the above-described service-to-service vertical mobility forms an “embodiment” that, even after the procedure of recruitment, there are chances for the employee for career’s handling and working orientation’s change conduction.

Moreover, the modern researcher has to state clearly that behind the chance for mobility and the final decision for it, a reason why exists, which is expressed by the “working unit” throughout the implementation of the mobility procedure as such. In more specific terms, an employee can conduct a given “working move” in the framework of the mobility’s procedure, either because of their own will or of the will expressed by their field of occupation⁶⁵⁵.

With regards to the first (1st) case, i.e. the one according to which the personal will of a “working unit” encourages it to climb the in-service career ladder and to participate in the mobility procedure, one could state that this could be because of the fact that the “unit” wants to acquire new skills, knowledge and working experiences, something that can be fulfilled by entering into a higher group – service – class. With regards to the second (2nd) case, i.e. the one, according to which the field of occupation is the main actor who conducts the “working unit’s” mobility, this could be because of the fact that the field of occupation as such could judge that the employee has to participate in the mobility procedure due to the need of a in-service post’s renewal or the one of cutback policies’ implementation.

⁶⁵³ Ibid., p.9

⁶⁵⁴ Ibid., p.9

⁶⁵⁵ §28, 2 BBG

The latter argumentation proves that the procedure of mobility cannot be characterized as a uniform one, from the point of view that, indeed, it is organized and structured having as its main and crucial “unit” the one of the employee, but, at the same time, it is not configured and defined by this “unit” in absolute terms, meaning that the one (i.e. “unit”) of the field of occupation participates in it as well. In particular, the latter does so by possessing the legal and institutionalized -by the Federal Civil Service Act- right to launch the beginning of the procedure as such, i.e. to decide that a given “working unit” has to participate in the procedure of mobility⁶⁵⁶.

Trying to adapt the latter-referred theoretical background with regards to the procedure of mobility to the case study of the German civil service, the modern researcher is able to comprehend that, again, the procedure as such cannot be characterized as a uniform one, taking into consideration the fact that it includes three (3) sub-procedures of significant importance, which are stipulated by the Federal Civil Service Act· these are the ones of promotion, secondment and displacement⁶⁵⁷. They will be here analyzed and adapted to the case study of the German “Beamten”, whereas the influence of the fundamental legal text of “Bundesbeamtengesetz” on them will be extensively examined.

First and foremost, taking into consideration the above-referred definition concerning mobility, the sub-procedure of promotion (“*Aufstieg*”) can be defined as the movement of the “working unit” – employee from one group – service – class to a higher one⁶⁵⁸. The latter means that the in-service position of the employee follows an upward “working move”, from the point of view that it is upgraded in terms of group – service – class and in the framework of a given civil service’s career structure. In other words, promotion as a sub-procedure of the procedure of mobility is interrelated to the notion of the career’s advancement and progress, which is expressed and depicted to the working status of a civil servant⁶⁵⁹. The latter is practically and actually expressed through an upward-oriented change of the working environment, conditions, status and remuneration of the “working unit” – employee, which climbs

⁶⁵⁶ §28, 2 BBG

⁶⁵⁷ §27 und §28, BBG

⁶⁵⁸Dr. Hans Joachim von Oertzen, “Public Personnel Management in the Federal Republic of Germany“, in *International Review of Administrative Sciences*, California: Sage Publications, 1983, p.215

⁶⁵⁹Garry Dessler, “Fundamentals of Human Resource Management”, Essex: Pearson New International Edition, 2014, p.247

the career ladder of the civil service and participates in the procedure of mobility by improving its in-service working position.

Taking into consideration the fact that, as it happens in the case of the whole procedure of mobility, so in the one of its sub-procedure, i.e. in promotion, the procedure includes as main actors the ones of the “working unit” and the field of occupation· because of the latter, the research questions that have to be here clearly set and defined are the ones of the requirements for the reassurance of a promotion by a German “Beamte”, as well as the “place”, i.e. the area – field, in the framework of which a promotion can take place.

Adapting both of these research questions exclusively to the case study of the German civil service, as to the requirements, which must be fulfilled, in order for a promotion of a “Beamte” to be conducted, the modern researcher has to retrace back to the Article 22 of the Federal Civil Service Act. In more specific terms and according to the prescriptions of the Article, the first (1st) requirement that has to be fulfilled, in order for an “Aufstieg” of a “Beamte” to a higher group – service – class to take place has to do with the already-examined qualification requirement (“Qualifikationen”)⁶⁶⁰.

In particular and in the case of a promotion’s conduction, this qualification requirement is not expressed throughout the repeat of the application’s procedure, which is followed in the case of recruitment, i.e. the civil servant is not required to re-apply for a new post in the framework of the higher group – service – class, to which they want to be promoted. Instead, the setting and successful completion of an examination defined and organized by this “higher field of occupation” forms the main and central prerequisite for the “working unit’s” promotion⁶⁶¹.

Moreover and according to the fifth (5th) paragraph of the Article 22 of the Federal Civil Service Act, the examination required for promotion carries on the character of the “Staatsexamen” -a type of examination already-analyzed in the framework concerning recruitment’s procedure- meaning that their character has to be openly publicized, as well as that they have to be freely and openly accessed by all those candidate – “Beamten”, who want to participate in the procedure and to be promoted to a higher group – service – class⁶⁶².

⁶⁶⁰ §22, 1 BBG

⁶⁶¹ §22, 5 BBG

⁶⁶² §22, 5 BBG

In addition, the fact that the qualification requirement forms a pivotal prerequisite for an employee's promotion inside the German civil service can be evidenced by the second (2nd) paragraph of the Article 22 of the "Bundesbeamtengesetz", which clearly stipulates that the successful completion of the promotions' examinations ("Aufstiegsexamen") has to be followed by the completion of a six-month (6-month) trial period by the "working unit", which wants to be promoted⁶⁶³.

In particular, the latter-referred period exists as a kind of "second stage" after the successful completion of the "Aufstiegsexamen" and its duration of six (6) months carries on the same character as the one of the period of the probationary working tenure, which has been already examined in the procedure of recruitment to the different groups – services – classes of the German civil service. It has to be mentioned that the performance of the newcomer-employees' tasks during this particular period cannot carry on a validating character, meaning that the candidate for promotion cannot be excluded from the procedure as such and from the possibility to achieve the promotion as a goal because of a non-sufficient tasks' performance, whereas they are called to fulfill and implement exactly the same tasks and duties as the ones of the already-employed "working units" of the "higher" field of occupation⁶⁶⁴.

As to the second (2nd) research question that has to be answered with regards to the sub-procedure of promotion, i.e. the one of the "place" – area – field in the framework of which the sub-procedure as such takes place in the case study of the German civil service, the modern researcher has to be focused on the last two (2) groups – services – classes of "administrative pyramid" of it (i.e. of the German civil service.). In more specific terms, the sub-procedure of promotion can be only detected and take place among the "Clerical" and the "Sub-Clerical" class of the German civil service⁶⁶⁵. In particular, taking into consideration its vertical, upward tendency, the German, in-service promotion refers to a specific, legitimized and institutionalized

⁶⁶³ §22, 2 BBG

⁶⁶⁴ Dr. Hans Joachim von Oertzen, "Public Personnel Management in the Federal Republic of Germany", in *International Review of Administrative Sciences*, California: Sage Publications, 1983, p.215

⁶⁶⁵"Federal Republic of Germany: Public Administration Country Profile", Division for Public Administration and Development Management (DPADM), Department of Economic and Social Affairs (DESA), United Nations, New York, USA, February 2006, p.13

working right of all those “Beamten” employed at the “Sub-Clerical” class of the German civil service and want to be promoted to the “Clerical” one by sitting the appropriate examination and undertaking the appropriate six-month (6-month) trial period⁶⁶⁶.

Taking the research initiative to trace back to the “institutional roots” of the Article 22 of the Federal Civil Service Act, in order to examine its prescriptions concerning this particular, strictly-oriented type of promotion, the modern researcher is confronted with a lack of research evidence, something which is decried by dominant scholars of the fields of German public administration and civil service, such as Christoph Reichard⁶⁶⁷. In other words, the Article 22 of the “Bundesbeamtengesetz” refers to the sub-procedure of “Aufstieg” in general terms and as a part of the chance of “Beamten” for mobility, leaving aside the fact that the only case, in the framework of which promotion can take place and be conducted in the German civil service is the above-referred scenario of an upward “working movement” from the “Sub-Clerical” to the “Clerical” class.

Despite the fact that the above institutional – legal inadequacy has given rise to scientific discussions with regards to the possibility for the conduction of a necessary reform of this particular article of the Federal Civil Service Act, the continuation of the non-existence of a precise stipulation regarding this strict, in-between the last two (2) “Beamten” groups of the German civil service, prevails as one of the most dominant features of the sub-procedure of promotion inside the German civil service.

In more specific terms and in order for the above argumentation to be practically comprehended, one can refer to the already-examined examples of professions of the third (3rd) and the fourth (4th) groups of German “Beamten”, i.e. the ones of the German street cleaners and the servants recruited to the customer service department (“Kundendienstabteilung”) of a German municipality. In particular, a German “Beamte”, who is employed as a streetcleaner, and thus, belongs to the “Sub-Clerical” class of the German servants’ “administrative pyramid”, has the ability to “climb”⁶⁶⁸ into the “Clerical” one and to be recruited to the “Kundendienstabteilung”

⁶⁶⁶ §22, 2 BBG

⁶⁶⁷ Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at EGPA-Conference for PSG 9 “Public Administration and Teaching”, Toulouse, 8-10 September 2010, p.9

⁶⁶⁸ Ibid., p.9

of their municipality by sitting the examination that is prescribed by the field of occupation (“Kundendienstabteilung”), as well as by successfully passing the six-month (6-month) trial period after its completion⁶⁶⁹.

The application of this particular kind of “Aufstieg”, which “transforms” an “Ordinary” German civil servant to an “Intermediate” one by granting them the capability and the choice of working advancement cannot be found in the cases between the other groups of “Beamten” inside the service⁶⁷⁰.

Specifically, referring again to the already-examined examples of German professions, a teacher at a German elementary school (“Grundschule”) who belongs to the “Higher – Intermediate” service does not possess the ability to “climb” into the “Higher” service and become a diplomat or a judge, because an appropriate path of sitting a “Staatsexam” for candidate diplomats completed by a trial period does not exist. To this effect, an already-promoted “Beamte” from the “Sub-Clerical” to “Clerical” class, who left the profession of the streetcleaner and was recruited into the “Kundendienstabteilung” does not have the ability to conduct a further promotion to a higher group – service – class and become, for example, a teacher at an elementary school, because such a career path does not exist as well.

The above-described univocal type of promotion, which concerns absolutely those “Beamten” of the “Sub-Clerical” and “Clerical” class could easily lead the modern researcher to the conclusion concerning the appreciation of the educational qualifications inside the German civil service, as well as their value as precise, strict and impenetrable requirements that set given limitations between the groups – services – classes of the German “Beamten”. In other words, the non-existence of the ability of a “Beamte” to gradually climb from the lowest (“Sub-Clerical”) to the highest (“Administrative”) class signalizes the fact that a qualitative grading between the groups – services – classes exists, as well as an equivalent (i.e. qualitative) separation between the educational qualifications required for entrance and recruitment to them. For example, the required qualifications which are fulfilled by a teacher in order for him or her to enter to the “Higher – Intermediate” service are not considered as enough and sufficient for entrance to the “Higher” service, even if this

⁶⁶⁹ §22, 2 BBG

⁶⁷⁰ Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at *EGPA-Conference for PSG 9 “Public Administration and Teaching”*, Toulouse, 8-10 September 2010, p.9

particular entrance is accompanied by supplementary procedures, such as the ones of the “Staatsexamen” and the six-month (6-month) trial period described.

In addition, a further ascertainment that can be made in the framework of the sub-procedure of promotion inside the German civil service has to do with the function of training as promotion’s main tool, and thus, a mobility’s tool, something that demonstrates the interrelation between them. However, as it has been stated during the above paragraphs, this specific tool “works” in one and only case of “Aufstieg”. In particular, the procedure of training can be comprehended and taken into consideration as the “entrance tool” into a higher group – service – class, and thus, as a conceptional and functional channel with the procedures of mobility and promotion, in the case of the upward working advancement from “Sub-Clerical” to “Clerical” class, where it is depicted to the existence of the six-month (6-month) trial period, whose fulfillment by the candidate “Beamte” is required for the completion of the “Aufstieg”⁶⁷¹.

The second (2nd) and the third (3rd) sub-procedures of “Mobilität” inside the German civil service, i.e. the ones of secondment (“*zeitweilige Versetzung*”⁶⁷²) and displacement (“*Versetzung*”⁶⁷³) have to be comparatively examined, in order for their differences to be evidenced. Both secondment and displacement form significant parts of the German, in-service field, whereas the main prescriptions concerning their function can be found in the stipulations of the articles 27 and 28 of the Federal Civil Service Act respectively.

Specifically, as to the secondment (“*zeitweilige Versetzung*”), the modern researcher has to retrace to the Article 27 of the “*Bundesbeamtengesetz*”. In particular, despite the fact that the article as such does not provide a precise and concrete definition with regards to the sub-procedure of secondment as a part of the German “Mobilität”, the modern researcher could here state that, in general terms, the latter-referred procedure can be defined as the working transfer of the employee from one office to another⁶⁷⁴.

⁶⁷¹ Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at *EGPA-Conference for PSG 9 “Public Administration and Teaching”*, Toulouse, 8-10 September 2010, p.9

⁶⁷² §27, 1 BBG

⁶⁷³ §28, 1 BBG

⁶⁷⁴ Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at *EGPA-Conference for PSG 9 “Public Administration and Teaching”*, Toulouse, 8-10 September 2010, p.9

Leaving aside the terminological generalizations, a clearer image concerning the conceptional background of the sub-procedure of “zeitweilige Versetzung” can be found by taking into consideration the prescriptions of the Article 27 in precise terms and by coming to given conclusions regarding them. In particular and according to the first (1st) paragraph of the Article 27, the sub-procedure of secondment does not have to do with a scenario – case of change of service conducted by the employee, but with one of change of office⁶⁷⁵.

In more specific terms, the first (1st) paragraph of the Article 27 of the “Bundesbeamtengesetz” stipulates clearly that the sub-procedure of secondment is strictly related to the working right of the retention of the service by the employee, whereas the one and only element which changes in the framework of their in-service status is the one of the change of office⁶⁷⁶. In other words, the crucial point of secondment as to the “working situation” of the employee has to do with a shift in terms of office, which is, at the same time, combined with a situation of stability in terms of service, meaning that the latter remains unchanged.

Having clarified the main point that concerns and characterizes the sub-procedure of secondment, the same paragraph (1st) of the Article 27 examines and defines the latter change of office in comparative terms, i.e. by taking it into consideration along with the duration of the whole procedure of secondment, which is the same to the one of the change of office. In particular and according to its prescriptions, the above-referred element of duration has to be characterized by temporality, meaning that the secondment as such cannot carry on a constant and permanent character⁶⁷⁷. In other words, the “working unit”, which implements the working right for a secondment, and thus, selects for a change of office, is not able to be recruited to the new, upcoming office in terms of working permanency, but in temporal ones, which are clearly set in the framework of a secondment’s act.

In more specific terms, the accuracy and the temporal precision of the sub-procedure of secondment set given, working and time limitations to the sub-procedure as such, whereas the disability of the employee to exceed these working and time limitations, binds and further establishes the latter-referred element of the “working

⁶⁷⁵ §27, 1 BBG

⁶⁷⁶ §27, 1 BBG

⁶⁷⁷ §27, 1 BBG

unit's" retention⁶⁷⁸. In other words, the fact that a point of termination is granted through the exact establishment of the sub-procedure of secondment signals its temporal character, i.e. the fact that the "working unit" is obliged by the "institutional nature" of secondment to develop and grow an only short-term working relation to the new, upcoming office, while remaining permanent part of the whole service.

Having stressed the notion of the working right of the employee to select for the beginning of the sub-procedure of secondment, the first (1st) paragraph of the Article 27 of the Federal Civil Act prescribes that it is up to the consent of the German "Beamte" to freely express their choice for the "zeitweilige Versetzung"⁶⁷⁹. In other words, it is a procedure, which is launched by their own responsibility, whereas it forms an actual signalization of their own working will. In the framework of this particular conception, which sets the employee in its center as the most crucial, significant and dominant actor, the role of the field of occupation could be characterized as secondary, from the point of view that the above-referred paragraph grants the absolute right to the employee, in order to decide for their "zeitweilige Versetzung".

Furthermore, according to the second (2nd) paragraph of the Article 27, there is the institutionalized and granted possibility – capability for the "zeitweilige Versetzung" of an employee to not correspond directly to their previous office in terms of salary⁶⁸⁰. In particular, according to the prescriptions regarding secondment, the employee who undertakes the responsibility to conduct the secondment has the ability to be seconded to an in-service, new office, which may offer them a lower salary than the previous one⁶⁸¹. In other words, this particular stipulation of the article defines that the sub-procedure of secondment as such does not possess the capability to create equal "working transfers" in terms of wages, whereas it excludes from the whole discussion the prerequisite of a concrete and direct correspondence of offices' wages, in order for the sub-procedure as such to take place.

Contrary to the teacher of an elementary school, who undertakes the responsibility for a secondment's conduction and is transferred to another school of a different region inside the same federal state, the sub-procedure of displacement

⁶⁷⁸ §27, 1 BBG

⁶⁷⁹ §27, 1 BBG

⁶⁸⁰ §27, 2 BBG

⁶⁸¹ §27, 2 BBG

(“*Versetzung*”⁶⁸²), which is stipulated by the Article 28 of the Federal Civil Service Act can be defined as one, which sets into the center of its procedural conception the change of service by the “working unit”, while not being concentrated on the case of office⁶⁸³.

In more specific terms and according to the first (1st) paragraph of the Article 28 of the Federal Civil Service Act, a displaced “working unit” is the employee, who changes service and not just office, meaning that, in contrast with the already-analyzed secondment, in the framework of which the employees retain their affiliation with the service, the “working units” here cancel and delete totally a possible scenario of “working retention” concerning their relation to their field of occupation⁶⁸⁴.

In other words and simply explained, displacement means that the employee does not continue to be a “lively working unit” for its service, but chooses to be transferred to a different working environment of another service⁶⁸⁵. This particular distinction between change of office and change of service is located into the conceptional center of difference between the sub-procedures of secondment and displacement and forms their central feature of theoretical differentiation in the field of literature as well.

As to its duration, again, in contrast with the sub-procedure of secondment, displacement is differentiated to the latter, from the point of view that it is characterized by permanence⁶⁸⁶. In particular, according to the second (2nd) paragraph of the Article 28, the main character of displacement, according to which the employee changes service forever, i.e. there is not the ability for them to return back to the service left behind, forms the main feature that defines the sub-procedure of displacement as “permanent transfer”⁶⁸⁷. This particular permanence renders the decision of the “working unit” as one of significant importance, from the point of view that the latter, because of the stipulation of the second (2nd) paragraph of the Article 28, will not have the working right, the capability, as well as the choice to change its decision with regards to its service’s change⁶⁸⁸.

⁶⁸² §28, 1 BBG

⁶⁸³ §28, 1 BBG

⁶⁸⁴ §28, 1 BBG

⁶⁸⁵ §28, 1 BBG

⁶⁸⁶ §28, 2 BBG

⁶⁸⁷ §28, 2 BBG

⁶⁸⁸ §28, 2 BBG

In other words, the above-described permanent character of the displacement is so -by the Federal Civil Service Act- institutionalized, as to possess the ability to change truly and totally the career path of each and every “working unit” that decides for it⁶⁸⁹. The latter element could be analyzed by two (2) different, analytical points of view· on the one hand, this particular permanency can be considered as one which carries on a restrictive character, meaning that it binds the employee to make a choice – working decision, which is pivotal, binding and unchanged. On the other hand, it gives to the “working unit” the chance to decide for a career path, which can be completely different of the already possessed one, and thus, to influence freely and totally its career by changing service in absolute terms.

Moreover, again, contrary to the sub-procedure of secondment, the second (2nd) paragraph of the Article 28 defines that, in the case of displacement, the consent of the employee does not have the ability to exceed or not to take into consideration the one of the service⁶⁹⁰. In particular and according to the prescription, an employee has the ability to undertake the initiative for a displacement’s conduction, which will be totally based on their own “working will”, but, the latter-referred paragraph gives, at the same time, the ability to the service – field of occupation to take the decision for the “working unit” without its consent⁶⁹¹.

In more specific terms, the Article clarifies the fact that the decision for an employee’s change of service made by the service, can be made only in those cases, where the employees’ post in the framework of the new service is similar to the old one in terms of tasks and duties, as well as corresponds to it in terms of wage⁶⁹². However, the Article does not clarify the cases and the reasons why, according to which the service could undertake such an initiative and make such a pivotal decision for the “working unit” without its consent. Again, one could here comprehend the fact that the prescription of the Article 28 with regards to the consent or not for the conduction of the displacement gives the freedom to the employee to decide for their career path and undertake the initiative, and thus, the decision for a fundamental career change, but, at the same time, restricts this freedom by granting to the service the right to undertake such an initiative, even without the employees’ consent.

⁶⁸⁹ §28, 2 BBG

⁶⁹⁰ §28, 2 BBG

⁶⁹¹ §28, 2 BBG

⁶⁹² §28, 2 BBG

Furthermore, trying to comprehend the exact “strategic position” of the field of occupation in the framework of the sub-procedure of an employee’s displacement, one could stress the fact that the Article 28 gives the freedom to the service to decide for a “working unit’s” displacement by strengthening the domination of the former, but, at the same time, this freedom of the service is to a certain extent restricted, from the point of view that the displacement decided for the “working unit” without its consent has to correspond to two (2) different requirements, as well as to fulfill them, i.e. the above-referred ones of the tasks’ resemblance and salary correspondence⁶⁹³.

As a result, the modern researcher could here come to the conclusion that, again, in contrast with the procedure of “zeitweilige Versetzung” of the Article 27, the one of “Versetzung” of the Article 28 is differentiated to a further point, i.e. the one of the non-ability for the existence of a non-correspondence of salaries between the old and the new service, into which the employee is about to be displaced. In other words and according to the second (2nd) paragraph of the Article 28, the direct salary correspondence between the old and the new service of the employee in the framework of the already-described working transfer, forms a major and dominant feature of the whole sub-procedure of displacement, which, at the same time, demonstrates that the financial factor, along with the already-described working permanency, render the “Versetzung” of the Article 28 as a more binding sub-procedure, from the point of view that the career path of the employee is changed in holistic terms⁶⁹⁴.

To sum up and before one moves on to the setting and analysis of the last subchapter (3.4.) concerning remuneration, a last and short comment has to be made with regards to the ontology of the already-examined sub-procedures of the German, in-service mobility. In particular, taking into consideration the fundamental, conceptual background of the last two (2) sub-procedures, i.e. the ones of secondment and displacement, and comparing it with the one of promotion, the modern researcher comes to the conclusion regarding a pivotal difference of them: on the one hand, the background of promotion, as it has been stressed, is a vertical one, from the point of view that the employee climbs the in-service career ladder, whereas the ones of the “Versetzung” and “zeitweilige Versetzung” are horizontal.

⁶⁹³ §28, 2 BBG

⁶⁹⁴ §28, 2 BBG

The latter means that the “working units” that are involved in the procedures of secondment and displacement make the background of the procedures to be a horizontal one. The latter refers to the fact that their “working movement” is characterized as an “in-group” – “in-class” one, meaning that, contrary to the promotion where the employee changes group – service – class by following an upward movement, the “working unit” here does not change office or service by going to a higher one, but its working transfer is evidenced in the framework of its already-occupied group – service – class, i.e. the employee does not possess the working right and the ability to move from the “Higher-Intermediate” to the “Higher” service by deciding for secondment or promotion, whereas the latter can be achieved in the case of promotion.

3.4. “Remuneration”

The central goal of the current subchapter (3.4.) is to describe and analyze extensively the remuneration system, to which the German civil servants (“Beamten”) pertain. At first, the current subchapter aims to define remuneration as a term of the field of human resources management, as well as to adjust it to the case study of the German civil service. Secondly, it attempts to glean all the main features of the German system of remuneration, as well as to analyze the system of the German pay grades – scales and its ontological background. The analysis of the latter is here used as the central, pivotal and indicative system of in-service payment, which corresponds directly to the already-analyzed groups – services – classes of “Beamten”.

As to its definition and according to Gary Dessler, remuneration can be defined as the monetary and nonmonetary sum provided by the employer to the employee, which corresponds to the services provided by the latter in the framework of their field of occupation⁶⁹⁵. Taking into consideration this particular definition, the modern researcher has to go on through two (2) different remarks with regards to the character of remuneration, as well as to a special relationship, which is cultivated and developed in the framework of it.

In more specific terms and with regards to the character of remuneration, one has to point out the importance of its nonmonetary background. In particular, remuneration does not only include monetary methods, ways and types of employees’ services rewards, meaning that they only receive a given amount of money for the delivered services, but also nonmonetary ones, meaning that the act of payment as such can take forms other than money, such as direct benefits in form of holiday packages⁶⁹⁶.

The above-described, nonmonetary character of remuneration means that its conception cannot be strictly limited into terms of money, as well as that remuneration as such must not necessarily carry on a monetary character⁶⁹⁷. In other words, this particular nonmonetary background of remuneration liberates and sets free a given “space” in theoretical and practical terms, which concerns the elements

⁶⁹⁵ Garry Dessler, “Fundamentals of Human Resource Management”, Essex: Pearson New International Edition, 2014, p.309, 311

⁶⁹⁶ Ibid., p.316-317

⁶⁹⁷ Ibid., p.316

included in its framework. In particular, this specific, nonmonetary feature of remuneration means practically that, when remuneration is examined by each and every modern researcher, the element of salary must not be univocally taken into consideration, as if it was the one and only element included into remuneration's "conceptional field"⁶⁹⁸.

Specifically, the above-referred nonmonetary character of remuneration is the one that is responsible for the fact that many scholars of the field of human resources management tend to describe and analyze extensively a whole field which is called as "*elements of remuneration*"⁶⁹⁹, which is examined along with remuneration as a whole module – unit. In particular, the "elements of remuneration" as a field of examination derives from the above-referred nonmonetary character of remuneration as such, whereas it signalizes its non-strictly-set character⁷⁰⁰.

The latter shows the way to the fact that remuneration and its "elements" escape from the "financial deterioration" of the notion of salary, whereas they are able to adopt a clearly social character as well. In more specific terms, and taking the above-mentioned definition by Gary Dessler as a strong research motive, one could detect that the fact, according to which the employee who produces and delivers a given service, develops and cultivates a socio-economic relationship with the employer, who remunerates them for the latter⁷⁰¹.

First of all, indeed, the above-mentioned relationship can be characterized as a fundamentally financial one, from the point of view that it is theoretically and practically based on terms of a given good's production, as well as on terms of reward for the latter⁷⁰². The financial background of this specific relationship can be also manifested by the fact that it sets in its conceptional center the procedure of production as a "triple-layered" one, i.e. as one which includes a worker – producer, a product and an owner of the means of production.

On the other hand, the above-described relationship between the employer and the employee, despite its financial background, includes a social one as well, from the

⁶⁹⁸ Garry Dessler, "Fundamentals of Human Resource Management", Essex: Pearson New International Edition, 2014, p.316-318

⁶⁹⁹ Federal Ministry of the Interior (BMI), "The federal public service: An attractive and modern employer", *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.82, 83

⁷⁰⁰ *Ibid.*, p.83

⁷⁰¹ Garry Dessler, "Fundamentals of Human Resource Management", Essex: Pearson New International Edition, 2014, p.309

⁷⁰² *Ibid.*, p.309

point of view that it allocates given and precise social roles, while further establishing and reproducing them⁷⁰³. In more specific terms, in the framework of the procedure of remuneration, the employee comprehends that he or she forms the main “unit”, on which the procedure of the good’s production depends in practical terms, whereas the employer embodies the role of a “unit”, which carries on the task – responsibility of the good’s introduction in the framework of the market.

Having analyzed the main and central conceptional background of the notion of remuneration and trying to adapt the latter to the case study of the German civil service, the modern researcher has to prestress three (3) different issues concerning the here-conducted analysis. Firstly, the main, fundamental, legal source concerning the remuneration system of the German civil service, which is used for the analysis of the current subchapter, is the Federal Civil Servants’ Remuneration Act (“*Bundesbesoldungsgesetz*”, *BBesG*)⁷⁰⁴. Despite this fact, its prescriptions are not directly used in terms of “solid”, pure and official reference, mainly because of the already-made overuse of direct references to fundamental, legal sources, with the main example being the one of the Federal Civil Service Act in the framework of the subchapters concerning recruitment and training. However, because of the fact that the modern researcher cannot conceptionally and literally bypass the pivotal prescriptions of the “BBesG”, indirect references are made to them, mainly through the use of other, bibliographical sources, which take into consideration the latter text.

Secondly, as it has been supported and analyzed, remuneration does not only include the notion of salary, but can be also examined in terms of general benefits as well. However, the here-conducted analysis with regards to the German civil service, will be univocally focused on the remuneration schemes of the German “Beamten” (“Federal Pay Scales”), because the elements of remuneration such as family allowances or performance bonuses differ not only from service – class to service – class inside the German “administrative pyramid”, but from profession to profession as well, rendering the procedure of their analysis either as a chaotic one or as one that is obliged to be absolutely concentrated on some only professions, without constructing a clear-shaped and qualitative analysis concerning the “German remuneration”.

⁷⁰³ Garry Dessler, “Fundamentals of Human Resource Management”, Essex: Pearson New International Edition, 2014, p.326, 332

⁷⁰⁴ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.82

Last but not least, before one moves on to the central analysis of the current subchapter, a short reference – overview has to be made concerning the fundamental, ontological background of the German system of remuneration. In more specific terms, as it will be demonstrated, it is about a four-layered (4-layered) system of remuneration, from the point of view that it includes four (4) different pay scales, i.e. the pay scales A, B, W and R⁷⁰⁵.

It has to be clarified that the above ones are four (4) in number, not because of their correspondence to the four (4), already-analyzed groups – services – classes of German civil servants, but because of the fact that they represent different groups of the same, i.e. the already-analyzed, categories of German civil servants, in terms of remuneration. In particular, the German, four-layered (4-layered) system of the pay scales of remuneration proceeds into a “new categorization” of the German civil servants, meaning that it is not based on the already-examined one, but re-allocates the “working units” in the framework of the service, being based on the monetary and the nonmonetary sum that they receive because of the goods produced by them,

In other words, the German system of remuneration introduces and adopts a given categorization of “Beamten”, which is not made according to their legal background or their “administrative position” inside the “Dienst”, but on some other features that characterize the German civil servants and classify them into another, different “position”, which is constructed according to terms of remuneration⁷⁰⁶. Contrary to the “administrative pyramid” analyzed in the framework of the subchapter concerning the legal framework and the procedure of recruitment, which find application to the case study of the German civil service, the pay scales that will be here analyzed, construct a scheme, which comprehends and illustrates the allocation of the German “Beamten” from a completely different viewpoint, whereas it adopts and conceptionally reproduces a different narrative than the already-examined one⁷⁰⁷.

As to the “Federal Pay Scale A”, it has to be firstly mentioned that it is a scale, which includes given subgrades· the ones of A2, A3, A4, A5, A6, A7, A8, A9, A10, A11, A12, A13, A14, A15 and A16. Each and every of these subgrades A2 – A16 includes eight (8) sub-steps· the ones of Step 1, 2, 3, 4, 5, 6, 7 and 8. These particular,

⁷⁰⁵ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.83

⁷⁰⁶ *Ibid.*, p.82

⁷⁰⁷ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.84

eight (8) sub-steps (Step 1 – Step 8) are common for all the pay grades A2 to A16, from the point of view that all of the pay grades of the “Federal Pay Scale A” are composed by eight (8) different sub-steps (Step 1 – Step 8)⁷⁰⁸.

Trying to make the “Federal Pay Scale A” comprehensible to the modern researcher, as well as to each and every reader of the project, it has to be stressed that the above-described, subgrades (or “pay grades”, i.e. A2 – A16) of the whole “Federal Pay Scale A” represent the different salary categories of the German “Beamten”, whereas they correspond to the different groups – services – classes of them⁷⁰⁹. In particular, according to data given by the Federal Ministry of Interior (“Bundesministerium des Innern”), the subgrades – pay grades A2, A3, A4, A5 represent the civil servants who comprise the fourth (4th) category of “Beamten”, i.e. the ones of the “Ordinary Service” of the “Sub-Clerical Class”⁷¹⁰.

Moreover, the subgrades – pay grades A6, A7, A8 and A9 represent the civil servants who comprise the third (3rd) category of “Beamten”, i.e. the ones of the “Intermediate Service” of the “Clerical Class”⁷¹¹. Furthermore, the subgrades – pay grades A10, A11, A12 and A13 represent the civil servants who comprise the second (2nd) category of “Beamten”. i.e. the ones of the “Higher-Intermediate Service” of the “Executive Class”⁷¹². In addition, the subgrades – pay grades A14, A15 and A16 represent the civil servants who comprise the first (1st) category of “Beamten”, i.e. the ones of the “Higher Service” of the “Administrative Class”⁷¹³.

Having clarified the fact that each and every of the above-described groups of subgrades – pay grades corresponds to the different groups – services – classes of “Beamten” inside the German civil service, the role and the main conception of the eight (8) sub-steps of the pay grades has to be here clarified. In particular, each one of these represents an internal, salary classification, which is established inside each and every subgrade – pay grade⁷¹⁴. In other words, each and every pay grade includes and demonstrates a salary gradation, which is described in numerical terms and records an incremental tendency – trend from sub-step to sub-step· each sub-step includes and

⁷⁰⁸ Ibid., p.84

⁷⁰⁹ Ibid., p.83, 84

⁷¹⁰ Ibid., p.83

⁷¹¹ Ibid., p.83

⁷¹² Ibid., p.83

⁷¹³ Ibid., p.83

⁷¹⁴ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.86

represents a given amount of money in salary terms, which gets increased in the next sub-step⁷¹⁵.

In order for the whole case of the “Federal Pay Scale A” to be clarified and be described as a comprehensible one, a practical example has to be here mentioned. In particular, the pay grade A2, which represents a “Beamte” of “Ordinary Service”, includes eight (8) sub-steps (Sub – step 1 to Sub – step 8). The amount of money in salary terms, which represents the sub-step 1 of the pay grade A2 is 1.974€. This particular amount of money, i.e. the salary that will be received by a “Beamte” employed at the pay grade A2, gets increased in the next sub-step. In particular, the amount of money which represents the sub-step 2 of the pay grade A2 is 2.018€. This increase in terms of salary remains in the framework of the “financial shift” from sub-step to sub-step, and thus, the sub-step 8 of the pay grade A2 -i.e. the last sub-step of the pay grade- is represented by a monthly salary of 2.237€, the highest for the whole pay grade A2⁷¹⁶.

This increase in terms of salary is observed in each and every of the pay grades, as well as forms the central and main “financial condition” of the “financial shift” from each and every low sub-step to each and every higher one.

Accordingly, and in order for it to be stressed in numerical – financial terms as well, the sub-step 1 of the pay grade A3 begins with an amount of 2.050€, whereas its final sub-step 8 with one of 2.329€. The sub-step 1 of the pay grade A4 begins with an amount of 2.093€, whereas its final sub-step 8 with one of 2.420€. The sub-step 1 of the pay grade A5 begins with an amount of 2.109€, whereas its final sub-step 8 with one of 2.504€. The sub-step 1 of the pay grade A6 begins with an amount of 2.154€, whereas its final sub-step 8 with one of 2.632€. The sub-step 1 of the pay grade A7 begins with an amount of 2.261€, whereas its final sub-step 8 with one of 2.852€⁷¹⁷.

The sub-step 1 of the pay grade A8 begins with an amount of 2.392€, whereas its final sub-step 8 with one of 3.097€. The sub-step 1 of the pay grade A9 begins with an amount of 2.581€, whereas its final sub-step 8 with one of 3.344€. The sub-step 1 of the pay grade A10 begins with an amount of 2.763€, whereas its final sub-step 8 with one of 3.748€. The sub-step 1 of the pay grade A11 begins with an amount

⁷¹⁵ Ibid., p.84, 85

⁷¹⁶ Ibid., p.84

⁷¹⁷ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.84

of 3.158€, whereas its final sub-step 8 with one of 4.179€. The sub-step 1 of the pay grade A12 begins with an amount of 3.386€, whereas its final sub-step 8 with one of 4.602€. The sub-step 1 of the pay grade A13 begins with an amount of 3.971€, whereas its final sub-step 8 with one of 5.106€. The sub-step 1 of the pay grade A14 begins with an amount of 4.084€, whereas its final sub-step 8 with one of 5.554€. The sub-step 1 of the pay grade A15 begins with an amount of 4.992€, whereas its final sub-step 8 with one of 6.271€. Last but not least, the sub-step 1 of the pay grade A16 begins with an amount of 5.507€, whereas its final sub-step 8 with one of 6.986€⁷¹⁸.

This particular, incremental tendency applies to all the cases of sub-steps of the rest of the pay grades, whereas only increases are observed in the sub-steps that mediate between the sub-step 1 and the sub-step 8.

The central research question that arises in this particular point concerning the pay grades of the “Federal Pay Scale A” and their eight (8), internal sub-steps, has to do with their interconnection, meaning that the modern researcher has to examine the possibilities for a “financial move” of a given employee from one sub-step to another, and thus, for a salary increase.

In more specific terms, each and every “Beamte” who is recruited to a given pay grade, pertains to its starting sub-step, i.e. the sub-step 1⁷¹⁹. In other words, the first, monthly-defined salary which will be received by each and every newly-employed German civil servant, is that, which is the representative one for the sub-step 1 of the pay grade, to which their field of occupation belongs⁷²⁰.

Given the fact that every newly-recruited “Beamte” is “financially introduced” into the sub-step 1 of a given pay grade, their ability for salary increase is based on a system of internal, among-the-steps promotion, which examines and take into consideration two (2) important requirements, in order for the promotion from a given sub-step to another to take place: the requirement of tasks’ fulfillment and the one of the in-service seniority⁷²¹.

In particular, as to the tasks’ fulfillment requirement, upon the request of the servant to the service for a salary increase, and thus, for a “financial shift” from one sub-step to another, the specific service to which he or she belongs, is the one, which

⁷¹⁸ Ibid., p.84

⁷¹⁹ Ibid., p.83

⁷²⁰ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.83

⁷²¹ Ibid., p.83

is responsible to judge if their in-service tasks have been successfully fulfilled⁷²². In a possible case of positive judgement, the second criterion – requirement that is also examined by the service is the one of seniority, meaning that the years, during which the “Beamte” is employed at the service form a crucial factor that stipulates and defines the possibility for him or her to move from one sub-step to another⁷²³.

This particular element of seniority, whose philosophical background will be analyzed in the framework of the last chapter (4) concerning the Weberian character of the German public administration, can be mainly seen in the fact that the incremental move from one sub-step to another is based on numbers of years⁷²⁴. Each and every incremental move to a higher sub-step requires one (1) more year of service, and thus, of experience, made by the “Beamte” in order for their salary to be increased by entering to a new, higher sub-step⁷²⁵. In other words, this mentality of internal and between-the-steps promotion relates directly the salary of the “Beamte” to the years worked by them, from the point of view that the latter forms the second, strict and necessary requirement for the former.

In order for the whole analysis of the “Federal Pay Scale A” to be fully comprehended, the modern researcher has to refer to a given example of the already-described professions and adjust it the above scale’s remuneration system – scheme. In more specific terms, a German streetcleaner, who belongs to the fourth (4th) category of German “Beamten”, and thus, to the “Ordinary Service” and the “Sub-Clerical” class, corresponds to the pay grade A2 of the Federal Pay Scale A. At the time of his or her recruitment into the service, their salary is the one that forms the starting – beginning amount of money defined by the sub-step 1 of the pay grade A2, i.e. 1.974€⁷²⁶.

In the case that he or she wants to increase their salary, and thus, to enter to the next sub-step 2, they have to successfully fulfill their tasks, as well as to work for the whole first (1st) year as servants included into the sub-step 1. After the passing of this first (1st) year and the successful completion of tasks, they are able to enter to the sub-step 2, and thus, receive an increased salary amount of 2.018€⁷²⁷. The same

⁷²² Ibid., p.82-83

⁷²³ Ibid., p.83

⁷²⁴ Ibid., p.83

⁷²⁵ Ibid., p.82-83

⁷²⁶ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.84

⁷²⁷ Ibid., p.84

requirements, i.e. the one year of work in the framework of a given sub-step and the successful completion of tasks, apply to the procedure of the financially incremental move – “shift” to the next, higher sub-steps of the pay grade (in this case: pay grade A2), until the “Beamte” reaches the sub-step 8, (for the pay grade A2: 2.237€), on which the monthly amount of the salary stops to increase⁷²⁸.

Having examined and analyzed extensively the “Federal Pay Scale A”, the research focus has to be here concentrated on the rest of the remuneration schemes of the German civil service, i.e. the “Federal Pay Scale B”, “Federal Pay Scale W” and “Federal Pay Scale R”.

The above ones will be here consciously analyzed together, because given similarities can be detected and evidenced in-between them, whereas these ones form the main points of differentiation between the Federal Pay Scales B, W and R and the one of the “Federal Pay Scale A”. In other words, precise and concrete features exist, which are common between the “remuneration cases” B, W and R, while embodying a character of differentiation between the latter and the “Federal Pay Scale A”. These characteristics have to do with the (non)existence of “sub-steps”, as well as with the correspondence of the pay grades to the specific groups – services – classes of the German civil service.

In particular, contrary the “Federal Pay Scale A”, the ones of B, W and R do not include sub-steps into their existing pay grades. The latter means that none of them includes the notion of payment – salary classification, from the point of view that each and every pay grade corresponds to a given amount of money – salary⁷²⁹. In more specific terms, the latter fact means that, given the non-existence of sub-steps, the promotion of the employee in terms of salary is not possible, and thus, in the case that an employee wants his or her monthly salary to be numerically and financially increased, the have to change pay grade, i.e. to “climb” to a “higher” field of occupation.

As to the second (2nd) feature – point which is common between the pay scales B, W and R and, at the same time, forms their differentiation point in comparison with the “Federal Scale A”, it has to be mentioned that the correspondence of the formerly-referred pay scales (B, W, R) to the groups – services – classes of the German

⁷²⁸ Ibid., p.84

⁷²⁹ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.85, 88

“Beamten” is specialized, from the point of view that they correspond to and financially represent specific and precise groups of them⁷³⁰.

In particular, according to data given by the “Bundesministerium des Innern”, the “Federal Pay Scale B” refers univocally to the fourth (4th) group of the German “Beamten”, i.e. to the “Higher Service”, and thus, to the “Administrative Class”. In other words, it applies to “*high-ranking positions such as state secretaries, director generals, heads of divisions [...] and presidents*”⁷³¹. Accordingly, the “Federal Pay Scale W” corresponds univocally to the fourth (4th) group of the German civil servants as well (“Higher Service”, “Administrative Class”), whereas it forms a numeration scheme that is a “research-oriented” one, from the point of view that it applies to professors at public and private universities, as well as to research and scientific personnel⁷³². Furthermore, the “Federal Pay Scale R” univocally corresponds to the “Higher Service” of the German “Beamten”, with the main difference being the one of its judicial-oriented character, meaning that it corresponds to “Beamten” employed at the German judicial branch⁷³³.

As to the “Federal Pay Scale B”, it has to be mentioned that it includes eleven (11) different pay grades: the pay grades B1, B2, B3, B4, B5, B6, B7, B8, B9, B10 and B11, which, as it has been stated, apply univocally to the fourth (4th) group of “Beamten”, i.e. the “Higher Service” – “Administrative Class” and correspond absolutely to one (1) and given amount of money in terms of monthly salary⁷³⁴.

In more specific terms, the pay grade B1 corresponds to a monthly salary of 6.271€; the pay grade B2 corresponds to a monthly salary of 7.285€; the pay grade B3 corresponds to a monthly salary of 7.714€; the pay grade B4 corresponds to a monthly salary of 8.163€; the pay grade B5 corresponds to a monthly salary of 8.678€; the pay grade B6 corresponds to a monthly salary of 9.167€; the pay grade B7 corresponds to a monthly salary of 9.639€; the pay grade B8 corresponds to a monthly salary of 10.133€; the pay grade B9 corresponds to a monthly salary of 10.746€; the pay grade B10 corresponds to a monthly salary of 12.649€; the pay grade B11 corresponds to a monthly salary of 13.141€⁷³⁵.

⁷³⁰ Ibid., p.83

⁷³¹ Ibid., p.83

⁷³² Ibid., p.88

⁷³³ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.85, 86

⁷³⁴ Ibid., p.85

⁷³⁵ Ibid., p.85

A characteristic example included into the remuneration scheme of the “Federal Pay Scale B” is that of a German diplomat. He or she is included into this particular category, because of the fact that they are considered as “Higher Service” – “Administrative Class” and are employed at high – ranking positions of the governmental branch concerning the field of foreign policy. The pay grade, to which they belong is the one of B11, i.e. they receive a monthly salary of 13.141€⁷³⁶.

With regards to the “Federal Pay Scale W”, as it has been stressed, it concerns the people employed at the highest educational level, i.e. the German universities, whereas it includes professors and German, scientific – research staff. In structural alignment with the “Federal Pay Scale B”, the “W” one does not include any sub-steps, whereas it includes only seven (7) pay grades, i.e. the ones of the W1, W2, W3, W4, W5, W6 and W7⁷³⁷.

In particular, the pay grade W1 corresponds to a monthly salary of 2.763€; the pay grade W2 corresponds to a monthly salary of 3.158€; the pay grade W3 corresponds to a monthly salary of 3.386€; the pay grade W4 corresponds to a monthly salary of 3.971€; the pay grade W5 corresponds to a monthly salary of 4.084€; the pay grade W6 corresponds to a monthly salary of 4.992€; the pay grade W7 corresponds to a monthly salary of 5.507€. A characteristic example, which is included into the “Federal Pay Scale W” and applies to the pay grade W4 of this particular remuneration scheme is the one of the German Professor at a public university, who belongs to the pay grade W4 and receives a monthly salary of 4.992€⁷³⁸.

With regards to the “Federal Pay Scale R”, as it has been mentioned, it forms the judicial – oriented remuneration scheme of the German civil service, does not include internal sub-steps, while containing ten (10) different pay grades. In particular, the pay grades in this case, as well as the amounts of monthly salary to which they correspond are the same with the case of the “Federal Pay Scale B”, with the difference being the one of the non-existence of the first (1st) pay grade of the “Federal Pay Scale B”, i.e. the pay grade B1⁷³⁹.

⁷³⁶ Ibid., p.85

⁷³⁷ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.88

⁷³⁸ Ibid., p.88

⁷³⁹ Ibid., p.85-87

In particular, the “Federal Pay Scale R” includes the pay grades R1, R2, R3, R4, R5, R6, R7, R8, R9 and R10. the pay grade R1 corresponds to a monthly salary of 7.285€; the pay grade R2 corresponds to a monthly salary of 7.714€; the pay grade R3 corresponds to a monthly salary of 8.163€; the pay grade R4 corresponds to a monthly salary of 8.678€; the pay grade R5 corresponds to a monthly salary of 9.167€; the pay grade R6 corresponds to a monthly salary of 9.639€; the pay grade R7 corresponds to a monthly salary of 10.133€; the pay grade R8 corresponds to a monthly salary of 10.746€; the pay grade R9 corresponds to a monthly salary of 12.649€; the pay grade R10 corresponds to a monthly salary of 13.141€⁷⁴⁰. A characteristic example of the remuneration scheme of the “Federal Pay Scale R” is that of a judge of a German federal state, who belongs to the pay grade R6 and receives a monthly salary of 9.639€⁷⁴¹.

To sum up, having defined and extensively analyzed the four (4), different remuneration schemes applicable to the case study of the German civil service, as well as examined the practical adaptation of the latter service’s personnel principles to the central ones of the field – discipline of public administration as a whole, the modern researcher is able to proceed to the next and last chapter, where the Weberian character of the “Deutsche öffentliche Verwaltung” will be demonstrated and proved, based on the already-conducted analysis.

⁷⁴⁰ Ibid., p.85-87

⁷⁴¹ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.85-87

4. The philosophico-administrative ontology of a Weberian public administration

The main and central research goal of the current chapter is to examine, analyze and, finally, prove the Weberian character and background of the German public administration by emphasizing on the case study of the German civil service. In particular, in order for the above one to be fulfilled, the already-analyzed, in-service aspects, features, elements and procedures of the German civil service with regards to the field of human resources management of the “Beamten” are here taken into research consideration again, but in that case, along with and comparatively to the peculiar stipulations of the philosophico-administrative theory of Max Weber.

Before one moves on to the fulfillment of the latter-set research goal, a few things with regards to the followed and adopted methodology have to be clarified. In more specific terms, the whole chapter forms an attempt of a practical, methodological and analytical connection among the special human resources management’s features of the German civil service and the Weberian thought in the form of its expression in the framework of Max Weber’s philosophico-administrative theory of the “Ideal Type of Bureaucracy”.

It is, in other words, a research attempt, which aims to “produce” reasonings and argumentations that combine features from more than one disciplines, such as the ones of public administration, philosophy, as well as sociology. The latter are about to develop a peculiar, “lively dialogue” of arguments and counterarguments, aiming to make a final declaration with regards to the (non)Weberian character and background of the German civil service.

The current chapter (4) is divided into two (2) different subchapters, 4.1. and 4.2. Both of them take as granted the conclusions excluded and expressed in the framework of previous chapters (1 – 3) and combine them with the theoretical stipulations of the Weberian philosophico-administrative theory, in order for a final research statement concerning the (non)Weberian character and background of the “öffentlicher Dienst” to be made. In particular, the first (1st) subchapter (4.1.) takes as granted the already-examined phenomenon of “Juristenmonopol” (chapter 1), as well as the administrative predominance of the German level – layer of “die Länder” (chapter 2), in order for them to be corresponded to the Weberian, administrative term

of the “Rule of Law” as well as to the Weberian theory of the administrative center (“Verwaltungszentrum”) respectively, and thus, for the Weberian character and background of the German civil service to be evidenced.

Moreover, the second (2nd) subchapter (4.2.) takes as granted all the already-excluded conclusions with regards to the German, in-service features of the field of human resources management, which concern the legal framework, recruitment, professional and career development, as well as the remuneration of the German “Beamten” (chapter 3), in order for them to be corresponded to the Weberian traditional principles of the professional civil service (“Die hergebrachten Grundsätze des Innendienstes”), which are represented by the Weberian acronym of “HTML” that can be found in the framework of the theory of the “Ideal Type of Bureaucracy”.

Furthermore, the second (2nd) subchapter (4.2.) is occupied with the institutionalized stipulations of the fundamental, legal texts that govern -directly and indirectly- the German civil service, i.e. the German Basic Law (“Grundgesetz”), the Federal Civil Service Act (“Bundesbeamtengesetz”) and the Federal Civil Service Remuneration Act (“Bundesbesoldungsgesetz”), in order for them to be corresponded to the Weberian, legalistic – law-oriented mentality, which, in the framework of the theory of the “Ideal Type of Bureaucracy”, takes the shape of an in-service, multilevel domination of Law.

Last but not least, before moving on to the main analysis of the topic, it has to be stressed that the above-described correspondence between the “in-service ontology” of the German civil service and the Weberian philosophico-administrative theory is totally and strictly based on the aspects examined in the framework of the current project, with the main ones being those of the politico-administrative particularities of the Federal Republic of Germany(chapters 1 and 2), as well as the elements – procedures of legal framework, recruitment, professional and career development and remuneration of the German “Beamten” (chapter 3). However, the latter does not mean that the modern researcher is not able to conduct the same correspondence by using other and different data, as well as “theoretical ingredients”.

4.1. Willkommen in der Verwaltung der Anwälte: Das Phänomen des Juristenmonopols und der Weg zur Weberianischen Verwaltung

The research goal of the current subchapter (4.1.) is twofold one, from the point of view that it is occupied with two (2) different aspects of interrelation between the German civil service and the Weberian administrative theory. As to the first (1st) aspect, the current subchapter (4.1.) tries to conceptionally link the already-described phenomenon of “*Juristenmonopol*”⁷⁴², i.e. the monopoly of jurists, (chapters 1 and 3) to the Weberian theory of “Rule of Law” (“*Rechtsstaat*”⁷⁴³), in order to prove one of the Weberian aspects of the German civil service. As to the second (2nd) aspect, it tries to interrelate and connect the already-analyzed administrative dominance of “die Länder” to the Weberian theory of the administrative center (“*Verwaltungszentrum*”⁷⁴⁴).

Starting the analysis from the first (1st) aspect, the main concern of the current subchapter is to demonstrate how does the Weberian, theoretical background of the notion of “Rule of Law” influence the expression and existence of the practically-evidenced legalism inside the German civil service, which can be detected in terms of the educational qualifications’ background of the German “Beamten” at the highest level of the German civil service.

As will be detected during the analysis, which will here follow, two (2) significant issues have to interest the modern scholar of German public administration; first and foremost, as it will be demonstrated, the above-referred legalism does not have to do with the general “Gestalt” of the German public administration or its way of function, but refers strictly to the educational background of its servants. Secondly, the analysis which is here conducted with regards to the phenomenon of “Juristenmonopol” is a univocal one, from the point of view that it is occupied in absolute terms with those “Beamten” who consist the first (1st) group

⁷⁴² Manfred Röber, “Germany” in *New Public Managers in Europe: Public Servants in Transition*, London: Palgrave Macmillan, 1996, p.180

⁷⁴³ Detlef Lehnert, “Max Weber 1864-1920: Politik-Theorie-Weggefährten” in *Historische Demokratieforschung Band 10*, Köln: Böhlau Verlag, 2016, p.40

⁷⁴⁴ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.85-87

inside the German civil service, i.e. the ones of the “Higher Service” – “Administrative Class”.

Having set and clarified the main research goal of the current subchapter, it has to be mentioned that the reference and the analysis concerning the existence of the phenomenon of “Juristenmonopol” inside the German civil service will not take place in the framework of the current chapter, because such an attempt could lead to a conceptual repetition during current project’s pages, as well as it could be proved wrong and boring for the reader.

Besides, the proof of the existence of the phenomenon as such inside the German civil service, has been already mentioned in the framework of the first (1st) chapter, where one of the main and central research goals was the one of the contribution of the former to the terminological marginalization of the term “Human Resources Management” inside the German civil service. Furthermore, the latter-referred phenomenon, i.e. the one of “Juristenmonopol”, has been already analyzed and examined in the framework of the third (3rd) chapter of the project as well, where the research and analytical emphasis was put on the procedure of recruitment of the German “Beamten” and, in particular, on the educational qualifications’ background that must be fulfilled by the first (1st) group of them, i.e. of the “Beamten” of the “Higher Service – “Administrative class”.

Despite the fact that two (2) specific references have been already made to the phenomenon of “Juristenmonopol” during two (2) of the previous chapters, a clear, complete and well-rounded definition of it has not been shaped and constructed yet. The latter is justified by the fact that, indeed, if one gleans the appropriate bibliography concerning the German public administration and, in more specific terms, the “nature” and the “ontological background” of the German civil service, they are able to detect the existence of the phenomenon as such (“Juristenmonopol”), but not to find out a clearly-expressed definition of it, which is able to attach importance to the phenomenon’s conceptual roots, central meanings and practical expression.

Because of the latter reason, an attempt is here made, in order for a well-developed and comprehensive definition of the phenomenon of “Juristenmonopol” to be constructed, which will take into consideration all the current and updated bibliography with regards to the German public administration and its personnel, as

well as will aim to clarify the phenomenon as such and to match it with the Weberian notion of the “Rule of Law” at a second time.

In particular, the modern researcher could support that the phenomenon of “Juristenmonopol” could be defined as a German, in-civil service tendency, which can be seen in the case study of the “Beamten” of the “Higher Service” – “Administrative Class”, who are characterized by a law-oriented background in terms of educational qualifications⁷⁴⁵. In particular, the “Juristenmonopol” can be described as a phenomenon of lawyers’ dominance in the framework of the first (1st) group of the German “Beamten”, whereas the “legal background” of this particular dominance concerns the qualitative profile of the Higher Service’s German civil servants in terms of educational assets, which are demonstrated already since the stage of their recruitment to the service – field of occupation⁷⁴⁶.

In other words, the term of “law” in this particular case is not interrelated to specific and unique in-service procedures, which concern the ways and methods of legitimization inside the German public administration, but is strictly linked to the educational profile of the recruited “Beamten” to the German “Higher Service” – “Administrative Class”⁷⁴⁷. In more specific terms, the modern researcher “confronts” in this particular case a peculiar phenomenon of legalism, which refers to an intense and increased “administrative presence” of law-oriented – recruited “Beamten”, whereas it does not have anything to do with internal procedures and functional – existential “administrative methods” of the “Deutsche öffentliche Verwaltung”.

The emphasis, which is put by the phenomenon of “Juristenmonopol” on the educational assets’ profile of the German “Beamten” carries on two (2) different features, which have to be here mentioned. First of all, the modern researcher could support the fact that the phenomenon of “Juristenmonopol” could be characterized as a univocal one, from the point of view that it concerns the law-oriented educational qualifications of “Beamten” in absolute terms, as well as it mainly refers to two (2)

⁷⁴⁵ Manfred Röber, “Germany” in *New Public Managers in Europe: Public Servants in Transition*, London: Palgrave Macmillan, 1996, p.180

⁷⁴⁶ Sabine Kuhlmann, Manfred Röber, “Civil Service in Germany: Between Cutback Management and Modernization”, in *Modernization of State and Administration in Europe: A France-Germany Comparison*, Opladen: Verlag für Sozialwissenschaften, 2006, p.94

⁷⁴⁷ Hans-Ulrich Derlien, “Repercussions of Government Change on the Career Civil Service in West Germany: The Cases of 1969 and 1982” in *Governance: An International Journal of Policy and Administration Vol.1 No.1*, New Jersey: Wiley-Blackwell, 1988, p.206

specific legal specializations, i.e. the ones of the administrative and the international law⁷⁴⁸. In other words, one is here occupied with a phenomenon, which refers entirely and absolutely to the science of law and the field of the legal studies, whereas it recognizes the owners of a law-oriented educational background as the dominant “units” inside a given field of occupation in the framework of the German civil service.

Before one moves on to the analysis of the second (2nd) feature, which proves and manifests the univocal character of the phenomenon of “Juristenmonopol”, which arises from its definition, it has to be reported that the latter-referred one with regards to its “qualitative obsession” with the educational qualification of law and the legal studies, can be also evidenced by the scientific argumentations of some of the most significant scholars of the field of the German public administration.

In particular, Christoph Reichard supports that “[...] according to the legalistic administrative culture which has been generated by the prevalence of a quite rigid rule-application, the personnel structure in German Public Administration is strongly ruled by a dominance of lawyers”⁷⁴⁹, whereas Sabine Kuhlmann and Manfred Röber share the view that “[...] the presence of lawyers and their involvement into the country’s administrative business form a hallmark for the German Public Administration [...]”⁷⁵⁰.

As to the second (2nd) feature, which demonstrates and proves the univocal character of the phenomenon of “Juristenmonopol” as the former arises by the definition of the latter, the modern researcher has to focus on the fact that, as it has been referred, the phenomenon as such concerns the “Beamten” of the first (1st) group of the German civil service, i.e. the ones of the “Higher Service” – “Administrative

⁷⁴⁸ Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at EGPA-Conference for PSG 9 “Public Administration and Teaching”, Toulouse, 8-10 September 2010, p.5-7

⁷⁴⁹ Hans-Ulrich Derlien, “Repercussions of Government Change on the Career Civil Service in West Germany: The Cases of 1969 and 1982” in *Governance: An International Journal of Policy and Administration Vol.1 No.1*, New Jersey: Wiley-Blackwell, 1988, p.206

⁷⁵⁰ Sabine Kuhlmann, Manfred Röber, “Civil Service in Germany: Between Cutback Management and Modernization”, in *Modernization of State and Administration in Europe: A France-Germany Comparison*, Opladen: Verlag für Sozialwissenschaften, 2006, p.94

Class”⁷⁵¹. The latter means that the already-analyzed, law-oriented educational background, as well as its dominance in terms of qualifications can be shown and detected only in this particular group of German “Beamten”.

In other words and taking into consideration the analysis conducted in the framework of the third (3rd) chapter, the “Juristenmonopol” forms a phenomenon, which is indicative in terms of educational qualifications for German in-service professions such as the ones of a German diplomat or of a German judge (i.e. for the 1st group of the “Higher Service” – “Administrative Class”) and not for professions, which are indicative for and belong to other groups – services – classes of the German civil service, such as the one of a German streetcleaner, which has been already examined as a representative one for the fourth (4th) group of the German “Beamten”, i.e. for the “Ordinary Service” of the “Sub-clerical Class”⁷⁵².

The latter argumentation is also enriched by the analysis conducted by Hans-Ulrich Derlien, who supports that *“The disciplines of law, economics and social sciences are considered as equal prerequisites for a career in the Higher civil service. Jurists and non – jurists are, however, in a fundamentally different situation, since jurists present a large homogenous group, whereas political scientists, sociologists and economists are the exception. In line with the continental, European legal tradition, the German Administration is standardized to a large degree by legal norms.”*⁷⁵³.

However, apart from the widely accepted existence of the phenomenon of “Juristenmonopol” in the framework of the “Higher Service” of the German civil service, there are scholars of German public administration, such as Manfred Röber, who tend to support the aspect that the phenomenon is such a strong one, so for it to be not only detected to the “Bund” level that is a representative one for “Beamten” of the “Higher Service”, but also to the “Länder” and the “Gemeinden” ones, which include fields of occupation indicative for the “Beamten” of the rest of the German, in-civil service groups.

⁷⁵¹ Hans-Ulrich Derlien, “Repercussions of Government Change on the Career Civil Service in West Germany: The Cases of 1969 and 1982” in *Governance: An International Journal of Policy and Administration Vol.1 No.1*, New Jersey: Wiley-Blackwell, 1988, p.206

⁷⁵² Hans-Ulrich Derlien, “Repercussions of Government Change on the Career Civil Service in West Germany: The Cases of 1969 and 1982” in *Governance: An International Journal of Policy and Administration Vol.1 No.1*, New Jersey: Wiley-Blackwell, 1988, p.206

⁷⁵³ *Ibid.*, p.206

In more specific terms, according to Manfred Röber, “[...] *the personnel structure in PA is strongly moulded by a dominance of lawyers (Juristenmonopol) [...] For this reason there are proposal to reduce the dominance of lawyers and to recruit more economists and management experts to the civil service. At the Federation, Länder and local level there is still a domination of public servants with law qualifications.*”⁷⁵⁴.

Having defined the phenomenon of “Juristenmonopol” and examined its univocal character, as well as having taken into consideration its obsession with the law-oriented educational qualifications and its expression – manifestation in the case of the “Beamten” of the “Higher Service”, the modern researcher has to define and analyze, in this particular case, the phenomenon of the Weberian “Rule of Law”.

Before the setting of a clearly-constructed and precisely-configured definition of the above, i.e. of the “Rule of Law”, it has to be stressed that the latter does not form a simple term, from the point of view that the “Rule of Law” refers to a wider conception, which is strictly and directly combined with the whole tradition of the Weberian, social and administrative theory in general terms⁷⁵⁵.

In other words, it could not be characterized as a simple, but as a whole and wider notion, meaning that it exists and can be analyzed as a representative, theoretical and conceptional element of the Weberian theory, whereas the modern researcher is able to detect that this particular notion (“Rule of Law”) includes a multiplicity of conceptions, which derive from different aspects of “Weberianismus”⁷⁵⁶.

However, in this particular case, an attempt is made, in order for the “Rule of Law” to be analyzed and examined not as a wide and general notion of the whole field of “Weberianismus”, but as a specific term of the administrative theory of Max Weber, whose relation and correspondence to the German civil service is going to be

⁷⁵⁴ Manfred Röber, “Germany” in *New Public Managers in Europe: Public Servants in Transition*, London: Palgrave Macmillan, 1996, p.180

⁷⁵⁵ Heinrich Siedentopf, Karl-Peter Sommermann, Christoph Hauschild, “The Rule of Law in Public Administration: The German Approach” in *Speyerer Forschungsberichte 122 (3. Auflage)*, Speyer: Forschungsinstitut für öffentliche Verwaltung bei der Hochschule für Verwaltungswissenschaften Speyer, 1994, p.3, 4

⁷⁵⁶ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.23

demonstrated⁷⁵⁷. Besides, a possible attempt of analyzing the “Rule of Law” as a Weberian, multilevel conceptional element could be proved a tiring one for the reader of the project, as well as a disorientating one for the central and substantial research goal of the current subchapter.

The Weberian, administrative term of the “Rule of Law” can be defined as a total dominance – enforcement of Law in the framework of a given administrative environment⁷⁵⁸. In more specific terms, Law is considered as a “lively unit”, as the most powerful and dominant element inside a certain frame – environment, whereas this particular dominance, as it will be demonstrated, is the one which transfuses to the Law the ability to shape and configurate the above-referred environment⁷⁵⁹.

Taking into consideration the latter-set definition, the modern researcher has to stress and further clarify two (2) given elements that arise from it, in order for the administrative term of “Rule of Law” to be enough comprehended, as well as for its central meanings and conceptions to be fully analyzed. In particular, these two (2) elements are the ones of the environment, in the framework of which the Law exists, acts and expresses its action as a “lively unit”, as well as the dominance – enforcement of Law, i.e. the main and pivotal way, according to which Law expresses its actions as such inside the latter-referred environment⁷⁶⁰.

With regards to the environment, the features to which specific reference has to be made are the ones of the “nature”, as well as the function of it⁷⁶¹. In particular, in the case that one refers to the “nature” of the environment, inside which Law expresses its action, the main character of the environment as such in terms of traits is meant, as well as its central background in terms of features⁷⁶². The environment, where the administrative term of “Rule of Law” is manifested and evidenced cannot

⁷⁵⁷ Heinrich Siedentopf, Karl-Peter Sommermann, Christoph Hauschild, “The Rule of Law in Public Administration: The German Approach” in *Speyerer Forschungsberichte 122 (3. Auflage)*, Speyer: Forschungsinstitut für öffentliche Verwaltung bei der Hochschule für Verwaltungswissenschaften Speyer, 1994, p.

⁷⁵⁸ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.66, 67

⁷⁵⁹ *Ibid.*, p.66, 67

⁷⁶⁰ *Ibid.*, p.68

⁷⁶¹ *Ibid.*, p.68, 69

⁷⁶² *Ibid.*, p.68

be considered as a general one, but as a concrete and precise one, which carries on given characteristics⁷⁶³.

In more specific terms and taking into consideration the above-referred, fundamental definition concerning “Rule of Law”, the environment inside which the latter is expressed is the one of a given nation – state’s public administration⁷⁶⁴. In other words and given the fact that the “Rule of Law” has been already defined and characterized as an administrative term, the environment, in the framework of which the term as such can be detected and highlighted could not be of a different nature, meaning that it cannot escape from the “administrative limits”⁷⁶⁵.

The frame – “space”, in which an administrative term is expressed and functions, is also an administrative one and, at the same time, this particular “administrative nature” could be described as conceptionally and thematically demarcated, from the point of view that, at least in this case, includes administrative elements in absolute terms⁷⁶⁶. In more specific terms, the modern researcher could here support that the analysis “confronts” a “full-blooded” administrative case study, where an administrative term as such (“Rule of Law”) is applicable to a given, precisely-set and concretely-defined administrative environment, in which its actions’ manifestation is expressed and can be detected.

Trying to adapt the latter theoretical argumentation to a more practical scheme, one could support that the administrative term of “Rule of Law” and its conceptional and thematical “matchup” with an administrative framework, can be demonstrated by the fact that the former concerns the administrative way of handling and controlling the public sphere, from the point of view that Law as the “administrative protagonist” of the term of “Rule of Law” develops and expresses its action to the whole environment of a given country’s public administration and, in particular, it does so by stipulating, regulating and governing the special way,

⁷⁶³ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.68

⁷⁶⁴ Heinrich Siedentopf, Karl-Peter Sommermann, Christoph Hauschild, “The Rule of Law in Public Administration: The German Approach” in *Speyerer Forschungsberichte 122 (3. Auflage)*, Speyer: Forschungsinstitut für öffentliche Verwaltung bei der Hochschule für Verwaltungswissenschaften Speyer, 1994, p.25-27

⁷⁶⁵ Jürgen Kocka, “Otto Hintze, Max Weber und das Problem der Bürokratie” in *Historische Zeitschrift (HZ) vol. 233, Iss.1*, Berlin: WZB Berlin Social Science Center, 1981, p.78

⁷⁶⁶ *Ibid.*, p.78

according to which issues and procedures of the “public field” have to be settled and handled⁷⁶⁷.

The latter means that the special way of expression – character of the administrative term of “Rule of Law” develops and reflects its main features and dominant action in a holistic and limitless manner, from the point of view that it cannot be detected as a phenomenon – exception in the framework of a given public administration, but, instead, it stipulates, forces and imposes itself as the main norm – rule of the latter⁷⁶⁸. In other words, it forms a phenomenon – “main condition” of the public sphere, whose existence and functional domination can be observed in the wholeness of a given administrative environment that is strictly set and determined by the latter⁷⁶⁹.

As to the function of the administrative environment, in the framework of which the administrative term of “Rule of Law” can be evidenced and is expressed, one could argue on the fact that the former plays a purely functional role, from the point of view that the latter takes the advantage of it, in order for the demonstration and manifestation of its action to take place⁷⁷⁰.

In other words, the already-described administrative environment and its “matchup” with the administrative term of “Rule of Law” is characterized by the development of a relation, which is based on functional terms, meaning that the precisely-set administrative environment forms, in absolute terms, the one and only field, which is used by the administrative term of “Rule of Law”, in order for its actions’ demonstration to take place⁷⁷¹. In particular, this specific environment carries on this concrete and absolute operation for the “Rule of Law”, which, at the same time, reflects a part of its dominant character via the univocal use of the administrative environment as a field of function⁷⁷².

⁷⁶⁷ Max Weber, “Gesammelte Politische Schriften”, München: Drei Masken Verlag, 1921, p.26

⁷⁶⁸ Ibid., p.26

⁷⁶⁹ Ibid., p.26

⁷⁷⁰ Ibid., p.27, 28

⁷⁷¹ Jürgen Kocka, “Otto Hintze, Max Weber und das Problem der Bürokratie” in *Historische Zeitschrift (HZ) vol. 233, Iss.1*, Berlin: WZB Berlin Social Science Center, 1981, p.77

⁷⁷² Jürgen Kocka, “Otto Hintze, Max Weber und das Problem der Bürokratie” in *Historische Zeitschrift (HZ) vol. 233, Iss.1*, Berlin: WZB Berlin Social Science Center, 1981, p.77, 78

In more specific terms, the “Rule of Law” does not only express its function inside a given administrative environment in absolute and holistic terms, but, at the same time, this particular, “functional reflection” and its holisticness pave the way to the element of dominance – enforcement of the administrative term as such inside the above-referred environment⁷⁷³. In other words, the “administrative matchup” of the “Rule of Law” with a given “space” of a nation – state’s public administration, as well as the operation of the latter as the main field of the central, functional expression of the former, form a stable background that facilitate the consolidation of Law as the main “ruler” – sovereign power in the framework of the Weberian theory of public administration⁷⁷⁴.

As to the above-referred dominance – enforcement of Law inside a given administrative environment, the modern researcher has to be focused on the main meaning and conception of the dominance – enforcement as such, as well as on the special way of its actual expression and demonstration.

As to the first (1st) one, the dominance – enforcement of Law in the framework of a given administrative environment in which the “Rule of Law” is expressed, refers to the outcomes of the action of Law, i.e. the configuration and development of a given situation after its implementation⁷⁷⁵. In particular, in the framework of the Weberian administrative theory, the dominance - enforcement of Law is the direct result of its time of implementation⁷⁷⁶. Specifically, it is represented as a “superlative sum” of the “*Inkrafttreten*”⁷⁷⁷ (i.e. the procedure – action of coming into force) of Law as such, meaning that the latter is flawless, holistic and ideal in terms of implementation.

In other words, the dominance – enforcement of Law as the most crucial and significant outcome – consequence of its administrative action inside a concrete, administrative environment means that the whole field – environment is governed and regulated by the fact that the Law as such has achieved its final goal – destination, i.e.

⁷⁷³ Detlef Lehnert, “Max Weber 1864-1920: Politik-Theorie-Weggefährten” in *Historische Demokratieforschung Band 10*, Köln: Böhlau Verlag, 2016, p.45-48

⁷⁷⁴ Ibid., p.45-48

⁷⁷⁵ Ibid., p.45-48

⁷⁷⁶ Ibid., p.45-48

⁷⁷⁷ Ibid., p.45-48

it has imposed itself as the dominant actor of the above-referred environment, which is able to set and stipulate the prominent conditions of the latter⁷⁷⁸.

In terms of practical implementation, the dominance – enforcement of Law is institutionally and legally demonstrated by the fact that the whole “bulk” of the administrative action, which takes place inside a given administrative environment has to be legitimized and precisely justified by the enactment of laws⁷⁷⁹. The latter means that each and every new action, which is about to take place and come into force inside a given administrative environment, as well as the already-established ones have to carry on the legal approval, either as a case of a new stipulation – regulation or as an “institutional preservation” of an already-existing legal environment⁷⁸⁰.

In more specific terms, the modern researcher could support that the dominance – enforcement of Law, as well as the provision of its approval to each and every administrative action in the framework of a precisely-set administrative field, are characterized by the existence of a twofold background; on the one hand, when it comes to the integration and introduction of new administrative actions, Law dominates through its presence in the procedure of their primary enactment; on the other hand, when it comes to the institutional check and legal control of the already-applied administrative actions, Law dominates again through the fact that their existence and application in the present time derives from a previously-given authorization and “admission” given by the Law in prior time⁷⁸¹.

In other words, the dominance – enforcement of Law in the framework of the application of “Rule of Law” can be comprehended and seen by the fact that Law is constantly present, either by having given its authorization to the present administrative environment’s establishment or by giving it in present time, in order for its further continuation to take place⁷⁸².

This particular ever-present dominance – enforcement of Law in the case of the application of the Weberian “Rule of Law” can be also depicted to the fact that a

⁷⁷⁸ Detlef Lehnert, “Max Weber 1864-1920: Politik-Theorie-Weggefährten” in *Historische Demokratieforschung Band 10*, Köln: Böhlau Verlag, 2016, p.45, 47

⁷⁷⁹ Ibid., p.46

⁷⁸⁰ Ibid., p.46, 47

⁷⁸¹ Ibid., p.45-47

⁷⁸² Detlef Lehnert, “Max Weber 1864-1920: Politik-Theorie-Weggefährten” in *Historische Demokratieforschung Band 10*, Köln: Böhlau Verlag, 2016, p.45-47

given administrative environment, which is dominated by the former, is characterized by the consolidation of a given code of values⁷⁸³ that is compatible with Law's above-described domination.

In more specific terms, the dominance – enforcement of Law is part and parcel of the establishment of a given set of values, which is carried on by the Law and aims to institute its own conditions by configuring and shaping its establishment's administrative environment according to its own terms⁷⁸⁴. Specifically, Law expresses and demonstrates its dominance by instituting values such as the ones of accountability, predictability, transparency and reliability, by which all the administrative actions inside the precisely-set administrative environment have to be characterized⁷⁸⁵.

Trying to consciously escape from a possible case of analysis of the ontological background and conception of each and every of the above-referred values, one has to stress the following: the fact that all the administrative actions legitimized by the Law have to “pave the way” for the establishment of a value code that includes values such as the above-referred ones means that the actions as such, as well as the administrative procedures of their implementation have to be characterized by preciseness⁷⁸⁶.

In more specific terms, in order for the dominance – enforcement of Law to be established, the preciseness of the value and conceptional background of the code of values, as well as of their introduction's procedures is required⁷⁸⁷, because, according to the Weberian theory, Law is -and must be- characterized by the phenomenon of the “*Sicherheitsautomatisierung*”⁷⁸⁸ (i.e. “automation of certainty”), which refers to a

⁷⁸³ J. P. Mayer, “Max Weber and German Politics: a study in political sociology”, London: Faber and Faber Limited, 1943, p.30-31

⁷⁸⁴ Detlef Lehnert, “Max Weber 1864-1920: Politik-Theorie-Weggefährten” in *Historische Demokratieforschung Band 10*, Köln: Böhlau Verlag, 2016, p.44

⁷⁸⁵ Ibid., p.44

⁷⁸⁶ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.49, 50

⁷⁸⁷ Heinrich Siedentopf, Karl-Peter Sommermann, Christoph Hauschild, “The Rule of Law in Public Administration: The German Approach” in *Speyerer Forschungsberichte 122 (3. Auflage)*, Speyer: Forschungsinstitut für öffentliche Verwaltung bei der Hochschule für Verwaltungswissenschaften Speyer, 1994, p.27, 28

⁷⁸⁸ Max Weber, “Gesammelte Politische Schriften”, München: Drei Masken Verlag, 1921, p.39

fundamental, internal feature of it that has the ability to grant that the outcomes of the Law's actions are precise and characterized by standardized quality⁷⁸⁹.

In other words, the preciseness of the code of values for integration into a given administrative framework, as well as the actions which have to be undertaken for the achievement of the latter subserve the internal nature of Law and its "natural prepossession", in order for the certainty to exist, that the same, qualitative results in terms of values can be achieved and established, in the case that the followed ways – strategies of their establishment - introduction, as well as the values' background are characterized by preciseness⁷⁹⁰.

Furthermore, according to the Weberian theory, the dominance – enforcement of Law in the framework of the administrative term of "Rule of Law" can be detected to the fact that, at the end of the day, all the "lively units", i.e. the individuals, who appertain to a given administrative environment, obey to Law, condoning its dominance⁷⁹¹. The latter takes place mainly because of the fact that the above dominance of Law is legitimized by certain, democratic institutions, which precisely provide their authorization, in order for the Law(s) of "Rule of Law" to carry on the acceptance of a given democratic polity, as well as in order for them to be implemented by being accepted in terms of democratic majority⁷⁹².

The above phenomenon, as well as its relation to the administrative term of "Rule of Law" has been described by Max Weber as "*Legitimation der Gewalt*"⁷⁹³, meaning that the individuals inside a given administrative framework accept the authority of Law and, above all, its right to be imposed on them, because of the fact that the latter has been instituted and legitimized by democratic institutions⁷⁹⁴. In other words, it is about a legitimized violence, which refers to the justified and reasonable tolerance of the individuals – members of the administrative framework to

⁷⁸⁹ Ibid., p.39

⁷⁹⁰ Ibid., p.39

⁷⁹¹ Ibid., p.39

⁷⁹² Heinrich Siedentopf, Karl-Peter Sommermann, Christoph Hauschild, "The Rule of Law in Public Administration: The German Approach" in *Speyerer Forschungsberichte 122 (3. Auflage)*, Speyer: Forschungsinstitut für öffentliche Verwaltung bei der Hochschule für Verwaltungswissenschaften Speyer, 1994, p.27, 28

⁷⁹³ Andreas Anter, "Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.65-66, 71

⁷⁹⁴ Ibid., p.65-66

the Law's imposition, according to which, the democratic legitimization of the latter forms the most sufficient proof for the individuals' obedience to its commands.

Having defined, analyzed and referred extensively to the phenomena of "Juristenmonopol" and "Rule of Law", the modern researcher has to conceptionally connect, as well as link them to the case study of the German civil service. As it has been already evidenced, because of their Weberian "nature" and character, the fact of their connection to the latter forms a proof of its Weberian aspect, and thus, institutes, establishes and confirms the whole project's main research goal.

A first aspect – case of the Weberian background – "nature" of the German civil service has to do with the fact of the existence, application and implementation of the administrative term of "Rule of Law" as such in the framework of the former⁷⁹⁵. In other words, the fact that such a term, which, as it has been demonstrated, forms a pivotal hallmark of the Weberian theory in its whole and in administrative terms, is considered here as a significant proof of "Weberian dominance" inside the German civil service.

However, having already set a clear and precise definition concerning the latter-referred administrative terms, the modern researcher has to depict the main and central ways and manners, according to which the term as such (i.e. "Rule of Law") is reflected to the foundations of the German civil service, as well as defines and "marks" its dominant character. In other words, in this particular case, the modern researcher has to explore and discover the main way of the establishment and expression of the administrative term of "Rule of Law" by setting the significant question of how does the administrative term as such apply to the case study and in the framework of the German civil service.

Again, as it has been stated in the framework of the setting and structuring of a precise and concrete definition with regards to the "Rule of Law", it has to be prementioned that the administrative term as such, is not here examined by taking into consideration the appropriate "bulk" of legislation, which is required for the internal, main and sub-procedures of the German civil service to take place, but by taking into consideration the actual, administrative, in-service facts that demonstrate the necessity of an ever-present legal conception and mentality, either it has to do with the need of

⁷⁹⁵ Ibid., p.25-27

Law's authorization or with the educational -in terms of assets and qualifications- and administrative background of the personnel units of the German civil service.

A stable and precisely-existing proof of the existence, application and implementation of the administrative term of "Rule of Law" in the framework of the German civil service, and thus, a substantiation for the Weberian aspect, background and character of it has to do with the existence – presence, but above all, with the practical – actual way of the in-service expression of the phenomenon of "Juristenmonopol" as such⁷⁹⁶. Besides, the main reason why for the choice of their joint presentation, definition and analysis was aiming to their later, analytical and conceptional interrelation in terms of an "in-service tension", which advocates for the Weberian "nature" and character of the German civil service. Taking into consideration that the proof of the existence of the phenomenon as such ("Juristenmonopol") has been examined, analyzed and proved in the framework of the first (1st) chapter, the here-conducted analysis emphasizes on the interpretation of the way(s) of expression of it as the dominant "administrative apparatus" – situation inside the German civil service.

In more specific terms and in order for the research emphasis to be enough comprehended, the "analytical path" which is here adopted, follows a methodological mentality, according to which the administrative term of the "Rule of Law" as such forms a "Weberian proof" inside the German civil service, whereas a further proof for the existence of the "Rule of Law" forms the special way of the in-service expression of the phenomenon of "Juristenmonopol", whose existence has been already described, analyzed and proved in the framework of the first (1st) chapter, and thus, the here-set analysis is concentrated on the above-referred way of its expression – manifestation.

In order for the latter, i.e. the special way of expression – manifestation of the "Juristenmonopol" inside the German civil service, to be correctly interpreted, as well as to be examined and analyzed in relation to the case study of the service's Weberian "nature", two (2) central and significant features of the in-service manifestation of the "Juristenmonopol" have to be examined; on the one hand its existence and actual presence in the German "Higher Service" and, on the other hand, its univocal

⁷⁹⁶ Manfred Röber, "Germany" in *New Public Managers in Europe: Public Servants in Transition*, London: Palgrave Macmillan, 1996, p.180

emphasis on the legal background of the “lively units”, i.e. the personnel, of the service and its law-oriented educational qualifications⁷⁹⁷.

Both of them have been already examined and studied in the framework of the setting of a precise definition for the phenomenon of “Juristenmonopol”, but they have not been analyzed in relation to their contribution to the further establishment of the administrative term of “Rule of Law”, and thus, to the tendency and intensity of further pointing out the Weberian character of the German civil service.

Starting from the latter substantial element of the “Juristenmonopol”, i.e. the univocal emphasis on the law-oriented educational qualifications of the “lively units” of the German civil service, it has to be mentioned that the application of the “Rule of Law”, and thus, the Weberian aspect of the German civil service can be demonstrated by and detected to the fact that the “lively units” – personnel, of which the German civil service is composed, carry on a pure legal background⁷⁹⁸.

In particular, the modern researcher can argue, in this particular case, on the fact that the fundamental, ontological background of the phenomenon of “Juristenmonopol” is the one, which contributes to the further establishment of the administrative term of “Rule of Law”, because of its pure, legal imprint⁷⁹⁹; the latter does not only matchup with the “Rule of Law” because of their common, legal – law-oriented background, but also leads to the further establishment and institution of the former, and thus, to its contribution to the further strengthening – empowerment of the Weberian aspect of the German civil service⁸⁰⁰.

The “lively units” – personnel of the German civil service as a whole play a pivotal role in the framework of the demonstration of the law-oriented background of both “Juristenmonopol” and “Rule of Law”, because of the fact that, due to their personal, law-oriented background -detected into terms of assets and qualifications- they form a “lively personification” of Law in the framework of the service⁸⁰¹. The

⁷⁹⁷ Manfred Röber, “Germany” in *New Public Managers in Europe: Public Servants in Transition*, London: Palgrave Macmillan, 1996, p.180

⁷⁹⁸ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.71-72

⁷⁹⁹ *Ibid.*, p.67-68

⁸⁰⁰ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.71-72

⁸⁰¹ *Ibid.*, p.73

latter argumentation refers to the fact that the actual application of the dominance – enforcement of the administrative term of “Rule of Law” does not only take place through impersonal procedures of legitimization, but also through the “lively units” – “Beamten”, of which the German civil service is composed⁸⁰².

The above-described “personification” of Law, which sets into its fundamental conceptional center the functional existence of the “lively units” – “Beamten”, considers the former, i.e. the “units”, as the main actors of the phenomenon as such, because they also form the “lively prerequisites”, in order for the procedures of legitimization inside a given administrative framework to take place⁸⁰³.

Taking into research consideration the above argument, the modern researcher has to state and stress the fact the phenomenon of the “personification of law” does not take place just because of the existence of the “lively units” – “Beamten” as such, but, as it has been mentioned above, because of their functional existence, relating the term of “function” not only to the specific way, according to which the “Beamten” of the administrative framework act, but also to the particular “load” they carry on⁸⁰⁴.

In more specific terms, the phenomenon of “personification of Law” takes place and is expressed mainly because of the theoretical “load” in terms of educational qualifications and assets, which is carried on by the “lively units” – “Beamten” of the German civil service⁸⁰⁵. This particular load has to do directly with their law-oriented educational – theoretical background and, above all, with the practical implementation of the former to the actual framework of given administrative procedures inside the administrative field of the German civil service⁸⁰⁶.

In other words, in this particular case, the modern researcher is able to detect a transformation which takes place and concerns a turning – conversion from the theoretical to the practical level. Specifically, the phenomenon of “personification of Law” takes place because of the fact that the theoretical, educational “load” carried on by the “lively units” – “Beamten” and expressed in terms of law-oriented assets and qualifications, is implemented into the functional framework of in-service administrative procedures, because of the fact that the “lively units” as such are able

⁸⁰² Ibid., p.71-73

⁸⁰³ Ibid., p.71-73

⁸⁰⁴ Ibid., p.73

⁸⁰⁵ Manfred Röber, “Germany” in *New Public Managers in Europe: Public Servants in Transition*, London: Palgrave Macmillan, 1996, p.180

⁸⁰⁶ Ibid., p.180

to make a good use of their law-oriented “theoretical load” and apply it to the technical and expertise-based, administrative procedures of a given administrative framework.

The central conception of the above-described conversion of the educational, theoretical “load” into practically-implemented knowledge that is applicable to the administrative demands of a given framework can be considered as one, which leads the way into a relation of interrelation, which is created between two (2) different legal backgrounds; on the one hand, the modern researcher is able to detect the “natural”, theoretical, legal background of the administrative term of “Rule Law” that derives from its fundamental, Weberian roots and, on the other hand, the one which is the above-discovered, i.e. the one carried on as a “law-oriented load” by the “lively units” – “Beamten” and is applicable to given in-service procedures.

This particular relation of interrelation can be detected to the fact that the theoretical, law-oriented “nature” of the administrative term of “Rule of Law”, which is also depicted throughout the existence of the “Juristenmonopol” can be fulfilled as well as theoretically and conceptionally “satisfied” by its qualitative matchup with an equivalent legal background, meaning that the law-oriented theoretical “load” of the “lively units” – “Beamten” of the administrative framework is the one which leads to further empowerment of the administrative term as such, i.e. the one of “Rule of Law”, being based on terms of qualitative and thematic similarities.

In other words, the modern researcher can here argue on the fact that the establishment and further institution of the “Rule of Law” takes place in the framework of the German civil service, because of the fact that the qualitative and thematic background of the phenomenon of “personification of Law” as well as its law-oriented “nature” and the representation of the latter by its “lively units”, correspond directly to the conceptual core of the former, i.e. of the “Rule of Law”, which is also a law-oriented one. Specifically, the crucial point – argument of interrelation between the “Rule of Law” and the phenomenon of “personification of Law” lies on their qualitative and thematic relevance, which is based and instituted on their common, legal background, as well as on the fact that such a law-oriented phenomenon as the one of the “Rule of Law” can ensure its further existence and more strengthened institution only through its “qualitative interconnection” to an equivalent, law-oriented one.

Moreover, the latter-analyzed interrelation – interconnection between the two (2) described law-oriented backgrounds leads to a further establishment of the administrative term of “Rule of Law”, because it leads to an additional dominance – enforcement of Law as such⁸⁰⁷. In more specific terms, the latter dominance – enforcement is achieved because of the fact that Law as a wider notion is recognized as the one and only guarantor – safeguard of the organization and the functional existence of a given administrative framework (in this particular case study: the German civil service)⁸⁰⁸.

Trying to explore and analyze how the latter is achieved, the modern researcher could refer to two (2) different explanations; on the one hand, to the numerical potential of the legal background of the whole administrative framework of the German civil service; on the other hand, to the effect of the above-described qualitative background of it, i.e. the fact that it becomes one of a law-oriented “nature” under the influence of the empowerment of the administrative term of “Rule of Law”⁸⁰⁹.

As to the first (1st) one, one could argue on the fact that the special position of Law inside the administrative framework as a dominant power is shaped and influenced by the fact that the above – described interrelation – interconnection, expressed in law-oriented terms, includes two (2) different sides, i.e. the functional existence of the “Rule of Law” as such, as well as the “personified”, law-oriented “load” of the “Beamten”⁸¹⁰.

In other words, the fact that this particular interconnection is a twofold one including two (2) different “sides of law” paves the way for the further and empowered dominance of Law, from the point of view that these two (2) sides, i.e. the already-existing “Rule of Law” inside the administrative framework, as well as the law-oriented “administrative units” of it, guarantee a kind of “double check”, meaning that the Law does not only form the main way of organization, functional existence and procedures’ authorization inside the administrative framework, but also its further

⁸⁰⁷ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.66-67

⁸⁰⁸ Ibid., p.66-67

⁸⁰⁹ Ibid., p.69

⁸¹⁰ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.66-69

perpetuation is ensured by the existence and the function of the “law-oriented units” of the latter-referred framework⁸¹¹.

As to the second (2nd) one, i.e. the common qualitative background between the term of “Rule of Law” and the one of the phenomenon of the “personification of Law” that is expressed through the “law-oriented units”, the modern researcher could share the view that it contributes to the empowered position of Law and its recognition as a dominant unit inside a given administrative framework, because of the existence of terms of common qualifications inside the latter⁸¹². In particular, the already-described qualitative relevance between both of the law-oriented backgrounds of the “Rule of Law” and the phenomenon of “personification of Law” function as fortifier ones for the further institution and establishment of Law inside the administrative framework⁸¹³.

In more specific terms, the fact that both of the backgrounds are of a “legal – law orientation” contributes to the further empowerment of Law, because the latter enjoys a regular, qualitative prominence by existing inside a “Rule of Law framework”, whose units, totally aligned with the dominant qualification of their existential environment, carry on a law-oriented “nature”, which is implemented by them inside the framework and for the fulfillment of its qualitative needs.

Furthermore, the above-referred qualitative prominence can be also detected to the case of the “law-oriented units”, mainly because of the fact that their functional existence and dominance inside the administrative framework designates and gives prominence to the Law in terms of educational qualifications, from the point of view that their law-oriented background which arises from the field of legal studies is recognized as the most valuable one⁸¹⁴.

In particular, law assets – qualifications are appreciated and given credits as the ones of the highest “theoretical nature”, leading to the additional strengthening of Law inside a given administrative framework⁸¹⁵; the latter can be supported by the

⁸¹¹ Ibid., p.66-69

⁸¹² Ibid., p.66-69

⁸¹³ Ibid., p.66-69

⁸¹⁴ Manfred Röber, “Germany” in *New Public Managers in Europe: Public Servants in Transition*, London: Palgrave Macmillan, 1996, p.180

⁸¹⁵ Hans-Ulrich Derlien, “Repercussions of Government Change on the Career Civil Service in West Germany: The Cases of 1969 and 1982” in *Governance: An International Journal of Policy and Administration Vol.1 No.1*, New Jersey: Wiley-Blackwell, 1988, p.206

already-examined existence of the phenomenon of “Juristenmonopol” and the relative dominance of the discipline of law over another ones, such as economics or political science⁸¹⁶, something, which, as it has been supported in the framework of the first (1st) chapter, is related to the already-proved terminological marginalization of the term “human resources management” inside the German civil service⁸¹⁷.

Having analyzed and interpreted the univocal emphasis on the notion of the law-oriented – legal background of the phenomenon of “Juristenmonopol” and its relation to the administrative term of “Rule of Law”, and thus, its contribution to the Weberian aspect of the German civil service, the modern researcher has to now concentrate on the interpretation of the existence of the phenomenon of “Juristenmonopol” in the “Higher Service” of the German civil service.

To begin with, as to the existence of the phenomenon of “Juristenmonopol”, it has to be stressed that the latter is here examined as a hallmark of the “Higher Service” of the German civil service in absolute terms, and thus, the here-conducted analysis with regards to its contribution to the Weberian character of the whole service will take into research consideration only the “highest level” of it. Besides, as it has been mentioned throughout the introductory paragraphs of the current subchapter (4.1.), the most of the scholars of the field of German public administration share the view that, indeed, the phenomenon as such, i.e. the “Juristenmonopol”, can be only found in the case study of the German “Higher Service”, with the “research exceptions” being represented by a few scholars, such as Manfred Röber, who tend to believe that “Juristenmonopol” can be also found in other “Services” of the service, such as the case of the “Higher-Intermediate Service”⁸¹⁸.

Following the “dominant research path” and considering the fact that the “Juristenmonopol” can be predominantly found in the case of the “Higher Service” of the German civil service, the modern researcher can here argue on the fact that an event – fact – case such as the latter one leads to a qualitative upgrade of the law-oriented background inside the administrative framework of the German civil service, empowering the character and the dominance of the administrative term of “Rule of

⁸¹⁶ Ibid., p.206

⁸¹⁷ Ibid., p.206

⁸¹⁸ Manfred Röber, “Germany” in *New Public Managers in Europe: Public Servants in Transition*, London: Palgrave Macmillan, 1996, p.180

Law”, and thus, contributing to the argumentation for the Weberian aspect of the German civil service⁸¹⁹.

In other words, the fact that the law-oriented background of the “lively units” – “Beamten” -in terms of educational qualifications- is directly combined with the highest level of the German civil service leads to the justified and reasonable consideration of the legal studies and “law-qualified Beamten” as part and parcel of the administrative elite of the whole service, leading to the “qualitative boost” of the notion of law-orientation in terms of in-service assets⁸²⁰.

The latter argument refers to the fact that the highest ranked working place inside a given administrative framework is not only directly interrelated to the possession of precise qualifications, which are of a purely, law-oriented “nature”, but also the entrance to it (i.e. to the working place) sets as a prerequisite – requirement the “theoretical occupation” of the latter, leading the “assets’ value” of the latter “nature” to an advancement, as well as further establishing the dominance of the “Rule of Law” by considering the law-oriented background of the “lively units” as the most valuable and powerful ticket for entrance to the highest level of the service⁸²¹.

Moreover, the latter argument can be analyzed and examined comparatively to and in combination with the fact of the gradual development of a given mentality, according to which, the implementation of high-level administration inside the administrative framework of the German civil service is synonymous with the law-oriented background represented by the “lively units” – “Beamten” of the latter⁸²². In particular, the dominance of the law-oriented background in disciplinary and educational terms signals the necessity of the occupation of a purely legal profile in terms of assets and studies for all these candidate- “Beamten” who want to enter to the “Higher Service” of the German civil service.

The latter-described mentality which connects the two (2) different “ends” of the law-oriented background in terms of assets and qualifications and the entrance to the “Higher Service” of the German civil service does not only cultivate the above-

⁸¹⁹ Sabine Kuhlmann, Manfred Röber, “Civil Service in Germany: Between Cutback Management and Modernization”, in *Modernization of State and Administration in Europe: A France-Germany Comparison*, Opladen: Verlag für Sozialwissenschaften, 2006, p.94

⁸²⁰ Ibid., p.94

⁸²¹ Manfred Röber, “Germany” in *New Public Managers in Europe: Public Servants in Transition*, London: Palgrave Macmillan, 1996, p.180

⁸²² Ibid., p.180

referred qualitative superiority and dominance of the legal studies over the other disciplines and of their educational occupants – “lively units”, i.e. over the other “Beamten”, but also creates and establishes a “disciplinary breakaway group”, the one of lawyers – law-oriented “Beamten”, whose dominance leads to the peculiar educational charisma⁸²³.

The above is the responsible one for the connection and identification of the law-oriented background to the notion of expertise, meaning that the latter is recognized by the “lively units” of the administrative framework as the educational pathway of the experts, who are eligible for recruitment to the “Higher Service” and for implementation of high-quality administration inside the administrative framework of the German civil service⁸²⁴.

These high-ranked, law-oriented experts, their special, in-service position, as well as their empowered assets’ profile render their working status as a “*monopolistisch*”⁸²⁵ one; the latter element does not only refer to the fact of the already-analyzed, law-oriented, educational necessity, which qualifies for admission to the “Higher Service” of the German civil service, but also to the recognition of elements of a peculiar “qualifications’ leadership” to the occupants of a law-oriented background⁸²⁶.

In particular, they are considered as a kind of informal leaders of the whole service, from the point of view that they possess the highest-ranked, as well as the most valuable and significant educational qualification needed for the correct and exemplary tasks’ implementation of the “Higher Service”, indicating them as the “best image” of the German civil service as a whole.

⁸²³ Hans-Ulrich Derlien, “Repercussions of Government Change on the Career Civil Service in West Germany: The Cases of 1969 and 1982” in *Governance: An International Journal of Policy and Administration Vol.1 No.1*, New Jersey: Wiley-Blackwell, 1988, p.206

⁸²⁴ Hans-Ulrich Derlien, “Repercussions of Government Change on the Career Civil Service in West Germany: The Cases of 1969 and 1982” in *Governance: An International Journal of Policy and Administration Vol.1 No.1*, New Jersey: Wiley-Blackwell, 1988, p.206

⁸²⁵ Manfred Röber, “Germany” in *New Public Managers in Europe: Public Servants in Transition*, London: Palgrave Macmillan, 1996, p.180

⁸²⁶ Hans-Ulrich Derlien, “Repercussions of Government Change on the Career Civil Service in West Germany: The Cases of 1969 and 1982” in *Governance: An International Journal of Policy and Administration Vol.1 No.1*, New Jersey: Wiley-Blackwell, 1988, p.206

Last but not least, the phenomenon of “Juristenmonopol” can be conceptionally and thematically examined, as well as combined with the notion of the “Unity of Command” (“*Führungseinheit*”⁸²⁷), in order for the further establishment of the Weberian character of the German civil service to be comprehended. The reference to the latter, i.e. to the “Unity of Command” will be short, whereas its connection to the “Juristenmonopol” is mainly based on figurative terms.

As to its definition, “Unity of Command” forms a theory-subpart of the whole Weberian theory concerning public administration, whereas it refers to a certain administrative, in-service situation, according to which a given civil servant or a wider part of the “lively units” of the civil service are under the control and the overall authority of their upper-level supervisor(s)⁸²⁸.

In more specific terms, it is about a theory, which provides to the upper-level experts of a given administrative framework the privilege to give certain and precisely-defined orders to their subordinates, whereas the latter must follow and execute them without judging or critically expressing their opinion concerning the (non)implementation of the orders delivered⁸²⁹.

The analytical and conceptional connection between the latter-referred definitions’ scheme of the “Unity of Command” and the phenomenon of “Juristenmonopol”, and thus, the empowerment of the Weberian character of the German civil service can be found in the following aspect; the modern researcher can go on through a parallelization of the two, i.e. “Unity of Command” and “Juristenmonopol”, according to which, the fact that the “Unity of Command” recognizes to the upper-level experts of a given administrative framework the privilege to given orders for execution to their subordinates can be adapted to the case study of the German civil service⁸³⁰.

In more specific terms, the latter means that the role of the upper-level superior – supervisor of the administrative framework is undertaken by the “lively units” of the “Higher Service”, from the point of view that they represent the highest

⁸²⁷ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.80, 81

⁸²⁸ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.80, 81

⁸²⁹ *Ibid.*, p.80, 81

⁸³⁰ *Ibid.*, p.76-79

ranking of the administrative pyramid, whose tasks' implementation is fulfilled with the necessary assistance of their law-oriented background in terms of assets and qualifications⁸³¹.

Despite the fact that they do not own the peculiar privilege of directly giving orders for execution to the “lively units” – “Beamten” of the lower-ranked services of the administrative pyramid, their distinctive, in-service position renders their law-oriented, educational background as a privileged one, from the point of view that the latter, as it has been supported and proved, is the one, which is directly related to the achievement and occupation of the former (i.e. of the position), and thus, can be considered as a more advantageous one towards all the other non-law-oriented educational backgrounds, which are not able to qualify for admission to the elite ranking of the “Higher Service” of the German civil service⁸³².

Having analyzed the phenomenon of “Juristenmonopol” as one that is related to the administrative term of “Rule of Law”, as well as one, which empowers the Weberian aspect of the German civil service, the modern researcher has to be here concentrated on the second (2nd) aspect of the research goal of the current subchapter (4.1.), i.e. on the interrelation of the administrative dominance of “die Länder” to the Weberian theory of “Verwaltungszentrum”.

In particular and according to the latter-referred second (2nd) aspect of the twofold research goal, the current subchapter aims to prove and demonstrate that the personnel density of “die Länder” inside the German politico-administrative system forms a crystallization of the Weberian theory of the “administrative center” (“Verwaltungszentrum”). In more specific terms, an attempt is here made in order to argue on the fact that the existence of “die Länder” as the densest level – layer of governance inside the German Federation corresponds to the Weberian theory of “Verwaltungszentrum”, rendering the German federal states as the “Verwaltungszentren” of the whole “Verwaltung”, and thus, advocating for its Weberian character.

Before one moves on to the core of the analysis, it has to be prementioned that an attempt to prove the main reasons why as well as to refer to the main ways how

⁸³¹ Ibid., p.76-79

⁸³² Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.76-79, 81

can “die Länder” be considered as the level – layer of German governance with the highest personnel density, will not take place here.

The latter is because of the fact that such an attempt has already taken place in the framework of the second (2nd) chapter of the current project; in particular, in the framework of the latter, according to official data given by the Federal Ministry of Interior (“Bundesministerium des Innern”) and to the statistical analysis conducted by Hans-Ulrich Derlien, it has been proved that, indeed, the “Länder” form this particular politico-administrative level – layer of governance inside the German politico-administrative system, which is characterized by the highest and strongest density in terms of personnel, i.e. of German civil servants employed at this particular level – layer.

As a result, it is important to mention that the latter fact will be taken here into research consideration as granted. Besides, a possible attempt to achieve the same research goal again, as the one fulfilled in the framework of a previous chapter could end up as a rambling and tiring one for the reader.

The analytical beginning of interrelating the administrative predominance of the German level – layer of “die Länder” to the Weberian theory of the administrative center (“Verwaltungszentrum”) has to firstly set a precise and clear definition with regards to the latter, i.e. to the administrative center. In contrast with the already-analyzed phenomenon of “Juristenmonopol”, whose definition was self-made because of the non-existence of a clearly and precisely-set one, the definition that is here quoted with regards to the term of the administrative center is the one constructed and used by Max Weber.

In particular, according to Max Weber, as “*Verwaltungszentrum*”⁸³³ can be defined and characterized the administrative space, inside which the public administration is located⁸³⁴. It forms the administrative point of gravity (“*Verwaltungsschwerpunkt*”⁸³⁵), in which the “administrative life” of a given administrative framework takes place⁸³⁶.

⁸³³ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.86

⁸³⁴ Ibid., p.86

⁸³⁵ Ibid., p.86

⁸³⁶ Ibid., p.86

Taking into consideration the above-referred definition, which reasonably seems a general one, because it forms a part of the wider Weberian theory with regards to the “Ideal Type of Bureaucracy”, two (2) specific and pivotal observations – comments have to be made concerning the existential background of the term of the administrative center (“Verwaltungszentrum”) as described in the theoretical framework of the definition as such. In particular, the modern researcher has to put the examination focus on the analysis and clarification of the terms of the administrative space (“*Verwaltungsraum*”⁸³⁷) and “administrative life” (“*Verwaltungswelt*”⁸³⁸).

As to first (1st) one, i.e. the characterization of the administrative center as a given administrative space (“*Verwaltungsraum*”), it has to be mentioned that this particular notion of administrative space is not differentiated from the already-analyzed one that concerns the administrative term of the “Rule of Law”. In more specific terms, it can be supported that, again, the modern researcher is here conceptionally confronted with a peculiar case of administrative space, whose “theoretical roots” derive from the theory of “*espace*”⁸³⁹, which concerns the notion of spatiality. Again, as in the case of the “Rule of Law”, the latter concerns the existence of a given administrative space, whereas its interpretation, as well as its “analytical assessment” take into consideration the qualitative background of the administrative space as such⁸⁴⁰.

In more specific terms and as it has been already examined in the framework of the administrative term of “Rule of Law”, the Weberian “*Verwaltungszentrum*” as an administrative space and under the “theoretical influence” of the theory of “*espace*” (i.e. “spatiality”) is characterized by two (2), different and fundamental backgrounds; a spatial as well as qualitative one, meaning that the administrative center as a given and concrete administrative space can be characterized and

⁸³⁷ Ibid., p.86

⁸³⁸ Ibid., p.86

⁸³⁹ Ιωάννης Παπαδόπουλος, «Ο χώρος της κοσμικότητας: Ερμηνευτικές διαμορφώσεις του λατρευτικού, του εορταστικού και του διεκδικητικού χώρου στη νομολογία του Ανώτατου Δικαστηρίου των ΗΠΑ», in *Το Σύνταγμα (ΤοΣ) Τριμηνιαία Επιθεώρηση Ελληνικής και Ευρωπαϊκής Συνταγματικής Θεωρίας και Πράξης*, Αθήνα: Εκδόσεις Αντ. Σάκκουλα, 2020, σελ.123

⁸⁴⁰ Ιωάννης Παπαδόπουλος, «Ο χώρος της κοσμικότητας: Ερμηνευτικές διαμορφώσεις του λατρευτικού, του εορταστικού και του διεκδικητικού χώρου στη νομολογία του Ανώτατου Δικαστηρίου των ΗΠΑ», in *Το Σύνταγμα (ΤοΣ) Τριμηνιαία Επιθεώρηση Ελληνικής και Ευρωπαϊκής Συνταγματικής Θεωρίας και Πράξης*, Αθήνα: Εκδόσεις Αντ. Σάκκουλα, 2020, σελ.124-126

examined spatially, as well as qualitatively, i.e. as a circumscribed space, which carries on given characteristic elements that stipulate its function and existence⁸⁴¹.

In particular and as to the first (1st) background of the “Verwaltungszentrum” as a given administrative space, i.e. the spatial one, it has to be stressed that the latter exists as a clearly demarcated one from the outer environment, either it is considered as an administrative or a sociopolitical one.⁸⁴² As it will be justified and analyzed in the case of the adaptation of this particular theory to the case study of “Länder”, the above-referred demarcation of the administrative center as a concrete administrative space has to do with the fact that the administrative “*Gestalt*”⁸⁴³ and function of the administrative space as such is a “matter of space” as well⁸⁴⁴. The latter means that the organization and function of the administrative procedures that take place in the framework of the latter are not interrelated to the existence and function of outer spaces, as well as that they take place inside the administrative space which they concern.

In other words, the spatial background of the notion of the administrative center is related to a situation of self-governing with regards to particular procedures of the administrative function, meaning that the “Verwaltungszentrum” as an administrative space governs and regulates its own procedures without the intervention of other, outer spaces, either in terms of cooperation or in ones of supervision⁸⁴⁵. Furthermore, the above-referred background, along with the special regime of self-governing, is expressed and can be examined through the fact that the administrative space as such is clearly and precisely demarcated comparatively to every other, outer one in pure and “full-blooded” spatial terms, where the latter word is, in this particular case, related to the one of the territory⁸⁴⁶. In other words, the

⁸⁴¹ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.87

⁸⁴² *Ibid.*, p.54, 87

⁸⁴³ *Ibid.*, p.87

⁸⁴⁴ *Ibid.*, p.87

⁸⁴⁵ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.87-88

⁸⁴⁶ Ιωάννης Παπαδόπουλος, «Ο χώρος της κοσμικότητας: Ερμηνευτικές διαμορφώσεις του λατρευτικού, του εορταστικού και του διεκδικητικού χώρου στη νομολογία του Ανώτατου Δικαστηρίου των ΗΠΑ», in *Το Σύνταγμα (ΤοΣ) Τριμηνιαία Επιθεώρηση Ελληνικής και Ευρωπαϊκής Συνταγματικής Θεωρίας και Πράξης*, Αθήνα: Εκδόσεις Αντ. Σάκκουλα, 2020, σελ.124-125

spatial background of the “Verwaltungszentrum” as an administrative space refers also to the fact that the administrative procedures and functions take place in the framework of a given territory, which is differentiated from every other, outer one in geographical and territorial terms, from the point of view that they are spatially separated according to geographical boundaries, which exist and function as administrative ones as well⁸⁴⁷.

As to the second (2nd) background of the notion of administrative center, i.e. the qualitative one, it has to be mentioned that, as it has been examined in case of the administrative term of “Rule of Law”, the latter refers to the characterization as well as to the occupation of the administrative center as such with the field of public administration⁸⁴⁸. In more specific terms, the latter is here considered as one which carries on a particular “nature”, from the point of view that it includes administrative “ways of existence” in terms of organization and function, which characterize the administrative center in its entirety⁸⁴⁹.

In other words, the administrative center as a space is and remains administrative in its qualitative characteristics, meaning that it concerns public administration as an entity, including and covering whatever is and can be included in its thematic framework, either as a theoretical principle or as a technically implemented procedure⁸⁵⁰. At the same time, this qualitative background is the one which stipulates that the administrative center as a space must be thematically and qualitatively restricted and limited to the “nature” of the background as such, i.e. the notion of public administration, without being expanded to, and thus, concerned with issues that surpass its field of concern and reference⁸⁵¹.

Having analyzed and clarified the notion of the administrative space as it arises from the already-referred, Weberian definition with regards to the term of the administrative center, the research emphasis has to be put on the one of the administrative life (“Verwaltungswelt”).

⁸⁴⁷ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.88

⁸⁴⁸ Ibid., p.88

⁸⁴⁹ Ibid., p.88

⁸⁵⁰ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.88-89

⁸⁵¹ Ibid., p.89

To begin with, two (2) short clarifications have to be made at this specific point with regards to the latter; on the one hand, it has to be mentioned that the choice of Max Weber to use the word “life” in the framework of the definition concerning the term of the administrative center, as well as to conceptionally and grammatically combine it with the qualifier “administrative” undertakes to fulfill a function, which is mainly and basically metaphorical.

On the other hand, the modern researcher has to use his or her knowledge of German language and clarify the fact that this particular notion of “administrative life” cannot be considered as an actual and literal one in Weber’s “administrative mind”, from the point of view that the exact term “*Verwaltungswelt*⁸⁵²” given by him in German does not directly correspond to the latter-referred notion in terms of accurate and precise translation. In particular, trying to overcome the conceptional and vocabulary “barriers” brought out by and during the procedure of translating German terms to the English language, it has to be clearly stressed that the “*Verwaltungswelt*” of Max Weber does not exactly refer to the notion – phrase of “administrative life” -as it is translated in the most of the English speaking, Weberian literature sources- but to the one of an “administrative Welt”, i.e. of an administrative world⁸⁵³.

Despite the fact that this particular, second notion is a metaphorical one as well, it has to be stressed that it takes into consideration public administration as an actual procedure in real as well as in technical terms, whereas it puts the emphasis on the administrative units, of which it is composed. In more specific terms, the “*Verwaltungswelt*” of the Weberian administrative center discovers and examines the field of public administration as one, which includes given procedures and mechanisms that are characterized by the existence of a pure, technical background, with and to which the “administrative individuals” are familiarized and integrated⁸⁵⁴.

In other words, it is about the administrative incorporation and inclusion of the individuals – administrative actors into a given “*Welt*”⁸⁵⁵, i.e. world, that is, indeed, governed and regulated by precisely-constructed technicalities, which, although, are

⁸⁵² Ibid., p.85

⁸⁵³ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.85

⁸⁵⁴ Ibid., p.90-92

⁸⁵⁵ Ibid., p.90

characterized by the participation of the former⁸⁵⁶. Besides, the “*Verwaltungswelt*” of the Weberian thought is not univocally occupied with the field of public administration by examining and comprehending it as one, which strictly concerns a series of institutions that contribute to given procedures of legitimization.

On the contrary, it deals with public administration by taking it into consideration as a procedure – mechanism, which forms an “*erlebene Erfahrung*”⁸⁵⁷, i.e. an “already-lived experience”, for the individuals – units of the “*Verwaltungswelt*”, meaning that the latter, along with the elements of the administrative center (for example: institutions) express their action and participate lively and actually in the procedures of handling, controlling and administrating the issues that arise in the framework of the public sphere⁸⁵⁸. Besides, the notion of the “Weberian use” of the word “*Welt*” as such, sets the active and functional co-existence between animate and inanimate actors as a prerequisite, and thus, refrains from the univocal dominance of the institutions⁸⁵⁹.

Before one tries to interrelate and conceptionally connect the theory of the administrative center to the strong – high personnel density of the German level – layer of governance of “*die Länder*”, it has to be mentioned that the crucial and pivotal difference between them has to do with the fact that the latter, i.e. the administrative dominance of “*die Länder*”, refers strictly to the entity personnel.

In other words, it has to be taken into research consideration that, contrary to the former, i.e. the theory of the administrative center, which concerns the existence and function of a center of public administration that is the absolute and dominant administrative unit inside a given administrative framework, the administrative predominance of “*die Länder*” concerns the field – case of personnel in absolute terms.

In more specific terms, one could argue on the fact that, on the one hand, the notion of the “*Verwaltungszentrum*” is thematically occupied with a general, administrative dominance of a given administrative, central unit in holistic terms, meaning that it sets into its “*conceptional center*” the whole public administration as a

⁸⁵⁶ Ibid., p.90-92

⁸⁵⁷ Ibid., p.90

⁸⁵⁸ Ibid., p.90

⁸⁵⁹ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.90-92

mechanism – procedure, which is organized by this particular center – unit and functions inside its framework.

On the other hand, as it has been already analyzed and proved via the use of official, statistical data in the framework of the second (2nd) chapter, the administrative predominance of the German level – layer of governance of “die Länder” over the other levels – layers that exist inside the same politico-administrative system, refers strictly to the fact that “die Länder” surpass and exceed numerically the “Bund” and the “Gemeinden”, taking into consideration the number of German civil servants who are employed at their “framework of occupation”.

Taking into research consideration the latter crucial point, i.e. the peculiar, “conceptional conflict” between the Weberian theory of the administrative center and the administrative predominance of the level – layer of “die Länder”, the modern researcher has to admit that, indeed, the case study of the German civil service and, in particular, the one of the above-referred, federal states’ administrative predominance do not directly correspond to the Weberian theory of “Verwaltungszentrum”, from the point of view that “die Länder” as dominant administrative units do not fulfill the requirement of a general and holistic dominance, but a different one, which can be expressed and detected in strict terms of personnel.

In other words, one has to here admit that, indeed, at a glance, the Weberian theory of the administrative center (“Verwaltungszentrum”) seems to not correspond to the peculiarities, as well as to the special, conceptional background of the case study of the second (2nd) level – layer of German governance, because of the above-examined “conceptional conflict”, in the framework of which the central notion of the administrative dominance is differentiated from case study to case study, meaning that it is presented as a holistic one in the framework of the Weberian theory of the administrative one, whereas, at the same time, it is presented as a “substantially specified” one in the framework of the administrative predominance of “die Länder”, which concern the German civil service in absolute terms of personnel.

However, despite the above-referred, first point of substantial disagreement constructed and brought out in the framework of an interrelation’s attempt between the two (2) different case studies, the modern researcher is able to support the fact that the latter ones can be conceptionally connected and comparatively examined. In more specific terms, it can be supported that the second (2nd) level – layer of German governance, i.e. the one of the German federal states, forms the administrative center

of the whole German Federation, because of the fact that it fulfills both of the two (2), fundamental and principal requirements set in the framework of definition constructed and given by Max Weber.

In other words, despite the above-described “conflict” between the administrative dominance of “die Länder” and the Weberian theory of “Verwaltungszentrum”, the modern researcher can here consider “die Länder” as the administrative center of the German “Bund”, because of the fact that their administrative existence, actions and functions matchup with the fundamental and principal Weberian elements of the term – notion of the “Verwaltungszentrum”.

In more specific terms, a point of theoretical, analytical and, above all, administrative connection can be found and presented among the “Länder” and the Weberian “Verwaltungszentrum”, because of the fact that the former can be considered as a sufficient “administrative proof” of fulfilling both of the notions of the Weberian administrative space and administrative life.

As to the first (1st) one, i.e. the connection – interrelation of the administrative predominance of “die Länder” and the term of the administrative space as a fundamental element of the Weberian definition with regards to the “Verwaltungszentrum”, the modern researcher is able to argue on the fact that, indeed, the German federal states can be considered as a given administrative space, from the point of view that they fulfill both of the already-analyzed requirements, which are set by the term of the administrative space, i.e. the ones of the spatial and the qualitative background⁸⁶⁰.

In more specific terms, as to the aspect of the spatial background, which is set as a significant prerequisite for the fulfillment of the term of the administrative space, the German federal states can be taken into research consideration as a case that fulfills the above-referred background, because they form concrete districts – states, which are precisely separated from the central “Bund”, as well as from the “Gemeinden”, not only in geographical, but also in administrative terms⁸⁶¹.

⁸⁶⁰ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.85-87

⁸⁶¹ Jann Werner, Sylvia Veit, “Politicisation of Administration or Bureaucratisation of Politics? The case of Germany”, in *Potsdamer Diskussionspapiere zur Verwaltungswissenschaft* 6, Potsdam: Universitätsverlag Potsdam, 2010, p.3-4

In particular, taking into consideration the already-analyzed distinction – separation of the German federal states into sixteen (16) geographical and administrative areas, the modern researcher can argue on the fact that they are governed and regulated by a peculiar regime of distinctive spatiality, not only because of their obvious, numerical “splitting” into sixteen (16) different districts – either as federal states – towns or federal states – areas- but also of their administrative one, i.e. “splitting”, from the point of view that, as it has been already examined, the special, administrative tasks of a given federal state form a matter of its own administration on a micro-level, without being “interwoven” and interconnected to the ones of another federal state’s administration⁸⁶².

In more specific terms, the latter-referred element can be here analyzed as a pivotal one of what has been already studied and discovered as a special regime of self-governance for the federal states in the framework of the German politico-administrative system⁸⁶³. Under the “administrative influence” of its principles, along with the fundamental prescriptions of the German Basic Law, the latter regime is practically reflected to the fact that each and every of the German federal states is not only characterized by the existence of a given set of institutions (for example: federal states’ parliaments) or by the possession of the general, constitutionally-granted right to organize and operate its own, public (micro)administration, but also by the already-examined set of their exclusive competencies, which are constitutionally granted as well⁸⁶⁴.

As a result, as to the first (1st) background – aspect of the term of the administrative space, i.e. the spatial one, which forms a fundamental element of the definition of the Weberian “Verwaltungszentrum” can be concluded as a research statement the following; the spatial background is fulfilled by “die Länder”, from the point that the latter do not only constitute a concretely-demarcated area of administration in pure, territorial terms via their geographical differentiation from the

⁸⁶²Hans-Ulrich Derlien, “German Public Administration: Weberian despite Modernization”, in *Comparative Bureaucratic Systems*, Lanham: Lexington Books, 2003, p.5

⁸⁶³ Jann Werner, Sylvia Veit, “Politicisation of Administration or Bureaucratisation of Politics? The case of Germany”, in *Potsdamer Diskussionspapiere zur Verwaltungswissenschaft* 6, Potsdam: Universitätsverlag Potsdam, 2010, p.3-5

⁸⁶⁴ Hans-Ulrich Derlien, “German Public Administration: Weberian despite Modernization”, in *Comparative Bureaucratic Systems*, Lanham: Lexington Books, 2003, p.5

“Bund” and all the other “Länder”⁸⁶⁵, but also are constitutionally able to compose their own “*micro-management*”⁸⁶⁶, i.e. their own micro-administration, which is characterized by the existence of given, subnational institutions, as well as granted tasks that are implemented under the peculiar regime of self-governance⁸⁶⁷.

As to the second (2nd) background – aspect of the term of the administrative space, i.e. the qualitative one, the modern researcher can here argue on the fact that the latter, in the case study of “die Länder” can be evidenced by two (2) different aspects, i.e. the one of the existence of the constitutionally-granted exclusive competencies of the federal states, as well as by the “nature” – “qualitative profile” of given professions, which, as it has been already examined in the framework of the second (2nd) chapter, are dominantly found in the level – layer of “die Länder” rather than in the other ones.

In more specific terms, the level – layer of “die Länder” can be considered as one, which fulfills the qualitative background of the term of the administrative space, and thus, as one which corresponds to the Weberian one of “*Verwaltungszentrum*”, because the federal states’ exclusive competencies prescribed by the German Basic Law configure a precisely-constructed field of given tasks, which can be performed and implemented by the federal states as such and in absolute terms, from the point of view that their actual implementation cannot be undertaken by other levels – layer of German governance, i.e. by the “Bund” and the “Gemeinden”⁸⁶⁸.

Trying to comprehend the latter-referred connection by mentioning a certain example related to the analysis undertaken in the framework of the second (2nd) chapter, the modern researcher can take here into consideration the exclusive competence of the German federal states with regards to the administration of their own educational system; in more specific terms, the latter does not only form a characteristic example of self-governance in terms of micro-management, but also

⁸⁶⁵ Jann Werner, Sylvia Veit, “Politicisation of Administration or Bureaucratisation of Politics? The case of Germany”, in *Potsdamer Diskussionspapiere zur Verwaltungswissenschaft* 6, Potsdam: Universitätsverlag Potsdam, 2010, p.3-5

⁸⁶⁶ Hans-Ulrich Derlien, “German Public Administration: Weberian despite Modernization“, in *Comparative Bureaucratic Systems*, Lanham: Lexington Books, 2003, p.5

⁸⁶⁷ *Ibid.*, p.5

⁸⁶⁸ Jann Werner, Sylvia Veit, “Politicisation of Administration or Bureaucratisation of Politics? The case of Germany”, in *Potsdamer Diskussionspapiere zur Verwaltungswissenschaft* 6, Potsdam: Universitätsverlag Potsdam, 2010, p.4

differentiates the federal states as such from all the other ones, as well as from the first (1st) level – layer of governance, i.e. the one of “Bund”⁸⁶⁹. The constitutional prohibition of the latter for intervention into the field of this particular task’s implementation, smooths the way for the federal states’ qualitative and thematic differentiation from the other levels – layers in terms of tasks’ implementation⁸⁷⁰.

Furthermore, the latter-referred qualitative distinction of “die Länder”, and thus, their special feature -in case study’s terms- to fulfill the qualitative background of the term of the administrative space, and thus, to correspond to the Weberian one of the “Verwaltungszentrum” can be detected by taking into consideration another example, but in terms of German civil service’s professions. In particular, it is about the already-analyzed one in the framework of the second (2nd) chapter with regards to the profession of a German teacher employed at a German elementary school.

In more specific terms, as it has been already analyzed and proved according to data given by the Federal Ministry of Interior (“Bundesministerium des Innern”) and used in the framework of the research conducted by Hans-Ulrich Derlien, the qualitative distinction of the level – layer of “die Länder” can be found in and detected by the fact that given professions included in the German civil service -with a characteristic one being that of a German teacher at an elementary school- are subsumed to the above-referred level – layer of the German federal states (“die Länder”), not only from the point of view that the latter regulate totally the administrative and employment environment concerning them, but also of the equivalent one that these professions cannot be detected to other levels – layers of German governance⁸⁷¹.

The above-referred argumentation can be made clear for the modern researcher when taking into consideration the fact that the German federal states can be considered as administrative spaces, which are qualitatively distinctive from the other levels – layers of governance, because of the fact that given professions, such as the one of the German teacher at an elementary school can be found in the level –

⁸⁶⁹ Jann Werner, Sylvia Veit, “Politicisation of Administration or Bureaucratisation of Politics? The case of Germany”, in Potsdamer Diskussionspapiere zur Verwaltungswissenschaft 6, Potsdam: Universitätsverlag Potsdam, 2010, p.4

⁸⁷⁰ Ibid., p.4

⁸⁷¹ Ibid., p.4

layer of the federal states and not, for example, in the one of “Bund”⁸⁷². On the contrary, others, such as the one of a German diplomat cannot be found in the level – layer of “die Länder”⁸⁷³. In other words, the administrative and employment categorization of given professions among the levels – layers of German governance, is the responsible one for further distinguishing the German “Länder” from the other levels – layers of governance, while demarcating them as distinctive administrative spaces in qualitative terms of professional occupation as well.

With regards to the second (2nd) fundamental element of the definition of the Weberian “Verwaltungszentrum”, i.e. the one of the administrative life (“Verwaltungswelt”), it has to be mentioned that it also corresponds to the case study of the German “Länder”, taking into consideration the already-conducted analysis concerning the term of the administrative space, as well as the one of the “Verwaltungswelt” as such.

In more specific terms, the modern researcher can here argue on the fact that the “administrative units” – individuals, which are included into the above-described administrative space are, indeed, integrated to and familiarized with it, as the analysis with regards to the “Verwaltungswelt” stipulates⁸⁷⁴. In particular, as it has been already examined, the latter-referred units, under the influence of the term of the administrative life comprehend the “entity” of public administration as a whole mechanism, as well as they participate in its technical procedures while being familiarized with them⁸⁷⁵.

In the framework of the current case study, the level – layer of the German “Länder” can match up with the Weberian term of the “Verwaltungswelt”, mainly from the point of view that the “administrative units” – individuals who belong to a given federal state in territorial and administrative terms, are familiarized with its “Verwaltungswelt”, taking into consideration that the peculiar regime of self-governance of the latter, its qualitative distinctiveness in terms of tasks’ implementation as well as the uniqueness of its set of institutions, render as possible

⁸⁷² Ibid., p.4

⁸⁷³ Jann Werner, Sylvia Veit, “Politicisation of Administration or Bureaucratisation of Politics? The case of Germany”, in *Potsdamer Diskussionspapiere zur Verwaltungswissenschaft* 6, Potsdam: Universitätsverlag Potsdam, 2010, p.4

⁸⁷⁴ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.216-218

⁸⁷⁵ Ibid., p.216-218

for those “administrative units” – individuals to become an active and actual part of an in-Land “administrative belongingness”⁸⁷⁶.

In more specific terms, the “units” of each and every federal state’s public administration develop vivid action in the framework of the “Verwaltungswelt” and are integrated to it, because of the fact that the administrative uniqueness of each and every federal state oblige them to be familiarized with a set of administrative peculiarities and technicalities⁸⁷⁷; the latter may, indeed, differ from federal state to federal state, but the everyday, in-Land administrative compromise on them paves the way for the “administrative units” – individuals to be incorporated into the “Verwaltungswelt” of a given “Land”⁸⁷⁸.

However, despite the already-developed argumentation on the correspondence of the administrative dominance of “die Länder” to the Weberian terms of “Verwaltungsraum” and “Verwaltungswelt”, and thus, to the Weberian “Verwaltungszentrum”, one could develop a counterargument, according to which, not only the German federal states, but also the level – layer of “Bund” and the one of “Gemeinden” matchup administratively and existentially to the above-referred terms, and thus, can be both considered as “Verwaltungszentren” of the whole Federation.

In other words, one could call into question the “administrative uniqueness” of the level – layer of “die Länder”, from the point of view that he or she could support that the other two (2) levels – layers of German governance fulfill the terms of “Verwaltungsraum” and “Verwaltungswelt” as well; besides, both of them can be defined and described as “Verwaltungszentren”, taking into consideration that they form administratively and geographically demarcated “Raumen”, i.e. spaces, as well as that they -as spaces- include a given “set – sum” of individuals – units, which are integrated to and familiarized with the technicalities and peculiarities of their micro-administration.

However, despite the latter-referred argumentation that seems a reasonable one, the level – layer of “die Länder” can be considered as the one and only “Verwaltungszentrum” of the whole German “Bund”, because of the fundamental element of the high – strong personnel density, which is the one that differentiates it

⁸⁷⁶ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.216-218

⁸⁷⁷ Ibid., p.216-218

⁸⁷⁸ Ibid., p.216-218

from the others⁸⁷⁹. In fact, it is not only about the element – feature of the personnel density, but also the combination of the latter to the fulfillment of the already-analyzed terms of “Verwaltungsraum” and “Verwaltungswelt”, as well as its correspondence to the term of the “*Verwaltungsschwerpunkt*”⁸⁸⁰, which derives directly from the Weberian theory of the Ideal Type of Bureaucracy.

In order for the modern researcher to wholly comprehend the conceptional and theoretical combination among the administrative predominance of “die Länder” and the Weberian term of the “*Verwaltungsschwerpunkt*”, the definition of the latter has to be firstly set. In particular, the “*Verwaltungsschwerpunkt*”, which can be defined as a sub-theory – fundamental part of the Weberian theory with regards to the Ideal Type of Bureaucracy, determines a given administrative space according to and based on its center of gravity, whereas the latter, i.e. the center of gravity, is “measured” and defined in terms of administrative units⁸⁸¹.

In other words, the Weberian sub-theory of the “*Verwaltungsschwerpunkt*” includes and carries on an element of significant importance, which differentiates it from all the other administrative theories, i.e. the one of setting a given point, which, in the framework of sub-theory, is called “center” and whose “administrative unit of measurement” is the one of the “lively units”, i.e. the personnel that exists and functions inside the administrative space as such⁸⁸². In more specific terms and from a figurative point of view, it can be supported that the personnel as such undertakes to play the role of a peculiar “administrative weight”, which defines the number of the existing servants of the administrative space as the central unit of measurement⁸⁸³.

In addition, it is of great importance that, in the framework of the theory of the “*Verwaltungsschwerpunkt*”, the administrative point of gravity develops a unique and peculiar relation to the individuals – personnel – administrative units included into it. In more specific terms and according to the theory’s conceptional prescriptions, the location of the administrative point of gravity, and thus, the “administrative proof” for the existence of the administrative center depends strictly on the number of the above-

⁸⁷⁹ Simone Burkhart, “Reforming Federalism in Germany: Incremental Changes instead of the Big Deal”, in *The Journal of Federalism*, Oxford: Oxford University Press, 2008, p.343

⁸⁸⁰ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.216-217

⁸⁸¹ *Ibid.*, p.216-217

⁸⁸² *Ibid.*, p.217

⁸⁸³ *Ibid.*, p.217

referred units, from the point of view that the location of the majority of administrative units stipulates the location of the “Verwaltungsschwerpunkt”⁸⁸⁴.

In order for the latter-developed argumentation to be simply depicted to a short example, one could refer to the following; in the case that the majority of the administrative units are located to a “point X” of a given administrative space, as a result of the conceptional and theoretical influence of the sub-theory of the “Verwaltungsschwerpunkt”, this particular “point X” is defined as the administrative point of gravity, and thus, the administrative center of the whole administrative space. As a result, adapting the above-referred example to the case study of the German civil service, one could reasonably argue on the fact that the level -layer of “die Länder” forms the administrative center of gravity, and thus, the administrative center of the whole “Bund”, given the fact that, as it has been already proved, it concentrates the majority of the “Beamten” employed at the German civil service.

Taking into consideration the fact that the character, as well as the central “analytical spirit” of the current subchapter (4.1.) is a philosophical one as well, the modern researcher has to discover and explore the main, theoretical and conceptional background behind Max Weber’s “administrative mind”, and thus, behind this particular sub-theory. In other words, the modern researcher is here spiritually confronted with the question of why did Max Weber consider that the existence of a “Verwaltungsschwerpunkt” has to be related to the existence of a majority of the administrative units – individuals and not, for example, with the minority of them.

The answer to the latter question derives directly from the Weberian theory as well as it is linked with the examination of the relation between the notions of quantity and quality in Weberian, administrative terms⁸⁸⁵. In particular, according to the Weberian “Verwaltungsschwerpunkt” the quantity of administrative units in numerical terms, i.e. the fact that a given administrative space is staffed with a high number of personnel, offers and provides administrative quality to the administrative space as such, from the point of view that the latter can bring out and achieve positive

⁸⁸⁴ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.217-218

⁸⁸⁵ Μαρία Αντωνοπούλου, «Οι κλασικοί της Κοινωνιολογίας: Κοινωνική Θεωρία και Νεότερη Κοινωνία», Αθήνα: Εκδόσεις Σαββάλα, 2008, σελ. 379-381

and qualitative administrative results and outcomes because of the existence of the former⁸⁸⁶.

In addition, trying to gain a deeper look into the latter-referred argumentation, it has to be mentioned that, according to the sub-theory of the “Verwaltungsschwerpunkt”, a given administrative space becomes stronger depending on the high number of the “administrative units” – personnel included into it, because of the “Weberian faith” on the individual as an administrative actor, meaning the belief of the Weberian administrative way of thought to the positive influence of each and every individual – “administrative unit” on the administrative procedures, the unit’s participation in administrative action, as well as its contribution to successful administrative achievements⁸⁸⁷.

Thus, the above-described connection between the quantity of the “administrative units” – individuals – personnel and the quality of public administration inside a given administrative space is based on the Weberian, “positive predisposition” with regards to the achievements, which can be brought out by the individual – “administrative unit” as an administrative actor, who particulates in procedures and in a space of an equivalent character, i.e. an administrative one.

As a result, taking into consideration the above-developed argumentation, the modern researcher can reasonably argue on the following; given the fact that the sub-theory of the “Verwaltungsschwerpunkt” sets the concentration of a high number of “administrative units” inside a given administrative space as a prerequisite for the existence of an administrative center, and, at the same time, the federal states form the level – layer of German governance with the densest personnel, the latter (i.e. “die Länder”) can be considered as the one (i.e. level – layer) that fulfills the terminological criterion of the “Verwaltungsschwerpunkt”, and thus, can be considered as the “Verwaltungszentrum” of the whole “Bund”.

The latter-developed argumentation is also confirmed and further enriched by the analysis conducted by Simone Burkhard, who argues on the existence and function of “die Länder” as the “Verwaltungszentrum” of the whole German Federation⁸⁸⁸. In particular, following a similar analytical path as the here-followed

⁸⁸⁶ Ibid., p.379-381

⁸⁸⁷ Ibid., p.379-381

⁸⁸⁸ Simone Burkhard, “Reforming Federalism in Germany: Incremental Changes instead of the Big Deal”, in *The Journal of Federalism*, Oxford: Oxford University Press, 2008, p.343

one, she refers to the peculiar phenomenon of the “decentralized centralization” when analyzing her theory with regards to the comparison of Germany with a “unitarischer Bundesstaat”.

According to her analysis, which forms a stable proof of what has been analyzed and supported during the pages of the current subchapter, the fact that “die Länder” can be reasonably considered as the “Verwaltungszentrum” of the German “Bund” advocates for the existence of the above-referred phenomenon, i.e. the one of the “decentralized centralization”, meaning that in the “heart” of a decentralized politico-administrative system such as the German one, the modern researcher is able to detect that a given level -layer of governance, i.e. that of the German federal states, exists and function as an administrative center in Weberian terms, taking into consideration that it is the densest in numerical terms of personnel concentration⁸⁸⁹.

To sum up, after the here-conducted analysis (4.1.), the modern researcher is able to detect a first, principal and fundamental correspondence of the case study of the German civil service to the Weberian theory, and thus, he or she is justified to characterize the former as one, which can be theoretically adapted to the principles of the latter. In particular, the conceptional matchup of the German phenomenon of “Juristenmonopol” to the Weberian term of the “Rule of Law”, as well as the reasonable characterization of the administrative, personnel dominance of the governmental level – layer of “die Länder” as the “Verwaltungszentrum” of the “Bund” have already set the basis -at least in theoretical and philosophical terms- for the relation between the German civil service and the Weberian theory.

⁸⁸⁹ Ibid., p.343

4.2. Max Weber is still “alive”: Die Dominanz der hergebrachten Grundsätze des Berufsbeamtentums als berufliche Realität des Innendienstes

The central research goal of the current subchapter (4.2.) is to further enrich the particular argumentation, which advocates for the Weberian character of the German civil service by adapting the features of the latter to the Weberian, traditional principles of the professional civil service (“*Die hergebrachten Grundsätze des Berufsbeamtentums*”⁸⁹⁰). In particular, the chapter aims to find a point of direct correspondence between the already-analyzed, in-service human resources management features of the German civil service and to adapt them to the Weberian theory with regards to the traditional principles of the professional civil service.

In particular, as to the main methodological way, which will be followed in the framework and during the pages of the current subchapter (4.2.), the following statement has to be made; the modern researcher has to take into consideration again all the in-service features and procedures of the German civil service, which have been analyzed in the framework of the third (3rd) chapter and adapt them to the Weberian theory concerning the traditional principles of the professional civil service, i.e. to find a conceptional point of correspondence between the former and the latter, and thus, to prove the Weberian, in-service character – background of the German civil service.

Before the modern researcher moves on to the core of the analysis of the current subchapter and fulfills the central research goal that has been already set, two (2) different and significant mentions have to be made. The first (1st) one concerns the definition, presentation and short explanation of the Weberian, traditional principles of the professional civil service (“*Die hergebrachten Grundsätze des Berufsbeamtentums*”), whose analysis has not been undertaken yet. The second (2nd) one refers precisely to the concrete methodological strategy, which will be here followed with regards to the adaptation of the in-service features and procedures of the German civil service to the Weberian, traditional principles of the professional civil service.

⁸⁹⁰ Max Weber, “Gesammelte Politische Schriften”, München: Drei Masken Verlag, 1921, p.88

As to the first (1st) one, i.e. the definition, presentation and short explanation of the Weberian, traditional principles of the professional civil service, one could develop an argumentation, according to which the latter can be defined as the main rules – fundamental points, which govern and regulate the organization and the function of a given civil service according to the “administrative spirit” of the Weberian theory⁸⁹¹. In more specific terms, they can be defined as the principal and fundamental administrative tenets, which, according to Max Weber’s “administrative mind” have to govern the “Gestalt” – configuration and the operation of a given civil service⁸⁹².

Having set a fundamental and clearly-constructed definition with regards to the Weberian, traditional principles of the professional civil service, the modern researcher has to name them, put the research emphasis on their theoretical and conceptional origins, as well as discover and examine their practical meaning and actual application to the German, in-service reality.

According to the Weberian, administrative theory and its special, socio-philosophical background, the traditional principles of the professional civil service are the ones of Hierarchy (“*Hierarchie*”⁸⁹³), Training (“*Ausbildung*”⁸⁹⁴), Merit (“*Leistung*”⁸⁹⁵) and Loyalty (“*Treue*”⁸⁹⁶). Forming the peculiar acronym of “HTML” -in the theoretical shape of it they can be also found in the English-speaking bibliography-, their meaning and actual application to the German, in-service reality can be comprehended in the case that their socio-philosophical, as well as administrative origins are taken into research consideration.

In more specific terms, the traditional principles of the professional civil service derive from the Weberian, philosophico-administrative theory with regards to the Ideal Type of Bureaucracy, which stipulates the existence and function of an ideally-set, successful and functioning administrative machine – public administration⁸⁹⁷. In the theoretical and conceptional framework of the latter-referred,

⁸⁹¹ Μαρία Αντωνοπούλου, «Οι κλασσικοί της Κοινωνιολογίας: Κοινωνική Θεωρία και Νεότερη Κοινωνία», Αθήνα: Εκδόσεις Σαββάλα, 2008, σελ.394-395

⁸⁹² *Ibid.*, p.394-395

⁸⁹³ Max Weber, “Gesammelte Politische Schriften”, München: Drei Masken Verlag, 1921, p.90

⁸⁹⁴ *Ibid.*, p.90

⁸⁹⁵ *Ibid.*, p.90

⁸⁹⁶ *Ibid.*, p.90

⁸⁹⁷ Μαρία Αντωνοπούλου, «Οι κλασσικοί της Κοινωνιολογίας: Κοινωνική Θεωρία και Νεότερη Κοινωνία», Αθήνα: Εκδόσεις Σαββάλα, 2008, σελ.78

Weberian theory, the traditional principles of the professional civil service exist and function as the fundamental, philosophico-administrative tenets, which, according to the Weberian philosophico-administrative thought, establish and grant an ideal way of a given administrative machine's organization and function⁸⁹⁸.

In other words and taking into consideration the latter-conducted analysis with regards to the above-set definition, the acronym of "HTML", as well as its actual, practical existence and direct implementation to a given administrative framework depicts the appropriate "administrative foundations", which, according to the Weberian, philosophico-administrative thought, contribute to the gradual establishment and function of a public administration, which can be characterized as ideal⁸⁹⁹. They are, in particular, the "recipe of success" for an administrative machine, in order for it to fulfill its tasks and mission by demonstrating the most successful action, which, in return, can be able to lead to the achievement of the best possible outcomes⁹⁰⁰.

Trying to further analyze and comprehend the central meaning(s) that lie behind the above argumentation, as well as to understand the main components, of which the contribution of the traditional principles of the professional civil service to a given administrative framework is comprised, the Weberian term "ideal" regarding the latter-referred administrative framework has to be clearly highlighted. In other words, in order for the actual and practical contribution of the "HTML" to the administrative operation of a given administrative framework to be clearly comprehended, the modern researcher has to retrace to the Weberian philosophico-administrative prescriptions with regards to the interpretation of the term "ideal" concerning the "functional existence" of the latter inside a given administrative framework.

In more specific terms and taking into consideration the Weberian prescriptions, the term "ideal" can be interpreted according to a twofold analytical angle. The one side of the angle refers to and is located into the administrative machine that exists inside a given administrative framework, whereas the other side of

⁸⁹⁸ Ibid., p.80

⁸⁹⁹ Max Weber, "Gesammelte Politische Schriften", München: Drei Masken Verlag, 1921, p.90-91

⁹⁰⁰ Ibid., p.90-91

the angle refers to and is located into the “administrative units”, i.e. to the individuals, of which the above one is comprised⁹⁰¹.

Specifically, as to the one side of the angle, Max Weber considered as “ideal” way of existence, action and function of an administrative machine the one, which is able to ensure the continuation of the latter during the time, as well as the continuation of the administrative framework, in which it is located⁹⁰². The latter means that the Weberian theory of the Ideal Type of Bureaucracy comprehends this particular notion with regards to the term “ideal” as one, which is interrelated to a peculiar, “administrative reproduction”, from the point of view that it is able to preserve a type of administrative continuation of a given public administration during and over time in existential terms⁹⁰³.

As to the other side of the analytical angle, this particular notion of “ideal” in Max Weber’s “philosophico-administrative” mind refers to the “administrative units” in more precise terms, from the point of view that it concerns the fulfillment of their needs, which, in return, depends on the performance and outcomes of the administrative machine as such⁹⁰⁴. This analytical angle focuses, in other words, on the relation which is developed among the “units” included into the administrative framework and the administrative framework as such⁹⁰⁵. The latter, i.e. the relation, is based on terms of efficiency, meaning that as an “ideal administration” can be considered the efficient one, i.e. the one which can be judged as capable of fulfilling the “administrative needs” of its “units” – individuals in terms of direct and fertile execution⁹⁰⁶.

Regardless from the adopted analytical angle, the methodological strategy, which has to be followed -and is here followed as well- has to take into consideration the Weberian, traditional principles of the professional civil service as ones that are and have to be adapted to a given administrative framework, i.e. to the case study of a certain nation state’s public administration, and not as ones that correspond to a general, theoretical – philosophical framework. In other words, the modern researcher has to take into consideration the latter-referred principles as given, administrative

⁹⁰¹ Max Weber, “Gesammelte Politische Schriften”, München: Drei Masken Verlag, 1921, p.93-94

⁹⁰² Ibid., p.94

⁹⁰³ Ibid., p.94

⁹⁰⁴ Ibid., p.94

⁹⁰⁵ Ibid., p.94

⁹⁰⁶ Ibid., p.94

and practically-implementable tenets, whose “applicable nature” and use exceed and live aside a possible case of their examination in waffler terms.

In other words, the whole analytical attempt has to benefit from the latter-referred “nature” of the Weberian, traditional principles of the professional civil service and to adapt them to a certain case study of a given civil service, without referring to and analyzing them as a part of a “conceptionally widespread” field of the politico-administrative philosophy as a whole. Besides, such a general and methodologically non-demarcated attempt would be a tiring one, as well as, it would not lead to a concretely-constructed conclusion.

Trying to adapt the above-referred methodological strategy to the analysis, which is here conducted, it has to be stressed that the latter, i.e. the analysis, includes and takes into consideration two (2) different aspects, in order for the correspondence between the Weberian philosophico-administrative spirit and the German civil service to be achieved.

In more specific terms, as to the first (1st) aspect, the analysis takes into consideration the already-analyzed features and procedures of the German civil service, which have been examined in the framework of the third (3rd) chapter with regards to the practical implementation of the field of human resources management into the German civil service. The latter means that one has to retrace to concrete and precise case studies, such as the ones of the legal framework, the recruitment, the professional and career development and the remuneration of the German civil service.

The above ones will not lead again to an analysis in terms of in-service human resources management, i.e. they will not be here repeated. Apart from the fact that their analysis has been already conducted, it must be here taken as granted, in order to facilitate the procedure of fulfilling the already-set research goal, as well as the one of extracting a certain conclusion.

Instead, this particular first (1st) aspect of the already-analyzed case studies (legal framework, recruitment, professional and career development, remuneration) is here interrelated to the second (2nd) one, i.e. this of the Weberian, traditional principles of the professional civil service. In particular, a conceptual and philosophico-administrative correspondence between the already-analyzed, German, in-service human resources management features and procedures and the Weberian “HTML” is here conducted, whereas the procedure of adaptation – correspondence of

the former to the latter is considered as a further proof of the “Weberian existence” of the German civil service.

In other words and according to the described methodological strategy that will be here followed, each one of the above-referred case studies concerning the features and the procedures of the German civil service will be here chosen isolated and examined according to their correspondence to the Weberian acronym of “HTML”, i.e. to their practical and conceptional matchup with the Weberian, traditional principles of the professional civil service.

Before moving on to the central core of the analysis as such, it has to be mentioned that the latter-referred correspondence – adaptation of the German in-service features and procedures to the Weberian “HTML” can be achieved by multiple ways, i.e. by following different methodological and analytical ways to matchup the latter to the Weberian, traditional principles of the professional civil service. However, in the framework of the here-conducted analysis, not all of the “analytical possibilities” will be used and implemented, but instead, one point of correspondence will be used in each case of adaptation – matchup, mainly because of the research will with regards to the short, clear and straightforward character of the analysis.

To begin with, backtracking to the element of the legal framework, it has to be mentioned that, as it has been already analyzed in the framework of the third (3rd) chapter, the latter, i.e. the legal framework concerning the German “Beamten” inside the German civil service, consists of three (3) different, fundamental sub-elements that construct it; the latter are the special legal environment of the German “Beamten” in general terms, their life-long tenure and, last but not least, the ban of possible cases of their strike⁹⁰⁷.

With regards to the first (1st) sub-element of the element of the legal framework, i.e. the special legal environment of the German civil servants, as it has been already examined, it can be mainly detected and seen by facts such as the general, legal and working -in terms of employment- differentiation of the German “Beamten” from the German “Angestellte”, whereas the latter-referred differentiation

⁹⁰⁷ European Foundation for the Improvement of Living and Working Conditions, “Central Public Administration: Working Conditions and Industrial Relations – Germany”, in *International Publications*, New York: Cornell University ILR School, 2013, p.1-2

is mainly focused on the existence of a separated and unique legal text for the former, to which the latter do not pertain, as well as on the fact that the terms of employment of the “Beamten” are based on an official act of appointment, whereas the ones of the “Angestellte” on an employment contract⁹⁰⁸.

Taking into research consideration the above-referred argumentation with regards to the first (1st) sub-element of the element of the legal framework to which the German “Beamten” pertain, i.e. their inclusion into a special legal environment, the modern researcher is able to conduct the following conceptional and analytical matchup among this particular legal framework – environment and the Weberian, traditional principles of the professional civil service; despite the fact that the above-described, special legal environment of the German “Beamten” does not correspond directly to one or more of the principles referred in the framework of the Weberian acronym of “HTML”, it can be considered that it does so, because it creates a position of “administrative uniqueness” for the “Beamten”, by differentiating them from the “Angestellte” in legal and working terms⁹⁰⁹.

In particular, the latter-developed argumentation corresponds and can be adapted to the Weberian way of analyzing public administration, because, according to Max Weber’s philosophico-administrative theory of the Ideal Type of Bureaucracy, the “administrative units” of a given administrative framework, i.e. the servants of a public administration, form the “heart” – motivating power of the whole administrative machine⁹¹⁰. In particular, Max Weber supported that the granting of a unique and special “administrative position” to the servants of an administration, expressed through the granting of a special, differentiated and separated legal and working background for them is able to lead to a wider success in terms of administrative outcomes⁹¹¹.

In more specific terms, according to Max Weber’s considerations, the above-referred success can be a twofold one, meaning that it concerns two (2) different

⁹⁰⁸ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.9

⁹⁰⁹ Ibid., p.9

⁹¹⁰ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.24, 65

⁹¹¹ Ibid., p.25-26

recipients: the “administrative unit”, i.e. the servant – individual and the public administration in its wholeness as a system – machine⁹¹².

On the one hand, the consideration of the “administrative units” as ones that enjoy a special legal and working – employment position advocates for the fact that they are able to become more productive and efficient in terms of on-the-job tasks’ implementation, as well as that they pertain to a unique environment, which can be characterized as a “working superior” one in terms of salary and working quality⁹¹³.

On the other hand, success can be met in the case of public administration as a wider system – machine, because the latter contributes to the insurance of the establishment of the appropriate legal and working environment, which is organized and configured for the purpose that the “administrative units” demonstrate the best possible performance, and thus, the best possible outcomes can be achieved⁹¹⁴. The latter, according to the Weberian, philosophico-administrative considerations, is responsible for the further, legal and working reproduction of the administrative machine as such⁹¹⁵.

Trying to refute the latter-developed argumentation by expressing it to simpler terms, it can be stated that the first (1st) sub-element of the legal framework corresponds to the Weberian theory, because both of them do not only prescribe but also create, develop and stipulate a special, legal and working – employment environment for the “administrative units” – servants of a given administrative framework, which is truly based on a peculiar scheme of granting and achieving; the latter means that the service grants to its “units” – servants – individuals the existence of a special legal and working environment, whereas the latter guarantee aims to the increase and boost of the performance of the “units”, i.e. to the demonstration of the best possible ways and methods of tasks’ execution and implementation by the servants, in order for the greatest outcomes for the whole service to be achieved.

As to the second (2nd) sub-element of the legal framework, i.e. the life-long tenure granted to the German “Beamten”, as it has been already proved and analyzed in the framework of the third (3rd) chapter, it is stipulated, institutionalized and granted by the fourth (4th) Article of the Federal Civil Service Act

⁹¹² Ibid., p.23-24, 27

⁹¹³ Ibid., p.23-24, 27

⁹¹⁴ Ibid., p.23-24, 27

⁹¹⁵ Ibid., p.23-24, 27

(“Bundesbeamtengesetz”)⁹¹⁶, as well as by the fourth (4th) paragraph of the Article 33 of the German Basic Law (“Grundgesetz”)⁹¹⁷. As it has been already supported, the latter-referred, institutionalized guarantee refers to the fact that the German civil servants are granted life-long tenure from the time of their official appointment to the service, meaning that their tenure at the service cannot be terminated because of and based on terms of time⁹¹⁸.

The latter is stipulated by an official act of appointment, which prescribes that it, as an official act which governs and regulates the servant’s tenure in terms of working time, is considered as a terminated one, in the case that the time of termination coincides with the time of the servant’s retirement, i.e. with the chronological period – given point of time, when the servant leaves the service because of the fulfillment of the “working years” prescribed by the act of appointment as such⁹¹⁹.

As it has been already made clear in the framework of the third (3rd) chapter, the above-described type of employment, according to which the tenure of a given servant ends and is considered as terminated when the servant retires, is one which contradicts the type of employment of the “Angestellte”, whose working terms are based on an employment contract and, in addition, they are not employed pertaining to an official act of appointment that includes a fixed chronological termination and a precisely-set working time⁹²⁰.

The latter in-service fact which applies to the case study of the German civil service, corresponds to the Weberian, traditional principles of the professional civil service, and, in particular, it corresponds directly to the principle – element of loyalty, which pertains to the already-referred, Weberian acronym of “HTML”. In more specific terms, according to the Weberian theory of the Ideal Type of Bureaucracy, the permanence of the civil servant to the service, which can be achieved and granted

⁹¹⁶ §4, 1 BBG

⁹¹⁷ §33, 4 GG

⁹¹⁸ European Foundation for the Improvement of Living and Working Conditions, “Central Public Administration: Working Conditions and Industrial Relations – Germany”, in *International Publications*, New York: Cornell University ILR School, 2013, p.2

⁹¹⁹ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.9

⁹²⁰ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.9

through the guarantee of the fact that their tenure remains into force and applies until the “working phase’ of their retirement, is the one which cultivates to the servant a sense – notion of loyalty towards the service⁹²¹.

From a philosophical point of view, the point – element of significant importance, which binds the elements of permanence and loyalty is the one of temporality, expressed and applied to terms of on-the-job continuity⁹²². In other words and adapting the latter argumentation to more comprehensible, working – employment terms, it has to be supported that, the fact that the civil servants are employed at the service until their retirement, means and refers to an on-the-job and on-the-tasks loyalty stipulated by the service, from the point of view that the stay of the servants to the service until their retirement obliges them to embrace a continual adoption of an attitude of loyalty towards the service⁹²³. In other words, it is about an attitude of loyalty expressed in terms of commitment in the case of tasks’ fulfillment and implementation by the servants, whereas the latter-referred commitment demonstrated and shown by the servant is the one, which leads to the fact that the latter, i.e. the servant, becomes an in-service “loyal administrative unit”.

In more specific terms, not only in the case of the Weberian theory of the Ideal Type of Bureaucracy, but also in the one of the German, “in-service reality” with regards to the institutionalized guarantee of the life-long tenure of the German civil servants, the spirit – attitude of loyalty and commitment demonstrated by the servant to the service, is something which can be examined and analyzed as an existing feature, which forms a dominant, in-service reality. The latter, in both cases, is shaped in form and according to terms of necessity, because it is accompanied by the notion of the in-service, working continuity, which is depicted to the institutionally-stipulated prescription with regards to the life-long tenure of the servants.

As to the third (3rd) sub-element of the legal framework, i.e. the ban on strike, as it has been already analyzed in the framework of the third (3rd) chapter, it is prescribed by the fourth (4th) paragraph of the Article 33 of the German Basic Law

⁹²¹ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.86-87

⁹²² *Ibid.*, p.86-87

⁹²³ *Ibid.*, p.86-87

and refers to the prohibition of the possible right's existence for the German civil servants to go on strike⁹²⁴.

Before moving on to the main core of the analysis, as well as to the correspondence between the latter-referred prescription and the Weberian philosophico-administrative theory, it has to be mentioned that the prohibition of strike as a right of the German "Beamten", formed -and still does so- a pivotal issue of debate, not only for all those "administrative units" included into and employed at the German civil service, but also for the -German and non-German- scholars of German public administration, as well as the German politicians⁹²⁵. The latter issue emerges because of the fact that the ban on the right of the German civil servants to strike is not directly and clearly stipulated and prescribed by the fourth (4th) paragraph of the Article 33 of the German Basic Law, but it derives indirectly from the prescriptions of the latter, with regards to the administrative principles, to which the German civil service pertains and by which it is regulated⁹²⁶.

The above-described, indirectly-stipulated ban on the right of the German "Beamten" to strike corresponds to the Weberian, traditional principles of the professional civil service, and, in particular, it corresponds again to the element of loyalty, which, in this particular case is expressed through the prohibition of the civil servant to strike against his or her service⁹²⁷. In more specific terms, the latter matchups with and applies to the Weberian theory of the Ideal Type of Bureaucracy, because, according to the Weberian framework of philosophico-administrative consideration, the strike of the servant against his or her service is considered as a sign – expression of doubt⁹²⁸.

In particular, the existence of the possibility that a given civil servant possesses the right to go on strike means that the servant does not only doubt the service as such along with its terms, but also the qualitative content of the posts

⁹²⁴ §33, 4 GG

⁹²⁵ European Foundation for the Improvement of Living and Working Conditions, "Central Public Administration: Working Conditions and Industrial Relations – Germany", in *International Publications*, New York: Cornell University ILR School, 2013, p.1

⁹²⁶ *Ibid.*, p.1

⁹²⁷ Hans-Ulrich Derlien, "German Public Administration: Weberian despite Modernization", in *Comparative Bureaucratic Systems*, Lanham: Lexington Books, 2003, p.7

⁹²⁸ Andreas Anter, "Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.73-76

offered by it and occupied by them, i.e. by the servants⁹²⁹. In particular, according to the Weberian theory, a possible strike of a servant does not only indicate doubt on the authority, the prestige and the significance of the service as a part of the whole administrative machine of a nation state, but also signalizes a tendency of qualitative degradation of it, mainly in terms of consistent work and success⁹³⁰.

In other words, Weber considers that a possible strike conducted by the civil servant forms a sign – “lively expression” of belittling by them towards the service, whereas the act of strike as such forms a demonstration of the fact that the service is qualitatively downgraded by the servant as well, and thus, undermined in terms of tasks’ implementation and successful outcomes.

Taking the above analysis into consideration, the modern researcher is able to detect the fact that this correspondence between an institutionalized, and therefore, legitimized ban on strike and its Weberian interpretation in terms of non-doubt of the service, are based on terms – background of success; the latter means that the Weberian loyalty must not be taken into consideration as a general or unofficial term without point of application, but as one which exists for the insurance of servants’ commitment to the service, as well as for the successful function and the fertile administrative outcomes produced by the latter⁹³¹. Besides, it can be seen by the above analysis that the whole notion of the “Weberian Loyalty” does not only ensure an unofficial, in-service “law and order” demonstrated to and expressed by the working behavior of the “administrative units”, but also interrelates the latter to the administrative success of the whole service⁹³².

Having analyzed all the sub-elements of the first (1st) element of the German civil service, which has been analyzed in the framework of the third (3rd) chapter, i.e. the legal framework of the German civil service, the modern researcher can now proceed to the second (2nd) one, i.e. to the procedure of recruitment. Similar to the one of the legal framework (1st), whose correspondence to the Weberian, traditional principles of the professional civil service has been analyzed according to given sub-elements, so is going to happen in the case study of recruitment.

⁹²⁹ Ibid., p.73-76

⁹³⁰ Ibid., p.73-76

⁹³¹ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.73-76

⁹³² Ibid., p.73-76

In more specific terms, these sub-elements of the German recruitment, which are going to be here analyzed comparatively to the Weberian philosophico-administrative theory are the ones of the requirements – qualifications needed for entrance to the German civil service, as well as the peculiar, “administrative position” of the German “Beamten” inside the already-analyzed system of the services – classes.

As to the first (1st) sub-element of recruitment, i.e. the one of the requirements – qualifications for entrance to the German civil service, the modern researcher can track down that its background is a twofold one, from the point of view that two (2) observations – comments concerning its correspondence to the Weberian, traditional principles of the professional civil service can be made; in particular, the first (1st) observation has to do with the educational predominance of the law-oriented background as a prerequisite for entrance to the “Higher Service” of the German civil service.

With regards to the latter, it has to be mentioned that, despite the fact that it corresponds to the Weberian theory -significantly to the administrative term of the “Rule of Law”- philosophically and conceptionally, the analysis of this particular correspondence is not going to take place in the framework of the current subchapter (4.2.), because it has been already conducted in the framework of the first (1st) subchapter of the current chapter (4.1.), where the phenomenon of the German “Juristenmonopol” was taken into research consideration and combined with the Weberian character and background of the German civil service.

As to the second (2nd) observation, it has to be stated that the analytical method – “strategy”, which is going to be followed here, takes into consideration and interprets the existence of the above-referred requirements – qualifications as educational standards, which try to set, define and stipulate a situation of merit inside the German civil service⁹³³. Besides, as it has been examined in the framework of the third (3rd) chapter, the latter do not only form educational requirements for entrance to the service, but also are a point of differentiation between the services – classes,

⁹³³ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.9

which are separated from one another being based on different requirements for entrance to a given service – class.

Therefore, taking into consideration the latter-stressed, second (2nd) observation concerning the educational requirements, which allow for entrance to the German civil service, it can be supported that the first (1st) sub-element of the German recruitment corresponds to the Weberian, traditional principles of the professional civil service and, in particular, to the principle of merit and the notion of the “Weberian Meritocracy”.

In more specific terms, according to Max Weber’s philosophico-administrative theory, whose fundamental roots can be found and better comprehended in the Ideal Type of Bureaucracy, the entrance to the civil service which is located inside a given administrative machine has to be based on objective, precise and institutionally-set requirements, which must be fulfilled by all the candidate civil servants – “lively administrative units”⁹³⁴.

It can be supported that the existence of these requirements inside the environment of the German civil service institutionalizes and brings out a “working reality” of meritocracy, meaning that the occupation of an in-service post – position by the servant entails the possession – fulfillment of given educational assets – qualifications, whereas the fact that the possession of these qualifications is mandatory for all the candidates, who want to enter the service consolidates an environment of “working equality” in terms of possessed assets and chances for entrance⁹³⁵.

In other words, the Weberian meritocracy is depicted to the German prescription with regards to an “equally distributed” obligation, according to which all the candidate “Beamten” for entrance to a given service – class of the German civil service must possess a given “educational standard”, in order for the entrance to be achieved, as well as for an environment of “in-service egalitarianism” to be established. Moreover, in the case that the latter-referred educational standards are of a legal nature, the modern researcher is then able to detect a combination between the

⁹³⁴ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.22-25

⁹³⁵ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.9

“Weberian Merit” and the “Rule of Law”, illustrated to the case of the employment of a German “Beamte”.

As to the second (2nd) sub-element of recruitment, i.e. the administrative “position” of the German “Beamten” inside the “administrative pyramid” of the German civil service and their inclusion into the system of services – classes, as it has been already analyzed in the framework of the third (3rd) chapter and in combination to the Article 17 of the Federal Civil Service Act (“Bundesbeamtengesetz”), it is about an in-service working system, which forms the main way of posts’ allocation inside the German civil service, whereas the posts are distributed and categorized into four (4) different services – classes⁹³⁶.

In particular and according to the Article 17 of the Federal Civil Service Act, this particular system can be characterized as a hierarchical one, not only from the point of view that it has been analyzed by having been depicted to an in-service “administrative pyramid”, but also that the services – classes included to it correspond to different working positions – posts – fields of occupation, which can be characterized as “administratively subjected” to the others⁹³⁷.

But of course, it has to be mentioned that the latter-referred characterization is a figurative one, meaning that a given service – class positioned and located into a low “scale” in the framework of the German “administrative pyramid” is not subsumed to a higher service – class in legal, administrative as well as working terms, receiving orders from the “administrative units” – servants of it⁹³⁸. In particular, the characterization used above means that the posts, which are “highly-located” to the German “administrative pyramid” include and employ “administrative units” – servants, which are occupied with the implementation of administrative tasks that can be characterized as more neuralgic for the whole administrative machine of the German public administration, meaning that their implementation as such is pivotal in terms of precise and successful function of the German civil service.

In other words, taking into consideration the analysis conducted in the framework of the third (3rd) chapter, the modern researcher can here argue on the fact that a notion of an in-service hierarchy emerges, which is mainly expressed in terms

⁹³⁶ §17, 1 BBG

⁹³⁷ §17, 1 BBG

⁹³⁸ Berndt Keller, “Negotiated Change, modernization and the challenge of unification” in *Public Service Employment Relations in Europe*, Oxfordshire: Routledge, 1999, p.50

of “administrative importance” with regards to the successful operation of the field of the German public administration and, in particular, to its model function in the field of the highest levels, i.e. services – classes⁹³⁹.

In order for the latter to be easier comprehended, one could take into consideration the example of a German diplomat and a streetcleaner; the profession of the former, which is included into the first (1st) service – class of the German civil service (“Higher Service”) is located into a more neuralgic position inside the German “administrative pyramid” in terms of high-level administration and model function of the whole administrative machine, than the one of the latter, which belongs to the fourth (4th) service – class.

This particular sub-element of the element of recruitment corresponds to the Weberian philosophico-administrative theory and, in particular, to the element – feature of hierarchy inside the German civil service⁹⁴⁰. In more specific terms, Max Weber did not only consider and prescribe the existence of the element of hierarchy inside a certain field of occupation, meaning that a given servant has to be administratively subsumed to a servant located into an “administratively higher” position in the framework of the “German pyramid”, but also inside the whole administrative framework, meaning that all the servants are subsumed to the wider field of the German public administration, and therefore, located into an “administratively lower” position than the whole framework as such, i.e. they are included into it⁹⁴¹.

In more specific terms and taking into consideration the latter-developed analysis, one could argue on the fact that Max Weber analyzed the element – feature of hierarchy by taking into consideration two (2) different aspects and putting the emphasis mainly on the second one; on the one hand, the element of hierarchy can be detected into a given administrative field – service, where hierarchical relations are developed among its servants and are based on the importance of tasks that have to be implemented by those servants of the “higher” and the “lower” posts, whereas, on the other hand and according to the second (2nd) aspect, all the servants of a given

⁹³⁹ Berndt Keller, “Negotiated Change, modernization and the challenge of unification” in *Public Service Employment Relations in Europe*, Oxfordshire: Routledge, 1999, p.50

⁹⁴⁰ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.23-24

⁹⁴¹ *Ibid.*, p.23-24

administrative framework, regardless from their “administrative position” are subsumed to the whole administrative field – “body” – organization of the public administration⁹⁴².

Besides, the correspondence between the hierarchy of the services – classes inside the German civil service and the Weberian hierarchy prescribed by the Ideal Type of Bureaucracy, characterizes the servants as “administrative units”, meaning that these “units” carry on this particular character in exact terms (“units”), because they are included – subsumed into a wider framework, i.e. the German public administration in its wholeness⁹⁴³.

Having analyzed the first two (2) elements of the German civil service (legal framework and recruitment), which have been examined in the framework of the third (3rd) chapter, as well as having discovered their correspondence to the Weberian philosophico-administrative theory, one may now proceed to the third (3rd) one, i.e. that of the professional and career development. Similar to the already-analyzed ones, the element of the professional and career development includes sub-elements that have to be analyzed, as well as correspond to the Weberian philosophico-administrative theory. The latter sub-elements are these of training and mobility.

With regards to the first (1st) sub-element of the professional and career development, i.e. that of training, as it has been already examined in the framework of the third (3rd) chapter and in combination to the Article 16 of the Federal Civil Service Act (“Bundesbeamten-gesetz”), training forms an in-service procedure of the German civil service, which carries on a strictly professional character⁹⁴⁴.

In more specific terms, as it has been demonstrated in the framework of the third (3rd) chapter, the German “Ausbildung” and its professional-oriented background form an “in-service reality”, from the point of view that, according to the prescriptions of the Article 16 of the “Bundesbeamten-gesetz”, every German civil servant, regardless from the service – class, to which he or she pertains, is obliged to undertake a mandatory “Ausbildung” period⁹⁴⁵.

⁹⁴² Ibid., p.23-24

⁹⁴³ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.23-24

⁹⁴⁴ §16, 1 BBG

⁹⁴⁵ §16, 1 BBG

In particular, as it has been already seen, the latter-referred, obligatory training period can be also examined and characterized as a twofold one, from the point of view that it takes place in and during two (2) different times⁹⁴⁶; on the one hand, during the first two (2) years after the enactment and the act of putting into effect the official act of the servant's appointment that signalizes his or her tenure's beginning⁹⁴⁷; on the other hand, during the whole period of service by the servant, meaning that he or she undertakes and joins training, as well as becomes a "working member" of its procedure while undertaking their tenure at the service⁹⁴⁸.

Specifically, it can be supported that the second (2nd) time of the procedure of training described above, is the one, which is stipulated by the Article 16 of the Federal Civil Service Act, which refers to the notion of the "advanced training" and comprehends the wider notion of "Ausbildung" as a procedure that does not only take place at the time of the beginning of the servant's tenure, but also identifies the procedure as such with the whole chronological period the servant's service⁹⁴⁹.

The latter sub-element with regards to the procedure of training followed in the framework of the German civil service corresponds to the Weberian philosophico-administrative theory and, in particular, to the feature of "Training" that is subsumed to the Weberian acronym of "HTML". In more specific terms and according to Max Weber's considerations, the procedure of training has to be characterized by the spirit – background of professionalism, meaning that the latter is not only considered as something that characterizes the first years of a servant's tenure in the framework of the service, but also takes place during his or her tenure, being parallelized with the notion of their professional, in-service life and assisting them in the procedure of skills' development and tasks' implementation⁹⁵⁰.

In other words, not only in the case study of the German civil service, but also in the one of the Weberian, Ideal Type of Bureaucracy, training is considered as

⁹⁴⁶ Christoph Reichard, "Inertia of education and recruitment in the German civil service" presented at *EGPA-Conference for PSG 9 "Public Administration and Teaching"*, Toulouse, 8-10 September 2010, p.12

⁹⁴⁷ Christoph Reichard, "Inertia of education and recruitment in the German civil service" presented at *EGPA-Conference for PSG 9 "Public Administration and Teaching"*, Toulouse, 8-10 September 2010, p.12

⁹⁴⁸ *Ibid.*, p.12

⁹⁴⁹ §16, 1 BBG

⁹⁵⁰ Andreas Anter, "Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.176-177

professional in terms of its direct combination and interrelation to the servants' fields of occupation⁹⁵¹; in particular, professional training does not form a term, which is considered as a kind of "working prerequisite" needed for the entrance of the servant to the service, but as one that is characterized by an "in-service continuity", i.e. it conforms with the time of the servants' tenure, whereas it influences their contribution to the by-the-service outcomes' production in qualitative terms⁹⁵².

As to the second (2nd) sub-element of the element of the professional and career development, i.e. the one of mobility, as it has been already analyzed in the framework of the third (3rd) chapter and in combination with the prescriptions of the Articles 16, 27 and 28 of the Federal Civil Service Act ("Bundesbeamtengesetz"), the existence and expression of the latter ("mobility") in the framework of the German civil service can be judged as a limited one⁹⁵³.

In more specific terms and taking into consideration the prescriptions and stipulations of the latter-referred articles, the element of mobility as a sub-element of the German, professional and career development can be evidenced only in the case of an in-service "working move" of the German "Beamten" from the fourth (4th) to the third (3rd) service – class inside the German civil service⁹⁵⁴. In particular, as it has been analyzed in the framework of the third (3rd) chapter, only the servants included into and employed at the "Ordinary Service" are able to conduct an "employment shift" by changing their field of occupation – working environment and move to the "Intermediate Service"⁹⁵⁵.

But of course, the latter procedure can take place, only in the case that the "Beamte" who is candidate for a change of service follows the appropriate procedures stipulated by the Federal Civil Service Act, as well as by the Service, to which he or she wants to move, i.e. all those procedures that are regulated and governed by the technical prescription of the Service's open call, such as educational requirements⁹⁵⁶.

⁹⁵¹ Ibid., p.176-177

⁹⁵² Andreas Anter, "Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.176-177

⁹⁵³ §16, §27, §28 BBG

⁹⁵⁴ Kai Wegrich, Gerhard Hammerschmid, "Public Administration characteristics and performance in EU28: Germany", in *Support for developing better country knowledge on public administration and institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion)*, Luxembourg: Publications Office of the European Union, 2018, p.368

⁹⁵⁵ Federal Ministry of the Interior (BMI), "The federal public service: An attractive and modern employer", *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.50-53

⁹⁵⁶ Ibid., p.50-53

In order for the latter, as well as for the limited chances for an in-service mobility in the framework of the German civil service to be enough comprehended, the modern researcher has to retrace to the examples of professions presented and given in the framework of the third (3rd) chapter of the project. Specifically, a “Beamte” who works as a street cleaner and belongs to the fourth (4th) group of the German “administrative pyramid” can -according to the prescriptions of the Articles 16, 27 and 28 of the Federal Civil Service Act- move to the third (3rd) service – class and become a servant at a municipality’s Citizen Service Department, following the appropriate procedures for entrance⁹⁵⁷.

However, the latter possibility does not exist for all those servants included into the third (3rd) (“Intermediate Service”), second (2nd) (“Higher – Intermediate Service”) and first (1st) (“Higher Service”) service – class of the German civil service, who are not able to conduct a “working move” to another service – class⁹⁵⁸. In other words, the German, in-service “Mobilität” can be and is characterized as a limited one, from the point of view that exists as “feasible reality” only for those servants employed at the lower level – grade of the German “administrative pyramid”, whereas, for example, a teacher employed at a German elementary school (2nd group, “Higher – Intermediate Service – Class) cannot conduct a “working move” to the 1st group of the “Higher Service” and become a German diplomat⁹⁵⁹.

This particular sub-element of the German -limited- mobility corresponds indirectly to the Weberian philosophico-administrative theory. However, despite the correspondence, it has to be stressed that it does not correspond to a given feature that exists under the Weberian acronym of “HTML”, but matchups with the theoretical and conceptional background of the whole Weberian theory with regards to the Ideal Type of Bureaucracy. In other words, it corresponds to the entire philosophico-administrative conception that arises from the theoretical prescriptions and stipulations of it.

In more specific terms and in the framework of the theory of the Ideal Type of Bureaucracy, Max Weber supports that the “administrative position” of the “units” inside a given framework has to be characterized by limited mobility, meaning that either the servant possesses restricted and delimited chances, in order to conduct a

⁹⁵⁷ §16, §27, §28, BBG

⁹⁵⁸ Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.50-53

⁹⁵⁹ *Ibid.*, p.52

“working move” from service to service, or is not -in absolute terms- capable of changing service, and thus, obliged to remain to the one, i.e. to the service, at which they were firstly employed⁹⁶⁰.

It has to be highlighted that the latter argumentation with regards to the servants’ in-service, limited mobility forms one of the most important reasons why the Weberian administrative and working system is defined and characterized as a “career-based” one, meaning -in intuitive terms- that the servants begin and terminate their career at a given, in-service position, without conducting employment shifting to other services⁹⁶¹. Specifically, the Weberian way of thought, which lies behind the notion of the career-based system is conceptionally and philosophically combined with the idea of a given servant’s in-service dedication to the special position that he or she occupies⁹⁶².

The latter-referred dedication has to do with the fact that the servant remains to a given position and in the framework of a certain service for his or her entire life, while being able to fulfill and implement their tasks according to the most successful and productive way⁹⁶³. It is, in other words, a kind of thought, which, again, as it has been already detected to the cases of the previously-analyzed Weberian elements, combines the working permanence of the servant to a given service with their working commitment, which, at the end of the day, can be explained and interpreted as a kind of loyalty to the service, as well as success in the field of tasks’ undertaking⁹⁶⁴.

Taking into consideration the latter-developed, Weberian argumentation with regards to the restricted mobility of the “administrative units” inside a given administrative framework, as well as the already-described situation of the limited, in-

⁹⁶⁰ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.178-179

⁹⁶¹ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.9

⁹⁶² Heinrich Amadeus Wolff, “The Civil Service in Germany” in *IUS-Publicum Network Review: Annual Report 2011*, Madrid: IUS-Publicum, 2011, p.4-5

⁹⁶³ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.178-179

⁹⁶⁴ Heinrich Amadeus Wolff, “The Civil Service in Germany” in *IUS-Publicum Network Review: Annual Report 2011*, Madrid: IUS-Publicum, 2011, p.4-5

service mobility of the German civil service, it can be supported that both of them do not only correspond to the whole Weberian rationale with regards to the strict dedication of the servant to the service, but also, at the end of the day, they match up with the element – feature of “Weberian Loyalty”, which is subsumed to the Weberian acronym of “HTML”⁹⁶⁵.

In more specific terms and trying to adapt the above-referred, theoretical argumentation to the case study of the German civil service, the fact that the latter, i.e. the German civil service, is governed and regulated by a regime of restricted mobility in terms of the “Beamten” right to conduct moves of working shifting from service to service corresponds to the Weberian prescriptions of the career-based character of a given, administrative and working system, whereas both of them advocate for the existence of the element of loyalty demonstrated by the servant to the service⁹⁶⁶. In other words, the peculiar regime of the German, in-service non-mobility forms a “lively” demonstration – reflection of the Weberian, career-based character of the German system’s “*Gestalt*”⁹⁶⁷, whereas the working permanence of the “Beamten” to their service, along with their limited chances for service-to-service mobility, institute further the element of loyalty.

Having analyzed and interpreted the first three (3) elements of the German civil service that correspond to the Weberian philosophico-administrative theory, the last of them, i.e. the one of remuneration, has to be now examined, in order for a possible correspondence of it to the latter theory to be detected.

Before one moves on to the analysis of the element of remuneration and its possible correspondence to the Weberian philosophico-administrative theory, it has to be mentioned that the former forms a peculiar case study. In particular, in contrast with the three (3), previously-analyzed elements, which included given sub-elements and corresponded directly to the Weberian philosophico-administrative theory, the one of remuneration does not include any sub-elements, as well as does not correspond directly and precisely to a given, theoretical prescription – stipulation of the latter-referred theory.

⁹⁶⁵ Heinrich Amadeus Wolff, “The Civil Service in Germany” in *IUS-Publicum Network Review: Annual Report 2011*, Madrid: IUS-Publicum, 2011, p.4-5

⁹⁶⁶ *Ibid.*, p.4-5

⁹⁶⁷ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.177

In particular, as it has been analyzed in the framework of the third (3rd) chapter, the remuneration system which applies to the case study of the German civil service can be judged and characterized as a fixed one, mainly by taking into consideration two (2) different aspects of it⁹⁶⁸; on the one hand, the fact that each and every in-service position regardless from the service – class to which it is included, corresponds to a given salary, i.e. provides the servant with a given amount of money, which cannot be changed in financial terms of numerical increase or decrease⁹⁶⁹. Furthermore, in the framework of this first (1st) aspect as well, this particular “financial dogma” expressed in terms of salary, is stipulated and prescribed by a given legal text, the Federal Civil Service Remuneration Act (“Bundesbesoldungsgesetz”), which governs and regulates the peculiar “salary regime” of the German “Beamten” by setting given pay schemes⁹⁷⁰.

On the other hand, and as to the second (2nd) aspect according to which the German remuneration system can be judged as a fixed one, the salary of each and every “administrative unit”, i.e. German “Beamte”, of the German administrative framework is unchangeable, given the fact that each and every servant is employed at the German civil service according to an official act of appointment and not -as in the case of the “Angestellte”- to an employment contract⁹⁷¹.

The latter fact forms a further element, which advocates for the non-existence of the possibility for a civil servant’s salary to be changed, either in terms of increase or decrease⁹⁷². It is, in other words, a characteristic feature of the German civil service’s remuneration system that each and every in-service post corresponds to a given salary amount, which is not only the same for all the other servants who possess a similar post included into the same pay scheme, but is also strictly stipulated by a given, legal text, absolutely instituted for the determination and precise definition of all the in-service salary amounts⁹⁷³.

⁹⁶⁸Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.81-83

⁹⁶⁹ *Ibid.*, p.81-83

⁹⁷⁰ *Ibid.*, p.81

⁹⁷¹ European Foundation for the Improvement of Living and Working Conditions, “Central Public Administration: Working Conditions and Industrial Relations – Germany”, in *International Publications*, New York: Cornell University ILR School, 2013, p.2

⁹⁷² Federal Ministry of the Interior (BMI), “The federal public service: An attractive and modern employer”, *Public Relations Division – Federal Ministry of the Interior*, Berlin, 2014, p.81-83

⁹⁷³ *Ibid.*, p.81-83

This particular element of the German civil service, i.e. its peculiar remuneration system, corresponds indirectly to the Weberian philosophico-administrative theory and, in particular, to the administrative term of “Rule of Law”, from the point of view that the monthly salaries of the “Beamten” become and exist as fixed, being stipulated and prescribed by official, legal texts⁹⁷⁴. In more specific terms, the latter correspondence can be mainly detected to the salary regulations’ difference between the “Beamten” and the “Angestellte”, as well as to the fact that the ones of the former are stipulated as fixed and standardized by unchanged legal texts, whereas the ones of the latter are prescribed by a contract of a “private law nature”⁹⁷⁵.

In other words, the correspondence to the Weberian philosophico-administrative theory can be characterized as one, which is -again- based on legal terms, which, in this particular case study influence the remuneration system as well. The “rise” of the Weberian spirit can be justified, in other words, by the fact that the remuneration system as a “sub-system” of the whole, German administrative system is governed and defined again by the power of law, which transfuses to the latter a notion of “permanent nature”, that is expressed via the reasoning that the servant’s remuneration is part and parcel of the position occupied, whereas this peculiar relation between post – position and financial reward – salary is strictly defined by the Law.

Taking the latter argumentation into research consideration, one could easier comprehend the main reason why Raphael Marbach argues on the fact that the “Beamten” form the type of the German civil servant that is closer -comparatively to the “Angestellte”- to the Weberian, ideal type of civil servant prescribed by Max Weber in the framework of the Ideal Type of Bureaucracy⁹⁷⁶; the fact that each and every aspect of their employment conditions and regulations, even the ones with regards to their system of remuneration, is governed and defined by the strict spirit of

⁹⁷⁴ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.67

⁹⁷⁵ European Foundation for the Improvement of Living and Working Conditions, “Central Public Administration: Working Conditions and Industrial Relations – Germany”, in *International Publications*, New York: Cornell University ILR School, 2013, p.2

⁹⁷⁶ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.9

Law can be directly compared to an administrative environment, where the notion of the “Rule of Law” applies horizontally.

Moreover, taking the latter-developed argumentation and reference to the “Bundesbesoldungsgesetz” as well as the absolute “legal power” of the latter in defining the remuneration system of the German civil service as research motives, the modern researcher can now proceed to a further argument regarding the correspondence of the character – background of the German civil service to the Weberian, philosophico-administrative theory, i.e. the one of the domination of Law to the cases of the in-service features, aspects, procedures and regulations that apply to the case study of the German “Beamten”.

However, it has to be clearly mentioned that this particular argument does not form a part of the already-developed argumentation concerning the direct matchup among the in-service features – elements of the German civil service and the Weberian acronym of “HTML”, i.e. it does not -as an argument- pertain to one or any of the principles of the latter. In other words, it is about an argument, which is expressed by some of the most famous scholars of the German civil service and public administration, such as Raphael Marbach and Kai Weigrich, and is mainly based on the “law-oriented nature” of the service as such.

Having already analyzed the application and expression of the administrative term of “Rule of Law” to the German civil service via the phenomenon of “Juristenmonopol”, the analysis which is here conducted, does not aim to prove again the empowered and strengthened position of the latter-referred term in the framework of the German civil service in general terms, but to present the pivotal contribution of the notion of legal reasoning to the setting and configuration of the in-service regulations with regards to the “Beamten”.

In more specific terms, according to Raphael Marbach, a peculiar “diffusion” of law into each and every aspect of the German civil service, i.e. its constant “presence” to all the cases of in-service regulations, can be detected to two (2) different fields – cases⁹⁷⁷. The latter, as it will be here shortly examined, do not only demonstrate and prove clearly the fact that the whole service’s ontological background corresponds to the general, Weberian philosophico-administrative

⁹⁷⁷ Raphael Marbach, Carolin Steffens, Marius Herr, Jan Ziekow, “Forming Civil Servants: Elements of Success and Ideas for Transfer Based on Germany’s Dual Public Administration Education”, Hamburg: Deutsch Gesellschaft für International Zusammenarbeit (GIZ) GmbH, 2018, p.9

consideration in theoretical and conceptional terms, but also verifies the already-analyzed, in-service dominance of the administrative term of “Rule of Law”⁹⁷⁸.

With regards to the first (1st) field – case, it can be supported that the constant legal “presence” and its contribution to the in-service features and procedures of the German civil service can be detected to the existence and regulatory function of the already-examined, fundamental, legal texts, which govern the peculiar “Beamten environment”⁹⁷⁹. In more specific terms, the latter means that a further demonstration of the pure, law-oriented and, above all, Weberian background of the German civil service can be evidenced by the fact that the legal and administrative environment with regards to the “functional existence” of the German civil service is strictly and absolutely defined and stipulated by the Law in the form of legal texts⁹⁸⁰.

In particular and trying to adapt the latter-developed argumentation to a given and precise example’s framework, one can take into consideration the fundamental, legal texts that regulate and govern the function of the German civil service, such as the ones of the German Basic Law (“Grundgesetz”), the Federal Civil Service Act (“Bundesbeamtengesetz”) and the Federal Civil Service Remuneration Act (“Bundesbesoldungsgesetz”)⁹⁸¹. As it has been already supported and proved, these texts define and stipulate the most important and existential aspects, features and procedures of the German civil service, such as the ones of its legal framework, recruitment, professional and career development, as well as remuneration⁹⁸².

The fact that each and every “in-service aspect” of the German civil service is firstly defined, and then, strictly stipulated and governed by a text which corresponds to it as well as transfuses a clearly “legal nature” to it, matchups with and corresponds to the already-examined, legalistic background of the Weberian philosophico-administrative theory, which recognizes the “natural power” of Law to set, define and precisely determine the internal environment of a given administrative framework⁹⁸³. This

⁹⁷⁸ Ibid., p.9

⁹⁷⁹ Berndt Keller, “After the end of stability: Recent trends in the public sector of Germany” in *The International Journal of Human Resource Management*, Oxfordshire: Routledge, 2011, p.2332-2333

⁹⁸⁰ Ibid., p.2332-2333

⁹⁸¹ Berndt Keller, “After the end of stability: Recent trends in the public sector of Germany” in *The International Journal of Human Resource Management*, Oxfordshire: Routledge, 2011, p.2332-2333

⁹⁸² Ibid., p.2332-2333

⁹⁸³ Christoph Reichard, “Inertia of education and recruitment in the German civil service” presented at *EGPA-Conference for PSG 9 “Public Administration and Teaching”*, Toulouse, 8-10 September 2010, p.5-7

particular “legalistic correspondence”, which, of course, verifies the dominance and functional existence of the term of “Rule of Law” inside the German civil service, is further strengthened and empowered by the fact that one (1) of the three (3) of the latter-referred legal texts is not open to reform⁹⁸⁴.

Taking the latter clarification into consideration, the modern researcher has to clearly and precisely make two (2) particular remarks; on the one hand, the legal text under question which is not open to reform is the Federal Civil Service Act (“Bundesbeamtengesetz”)⁹⁸⁵, whereas, on the other hand, the fact that the latter is not open to reform as such, does not mean, according to Kai Weigrich, that it cannot be amended, but cannot be a subject of a fundamental and holistic change in terms of legal and administrative content⁹⁸⁶.

In more specific terms and taking into consideration the articles of the “Bundesbeamtengesetz” as well as their “flow of amendment” over time, it can be highlighted that a peculiar “institutional mentality” of non-reform has been followed and adopted; the latter occasion can be proved and demonstrated by the fact that the only amendment’s case since 2009 -the time of the Act’s official adoption by the German Parliament- was that of the third (3rd) paragraph of the third (3rd) Article of the Act with regards to the definition of the term “supervisor” (“*Aufsichtsbeamter*”⁹⁸⁷).

The latter-described “spirit” of non-reform can be considered as one, which corresponds to the Weberian philosophico-administrative theory, not only in terms of the “Rule of Law” domination, but in equivalent ones of “administrative maintenance”, similar to the one described and examined in the case of the “Weberian Loyalty”⁹⁸⁸. In other words, the adoption of a kind of a peculiar, institutional and administrative conservatism in terms of legal texts’ fundamental change, matchups with the Weberian element – feature of in-service maintenance, i.e. the preservation

⁹⁸⁴ Kai Weigrich, Gerhard Hammerschmid, “Public Administration characteristics and performance in EU28: Germany”, in *Support for developing better country knowledge on public administration and institutional capacity building (Directorate – General for Employment, Social Affairs and Inclusion)*, Luxembourg: Publications Office of the European Union, 2018, p.369

⁹⁸⁵ Ibid., p.369

⁹⁸⁶ Ibid., p.369

⁹⁸⁷ §3, 3 BBG

⁹⁸⁸ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.177

of a stable and consistent administrative situation in terms of features – elements, regulations and procedures inside a given administrative framework⁹⁸⁹.

With regards to the second (2nd) field – case that advocates for the “presence” of Law in the interior of the German civil service, the modern researcher can track down and retrace to the stipulation of the fifth (5th) paragraph of the Article 33 of the German Basic Law (“Grundgesetz”), which prescribes that the main – central Law, which governs and regulates the institutional, legal and administrative environment of the German civil service must be set, defined and developed according to the traditional principles of the professional civil service (“*Hergebrachte Grundsätze des Innendienstes*”⁹⁹⁰).

Taking into consideration this particular, latter-referred stipulation of the above article (§33, 5 GG), the modern researcher has to shortly clarify a few things concerning the phrase of the “main – central Law”, as well as its interrelation to the Weberian philosophico-administrative principles.

As to the phrase of the “main – central Law”, it has to be stressed that this particular stipulation of the Article refers indirectly to the Federal Civil Service Act (“Bundesbeamtengesetz”) and, of course, to its main and pivotal “institutional role” to regulate and govern the whole in-service environment of the German “Beamten”⁹⁹¹. In other words, the “Law” of the here-analyzed case is “personified” and can be shown to all those stipulations and prescriptions defined by the “Bundesbeamtengesetz”, which configurate and determine the “administrative existence” and function of the German civil service.

Having clarified the Law – legal text, to which the fifth (5th) paragraph of the Article 33 refers, one has to discover how is the stipulation as such interrelated to the Weberian philosophico-administrative theory and its principles. In more specific terms, the stipulation is the one that clearly defines and links the Law – legal text which governs the in-service environment of the German civil service, i.e. the Federal Civil Service Act, to the Weberian philosophico-administrative theory and, in particular, to the Weberian acronym of “HTML”, given the fact that it concretely

⁹⁸⁹ Ibid., p.177

⁹⁹⁰ §33, 5 GG

⁹⁹¹ §33, 5 GG

prescribes that the former has to be instituted, developed, set and implemented according to the latter⁹⁹².

In particular, it has to be clarified that the above-referred linking – correspondence is direct, but, at the same time indirect; in more specific terms, it can be characterized as direct from the point of view that the paragraph refers evidently to the fact that the existence and function of the German civil service’s legal text has to be developed, set and implemented according to the traditional principles of the professional civil service; however, the reference – correspondence to the Weberian philosophico-administrative theory is an indirect one, from the point of view that it does not refer clearly and directly to the name of Max Weber or to the one of his theory (for example: “Ideal Type of Bureaucracy”). Despite the latter, the Act’s stipulation includes a clearly and purely philosophical reference, i.e. the one of the “*Hergebrachte Grundsätze des Innendienstes*”⁹⁹³, which was firstly and absolutely introduced and defined by Max Weber.

In other words, the stipulation of this particular Article (§33, 5) of the Federal Civil Service Act (“Bundesbeamtengesetz”) includes a direct reference to the Weberian philosophico-administrative theory, but without naming it, through the inclusion of a significant element of it, i.e. the traditional principles of the professional civil service. This particular inclusion of and reference to the latter-referred theory and, in particular, to the Weberian acronym of “HTML” that represents and depicts the “*Hergebrachte Grundsätze des Innendienstes*”, paves the way to the fact that many scholars of the German public administration, such as Andreas Anter, share the view that the German Basic Law stipulates -indirectly but clearly- a special kind of “code of administrative ethics” via the fifth (5th) paragraph of the Article 33⁹⁹⁴.

In particular, they express the opinion that the Weberian character and background of the German civil service can be further demonstrated by and depicted to the fact that the German Basic Law (“Grundgesetz”), i.e. the first, fundamental and most important Law of the Federal Republic of Germany, as well as the Federal Civil Service Act (“Bundesbeamtengesetz”), i.e. the one and only legal text that regulates and governs the in-service environment of the “Beamten”, exist and function as

⁹⁹² §33, 5 GG

⁹⁹³ §33, 5 GG

⁹⁹⁴ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.176-178

“administrative Gospels” rendering the Weberian “*Gestalt*⁹⁹⁵” of the whole service, mainly because of the fact that the former (“Grundgesetz”) stipulates the development of the whole “*Dienst*⁹⁹⁶” according to the Weberian, philosophico-administrative predictions, whereas the latter (“Bundesbeamtengesetz”) forms the “lively implementation” of them⁹⁹⁷.

In other words, a case study of institutional interrelation between these two (2) legal texts can be here detected, according to which, the German Basic Law (“Grundgesetz”) as such includes the prescription that the Law – legal text, which governs the civil service of the country has to take into consideration, respect, be developed and parallelized with the traditional principles of the professional civil service, and thus, to the Weberian, philosophico-administrative acronym of “HTML”, whereas the Federal Civil Service Act (“Bundesbeamtengesetz”) forms an “institutionalized demonstration” that these Weberian principles must be -and indeed are- implemented on a practical, administrative level. Last but not least, according to the latter-developed reasoning, the Weberian character and background of the German civil service can be firstly and primarily found in the fundamental, “institutional roots” of the Federal Republic, forming a politico-administrative reality.

To sum up, the modern researcher can come to the conclusion that the Weberian “nature”, background and character of the German civil service cannot be characterized as a case study, which results from multiple, indirect and non-related reasonings; except from those examined in the framework of the first (1st) subchapter (4.1.), the ones analyzed and explained here correspond directly and clearly to the Weberian, philosophico-administrative stipulations; either defined by the fundamental, legal texts of the Federal Republic such as the German Basic Law and the Federal Civil Service Act, or emerged from the analysis of in-service elements along with the simultaneous consideration of the Weberian acronym of “HTML”, the Weberian background of the “*öffentlicher Dienst*”⁹⁹⁸ forms a result of a case study of a clear and direct philosophico-administrative correspondence between a whole theoretical tradition and an administrative machine.

⁹⁹⁵ Ibid., p.178

⁹⁹⁶ Ibid., p.178

⁹⁹⁷ Ibid., p.178

⁹⁹⁸ Andreas Anter, “Max Webers Theorie des modernen Staates: Herkunft, Struktur und Bedeutung in *Beiträge zur Politischen Wissenschaft*, Berlin: Duncker und Humblot, 2014, p.177

Conclusion(s)

Having reached to the concluding pages of the current project, the main conclusion – final, “theoretical outcome”, which can be excluded by the modern researcher advocates for the Weberian character and background of the German public administration, taking into consideration the case study of the German civil service, its “Gestalt”, as well as the peculiar way of its existence and function.

The pivotal combination of a strictly Weberian ontology to the “administrative entity” of the German civil service, as it has been already examined and analyzed during the pages of the current project, can be mainly detected to two (2) different levels, i.e. the one of the politico-administrative system of the country in general, as well as the one of the German civil service in particular. These two (2) different levels render the German public administration as a Weberian one -taking into consideration the case study of the German civil service- by demonstrating three (3) different features – elements.

The latter are: i) the peculiar “nature” and the politico-administrative particularities of the Federal Republic of Germany that define the second (2nd) level – layer of German governance, i.e. “die Länder” as the “Verwaltungszentrum” of the whole Federation, ii) the multilevel domination of the notion of Law in the case study of the German civil service via the phenomenon of “Juristenmonopol” and the fundamental, legal texts of the latter (“German civil service”), as well as, iii) the practical and actual correspondence of the German, in-service elements, features and procedures to the Weberian, traditional principles of the professional civil service, which derive from Max Weber’s theory with regards to the Ideal Type of Bureaucracy and can be depicted to the Weberian acronym of “HTML”. As it has been made clear, the first (1st) point “i” refers to the first (1st) level, i.e. the one of the politico-administrative system of the Federal Republic of Germany, whereas the second (2nd) “ii” and the third (3rd) point “iii” refer to the second (2nd) level, i.e. the one of the German civil service.

As to the first (1st) point and as it has been analyzed and proved in the framework of the second (2nd) chapter of the current project, the second (2nd) level – layer of German governance, i.e. “die Länder”, exists and functions as the “administrative center” of the Federal Republic of Germany in terms of personnel

density; the latter, as it has been examined, can be detected and proved not only from a historical, but also from a politico-administrative point of view.

The above-referred fact, i.e. the existence of an administrative center inside a given politico-administrative framework, corresponds to the Weberian theory of the “Verwaltungszentrum” which argues on the existence of a central administrative unit inside a given administrative framework, and thus, fulfills a first, fundamental and primary requirement, in order for the characterization of the German civil service as a “Weberian” one to be made.

As to the second (2nd) point and as it has been analyzed in the framework of the first (1st) and the third (3rd) chapter of the project, the main “Dominant Power” inside the German civil is the Law; the latter is present, either via the phenomenon of “Juristenmonopol” which advocates for the recruitment of candidate “Beamten” who fulfill a purely and strictly legal – law-oriented educational background or via the institution and establishment of fundamental legal texts such as the German Basic Law (“Grundgesetz”), the Federal Civil Service Act (“Bundesbeamtengesetz”) and the Federal Civil Service Remuneration Act (“Bundesbesoldungsgesetz”), which govern and regulate concretely each and every aspect, feature – element and procedure of the German civil service.

The latter-referred fact, i.e. the evidence of a horizontal domination of Law inside a given administrative framework, as it has been examined, corresponds to the Weberian term of the “Rule of Law”, which derives from Max Weber’s theory concerning the Ideal Type of Bureaucracy, and thus, proves the fact that the in-service environment of the “Gestalt” of the “Dienst” can be considered as a Weberian one, while fulfilling a second, significant requirement, in order for the characterization of the German civil service as “Weberian” to be made.

As to the third (3rd) point and as it has been analyzed in the framework of the third (3rd) chapter, the in-service aspects, features – elements and procedures of the German civil service do not only correspond to the Weberian “functional existence” of the German civil service described and stipulated by the Weberian theory of the Ideal Type of Bureaucracy, but are also configured and function according to the stipulations of the fifth (5th) paragraph of the Article 33 (§33, 5 GG) of the German Basic Law with regards to the traditional principles of the professional civil service. The latter, as it has been already justified, corresponds directly to the Weberian theory concerning the traditional principles of the professional civil service (“Die

hergebrachten Grundsätze des Innendienstes”), which, according to the Ideal Type of Bureaucracy, have to be implemented to every case of civil service’s “functional existence”.

To sum up, taking into consideration all of the above-referred correspondences, which can be detected to two (2) different levels (German politico-administrative system and German civil service) while including three (3) different, central points (i, ii, iii), the modern researcher can come to the conclusion that the German public administration through and according to the examined case study of the German civil service can be characterized as Weberian.

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