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The German Legal System — Courts, Laws and Constitution

How the German legal system is structured: separation of powers, jurisdictions and the Constitution explained.

Deutsche Begriffe: Rechtssystem | Grundgesetz | Gewaltenteilung | Gerichtsbarkeit | Bundesverfassungsgericht | Rechtsordnung

Fundamentals of the German Legal System

Germany is a **democratic constitutional state** — this means that all state power is **bound by law**. The most important legal foundation is the **Constitution (GG)**, the constitution of the Federal Republic of Germany.

Separation of Powers

The German state system is based on **separation of powers**:

Power	Task	Bodies
Legislative (law-making)	Enact laws	Bundestag, Bundesrat, state legislatures
Executive (implementation)	Enforce laws	Federal Government, state governments, authorities, police
Judicial (administration of justice)	Interpret and apply laws	Courts (independent!)

The powers **check and balance each other** — no body has unlimited power. Judges are **independent** and bound only by law.

The Constitution — Your Fundamental Rights

The **Constitution (GG)** guarantees fundamental rights for **all people** in Germany — not just German citizens:

Fundamental Rights for Everyone (Human Rights)

- **Art. 1 GG** — Human dignity is inviolable
- **Art. 2 GG** — Right to free development of personality, bodily integrity
- **Art. 3 GG** — Equality before the law (prohibition of discrimination)
- **Art. 4 GG** — Freedom of belief and conscience
- **Art. 5 GG** — Freedom of expression, freedom of the press
- **Art. 6 GG** — Protection of marriage and family
- **Art. 10 GG** — Privacy of mail and telecommunications
- **Art. 13 GG** — Inviolability of the home
- **Art. 14 GG** — Right to property and inheritance
- **Art. 19 GG** — Right of access to the courts (anyone can sue)

Fundamental Rights Only for Germans (Civic Rights)

- **Art. 8 GG** — Freedom of assembly
- **Art. 9 GG** — Freedom of association
- **Art. 11 GG** — Freedom of movement (free choice of residence)
- **Art. 12 GG** — Freedom of occupation

Note: EU citizens have similar rights under EU law. For third-country nationals, civic rights are limited or regulated by ordinary laws.

The Five Jurisdictions

Germany has **five independent jurisdictions**, each responsible for different areas of law:

1. Ordinary Courts

Responsible for **civil and criminal law**:

Level	Court	Jurisdiction
1st instance	**District Court**	Claims up to €5,000, landlord-tenant law, family matters, criminal law (up to 4 years)
1st instance	**Regional Court**	Claims over €5,000, serious crimes
2nd instance	**Court of Appeal**	Appeals, cassation
3rd instance	**Federal Court of Justice**	Cassation (highest instance)

2. Administrative Courts

Responsible for disputes with **public authorities** (e.g., residence permits, building permits, civil service law):

• **Administrative Court → Higher Administrative Court → Federal Administrative Court**

3. Labor Courts

Responsible for **employment law** (dismissal, wages, employment contracts):

• **Labor Court → State Labor Court → Federal Labor Court**

Special feature: Before the Labor Court, each party pays their own lawyer **independently** (even if they win) — no cost risk to the opposing party's lawyer!

4. Social Courts

Responsible for **social security law** (basic income, pensions, health insurance, disability):

• **Social Court → State Social Court → Federal Social Court**

Special feature: Proceedings before the Social Court are **free of charge** (no court fees!).

5. Tax Courts

Responsible for **tax law**:

• **Tax Court → Federal Tax Court**

Special Status: Federal Constitutional Court

The **Federal Constitutional Court** (BVerfG) in Karlsruhe is Germany's highest court. It reviews whether laws and government actions comply with the **Constitution**.

Constitutional complaint: Anyone can appeal to the BVerfG if they believe their fundamental rights have been violated — after exhausting all other legal remedies.

Criminal Law — Basic Concepts

Criminal Liability from Age 14

• **Under 14:** not criminally liable (no punishment, but child welfare services may intervene)

• **14–17:** juvenile criminal law (educational measures, juvenile detention)

• **18–20:** juvenile or adult criminal law (judge decides)

• **From 21:** adult criminal law

Important Criminal Law Concepts

Concept	Meaning
Misdemeanor	Minor offense, fine (e.g., illegal parking, noise disturbance)
Felony	Crime punishable by imprisonment under 1 year or fine (e.g., theft, fraud)
Crime	Crime punishable by imprisonment of at least 1 year (e.g., robbery, murder)
Probation	Imprisonment is "suspended" (probation period 2–5 years)
Conviction	Entry in criminal record (deleted after period expires)

Your Rights During Police Contact

• **Right to remain silent** — You do **not have to give a statement** (except for personal data)

• **Right to a lawyer** — You can demand a lawyer at any time

• **Interpreter** — You have the right to a free interpreter during questioning and court proceedings

• **No excessive force** — Police may only use reasonable force

Civil Law — Basic Concepts

The **German Civil Code (BGB)** regulates relationships between private persons:

- **Contract law** — sales contract, rental agreement, employment contract
- **Damages** — when someone causes you harm
- **Family law** — marriage, divorce, custody, alimony
- **Inheritance law** — wills, inheritance, compulsory share

Cost Assistance (PKH) — If You Cannot Afford a Lawyer

If you have **low income**, you can apply for **cost assistance**:

- The state covers **lawyer and court fees** (in full or in part)
- Eligibility: when there is **reasonable prospect of success** for your case
- **Application** to the competent court
- **Income limit:** individually calculated (similar to basic income eligibility)

For foreigners: Cost assistance is also available to foreigners — regardless of residence status.

Legal Advice Assistance — Free Legal Consultation

For **out-of-court** legal advice, **legal advice assistance** is available:

- You pay only **€15** as your share
- The state covers the remaining lawyer fees
- **Eligibility:** for low income (similar limits as cost assistance)
- **Application** at the District Court (legal advice certificate)

Tips for Foreigners

1. Know your fundamental rights — they also apply to you (dignity, equality, freedom of expression)

2. During police contact: stay calm, provide personal data, otherwise **stay silent** and demand a lawyer

3. Apply for cost assistance — you should have the means to hire a lawyer

4. Demand an interpreter — you have the right to one in court and with police (free of charge)

5. Pay attention to deadlines — in German law **deadlines are extremely important** (filing deadline, deadline to object)

6. Use legal advice assistance — get legal advice for €15
