

## Instructions on obligation of loyalty to the constitution in the public service

**Public servants** must acknowledge and uphold in all their conduct the free democratic basic order of the German state within the meaning of the German Basic Law (Section 33 (1) of the Civil Servant Status Act (BeamtStG)).

Accordingly, and pursuant to Section 7 (1)(2) BeamStG, eligibility for appointment as public servants is restricted to persons who pledge to uphold at all times the free democratic basic order of the German state within the meaning of the German Basic Law and the Constitution of the Free State of Bavaria.

The same regulations apply to judges (Section 9 (2) German Judiciary Act, DRiG; Section 71 DRiG in conjunction with Section 33 (1) BeamStG).

The obligation of **employees** to acknowledge and uphold in all their conduct the free democratic basic order of the German state within the meaning of the Basic Law is set out in Section 3 (1)(2) of the Collective Agreement for the Public Sector of the Federal States (TV-L).

In accordance with the rulings issued by the Federal Constitutional Court (cf. judgment of 23 October 1952 - Reference no.: I BvB I 51 - Sammlung der Entscheidungen des Bundesverfassungsgerichts Vol. 2 P. 1 ff. -; judgment of 17 August 1956 - Reference no.: 1 BvB 2 51 - Sammlung der Entscheidungen des Bundesverfassungsgerichts Vol. 3 P. 85 ff. -), the free democratic basic order within the meaning of the Basic Law is an order that excludes any form of despotic and arbitrary rule and represents a system under a rule of law based upon the self-determination of the people as expressed by the will of the majority and upon freedom and equality. The free democratic basic order is the antithesis of a totalitarian state that, as the exclusive ruling power, rejects human dignity, freedom and equality. The fundamental principles of this order include, in particular:

- Respect for the human rights specified in the Basic Law, especially the right to life and freedom of personal development
- Sovereignty of the people
- The separation of power
- The principle that the actions of public administration are governed by law
- Independence of the judiciary
- The principle of multi-party democracy
- Equal opportunity for all political parties
- The right to form and exercise political opposition in accordance with the Constitution.

Participation in any activities directed against the free democratic basic order as defined by the principles set out above is incompatible with the obligations of a public servant. It is irrelevant in this context whether such activities are pursued within an organisation or not.

The appointment of applicants who engage in or support anti-constitutional activities to the public service is prohibited.

Public servants and judges guilty of such a breach of their obligations must expect that disciplinary proceedings will be initiated against them to the end of securing their removal from office.

In such cases, employees must expect to be subject to instant dismissal without notice in accordance with Section 626 (1) of the German Civil Code (BGB).

**Questionnaire  
for the purpose of verifying loyalty to the constitution**

I have taken note of the list of extremist organisations and organisations influenced by extremist ideologies issued to me. I am aware that I am obligated in the following questions to additionally disclose any membership of or collaboration with any other extremist organisations and organisations influenced by extremists.

My answers to the questions below are as follows:

1. Are you, or have you been a member of one or more than one extremist organisation(s) or organisation(s) influenced by extremist ideologies?

- No  
 Yes

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(Organisation)

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(Period of membership)

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(Function within the organisation)

2. Do you support one or multiple extremist organisation(s) or organisation(s) influenced by extremist ideologies or other anti-constitutional activities, or have you supported such organisations or activities at any point in the past?

- No  
 Yes

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(Organisation or other anti-constitutional activities)

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(Period of support)

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(Type of support)

3. Did you work for the former Ministry for State Security (Ministerium für Staatssicherheit) / Office for National Security (Amt für Nationale Sicherheit) of the former German Democratic Republic or for one of the sub-divisions of these bodies or other foreign intelligence services or similar institutions?

- No  
 Yes

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(Period of involvement)

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(Function within the organisation and/or type and nature of support)

Were you what is referred to as an Unofficial Collaborator of the Ministry for State Security (Ministerium für Staatssicherheit) / Office for National Security (Amt für Nationale Sicherheit) of the former German Democratic Republic or an agent for any foreign intelligence services / institutions, or did you sign a declaration of commitment to work together with any of the above bodies?

- No  
 Yes

If yes, please give further details:

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4. Have legal proceedings been initiated against you as a result of breaching basic human rights or constitutional law?

No

Yes

If yes, please provide a short explanation:

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If enquiries in accordance with Section (2)(1) to (2)(4) of the Official Notification on the Obligation of Loyalty to the Constitution in the Public Service (VerftöDBek) are required as part of this procedure, I hereby grant my

**consent**

**to the retrieval of the necessary information from the State Office for the Protection of the Constitution and the Federal Commissioner for the Records of the State Security Service of the former German Democratic Republic.**

The purpose of the collection, processing and use of the data undertaken within the context of the enquiries described above is to ensure the loyalty to the Constitution of applicants for the public service. The recipient of the information provided as a result of the enquiries is the appointing authority. Applicants may refuse their consent to the retrieval of the necessary information from the authorities named above. Such a refusal may, however, prevent the applicant's appointment to a public service position (Section 2 (1)(2)(5) of the Official Notification on the Obligation of Loyalty to the Constitution in the Public Service (VerftöDBek)).

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(Place and date)

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(Signature)

Excerpt from the  
**Official Notification on the Obligation of Loyalty to the Constitution in the Public Service (VerftöDBek)**  
of 3 December 1991,  
last amended by the Official Notification of 27 September 2016

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Part 2

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2. If the answers provided to the questionnaire, the applicant's refusal to sign the declaration in Annex 3 or Annex 4, or other facts which have otherwise become known give rise to any reason to doubt that the applicant would uphold and defend the free democratic basic order within the meaning of the Basic Law and the Constitution at all times, then this doubt must be eliminated prior to the applicant's appointment. Procedures for the elimination of such doubts are, in particular:

- An enquiry to the State Office for the Protection of the Constitution as to whether any facts are known which give rise to concerns about appointing the applicant. The State Office for the Protection of the Constitution is obliged to respond promptly to such enquiries. Where relevant information is known, the information disclosed must be limited to admissible evidence in a court of law. If the State Office for the Protection of the Constitution presents no information because, although it is aware of relevant information, it has, for legal reasons, no authorisation to provide such information to the appointing authority, and should this information come to the notice of the appointing authority by another means, it may not be taken into account in the appointment procedure if it is apparent to the appointing authority that the source of the information is the State Office for the Protection of the Constitution.
- An enquiry, with the consent of the applicant, to the Federal Commissioner for the Records of the State Security Service of the former German Democratic Republic, in the instances referred to in Section 20 (1)(6) Letters d, e and h and Section 21 (1)(6) Letters d, e and h of the Law on the Records of the State Security Service of the former German Democratic Republic (StUG).

3. By way of derogation from No. 2 in the cases stated in Section 20 (1)(6) Letters d, e and h and Section 21 (1)(6) Letters d, e and h of the Act on the Records of the State Security Service of the former German Democratic Republic (StUG), applicants from the acceding territory of the former German Democratic Republic born prior to 12 January 1972 are, with their consent, to be subject without exception to an enquiry to the Federal Commissioner for the Records of the State Security Service of the former German Democratic Republic as to whether records exist indicating they were engaged in activities for the Ministry for State Security or the Office for National Security of the former German Democratic Republic.

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4.2 For applicants who were born in or are, or have been at any point in the past, nationals of one of the countries listed below: Islamic Republic of Afghanistan, Arab Republic of Egypt, People's Democratic Republic of Algeria, Kingdom of Bahrain, People's Republic of Bangladesh, State of Eritrea, Republic of Indonesia, Republic of Iraq, Islamic Republic of Iran, State of Israel (persons of Palestinian ethnicity), Republic of Yemen, Hashemite Kingdom of Jordan, Republic of Kazakhstan, Kyrgyz Republic, State of Kuwait, Lebanese Republic, Libya, Kingdom of Morocco, Islamic Republic of Mauritania, Sultanate of Oman, Islamic Republic of Pakistan, Kingdom of Saudi Arabia, Federal Republic of

Somalia, Republic of the Sudan, Arab Republic of Syria, Republic of Tajikistan, Tunisian Republic, Turkmenistan, Republic of Uzbekistan, United Arab Emirates.

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## Declaration

On the basis of the Instructions on the Obligation of Loyalty to the Constitution in Public Service issued to me, I hereby expressly declare that I acknowledge and commit to the principles of the free democratic basic order of the German state within the meaning of the Basic Law contained in these instructions and that I am willing to uphold and defend the free democratic basic order within the meaning of the Basic Law at all times and in all my conduct.

I expressly affirm that I do not support any activities that are opposed to the free democratic basic order or any of its underlying principles as listed above, nor am I nor have I been at any time a member of any organisation that seeks to undermine these principles. I have taken note of the list of organisations with unconstitutional objectives issued to me.

I am aware

- that the consequence of providing false or incomplete information or withholding information within the appointment procedure is the revocation of my offer of appointment or of any appointment already made or the legal contestation of my contract of employment.
- Further, I am aware that any breach of my official duties or my obligation of loyalty will lead to my removal from office or dismissal without notice.

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(Place and date)

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(Signature)

**Declaration for individuals who have previously been employed by the Bavarian State government**

I hereby reaffirm the previous declaration on the Obligation of Loyalty to the Constitution which I made to a public service employer in Bavaria in accordance with Annex 3 of the Official Notification on the Obligation of Loyalty to the Constitution of the Bavarian State Government.

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(Place and date)

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(Signature)