

# WORKING PAPER

*Major Public Enterprises in Germany*

Christina SCHAEFER & Stephanie WARM



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## *Major Public Enterprises in Germany\**

Christina Schaefer\*\* and Stephanie Warm\*\*\*

**Working paper CIRIEC N° 2015/10**

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## **Abstract**

*This contribution is embedded in the research project “Country analysis of the role and performance of major public enterprises and the policy trends about the current relationships between government and public enterprises.” In Germany public enterprises mainly exist on local level, in comparison rather few are found on federal level. Nevertheless there are very promising public enterprises at federal level suitable for a deeper analysis. To select the cases we applied the following main criteria: 100% ownership by the state, a relevant financial importance (measure applied: nominal capital), relevance of the service provided for the public, interesting historical developments. As a result the following PEs were identified:*

- 1. Deutsche Bahn AG (German Rail)*
- 2. Bundesdruckerei GmbH (Government Printing Office)*
- 3. Deutsche Flugsicherung GmbH (Air Traffic Control)*
- 4. Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (service provider for the German Government in the field of international cooperation for sustainable development)*

*The analysis follows the structure provided in the CfP. The paper is literature based which means that an analysis of secondary scientific literature and studies is carried out. The information gathered is supplemented by consulting the relevant laws and legal requirements, official records and minutes of political decisions and discussions on EU and federal level, contracts if available and other documents such as court decisions, business reports, participation reports, reports of the General Accounting Office, publications of the public enterprises, and press releases of different actors and the media. The results found in the analysis give a deeper inside into the motives of the main policy makers as well as those of the involved stakeholders, and the one's directly affected by the decisions, mainly the citizens.*

**Keywords:** Governance, Key Player, Motives for (Re-)Privatization, Policy Trends, Public Enterprises, Public Mission.

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## Table of abbreviations

DBAG	Deutsche Bahn AG (German Rail)
DED	Deutscher Entwicklungsdienst (German Development Service)
GIZ	Gesellschaft für internationale Zusammenarbeit
GTZ	Gesellschaft für technische Zusammenarbeit (German Corporation for technical Cooperation)
Inwent	Internationale Weiterbildung und Entwicklung (International Training and Development)
PE	Public Enterprise

## 1. Introduction

At all times the public sector has faced reforms, modernizations and changes which aimed at the improvement of the performance of public service provision. Of course their concrete direction and design depends always on the political orientation, the financial situation and the ideals and cultural variables of each country, in particular with regard to its administration and the understanding of public services, but some trends are general: After privatization waves during the 1980s and 1990s in Europe and other western countries, public enterprises are resilient and still exist in order to fulfil public tasks and duties. This finding makes it worthwhile to take a deeper look into public enterprises and motivates this contribution which analyses German public enterprises on the federal level, and promises interesting results and conclusions for the future and the development of public services in Germany.

### ***1.1 Introduction, research questions, methodology and procedure of the work***

The research project, in which this contribution is embedded, has the overall topic “country analysis of the role and performance of major public enterprises and the policy trends about the current relationships between government and public enterprise.” Furthermore the focus of the paper is not on the local level but on the national/federal one. Although in Germany public enterprises mainly exist on the local level, in comparison rather few are found on the federal level. But with regard to the scope of the research project some promising public enterprises can be identified on the federal level suitable for a deeper analysis. These are:

- Deutsche Bahn AG (German Rail)
- Bundesdruckerei GmbH (Government Printing Office)
- Deutsche Flugsicherung (Air Traffic Control)
- Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (service provider for the German Government in the field of international cooperation for sustainable development)

The second chapter will answer the question why these public enterprises are chosen and identified. But before turning to the second chapter the research questions and in subsequence the procedure has to be presented and completed by the methodology.

The overarching objective of the paper is the question of the public mission.

Is there a public mission for that public enterprise? How is it defined, organized and which contradictions and problems exists?

The second point will be the performance of these public enterprises, do they need subsidies or are they profitable. After the presentation of the public enterprises the paper picks up the important issue governance. The following chapter deals with the public mission including financial as well as sustainability aspects. The fifth chapter describes the public discourse, e.g. are there any proposals of reform of the generic public enterprise status or privatization? Finally the contribution closes with an evaluation, forecast and a general conclusion.

The paper is literature based which means that an analysis of secondary literature and other scientific studies is consulted and complemented by laws and other legal requirements, by printings and minutes of political decisions and discussions on EU and federal level, contracts if available and other documents such as court decisions, business reports, participation reports, reports of the General Accounting Office, publications of the public enterprises themselves and of course press releases of different actors and the press. This chosen methodology promises enough qualitative material to answer the research questions and give a profound overview of the chosen public enterprises.

## 1.2 Public Enterprises in Germany – a general overview

Since the 1990s there was a shift from the enabling state towards the ensuring state which has changed the understanding of the state fundamentally in Germany. Instead of being the producer of public services the state has shifted its role to a guarantor who moderates democratic decisions of public service provision, encourages private financing and undertaking of tasks, and secures the service provision and performance – the “producing tasks” left to the state are the sovereign core tasks. This shift means that public tasks are not exclusively and directly fulfilled by the state any more but rather by external organizational units.<sup>1</sup> The concept of responsibility levels introduced by Schuppert in Germany demonstrates the central idea of the “state as a guarantor”-model. The following table shows the possible constellations of responsibility and defined task.

	<b>Guarantee Responsibility</b>	<b>Execution Responsibility</b>	<b>Financing Responsibility</b>	<b>Fallback Responsibility</b>
<b>Public Core Task</b>	Responsibility: <b>Public</b>	Responsibility: <b>Public</b>	Responsibility: <b>Public</b>	Responsibility: <b>Public</b>
<b>Public Guarantee Task</b>	Responsibility: <b>Public</b>	Responsibility: <b>Public</b> or <b>Private</b>	Responsibility: <b>Public</b> or <b>Private</b>	Responsibility: <b>Public</b>
<b>Private Core Task</b>	Responsibility: <b>Private</b>	Responsibility: <b>Private</b>	Responsibility: <b>Private</b>	In case of subsidiary responsibility <b>public</b>

**Figure 1: State as a guarantor-model**

Source: based on Reichard (2004), p. 48, and Schuppert (2003), p. 291

<sup>1</sup> cf. Reichard (2004), p. 48 and cf. Schuppert (2003), p. 291.

The basic idea of the model is that the guarantee responsibility remains public but the financial responsibility and the execution responsibility can be delegated to different public, non-profit or private organizations. The public sector defines which tasks are public core, public guaranteed and private core tasks. This definition has of course always a political dimension, leads to an overlapping of the public and private sector, and changes in the classification over time. According to the model the public administration searches continuously for the best arrangement to fulfil or guarantee the identified tasks.<sup>2</sup>

This results in the following requirements for the governance in the “state as a guarantee”-model:

- Formulation of precise objectives and planning
- Transfer into concrete orders and announcements
- Choice of the best or rather the most efficient provider, and conclusion of contract
- Strategic requirements for the contractor
- Specification of a sufficient scope of development for the contractor’s entrepreneurial success
- Control and surveillance of the contractor
- Fallback responsibility in case of the shortfall of the contractor’s service provision

Keeping this in mind the following overview of public enterprises shows that the model had and has always been a part of the public sector and the fulfilment of public tasks.

	Public Funds, Utilities and Enterprises after legal form and public sector 2011			
	Federal	State	Municipalities	Total
<b>Civil Law</b>				
Public limited company	11	35	194	240
Limited liability company	181	842	7.758	8.781
Limited partnership with a limited liability company as general partner	7	111	489	607
Other (e.g. associations)	3	9	87	99
<b>Total Civil Law</b>	<b>202</b>	<b>997</b>	<b>8.528</b>	<b>9.727</b>
<b>Public Law</b>	5	230	3.522	3.757
Government operated	0	0	1.102	1.102
Association of commune	9	86	265	360
Public law institution	1	36	4	41
Public law foundation	2	39	20	61
<b>Total Public Law</b>	<b>17</b>	<b>391</b>	<b>4.913</b>	<b>5.321</b>
<b>Total</b>	<b>219</b>	<b>1.388</b>	<b>13.441</b>	<b>15.048</b>

**Figure 2: Public Fonds, Utilities and Enterprises after legal form and public sector 2011**

Source: based on Heil, N., Hollmann, D. (2014), p. 311

<sup>2</sup> cf. Röber (2012), p. 17, cf. Reichard (2004), p. 48 and cf. Schuppert (2003), p. 291.

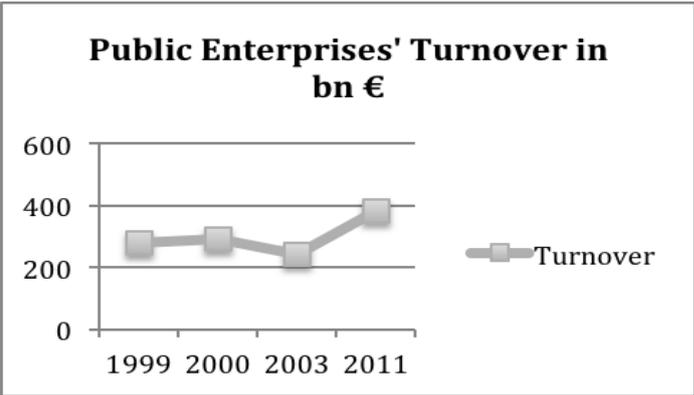
Between 1999 and 2011 the number of public funds, utilities and enterprises rose steadily in total about 31% from 11.519 to 15.127.<sup>3 4</sup> The 15.127 public funds, utilities and enterprises can be classified:

Size category	Employees	Balance sheet total	Part
Micro-business	< 9	< 2 Million Euro	30%
Small Business	<49	< 10 Million Euro	26%
Medium sized company	<249	< 43 Million Euro	25%
Big Company	>249	> 43 Million Euro	18%

**Figure 3: Classification of public funds, utilities and enterprises**

Source: based on Heil, N., Hollmann, D. (2014), p. 309

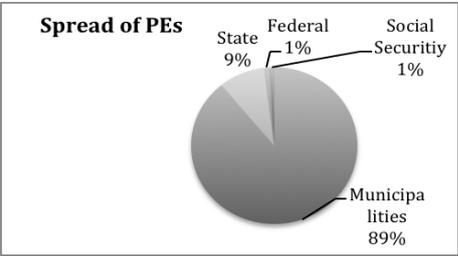
Another indicator for the increase of number and relevance of public enterprises shows the following figure:



**Figure 4: Public Enterprises' Turnover in bn €**

Source: based on Heil, N., Hollmann, D. (2014), p. 309

Figure 2 has also shown that public enterprises are concentrated on the local municipal level in Germany as the next figure underlines.



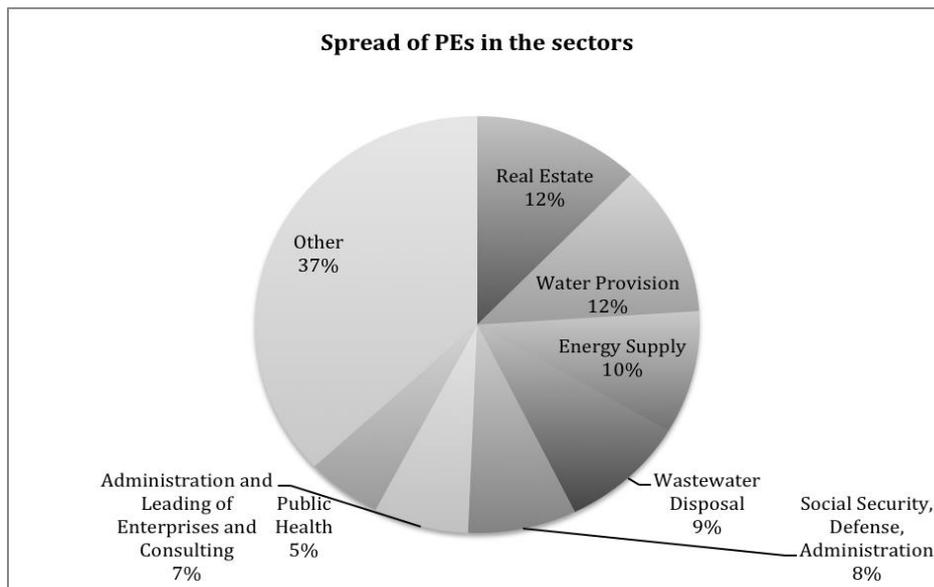
**Figure 5: Spread of Public Enterprises in Germany**

Source: based on Heil, N., Hollmann, D. (2014), p. 309

<sup>3</sup> cf. Heil, N. / Hollmann, D. (2014), p. 308.

<sup>4</sup> The deviation of total 15.127 public enterprises and the figure 4 (15.048) is the result of neglecting the social securities in the figure.

To gain a deeper insight in the activities of public enterprises the following figure shows their spread in the sectors:



**Figure 6: Spread of PEs in the sectors**

Source: based on Heil, N., Hollmann, D. (2014), p. 310-311.

In spite of the diversity most public enterprises exist on the municipal level. But nevertheless there are relevant public enterprises on the federal level, e.g Deutsche Bahn AG (German Rail) or former public enterprises such as Deutsche Telekom or Deutsche Post, which makes it worthwhile to analyse public enterprises on the federal level under the leading research question: Justifies the Public Mission the organization of these enterprises as public owned, respectively fully or at least by the majority, enterprises? The model of the guarantor state will serve for this analysis. Furthermore questions of the (expected) performance, governance-mechanisms and its consequences will be addressed to get a more precise picture of the roles of the chosen public enterprises.

## 2. Overview of the past trends

This chapter provides a short overview of public enterprises on the federal level, which includes past trends, the legal basis and the overall strategy of the federal government.

The legal bases for all decisions of the federal government affecting privatization decisions or public participation are the law on budgetary procedures and the federal budget code. §6 of the law on budgetary procedures stipulates a general rule that all measures affecting the budget have to comply with the principles of thrift and economic efficiency. In particular, these principles demand to verify if and to which extent a public task or an activity in the process of public service provision can be fulfilled by outsourcing or privatization. In such cases the public authority must give an opportunity to private providers to show that they can fulfil the relevant task or activity just as well as or even better than public providers.<sup>5</sup> Of course this also needs a political will supporting privatization. But there is a rule of thumb that the federal government should only hold participations if there is an important federal interest, in other cases the federal government should withdraw and give the priority to

<sup>5</sup> cf.: §6 (1 ) and (2) HGrG.

private initiatives.<sup>6</sup> This means that the public enterprises and co-operations have to be regularly reviewed with regard to these principles and guidelines. The results of these reviews are published every two years in a report titled “Reducing the federal participations”. The annex provides a list of all participations for which a reduction of the public shares or a full privatisation is intended or already in progress. The most prominent examples since the 90s are: Deutsche Lufthansa AG (full privatization in 1997, current shares of the state: 35,7%), Deutsche Telekom AG (partial privatization in 1996 leaving 74% of the shares to the state, current shares of the state: 31,9% of which 17,4% are held by the Development Loan Corporation), Deutsche Post AG (partial privatization in 2000, current shares of the state: 21% via the Development Loan Corporation, Bundesdruckerei GmbH (full privatization in 2000, reprivatisation in 2009), Deutsche Postbank AG (privatization in 2004, current shareholders: 94,1% Deutsche Bank AG<sup>7</sup>, 5,9% free float), and the change of the legal form from public to private of the Deutsche Bundesbahn / Deutsche Reichsbahn to the Deutsche Bahn AG (100%).<sup>8</sup> The latest privatization took place in 2012: A public real estate company (TLG Wohnen GmbH and TLG Immobilien GmbH) was sold to an international investor.<sup>9</sup> The 38,600 federal flats left to the state will be sold step by step. The remaining shares in the Deutsche Post AG and Deutsche Telekom AG are regularly discussed and open for a final sale. Still under review are airport participations, e.g. Airport Munich or Deutsche Flugsicherung (Air Traffic Control). But, of course, these decisions depend not insignificantly on financial situations and the development of the capital markets.<sup>10</sup> Currently the federal government holds 107 direct participations.<sup>11</sup> The prerequisites for an engagement in corporations organized under private law are defined in § 65 federal budget code:

- important federal interest
- the purpose can't be reached in other ways and more efficient
- payment commitments and funds are limited
- federal government has an appropriate influence on the participation, particularly in the supervisory board or other surveillance authorities
- financial statements and status report meet the requirements for large corporations and are audited.

A conclusion of capital importance for the following analysis is the determination and evidence of an important federal interest as mandatory requirement for a public engagement in corporations organized under private law: This is always politically defined and depends on the zeitgeist. For this reason while analysing the cases a special attention will be paid to the important federal interest in the fourth chapter “Public Mission”.

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<sup>6</sup> cf.: Bundesministerium der Finanzen, Entwicklungen der Beteiligungs- und Privatisierungspolitik im Rückblick, 2015a.

<sup>7</sup> In April 2015 Deutsche Bank announced to reduce its share in the Deutsche Postbank at least under 50% until the end of 2016; in the long run the aim is to bail out completely.

<sup>8</sup> cf.: Privatisierung von Bundesunternehmen, April 2014.

<sup>9</sup> cf.: Bericht des Bundesministeriums der Finanzen zur „Verringerung von Beteiligungen des Bundes – Fortschreibung 2014“, 2015b, p. 2.

<sup>10</sup> cf.: Wirtschaftswoche, 2015.

<sup>11</sup> cf.: Bundesministerium der Finanzen, 2014, p. 11.

### 3. Identification of the major players

To get a first picture of the four cases before turning into a more detailed analysis the following table summarizes the relevant economic factors:

	<b>Deutsche Bahn AG</b>	<b>GIZ</b>	<b>Bundesdruckerei GmbH</b>	<b>Deutsche Flugsicherung GmbH</b>
<b>Sector</b>	Transport / Logistics	Foreign Aid / Consulting	IT-Consulting / Security Print / Printing Office	Air Traffic Control
<b>Turnover in m</b>	39.720	1.945	399	1.111
<b>Employees</b>	295.763	16.510	2.097	6046
<b>EBIT in m</b>	2.109	-2,9	100	56,8
<b>Total Assets in m</b>	55.883	1.217	825	1.612

**Figure 7: chosen public enterprises**

Source: own research based on the annual financial statements of Deutsche Bahn AG, GIZ, Bundesdruckerei GmbH, Deutsche Flugsicherung GmbH

As already mentioned the German federal government holds 107 direct participations. Thus for a deeper analysis to achieve valuable findings it is reasonable to identify and concentrate on relevant cases. To select the cases the following main criteria were applied: 100% ownership by the state, a relevant financial importance (measure applied: nominal capital), relevance of the service provided for the public, interesting historical developments within the scope of the CIRIEC-project (e.g. changes of the legal form, efforts of privatization, stopping or suspending the process of privatization, processes of privatization followed by reprivatization etc.). After a short self-portrayal of the four identified cases the following chapters will turn to the analysis.

#### **Deutsche Bahn AG**

“DB Group offers globally mobility and logistical services and operates in over 130 countries world-wide. Every day, more than 300,000 employees, of which about 196,000 are located in Germany, are committed to ensuring that customers are provided with mobility and logistical services and that the related rail, road, ocean and air traffic networks are operated and controlled efficiently.

The company's core business is the railway in Germany with more than 5,5 million customers every day in the passenger transport segment, and about 607 thousand tons of freight shipped via rail. More than 1.8 million customers travel via DB buses in Germany every day. Deutsche Bahn operates more than 40,000 train runs daily on its more than 33,400 kilometer-long, modern rail network, which is also open to competition. The number of train stations is 5.676.

In the Passenger transport division DB Group transports in its trains and busses Europe-wide (including Germany) nearly 12 million passengers daily. In the Transport & Logistics division around 330 million tons are transported via rail and more than 99 million shipments with land transport annually in our European network. In our world-wide networks about 1.1 million tons of air freight and nearly 2.0 million TEU of ocean freight are transported.

During the 2014 financial year DB Group posted revenues (adjusted) of about € 39.7 billion, and an EBIT of a good € 2.1 billion after adjustments for special items.

DB Group's strategy focuses the strengthening and the expansion of our market positions in order to maintain competitiveness. In addition, sustainability and sustainable success is an essential factor in ensuring our future viability and hence the continued business success. Through a clear strategic focus in the operational divisions we want to continue to convince our customers.”<sup>12</sup>

### **Bundesdruckerei GmbH**

“Bundesdruckerei is a company with one of the longest histories in the business, dating as far back as the 18th century. For more than 250 years, printing on behalf of the state has been carried out in Berlin and in 2009, the German government once again took over Bundesdruckerei as a wholly state-owned company. In recent years, however, the company has been transformed into a leading international Full ID | Management supplier. With its solutions and products, Bundesdruckerei not only offers traditional security and banknote printing, the company also covers the entire Secure ID process chain: from the capture and administration of biographical and biometric data to the production and personalisation of state-of-the-art ID documents right through to systems for issuing and verifying these documents. Bundesdruckerei also develops the technical infrastructure that enables citizens, public authorities and private companies to use the electronic components featured in the documents in the digital world.”<sup>13</sup>

### **Deutsche Flugsicherung GmbH**

“DFS Deutsche Flugsicherung GmbH is responsible for air traffic control in Germany and is headquartered in the town of Langen close to Frankfurt. It is a company organised under private law and 100% owned by the Federal Republic of Germany. Founded in 1993, DFS is the successor to the Federal Administration of Air Navigation Services (BFS), a government authority. The German Constitution and the German Aviation Act (LuftVG) had to be amended by the Bundestag to make this possible. In Germany, military and civil air traffic controllers work side by side. Since 1994, DFS has been responsible for the handling of both civil and military air traffic in peacetime. Only military aerodromes are exempted from this integration. Throughout Germany, DFS is represented at 16 international airports, and at nine regional airports by its subsidiary The Tower Company. Controlling air traffic from the towers and control centres is the core business of the German air navigation service provider.”<sup>14</sup>

### **Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH**

“The services delivered by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH draw on a wealth of regional and technical expertise and tried and tested management know-how. As a federal enterprise, it supports the German Government in achieving its objectives in the field of international cooperation for sustainable development. The GIZ is also engaged in international education work around the globe. It offers demand-driven, tailor-made and effective services for sustainable development. To ensure the participation of all stakeholders, it applies a holistic approach based on the values and principles upheld in German society. This is how it facilitates change and empowers people to take ownership of their own sustainable development processes. In doing this, the GIZ is always guided by the concept of sustainable development, and takes account of

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<sup>12</sup> Deutsche Bahn AG (2015b), facts and figures 2014.

<sup>13</sup> Bundesdruckerei GmbH, about us, Protecting ID, 2015.

<sup>14</sup> Deutsche Flugsicherung GmbH, about DFS, Business, 2015a.

political, economic, social and ecological factors. The GIZ supports its partners at local, regional, national and international level in designing strategies and meeting their policy goals. GIZ operates in many fields: economic development and employment promotion; governance and democracy; security, reconstruction, peacebuilding and civil conflict transformation; food security, health and basic education; and environmental protection, resource conservation and climate change mitigation. It also supports its partners with management and logistical services, and acts as an intermediary, balancing diverse interests in sensitive contexts. In crises, it carries out refugee and emergency aid programmes. As part of the services, it also seconded development workers to partner countries. Through programmes for integrated and returning experts, the GIZ places managers and specialist personnel in key positions in partner countries. It also promotes networking and dialogue among actors in international cooperation. Capacity development for partner-country experts is a major component of the services, and it offers its programme participants diverse opportunities to benefit from the contacts they have made. The GIZ also give young people a chance to gain professional experience around the world – exchange programmes for young professionals lay the foundations for successful careers in national and international markets.

Most of its work is commissioned by the German Federal Ministry for Economic Cooperation and Development. GIZ also operates on behalf of other German ministries – including the Federal Foreign Office, the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety, the Federal Ministry of Defence, the Federal Ministry of Economic Affairs and Energy and the Federal Ministry of the Interior – as well as German states and municipalities, and public and private sector clients in Germany and abroad. These include the governments of other countries, European Union Institutions, such as the European Commission, the United Nations and the World Bank. It works closely with the private sector and promotes synergies between the development and foreign trade sectors. Its considerable experience with networks in partner countries and in Germany is a key factor for successful international cooperation, not only in the business, research and cultural spheres, but also in civil society. GIZ operates throughout Germany and in more than 130 countries worldwide. Their registered offices are in Bonn and Eschborn. We have 16,410 staff around the globe, almost 70 per cent of whom are employed locally as national personnel. There are also 785 development workers currently carrying out assignments for GIZ. In addition, CIM – which is jointly run by GIZ and the German Federal Employment Agency – places experts with local employers. At the end of 2014, GIZ had concluded subsidy agreements with 481 integrated experts, while 473 returning experts were receiving financial support and advice. GIZ's business was over EUR 1.9 billion as at 31 December 2013.”<sup>15</sup>

## **4. Public Mission, Governance and Disclosure**

This chapter begins with addressing the public mission. This includes to identify the PE's public mission and who defined it as well as to emphasize the control mechanisms. The discussion then turns to the pricing policies and financing of investments. The second part of this chapter addresses the governance-structures, including boards, core legislation and accountability. The chapter closes with a disclosure, which refers to proposals of reforms, the positions of the different players and considers the overall fiscal situation in Germany.

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<sup>15</sup> GIZ, about GIZ, Profile, 2015.

## 4.1 Deutsche Bahn AG

In order to avoid a decay of the train and rail system in Germany due to a desolate financial and organisational situation (e.g. 34 billion Euro debts), the government decided on a reform of the railway authority. Two main goals were pursued: a sustainable decrease of the federal budget and relocating traffic from streets to rail. To support the achievement of these goals three instruments were introduced in 1994:

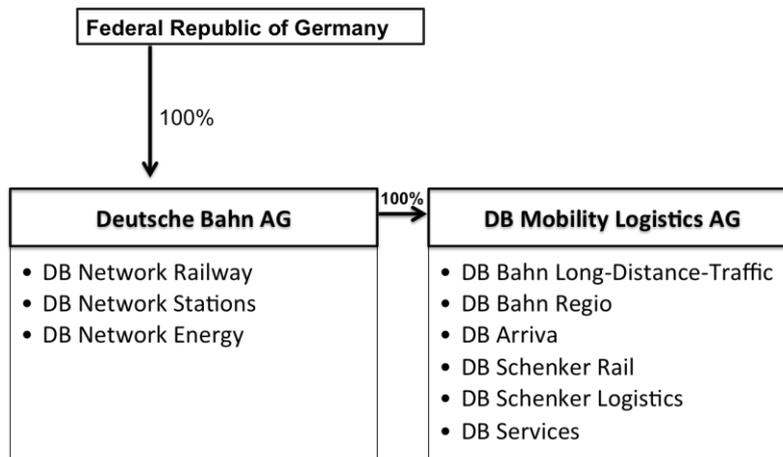
- Founding the Deutsche Bahn AG as an enterprise organized under private law with the federal government as the sole owner. The Deutsche Bahn AG was put in charge for the passenger traffic and the transport of goods, the operation and maintenance of the infrastructure and related businesses. This is also ratified in the Basic Law, Article 87e (3) which constitutes, that the federal railways shall be operated as enterprises under private law, and Article 106a Basic Law, which constitutes that starting on January 1st, 1996 the Laender shall be entitled to receive federal tax revenues to perform the regional passenger rail transport. Details shall be regulated by a federal law subject to acceptance by the Bundesrat (Federal Council of Germany).
- The financial responsibility for ensuring the services for the public, in particular for the preservation and modernisation of the rail infrastructure, remains public. Article 87e (4) Basic Law constitutes that the federal government shall ensure that while developing and maintaining the federal railway system as well as offering services over this system, other than local passenger services, the common welfare (Gemeinwohl) should always be taken into account. Details shall be regulated by a federal law.
- Opening the German railway system to competition and launching effective regulation-rules (to be established by the Federal Cartel Office, the Federal Network Agency and the Federal Rail Office) to ensure access to the infrastructure (driveways, stations and energy). In order to secure the non-discriminatory access to the Deutsche Bahn railway system, rail infrastructure and rail operations were organisationally separated.<sup>16</sup>

The second step of the reform was the creation of the holding Deutsche Bahn AG in 1999 consisting of the divisions rail passenger transport (regional and long-distance), good traffic, stations and railways. In 2008 the DB Mobility Logistics AG was founded as an intermediate holding company in order to meet the requirements for an IPO exclusively of the transport division.<sup>17</sup>

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<sup>16</sup> cf.: Deutsche Bahn (2014), p. 1-4.

<sup>17</sup> cf.: Deutsche Bahn (2014), p. 5.



**Figure 8: based on DB Holding Structure since 2008**

Source: Deutsche Bahn (2014), p. 5

Since the reform in 1994 the following aims were reached to date:<sup>18</sup>

- The railway traffic increased (passengers by 36%, goods by 59%), and at the same time the CO<sub>2</sub>-Emission decreased by 15%.
- The federal budget's expenditures were reduced by 17%, at the same time train frequencies for passengers increased by 28%. The federal budget's expenditures added up to 352 billion Euro during 1993-2013.
- 107 billion Euro were invested into the infrastructure.
- Since 2009 the Deutsche Bahn AG pays a dividend to its sole owner, the federal government, altogether 1,75 billion Euro.

The reform of the Deutsche Bahn can be seen as a success, especially against the background of the reorganization-pressure exerted on the Deutsche Bahn while having to maintain, or even improve the service and infrastructure quality. However, an IPO of Mobility Logistics is still discussed from time to time. Those supporting an IPO argue that with the state as a guarantor the railway traffic maintains a public task, but e.g. the financing could be transferred to a private company. Examples of successful privatizations quoted in this context are the privatization of the German mail, telecommunication and Postbank. Those supporting privatizations promise an increase of efficiency, and better quality due to competition. Regarding a privatization of the Deutsche Bahn three models are seriously discussed.<sup>19</sup>

1. Integrated model: The Deutsche Bahn as whole goes public, including the railway network.
2. Model of separation: Network and operation are separated and only the operation division goes public.
3. Ownership model: The networks are transferred from the Deutsche Bahn Holding to another organisation in 100% ownership of the federal government.

<sup>18</sup> cf.: Deutsche Bahn (2014), p. 1-10.

<sup>19</sup> cf.: Kirchner, C. (2006), p. 491.

Legal requirements constituted in Article 87e (3), (4) Basic Law must be considered. This means that the Deutsche Bahn is a company under private law, but public ownership is designated for the construction, operation and maintenance of railways. The majority of the shares must be held by the federal government even if a law enacts to privatize parts of the Deutsche Bahn.<sup>20</sup> Thus these legal requirements prohibit model 1. (integrated model).

In 2008 the plans for an IPO of the Deutsche Bahn Mobility Logistics AG were stopped due to the financial crisis. But until today the privatisation-discussion has not been abated. In the most recent federal participation report in 2014 it is stated clearly that a privatization is not a current aim of the federal government due to a lack of consensus of the governing parties and the missing prerequisites.<sup>21</sup>

Summarized: The Public Mission is defined and ensured by the German Constitution which constitutes that the railway network must be publicly organized and financed. Its operation is opened to international competition and the Deutsche Bahn needs to be successful on both markets, goods transport and passenger traffic.

The following general principles reflect the public mission and the mission given to the Deutsche Bahn AG in the course of the reform.<sup>22</sup>

1. Who are we?  
We are a worldwide leading mobility and logistics company.
2. What is our aim?  
We become the worldwide leading mobility and logistic company.
3. How do we reach it?  
We persuade customers, employees and the owner.

The Deutsche Bahn as a public enterprise wants to be a global player in the mobility and logistics market. It is questionable if the public mission comprises also this aim. The federal government as the sole owner wants to get a dividend, which means that the federal government wants to develop the Deutsche Bahn AG to a profit oriented company in public ownership. It is questionable if a profit oriented company also follows the public mission in any way.

Having addressed the public mission the chapter now turns to the financial aspects of the Deutsche Bahn:

In t Euro	2013	2012
Turnover	39.107.392	39.296.000
Annual result	649.262	1.477.000
Total balance sheet	52.893.602	52.490.000
Long-term liabilities	26.283.487	24.608.000
Short-term liabilities	11.697.731	11.948.000
Equity ratio (in %)	28,2	28,5
Dividend	525.000	525.000
Public funds out of the federal budget	3.995	3.895

**Figure 9: Financial situation of the Deutsche Bahn AG**

Source: Federal participation report 2014, p. 86-87.

<sup>20</sup> cf.: Kirchner, C. (2006), p. 493.

<sup>21</sup> cf.: Tagesschau (2014).

<sup>22</sup> cf.: Deutsche Bahn AG (2012).

The federal participation report 2014 comments the development of the business as follows:

The market and competitive environment was in 2013 very challenging. This reflects also the economic development of the Deutsche Bahn AG. Other factors for this difficult year were a strong winter, the high tide and the lack of available trains. These circumstances influence the whole performance development of the company and all its divisions. The turnover has slightly decreased compared to 2012. What has a great influence on the annual result are the increasing personnel costs as a result of more employees and tariff increases.<sup>23</sup>

In this context it is worth to mention that since 2013 the law for long-distance coach services changed and the market for long-distance coach services was opened: the Deutsche Bahn AG lost its monopoly on this market. The Deutsche Bahn estimates that in 2013 it lost about 40 million Euro due to a profit collapse in the long-distance coaches. Altogether the long-distance coach services had a turnover of 120 million Euro in 2013.<sup>24</sup> The Deutsche Bahn AG obviously underestimated the change of the law and the new competition. Though busses are slower than trains many customers went on the bus due to more attractive, precisely: cheaper prices. In answer to this development the Deutsche Bahn AG started to offer long-distance coach services by itself and cheaper train-tickets (though with longer journey times) for example between Hamburg and Berlin.<sup>25</sup> For 2014 there are estimations that the Deutsche Bahn AG lost 120 million Euro due to this new competitive situation.<sup>26</sup>

The last part of the chapter addresses the governance of the Deutsche Bahn AG:

The remuneration of the supervisory board as well as the board of managers are published individually in the federal participation report and in the annual report of the Deutsche Bahn AG.

The supervisory board has 20 members whereof 10 are employee representatives and 10 shareholder representatives. Currently 3 members of the supervisory board are female. The shareholder representatives are among other state secretaries, consultants and lawyers.<sup>27</sup>

The board of managers has currently six members whereof one is female. They are appointed by the supervisory board. In the annual report of the Deutsche Bahn AG there is also a very detailed report of corporate governance which describes the cooperation of the supervisory board and the board of managers.

## **4.2 Gesellschaft für internationale Zusammenarbeit (GIZ)**

The GIZ was founded 2011 after a merger of the three public service organisations DED (Deutscher Entwicklungsdienst, German Development Service), GTZ (Gesellschaft für technische Zusammenarbeit, German Corporation for technical Cooperation) and Inwent (Internationale Weiterbildungs und Entwicklung GmbH, International Training and Development) with the objective of merging the expertise in one organisation.

The Public Mission of the GIZ is to support the German Government in achieving its objectives in the field of international cooperation for sustainable development.<sup>28</sup> The basic

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<sup>23</sup> cf.: Federal participation report 2014, p. 86.

<sup>24</sup> cf.: Zeit-Online (2014): Fernbus-Konkurrenz kostet Bahn Millionen.

<sup>25</sup> cf.: Zeit-Online (2014): Fernbus-Konkurrenz kostet Bahn Millionen.

<sup>26</sup> cf.: FAZ (2015): Deutsche Bahn baut ihr Fernbus-Angebot aus.

<sup>27</sup> cf.: federal participation report 2014, p. 87 and Deutsche Bahn (2015), p. 36-48.

<sup>28</sup> cf.: Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung.

principles are stated in the objectives and aims, which are determined by the BMZ (Federal Ministry for Economic Cooperation and Development). Until a new global development will be launched (according to schedule in 2015) the millennium development goals (MDGs) constitute the basis for the German development policy. Summarized the goals are to “eradicate extreme poverty and hunger, achieve universal primary education, promote gender equality and empower women, reduce child mortality, improve maternal health, combat HIV/Aids, malaria and other diseases, ensure environmental sustainability, global partnership for development.”<sup>29</sup> The focus of the BMZ’s work is on South and Middle-America, Africa, parts of East-Europe and Asia. The concrete issues of work are: environment and sustainability, climate protection and energy provision, health, family planning and HIV/Aids, democracy, civil society, public administration and human rights, education, peace and security, drinking water, waste water and waste disposal and water management, agriculture and food security, sustainable standards for economic development, human rights, social and environment.<sup>30</sup>

The vision and mission of the GIZ are based on and derived from these principles:

Vision: “We are the world’s leading provider of international cooperation services for sustainable development”<sup>31</sup>

“Mission:

- We manage change
- We provide know-how
- We develop solutions
- We act as an intermediary
- We are value-driven
- We advise policymakers
- We secure results
- We are a global player”<sup>32</sup>

Of course these principles are also reflected in the corporate values which are complemented by the principle of market-orientation.<sup>33</sup>

For all intents and purposes the merger of the three organisations is met with criticism, in particular<sup>34</sup>:

- After the merger out of the three organisations a public monopoly was created. The different emphases with regard to aims and content were consolidated in one organisation. That always leads to a loss of individual profiles, comparable with determining the lowest common denominator accompanied by different, sometimes opposing interests. Another aspect is the restriction of competition due to this “new” big player on the development market. For other organisations, e.g. NPOs, it will be more difficult, if not hopeless to receive orders from the German government.

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<sup>29</sup> UN: Millenium development goals and beyond, 2015.

<sup>30</sup> cf.: BMZ, 2014, p. 14-16.

<sup>31</sup> GIZ, 2015(b).

<sup>32</sup> GIZ, 2005(b).

<sup>33</sup> cf.: GIZ, 2015(b).

<sup>34</sup> cf.: Grefe, Ch., 2012 and GIZ, annual report 2013, 2014, p. 3-5.

- As a consequence at the new strategic orientation from a sole development organisation to a global provider for sustainable development GIZ pursues the goal to offer its services also increasingly in industrial countries such as the USA or Greece. For this undertaking the commercial department “International Services” was established. This department also consults the EU, private companies and municipalities in international projects. For example Russian managers are trained in German business practice, or GIZ supports the cities of Bremen and Durban to face the climate change. Also the Bavarian Government engages GIZ in the process of moderating and solving a conflict with small hydroelectric power plants. Certainly there may exist other providers performing as well or even better. The chamber of commerce has expressed its concern that the GIZ takes advantage of its closeness to the governments and its quasi sovereign position.
- Another point is that the merged organisations are dominated by the former GTZ. The GTZ had a focus on the consultancy of governments or ministries. The former DED had its expertise in a closer contact to the people and the concrete projects such as the creation of agricultural cooperatives. With the domination of the GTZ within the GIZ the number of development workers who works in concrete projects was reduced from 1100 to 600.

The question is why the GIZ seeks for other and more fields of activity. One answer is that the development market shrinks. Countries such as China or India are no longer recipients of development aid, in fact they turn themselves into aid giving countries. Also development countries search less for the rather expensive German support and seek more for an informal knowledge exchange and technology transfer. Another point is that if the GIZ wants to recreate the number of jobs they have lost during the merger they need to grow and earn the financing by itself. To the criticism that the GIZ replaces private consulting companies the GIZ takes stand that it awards contracts to a lot of private companies (more than a third of its whole business volume). But the critique still remains because of the GIZ’s market power and the dependency of the private companies and NPOs. The consulting and support of expansions of private companies abroad and the consulting of investors in Germany is still an original task of the chambers of commerce and the chamber of foreign trade, which are also public organisations. The competition in this field is only to gain profit for the GIZ and due to this it conflicts with the public mission and the tasks of a public enterprise.

After the discussion of the public mission the following figures provide a short overview of the financial situation:

Business volume	Actual 2013	Share	Actual 2012	Share
	In € millions	In %	In € millions	In %
Public benefit sector total	1,753	91	1,874	89
Of which, BMZ	1,464	76	1,627	77
Of which German Public Sector Clients	265	14	209	10
Of which grants	24	1	37	2
Of which small-scale measures in the public benefit sector	0	0	0	0
International Services	178	9	230	11
GIZ total	1,931	100	2,104	100

**Figure 10: GIZ Business volume**

Source: GIZ, annual report 2013, p. 9

German Public Sector Clients		
Income in EUR million	2012	2013
Federal Foreign Office	89,1	118,8
Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety	69,8	86,6
Federal Ministry for Economic Affairs and Energy	14,8	17,2
Federal Ministry of the Interior and Federal Office of Administration	13,5	13,6
EU twinning agreements, EU grants	11,1	7,1
Other clients	5,3	6,3
Federal Ministry of Defence	2,4	5,9
Cofinancing	3,5	9,5
Total	209,4	264,8

**Figure 11: Income German Public Sector**

Source: GIZ (2014), Company Report 2013, p. 47

GIZ International Services		
Total business volume in EUR million	2012	2013
National Governments	70,5	59,9
European Union	51,8	39,8
UN organisations	52,0	34,3
Bilateral donors	32,3	22,6
International financial institutions and funds	17,3	11,1
Private Sector	5,4	9,7
Other	0,9	0,5
Total	230,1	178,0

**Figure 12: Total Business Volume GIZ International Services**

Source: GIZ (2014), Company Report 2013, p. 47

It is obvious that the GIZ depends financially totally on the BMZ and its budget with a share of about 75% of the business volume. The business of the department International Services generates about 10% of the total business and was in 2013 less successful than in 2012 and is still behind the expectations. The overall financial situation of the GIZ is stable.<sup>35</sup> But until 2016 the business volume, especially the share of the BMZ, will be reduced by about 200 millions Euro as foreseen.<sup>36</sup> The personnel forecast underpins this development: The current number of employees (excluding national personnel) will be reduced from 5266 to 4670 in 2016.

Concluding this chapter the issue governance will be broached.

As the GIZ is a public enterprise the government has the dominant influence and is the sole owner. The BMZ is responsible for the GIZ and its main client.

As the GIZ is a gender-sensitive organisation, the composition of the board of managers must consider a 40% female quote<sup>37</sup>. The current board of managers has 2 male and 2 female members, the board spokesman is currently a women. When the merger in 2011 necessitated a new board of managers it became obvious that not only the quote is important

<sup>35</sup> cf.: GIZ, annual report 2013, p. 9.

<sup>36</sup> cf.: GIZ, annual report 2013, p. 14.

<sup>37</sup> cf.: §8.3 Gesellschaftsvertrag of the GIZ, 2011.

during the composition process. As the GIZ is a public enterprise the current government using its influence while the composition of the board of managers (part cake sizing). The current board spokesman Tanja Gönner was social affairs minister (2004-2005) and environment minister (2005-2011) in Baden-Württemberg and member of the CDU.<sup>38</sup> The remuneration of the board members is published in the corporate governance report as well as in the annual report. The same applies to the supervisory board, only traveling expenses are reimbursed to its members. The supervisory board counts 20 members (45% are female), of which 10 are elected by the owner and 10 are employee representatives. The 10 members of the owner are politicians and state secretaries.<sup>39</sup>

The GIZ faces the same challenge as all public enterprises: Embedded in the contradictory context of markets and politics. From a political point of view a public enterprise has the advantage that the owner, the government, has a stronger influence on the enterprise. For the political sensitive and quasi sovereign tasks the public enterprise construction is the better solution in this case. But the government also utilizes market mechanisms and incentives: The GIZ receives no basic funding from the government but for each order. This mechanism generates flexibility for both, government and GIZ. The GIZ awards also orders to private companies, so that the GIZ is also an award authority for the government. All this confronts the GIZ with different logics and rationales: Politics, administration and economy.<sup>40</sup> One area of tension is for example that development work is often a long-term engagement, and aims can't be reached short-time. In conflict with this is the politician's individual goal to be re-elected and thus the need to present results and quick successes. Another tension is that the government also expects that the GIZ acquires mandates from other institutions such as the EU in order to release the budget. This means that the GIZ is a market participant but simultaneously these mandates must not collide with the aims and principles of the government. Another problem in the governance of the GIZ are the missing clear cause-effect-chains. The effects of some measures can't be forecasted and evaluated as desired, sometimes adjustments are needed that make the allocation and management of resources difficult and require high degree of flexibility.<sup>41</sup>

### **4.3 Bundesdruckerei GmbH**

The Bundesdruckerei has a lively history. The description of the history will simultaneously show the changes in the public mission and the public task of the company over time.

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<sup>38</sup> cf.: Grefe, Ch., 2012.

<sup>39</sup> cf.: GIZ, annual report 2013, p. 31.

<sup>40</sup> cf.: Beier, 2015, p. 46-47.

<sup>41</sup> cf.: Beier, 2015, p. 48.

<p><b>1763: Foundation</b></p> <ul style="list-style-type: none"> <li>• By order of Frederick the Great Privilege of performing all printing orders of the Court</li> </ul>	<p><b>1851: Prussian State Printing Office</b></p> <ul style="list-style-type: none"> <li>• First state-owned printing house</li> <li>• Banknotes, securities and postage stamps</li> </ul>	<p><b>1879: Reichsdruckerei</b></p> <ul style="list-style-type: none"> <li>• Merge of Privy Court Printing Office and the Royal Prussian State Printing Office</li> <li>• Secure and central execution of all government orders</li> </ul>	<p><b>1951: Establishment of Bundesdruckerei</b></p> <ul style="list-style-type: none"> <li>• Integration of the State Printing Office into the administrative structures of the Federal Republic of Germany</li> </ul>
<p><b>1994: A Private-Law Company</b></p> <ul style="list-style-type: none"> <li>• Transformation into a company under private law</li> <li>• The federal government is the sole owner</li> </ul>	<p><b>2000: Privatization</b></p> <ul style="list-style-type: none"> <li>• Federal government sell 100%to the investor group Apax Partners</li> <li>• Bundesdruckerei is part of a holding</li> </ul>	<p><b>2003: Turbulent Times</b></p> <ul style="list-style-type: none"> <li>• Collapse of the telecommunication market lead to economic difficulty</li> <li>• Bankruptcy is prevented by the sale of two asset management companies</li> </ul>	<p><b>2009: Buyback by the Federal Government</b></p> <ul style="list-style-type: none"> <li>• As a measure to safeguard Germany's security interests</li> </ul>

### Figure 13: History of the Bundesdruckerei

Source: own research, based on: The History of Bundesdruckerei (2015a)

The three most interesting turning points in the history of the Bundesdruckerei are the privatizations in 1994 and 2000, and the buyback in 2009.

The most crucial reason for all privatization-actions taken in the 1990s and early 2000ers was the budget deficit and the need to comply with the Maastricht criteria of the EU.<sup>42</sup>

In 1994, the backlog demand after the reunification is still ongoing, the Bundesdruckerei was transformed to a company under private law, which was seen as a first step towards an IPO: The Bundesdruckerei should be and act as a company instead of being a part of the administration. The question whether the company was competitive was not raised, rather it was wisely ignored. Technically the company was a global leader but it hadn't even any sales or marketing departments which wasn't necessary during that time: public orders with controlled prices and the authority to give directives on behalf of the government. In 1994 135 million Euro from the federal budget were used to improve the technical assets of the company, by then organized as the limited liability company Bundesdruckerei GmbH, for the

<sup>42</sup> cf.: Mayer, F. (2006), p. 238-242.

global market. But one deal after another failed (e.g. producing bank notes in Nigeria, in India or passports in Venezuela). Another company strategy was to buy other companies, the smart card company Orca for example.<sup>43</sup>

In 2000 the federal government decided to sell the Bundesdruckerei. The former minister of finance (Hans Eichel) supported this project, the former minister of the Interior (Otto Schily) was against it.<sup>44</sup> But in the end the minister of finance prevailed, in a nutshell: financial interest predominated security interests. In the end a British investor got the award for the Bundesdruckerei at a price of one billion Euro.<sup>45</sup> The investor never paid this amount completely, instead 225 million Euro were deferred by the federal government as a 10-years loan and 455 million Euro were a loan of the state bank of Hesse-Thuringia. Thus only an amount of about 320 million was left to be actually paid by the investor. The privatized Bundesdruckerei started with enormous debts and interest payments of about 100 million Euro per year.<sup>46</sup> But instead of thinking in a strategic management perspective and searching for a strategic investor only the price and the one billion Euro payment played a role. The former minister of finance expected the one billion Euro to be paid in 2000, which in turn put the privatization under time pressure and the value of the Bundesdruckerei was rather estimated by rule of thumb than actually determined on the basis of a well-founded data base and a valid valuation method – this fact was strongly criticised by the German Federal Court of Audit.<sup>47</sup>

In 2001 the annual report of the Bundesdruckerei showed a turnover of 608 million Euro but at the same time a loss of 400 million Euro. The subsidiary Orca, due to the crash on the telecommunication market, is one reason for this loss, and the inability to pay the interests to the investor is another one. Orca was sold in 2003 with a loss. In the end of 2002 the British investor's loss would have been accumulated to 500 million Euro so that he resigned his entrepreneurial involvement with the Bundesdruckerei. A custodian (Clifford-Chance and Dinos Vermögensgesellschaft) bought the company for "a peanut" of only 1 Euro. In 2008 after the restructuring of the Bundesdruckerei the investors restarted the search for an investor being also able to manage and handle the debts.<sup>48</sup> The federal government had a veto right for the decision. While in 2000 the selling-process called scant attention and it sort of didn't matter who bought the company, in 2008 the political climate had changed. Protection of data privacy became a very sensitive security issue. As a result only German investors or providers could be considered. But there was no one willing to pay the price expected by the federal government and the investors.<sup>49</sup> Finally the investors set a deadline: Either the federal government finds a solution or the investors sell at the highest bid, even if it's from abroad. In the end the federal government rebought the Bundesdruckerei in order to ensure the national security interests.<sup>50</sup> The price is estimated between 800 and 850 million Euro and less than the original selling price.<sup>51</sup> The history of the privatization and rebought of the Bundesdruckerei shows that the public mission in times of budget deficits plays a subordinated role. The privatization of the Bundesdruckerei was a big failure – in

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<sup>43</sup> cf.: Doll, N. (2007).

<sup>44</sup> cf.: Heise online (2007).

<sup>45</sup> cf.: Leidinger, J., Steinhäuser, M. (2010).

<sup>46</sup> cf.: Doll, N. (2008).

<sup>47</sup> cf.: Doll, N. (2007).

<sup>48</sup> cf.: Doll, N. (2007).

<sup>49</sup> cf.: Doll, N. (2008).

<sup>50</sup> cf.: FAZ-net (2008).

<sup>51</sup> cf. Leidinger, J., Steinhäuser, M. (2010).

retrospective the lack of a strategy and disregard of the public mission are two crucial reasons being accountable for this disaster.

The current vision and mission of the Bundesdruckerei are as follows:

“Bundesdruckerei is a leading international supplier of system solutions in the field of Secure ID. We support our customers along the entire process chain. We ensure secure capture and registration of data. We additionally guarantee the safe processing and secure transmission of this data and then produce the documents and equip them with security features. Innovative solutions are the key to efficient capturing of personal data, correct issuing of documents and reliable verification. We vouch for optimum protection of your digital identity using secure (encrypted) communication paths and high-security chip platforms, accompanied by a wide range of eServices.”<sup>52</sup> The corporate principles reflect the vision:

- “We are determined to be an efficient, innovative and reliable partner for our customers. That's why all of our activities are geared entirely to their needs. Customer orientation is put to practice on all levels of the company. Our customers benefit from trailblazing products and solutions.
- We constantly ask ourselves what tomorrow's market will demand and transform our visions into concrete, high-quality developments. Secure ID is a key issue in the 21st century. That's why we will continue with determination to develop our product and solution portfolio in ID business.
- We believe that the exchange between international partners is of paramount importance and for that reason we are combining our expertise in strategic joint ventures. We always have the security requirements of our customers in mind. Our aim in the age of digitisation is to serve as a partner of trust by developing and implementing comprehensive security solutions.”<sup>53</sup>

The security aspect is now the main factor of success.

The chapter now turns to the financial and governance aspects of the Bundesdruckerei.

In € million	2013	2012	2011
Sales	398.6	453.7	405.6
Of which: ID	333.9	391.6	377.6
Of which: banknotes / other	64.7	62.1	28.0
Personnel expenses	113.3	108.7	110.1
Investment in tangible assets, software, licenses	32.4	58.0	57.0
Depreciation on tangible assets, software, licenses	25.4	27.8	28.9
Earnings (before interest, taxes, depreciation and amortization)	99.5	124.2	190.2

**Figure 14: Financial overview of the Bundesdruckerei**

Source: Bundesdruckerei: annual report 2013

The main reason for the decline in sales is the decline of the ID card sales in Germany. The international ID card sales increased in 2013. The ID card sales amount to 80% of the whole turnover of the Bundesdruckerei. The Bundesdruckerei receives no funds out of the federal

<sup>52</sup> Bundesdruckerei (2015b), Vision.

<sup>53</sup> Bundesdruckerei (2005b), Vision.

budget and pays no dividend to the federal government.<sup>54</sup> Finally the Bundesdruckerei becomes, slowly but surely, a financially stable company.

The remuneration of the supervisory board amounts to 87.000 Euro and is published only in the participation report of the federal government, not in the annual statement or on the homepage.<sup>55</sup> The supervisory board has 12 members, of which two are female. Six members of the supervisory board are employees' representatives and the other six members are appointed by the owner, amongst them a state secretary, a director in the ministry of finance and other experts.<sup>56</sup> The supervisory board assembles the board of managers which has currently two members. The current CEO is in charge of the company since 2004 and the current CFO since 2011.<sup>57</sup> The remuneration of the board of managers is also only published in the participation report of the federal government.<sup>58</sup> The annual report emphasises the women's quota and benchmarks with other technology companies. The women's quota amounts to 22,6% on the executive level (in comparison: 6,5% in the sector) and 31,6% on the management level (6 out of 19 areas are headed by women).

Summarized: The Bundesdruckerei is nowadays a profitable company which has a public mission and supports the federal government in security questions.

#### **4.4 Deutsche Flugsicherung GmbH**

Deutsche Flugsicherung GmbH is organized under private law and 100% owned by the federal government. It was founded in 1993 and is the successor of a government authority. It was necessary to amend the German Constitution and other laws by the Deutsche Bundestag. Since 1994 the Deutsche Flugsicherung has been responsible for the handling of both military and civil air traffic.<sup>59</sup> The federal participation report defines the purpose of the company as the development, provision and execution of the delegated air traffic control services by the ministry of transport and digital infrastructure. Alongside the company can provide traffic control services in Europe as well as related side businesses at home and abroad.<sup>60</sup> That builds coincidentally the public mission of the company. Until today the privatization of the Deutsche Flugsicherung is an issue. The first attempt was in 1991, but the former Bundespräsident (Federal President) Richard v. Weizsäcker refused to sign the law. The signature of laws is a powerful right of the Bundespräsident in Germany; it is a very rare event that a Bundespräsident refuses this signature and only if the Bundespräsident has legal objections, the German Constitution does not permit political objections. The objections in 1991 were as follows: The air traffic control is a task which has a particular police character and needs a sovereign realisation.<sup>61</sup> To achieve the aim of privatization the German Constitution must be changed, respectively complemented. The problem in 1991 was the following sentence in Article 87d Basic Law: "Air transport administration shall be conducted under federal administration." In combination with Article 33 (4) Basic Law: "The exercise of sovereign authority on a regular basis shall, as a rule, be entrusted to members of the public service who stand in a relationship of service and loyalty defined by public law."

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<sup>54</sup> cf.: Bundesministerium der Finanzen (2015), p. 45-46.

<sup>55</sup> cf.: Bundesministerium der Finanzen (2015), p. 46.

<sup>56</sup> cf.: Bundesministerium der Finanzen (2015), p. 46.

<sup>57</sup> cf.: Bundesdruckerei, 2015 (d).

<sup>58</sup> cf.: Bundesministerium der Finanzen (2015), p. 46.

<sup>59</sup> cf.: Deutsche Flugsicherung GmbH, about DFS, Business, 2015a.

<sup>60</sup> cf.: Bundesministerium der Finanzen (2015), p. 110.

<sup>61</sup> cf.: Fischer, S. (2006).

With these two articles the “no” of the Bundespräsident was a necessary conclusion. In order to avoid a refusal due to problems with the Constitution again, in 1991 the basic law was amended by: “Air navigation services may also be provided by foreign air navigation service providers which are authorised in accordance with European Community law.” The former Bundespräsident had no objections and the change from an authority to a company under private law in 100% ownership of the federal government was possible and realized in 1993. In 2006 the federal government decided to privatize 74,9% of its shares to private potential buyers, for example the Deutsche Lufthansa or Air Berlin. After passing the Bundestag the draft of the law for the privatization was refused again by the Bundespräsident Horst Köhler. In Article 87d there is still the sentence: “Air transport administration shall be conducted under federal administration.” Thus the draft law still did not comply with the constitution. With the planned blocking minority of 25,1% the influence on the operating business is not sufficient, which means that it is not possible to comply with the constitution.<sup>62</sup> The Bundespräsident’s decision was not against privatization but against violating the Constitution.<sup>63</sup> A change of the Constitution would be necessary but until today it wasn’t realized in order to privatize the Deutsche Flugsicherung which is still a public enterprise. For the federal budget the privatization would have meant an estimated profit of about one billion Euro.<sup>64</sup> There was one change of the Constitution in order to follow the European law. The European aim is a common European air space (Single European Sky) which means that the air traffic control authorities of different European countries should work more closely together which would reduce costs for the airlines and improve the quality of the environment and travel time. But a privatization was excluded because there was no majority for this aim any more.<sup>65</sup>

In the annual report 2013<sup>66</sup> the objectives of the Deutsche Flugsicherung are defined:

- Delivering of an outstanding level of performance at a first-class, uncompromising safety level
- Services are provided in a sustainable manner, and
- Tailored to the different needs of the customers while
- Taking noise abatement into account

The financial strategy includes:

- A good to very good credit rating
- Adequate liquidity
- Adequate capital structure and equity ratio
- Low debt and unencumbered assets
- Ability to pay a dividend

As the federal government is the sole owner, the federal government would be the profiteer of a dividend which wasn’t possible in the past.

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<sup>62</sup> cf.: Fischer, S. (2006) and FAZ.net (2006).

<sup>63</sup> cf.: Haas, S., Schneider, J. (2010).

<sup>64</sup> cf.: Haas, S., Schneider, J. (2010).

<sup>65</sup> cf.: airliner.de (2009).

<sup>66</sup> cf.: Deutsche Flugsicherung (2014), p. 12-13.

Extracts from 2013 business year (according to IFRS)	In Euro million
Revenues	1,109.2
Capital expenditure	124.6
Balance sheet total	1,400.0
Net income	35.8

**Figure 15: Financial overview of the Deutsche Flugsicherung**

Source: Deutsche Flugsicherung: Financial performance,

[https://www.dfs.de/dfs\\_homepage/en/About%20DFS/Facts%20and%20figures/Financial%20performance/](https://www.dfs.de/dfs_homepage/en/About%20DFS/Facts%20and%20figures/Financial%20performance/)

“Just as in 2012, the continuing stagnation of the European economy and the ongoing political unrest in North Africa and the near East again put pressure on the development of air traffic in 2013. Despite a decreasing number of flight movements, revenues increased slightly by 0.7 per cent. This increase was mainly due to adapted unit rates, which DFS used to offset the under-recovery of the year 2011. At €35.8 million, the net income for the business year was, however, lower than in the previous year (2012: €87.9 million). When judging the result, the impact of converting the charges-related cost-base to IFRS and the resulting remeasurements for occupational pensions need to be taken into account. During last year, DFS obtained its revenues from two sources. The main source of revenue is generated by collecting charges from aircraft operators for air navigation services in line with the principles of the International Civil Aviation Organisation (ICAO) and EUROCONTROL. The regulated sub-area en-route has been subject to economic regulation in the form of a performance system that has laid down binding charges in accordance with EU regulations since 1 January 2012. On the other hand, the sub-area terminal services will operate under the principle of full cost recovery until the end of 2014. Under this principle, the charges collected must cover costs and allow for an appropriate return on equity. The second source of revenue comes from other DFS business activities.”<sup>67</sup>

The supervisory board has 12 members of which 50% are employee’s representatives and 50% are appointed by the federal government, which means that they are recruited from the administration (state secretary, assistant secretary of state, deputy assistant under-secretary, etc.). Due to the fact that the Deutsche Flugsicherung is responsible for both civil and military air traffic the members are from the ministry of Transport and digital infrastructure, from the ministry of finance and from the ministry of defence. 50% of the members of the supervisory board are female<sup>68</sup> which exceeds the aim of at least 30% female members of the supervisory board. The supervisory board appoints the board of managers which has currently three members.

The remuneration of the board of managers as well as the supervisory board is published both in the annual report of the Deutsche Flugsicherung<sup>69</sup> and in the participation report of the federal government.<sup>70</sup>

Summarized: The Deutsche Flugsicherung is a good example that the constitutional processes and actions work effectively in Germany and that privatization decisions are complex and not every time executable. The financial situation must be seen in a macro-economic context and is not only obligated to the profit seeking and dividend distributions.

<sup>67</sup> Deutsche Flugsicherung GmbH, about DFS, facts and figures, financial performance, 2015b.

<sup>68</sup> cf.: Deutsche Flugsicherung (2014), p. 6.

<sup>69</sup> cf.: Deutsche Flugsicherung (2014), p. 137-139.

<sup>70</sup> cf.: Bundesministerium der Finanzen (2015), p. 110-111.

## 5. Conclusion

The central research aim of the Ciriec project “Major Public Enterprises: Country Analysis and Policy Trends” is to analyse major public enterprises on the country, resp. federal level. Although in Germany most public enterprises are on the federal state (Länder) and municipal level some interesting examples could be found at the federal level (Bund). Before turning to the case studies some preliminaries were needed. First of all the German state was embedded in the guarantor-model. The model was used to explain and characterize the current role of public enterprises and the separation and assignment of responsibilities both within the political administrative system and for public tasks. The model also points out that the final decision on the best possible form of organization to fulfill public tasks and provide public services (e.g. public, private or private/public) is always a political decision and thus depends on the current government, its programme and general policy statements. Next some statistics on public enterprises in general and on the different levels (federal, state and municipal) are presented, which underline the importance and relevance of public enterprises in Germany. Focusing on the federal level past trends show that there were partial, full or formal privatizations (e.g. telecommunication, post, post bank, airline, Deutsche Bahn), the recent one in 2012 (TLG), and in some cases (Deutsche Telekom AG or Deutsche Post AG) the sale of remaining shares is still on going. But also a rebuy, in the case of the Bundesdruckerei, took place. After these preliminaries the paper carried out a deeper analysis of four interesting cases: Deutsche Bahn AG, GIZ, Bundesdruckerei GmbH and Deutsche Flugsicherung. All these cases were analysed considering the public mission, financial situation and governance structures and mechanisms. The discussion shows that privatization is in the end always a political decision, which depends on the budget situation as well as the market situation. Currently in Germany there is no political climate for big privatizations, even the plans for an IPO of 25% of the Deutsche Bahn AG are suspended because of the lack of political will. In the case of the Bundesdruckerei GmbH it became also obvious that public missions can change over time. During the privatization-process the public mission was reduced to the fallback responsibility, but with security issues like more complex passports, security checks and threat of terrorism gaining more and more importance and attention the Bundesdruckerei retrieved its former public mission being of high strategic relevance for the public authority. Another key role in this discussion plays the German Constitution which determines whether privatizations are permitted or not, representative cases are the Deutsche Flugsicherung and the Deutsche Bahn AG. Even if the federal budget code and the Budgetary Principle Act demand privatization whenever certain requirements are fulfilled, the German Basic Law must be considered and is crucial for the final decision. E.g. in the case of the Deutsche Flugsicherung the Basic Law prohibits a full privatization. Thus a change of the Basic law would be necessary if the federal government wants to take the step towards privatization. Beyond doubt pursuing privatization- as well as re-privatization processes of public enterprises will be of high relevance in the future to gather more information on and insights in e.g. motives, driving forces, decisive factors in (re)privatization-processes, and thus providing a reliable basis for recommendations, of course for each individual case and not as a “one best way” for all public services.

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