

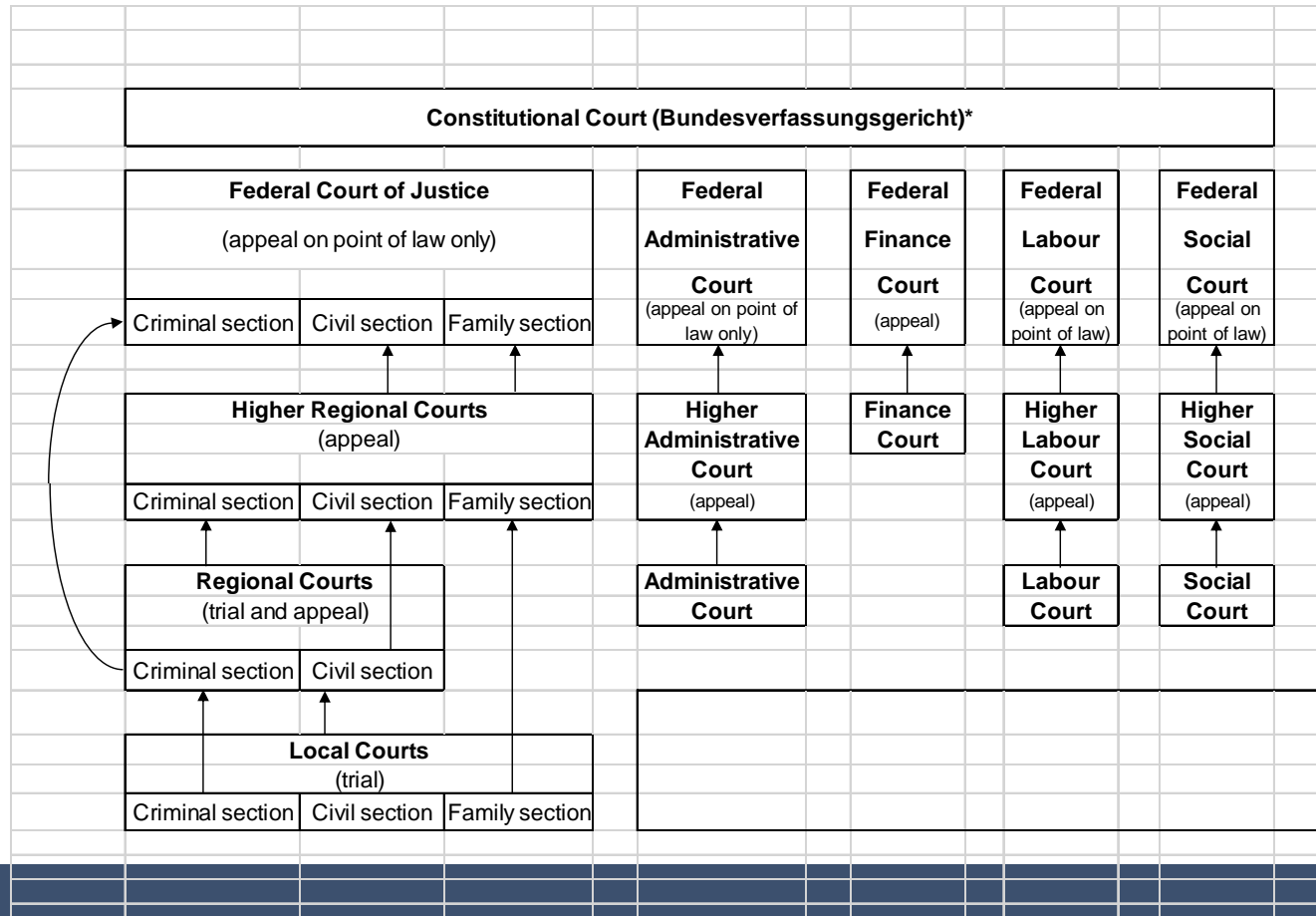
# The PEBB§Y system used in Germany

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# Court system in Germany





## The PEBB§Y Workload System - Purposes

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- ➔ Budget negotiations with Ministries of Finance
- ➔ Staff allocation to court of appeal districts
- ➔ Staff allocation to courts within a court of appeal district
- ➔ Allocation of workload (case categories) to panels and judges within a court (autonomous presiding councils take PEBB§Y numbers into account; but: „PEBB§Y is not a tool to assign cases within the court.“)
- ➔ Transparency of the distribution of workload
- ➔ NOT: Individual evaluation of judges





## General Structure

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- ➔ All 16 federal states (Länder) participate
- ➔ Courts of ordinary jurisdiction (civil, criminal, family), prosecution, later extended to special jurisdictions
- ➔ Judges, „Rechtspfleger“ (clerks, masters), service, guards
- ➔ Initiation in 1998
- ➔ “PEBB§Y I” report 2002
- ➔ First comprehensive update: PEBB§Y survey 2014 (and 2016 for specialist courts)





# General Structure

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## → Participants

- Länder Judicial Administrations (Ministries)
- External Advisors (esp. Accounting Firms, e.g. PWC)
- Project Teams
- Staff Representatives
- Pilot Courts and prosecutors' offices
- Survey Courts and prosecutors' offices

## → Collection of Data

## → Analysis of Data

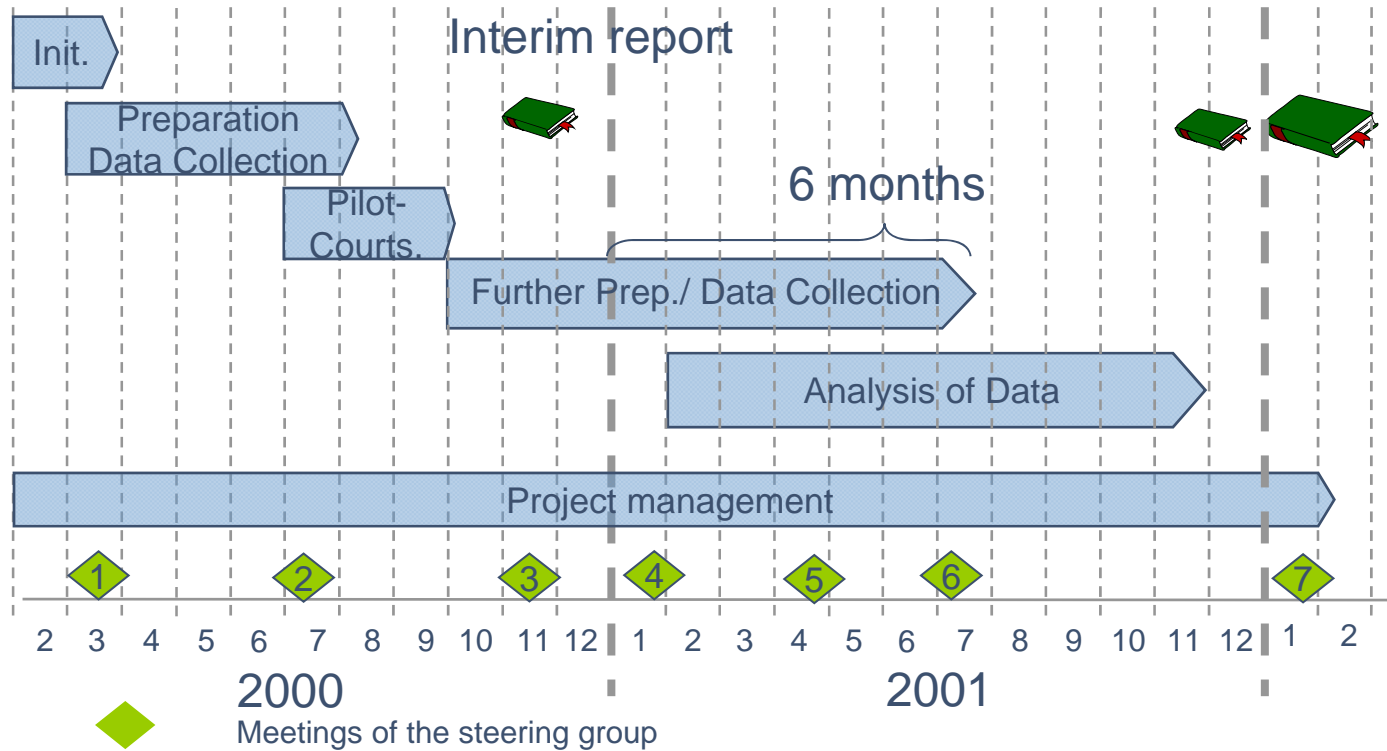
## → Assessment

## → Special Aspects in the Länder





# Schedule of PEBB§Y I





## The PEBB§Y system – function

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→ Required number of judges for a type of cases =

“Allocation base“ x PEBB§Y “basic number“

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Annual overall working time of a judge

→ Allocation base

- Number of incoming cases
- Sometimes pending matters (e.g. probate)





## Simple example

- ➔ Court A has 5.000 new civil cases in 2019 (*allocation base*)
- ➔ Average time for a judge to deal with the case (according to PEBB§Y) is 200 minutes (*PEBB§Y basic number*)
- ➔ *Yearly working time* is appr. 100.000 minutes or 200 working days
- ➔  $5.000 \times 200 = 1.000.000$  working minutes
- ➔  $1.000.000 \text{ minutes} \div 100.000 \text{ minutes} = 10$ 
  - $\rightarrow 1.000.000$  working minutes require 10 judges







## PEBB§Y basic number

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- ➔ Categories defined by a working group of the Federal States (e.g. “Traffic Accidents, Regional Court, First Instance”)
- ➔ Expected time to deal with a given case
  - Analysis of typical cases (“empirical and analytical approach“)
  - Minutes derived from past experience
  - Preference of uniform (standard) working time per case category
- ➔ PEBB§Y products may consist of different case types (e.g. Construction cases + Medical malpractice cases)





## PEBB§Y basic number

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- ➔ Greater degree of differentiation for „main business“ (e.g. judge dealing with first instance civil cases at a local court: 11 products), neglecting „side business“ (< 1 % working time)
- ➔ Avoiding too detailed case categories (small courts, established statistics, easy allocation to category)





## Examples for PEBB§Y products – Judges

	Local Court	Regional Court	Higher Regional Court
General Civil Cases	152	569 (1st Instance) 541 (2nd Instance)	1.535
Traffic accidents	239	747	1.535
Construction, Medicial Malpractice Cases	322	1.193 (1st Instance)	1.971
Divorces	131	---	898
Tenancy Law Cases	193	443	1.535
General Criminal Cases (Adults)	157 (criminal judge) 423 (mixed bench)	6.049 (1st Instance) 652 (2nd Instance)	535
Economic Crimes, Tax	315 / 1.027	25.623 (1st Instance)	535





## Data collection

- ➔ Binding catalogue of PEBB§Y “products”: Time measurement
  - Self-recording of judges and non-judicial staff (using the same paper form) → Judges do not accept recording by third parties
  - One paper form per court file
  - Special paper form for non case related activities/month
  - Pilot courts, main survey in exemplary courts, 6 months recording
- ➔ Factors of influence – Survey (specialisation, IT-equipment and support, pilot projects, staff fluctuation)
  - Evaluation in PEBB§Y I, but not integrated in the basic number
  - Not part of the PEBB§Y update in 2014
- ➔ Plausibility checks





## Dimensions of survey in 2014

- ➔ Participating institutions:
  - 15 Prosecutors' offices
  - 5 Higher regional courts (Oberlandesgerichte)
  - 9 Regional courts (Landgerichte)
  - 36 Local courts (Amtsgerichte)
- ➔ Altogether 16.000 participants (including judges, prosecutors and non-judicial staff) from 14 federal states
- ➔ 4.000.000 survey cards have been completed (5 x more than for PEBB§Y I in 2001)
- ➔ Participation rate (judges): >90 %
  - "Problem": Art. 97 German Basic Law





## Problems (examples)

- ➔ Special case categories, e.g. centralized jurisdictions, special jurisdictions (unfair competition, patent cases, judicial review of administrative decisions of central offices)
  - → cases end up only in one single court
- ➔ Mass cases before specific courts (uncontested summary cases, traffic violations, copy right infringements – illegal downloads),
  - → little work per case but high number of cases
- ➔ First instance criminal cases before regional courts (crimes against the state, homicide cases, organized crime cases, economic crimes)
  - → much work in the individual case but small number of cases





## Where PEBB§Y numbers do not always work

- ➔ First instance criminal cases in regional courts
  - e.g. economic crimes cases (25.623 minutes)
- ➔ Reasons
  - Extreme difference in staff demand in single cases
  - PEBB§Y works well if the number of cases is high and the average time needed does not vary a lot.
  - Staff demand (workload) ist not created in the year when the case comes in but in later year(s), nevertheless PEBB§Y (in general) counts the numbers of incoming cases.
  - PEBB§Y doesn't determine the necessary time. It bases upon the time needed in the past.





## Court of Appeal District Cologne

- ➔ Comparative workload and the staff need is calculated every 3 months on the basis of incoming caseload in the preceding 12 months (i.e. PEBB§Y figures for the last 12 months).
- ➔ Crucial information:
  - Overall (PEBB§Y) workload of each court
  - Active judicial staff of each court
  - Average (PEBB§Y) workload of all judges in the Court of Appeal District
  - Final step: Comparison of the staff needed in each court to reach the average workload (PEBB§Y) of the Court of Appeal District
  - → newly appointed judges are assigned to understaffed courts
  - → extra needs of regional courts become transparent for judges in other courts

