

Country-Specific Legislation and Practice

Country Chapter



Germany

Introduction

One of the guiding principles of TEGoVA is to promote consistency of standard definitions of value and approaches to valuation trans-Europe. The publication of European Valuation Standards (EVS) provides the state, investors, the financial industry, valuers and their clients with a common benchmark which can be consistently applied, irrespective of the location of a real estate asset.

Whereas harmonisation of valuation standards enable recognised bases of valuation to be reported, the preparation and publication of a valuation must also respect client need, national legislation and custom. Customary differences, particularly in respect of valuation methodology, may result from the requirements of statute or regulation.

This Country Chapter illustrates differences that currently exist across Europe. The Country Chapters are not intended to provide definitive advice. The text that follows has been provided by TEGoVA Member Associations (TMAs) to outline country-specific legislation and practice.

The European Group of Valuers' Associations (TEGoVA)
Boulevard Saint-Michel 45
1040 Brussels
Belgium

Tel: +32 (0)2 503 32 34
Email: info@tegoval.org

Fax: +32 (0)2 503 32 32
Website: www.tegoval.org



Germany

Professional bodies represented on TEGoVA:

- **BUND DER ÖFFENTLICH BESTELLTEN VERMESSUNGSINGENIEURE e.V. (BDVI)**
German Association of Publicly Appointed Surveyors
- **BUNDESVERBAND ÖFFENTLICH BESTELLTER UND VEREIDIGTER SOWIE QUALIFIZIERTER SACHVERSTÄNDIGER (BVS)**
Association of Publicly Certified and Qualified Experts
- **IMMOBILIENVERBAND DEUTSCHLAND IVD BUNDESVERBAND der IMMOBILIENBERATER, MAKLER, VERWALTER, und SACHVERSTÄNDIGEN e.V. (IVD)**
German Real Estate Professional Association
- **VERBAND DEUTSCHER PFANDBRIEFBANKEN e.V. (vdp)**
Association of German Pfandbrief Banks
- **BUNDESVERBAND ÖFFENTLICHER BANKEN DEUTSCHLANDS e. V. (VÖB)**
Association of German Public Sector Banks

1. The Real estate market

1.1 The real estate market in its aggregate/ macroeconomic context

A slightly larger part of Germany's surface is used for agricultural purposes (approximate 53 %). Forestry uses cover approximately 30 %. Settlement and traffic uses represent approximately 13 % of the surface.

In 2003, the value of all properties of the German real estate market was estimated at 7 000 billion Euro. The value of buildings represents approximately 85 % of the value of real estate. About 1.100 billion Euros remain for the value of the ground. In national balance sheets, buildings take more than 85 % of all net fixed assets. Hereof, residential real estate represents more than 51 % of all net fixed assets.

1.2 Structure of the real estate market and its participants

In 2006, approximately 185 700 companies were operating in the service sector related to the property and housing market. These companies acquired a gross income of 110 billion Euros.

The German real estate market can be divided in a market for renting, a market for owner-occupation and a market for real estate investment. Additionally, a small market for construction exists. The breakdown of the whole market differs regionally. In metropolitan areas, a real estate investment market is emerging.

Real estate as an own asset class became increasingly important during the recent years, particularly real estate located in good and profitable areas. Traditionally, the German property market is characterized by a low owner occupation rate and a strong rental segment. During decades, the residential owner occupation rate was and still is below 50%. In the year 2008, real estate for over 160 billion Euros was sold on the German real estate market.

A detailed breakdown and the relevance of the German real estate market will be disclosed in a study of the Universities of Mannheim and Cologne, which is expected to be published in 2009. (Title of the study: "Die Immobilie aus gesamtwirtschaftlicher Perspektive".)

1.3 Relevant legislation and regulatory requirements

Substantial regulations for the land and property markets are provided by the German federal building code (BauGB). These regulations include the planning law, the principles of the general town-planning law, urban renewal and regeneration rules as well as the legal definition of the market value. Additional provisions applying to the calculation of the market value as well as valuation methods are contained in the German federal valuation decree (Immobilienwertermittlungsverordnung - ImmoWertV). Further technical provisions are provided by the "Wertermittlungsrichtlinie" (German administrative regulation for valuation).

The German valuation profession is supported by specific expert bodies regulated by the German federal building code. They are called 'municipal committees of valuation experts' (see also below 3.1.).

The estimation of the lending value of a property is regulated by the German Pfandbrief Act (Pfandbriefgesetz) and the Regulation on the Determination of the Mortgage Lending Value (Beleihungswertermittlungsverordnung). For the tax value, separate value definitions are existing and specific provisions have to be applied.

The German valuation profession is characterized by two types of real estate experts. The first group is composed by “öffentlich bestellte und vereidigte Sachverständige” (publicly appointed and sworn valuers). They are governed by public Chambers (Chambers of Commerce, Chambers of Engineers).

The second and more recent group of real estate experts is consisting of ‘Certified Valuers’. They are governed by Certification Bodies which are appointed and supervised by an accreditation body. This regime follows the European regulation DIN EN ISO/IEC 17024.

The ownership of property in Germany is assured by a title registration at the local court. The property register is called ‘Grundbuch’, where the owner of the property, the kind and the location of the property, all rights and liabilities of the property including all land charges are registered. The property register differs from the German cadastre. The cadastre is managed by the land surveying offices, describes the location and provides cartographic details and further information of each parcel of land.

Property sale contracts are only valid when they are recorded by a notary.

The German property tax regime is twofold. A property transfer tax has to be paid by the property purchaser before the registration of his ownership. The rate is different in each federal state and ranges between 3.5 and 4.5 % of the sales price. Furthermore, an annual property tax (Grundsteuer) has to be paid by the property owner to the municipality.

The value added tax (VAT) amounts to 19 % of the purchase price in Germany. Individuals do not have to pay VAT on the purchase of existing buildings. But VAT is to be paid on the value of vacant land, construction works and newly built property. This also applies when a vacant property is acquired and future construction works are stipulated in a “uniform agreement”. A double taxation including property transfer tax and VAT should be avoided.

1.4 The market for residential property

The market for residential property can be divided into newly build and existing residential properties for owner-occupation and rent, rented dwellings, condominiums and vacant land for housing. In urban areas, multi-storey residential buildings predominate; in rural areas detached single family houses are common.

In many cities, the housing market is supply driven, only a few urban agglomerations in the western federal states are characterized by a stronger demand driven market. In the year 2006, the German residential property market consisted of 17.7 million residential buildings including 38.9 million units. The stock of living space amounts to more than 3.4 Billion square meters.

In 2007, the purchase price for an average, detached single family house in Germany amounted to 161.000 Euro. The average purchase price for a condominium was at 125.000 Euro.

The predominant part of the German population lives in multiple tenant buildings. The home ownership rate for residential purposes remains constantly at 42 %. In urban areas, the home ownership rate is lower than in rural areas. Many of the privately owned condominiums are rented. Many apartments and multi tenant buildings are owned by cooperatives or by institutional investors. Real estate companies and real estate funds, which manage real estate portfolios of private or semi-public stakeholders, are among the most important investors.

The payment of rents represent in average 22.8 % of the household income. Small households are more affected than larger ones.

The demographic effects have a substantial influence on real estate values. Since 2008, owner-occupied residential property is promoted by the government in pension plans.

1.5 The market for commercial property

The commercial property market is characterized by a significant number of specialized participants. In the recent years, the market became more and more international and the approach to commercial real estate increasingly followed economic principles. The occupier and the owner of the real estate in many cases are no longer the same. The most important segments of the commercial property market in Germany are office, retail, hotel and increasingly logistical properties.

The office market concentrates on large, coherent office locations in different cities all over the country. A majority of the office real estate is held meanwhile by institutional investors. The historical office centers are Berlin, Düsseldorf, Frankfurt, Hamburg, Cologne, Munich and Stuttgart besides many other smaller cities. Overall, there were about 12.5 million office employees in 2006, corresponding to 32 % of the whole working population.

The retail market of city centers is increasingly characterized by an accumulation of international chain stores. Shopping centers are more and more located in the center of medium-sized and large cities. Smaller municipalities often become more and more unattractive for shopping facilities. Super markets are frequently located in traffic-favorable locations outside the city-core and situated in standardized detached buildings.

The logistic real estate market benefits from the strong export-orientated industry and the central situation in Europe and the EEC of Germany. Logistics real estate concentrates at central, traffic-favorable locations in close distances to sea and inland ports, at the networks of motorways and railway stations as well as in close distances to production plants. Of great importance for logistical services are freight villages.

1.6 Other real estate markets

An increasing part of the real estate market is characterized by the setting-up of special vehicles in order to develop and maintain facilities for public infrastructure. Of importance are public private partnerships. This co-operation often helps to achieve large real estate projects. In Germany, the technical infrastructure is almost exclusively operated and financed by public institutions. Only a few technical infrastructure facilities are privately owned and maintained.

1.7 Main customer groups requesting valuation services

The main customer groups requesting valuation services in Germany are:

- Banks (for lending purposes)
- Real estate funds (valuation for transaction & regular revaluation purposes)
- Real estate investors (private & institutional, domestic & international)
- Auditors / Accountants (valuation for accounting purposes etc.)
- Courts for foreclosure sales

- Public authorities for taxation & land management purposes, e.g. capital transfer tax, land tax
- Real estate users

1.7.1 Real estate finance / mortgage lending

1.7.1.1 Residential property

In 2006, investments in construction of residential properties increased by approximately 5,6%. In 2007 however, there was a comparatively very modest development. Investments in residential construction showed a yearly growth of only 0,3%. A slight increase could be recorded in 2008, investment volume was 0,8% higher in real terms than the year before.

Due to the unfavourable macroeconomic situation, leading institutions for economic research expect decreasing investment in housing construction for 2009 (-3%). In 2010 the housing investment will see a slight growth; construction is expected to increase by 1.4%.

In recent years, special effects led to substantial fluctuations regarding the demand of new residential building. Thus, the subsidy in favour of low-income first-time homebuyers ("Eigenheimzulage") has been abolished on January 1, 2006. This subsidy triggered a strong rise in building permit applications towards the end of 2005. The effect on investments following these applications was felt in particular during the course of 2006, and to a certain extent in 2007. Furthermore, the increase of the German VAT from 16 to 19% as from January 1, 2007, also gave added impetus to building investments in 2006, especially in construction work on existing buildings. Many homeowners decided to pull modernization work forward to 2006 in order to avoid the higher VAT rate.

1.7.1.2 Commercial property

The positive development in investments in non-residential construction continued in 2008. In 2006, growth was recorded for the first time following an unbroken downward trend lasting six years. Investment volume in 2007 was 3, 8% higher in real terms than one year before. In 2008, investments in the construction of commercial properties posted a growth of 5, 9%. According to the pessimistic expectations for the GDP,

investment in construction of non-residential buildings is expected to decrease by 5% in 2009. Intended by economic stimulus packages, investments are likely to increase by 2.7% in 2010.

1.7.2 Volume of real estate finance

1.7.2.1 Residential property finance

According to Deutsche Bundesbank's figures, residential property loans to domestic individuals and companies totalled 1.093 billion Euros as of end-2008. Thus, total lending by all banking groups was 0,7% lower compared to the previous year's level. Total residential property lending includes mortgage loans on real estate (907 billion Euros) and other residential property loans (186 billion Euros).

1.7.2.2 Commercial property finance

For the year 2008, Deutsche Bundesbank reports total domestic lending – including all credit institutions operating in Germany – for non-residential properties of 250.3 billion Euros.

1.7.3 Supplier of real estate finance

1.7.3.1 Residential property finance

Besides savings banks (28%), important providers of residential property finance are cooperative banks (18%), commercial banks (12%), mortgage banks (9%) and building and loan associations (10%). Pfandbrief Banks within the Association of German Pfandbrief Banks (vdp) are recruited from different private and public banking groups. As at end of 2008, they represented a total of residential property lending of 306 billion Euros, equating a 28% market share.

1.7.3.2 Commercial property finance

In 2008, savings banks (23.6%), cooperative banks (21%) and mortgage banks (21.9%) are the most important providers of commercial property finance in Germany, followed by public Landesbanken and private commercial banks that have a market share of 18.5% and 11.0% respectively. Pfandbrief Banks within vdp represent a market share of 60.6% (151,6 billion Euros).

1.7.4 Types of real estate finance

Real estate finance in Germany is characterised by a high level of product diversity, coupled with variables concerning fixed interest rates, amortisation and loan to value covenants. A fixed interest rate for five, ten or fifteen years is common.

Fixed interest rate mortgages are widespread in Germany. In 2006, around 70% of buyers of residential homes chose a period of fixed interest rate of more than five years. More than 96% of all outstanding mortgage loans have an initial period of fixed interest rate of more than five years. In many cases, the right of early repayment is agreed in the terms and conditions for loans with a very long period of fixed interest.

During recent years, suppliers of property finance developed new products, trying to combine the advantages of loans with fixed and variable interest rates, so called cap loans. These loans with a variable rate of interest include an adaptation of interest every three or six month respecting an upper limit.

Redemption of mortgage loans can be agreed in different ways. An initial redemption of 1% of the credit amount is common. A conventional way for the repayment of the loan is the agreement of constant monthly/yearly payments for interest plus redemption, so called annuity loans. Recently, more flexible solutions regarding redemption have been introduced. Beside the agreement of an early repayment, many credit institutions offer the opportunity to change the redemption rate during the term of the loan.

The third important parameter to characterise real estate finance is the loan to value ratio (LTV). In Germany, LTV's between 60 and 80% of the Mortgage Lending Value are common.

1.7.5 Capital markets / mortgage funding

According to the type of bank and business strategy, the traditional funding of mortgage loans through deposits is more and more supplemented or substituted by refinancing on capital markets. Banks fund their business through the issue of different kinds of bonds, stocks or asset securitisation. Typical for the German market is refinancing by issuing Pfandbriefe (mortgage Pfandbriefe). The Pfandbrief Act offers Pfandbrief investors a tight-knit safety net. The aim of the legal framework is investor protection. Mortgages are eligible as cover assets to cover pools (Deckungsstock). In the event of an issuer's insolvency, Pfandbrief creditors enjoy a preferential right regarding the access to the proceeds from the cover assets.

Cover pools for Mortgage Pfandbriefe must comprise loans which are secured by real estate liens such as mortgages and land charges. A special valuation methodology to determine the Mortgage Lending Value is applied as a prudent basis for lending. A further safety pillar of the Mortgage Pfandbrief is the mortgage lending limit of 60%, i.e. a maximum of 60% of a property's mortgage lending value may serve as cover.

Pfandbrief business is subject to special supervision by the Federal Supervisory Authority (BaFin). Financial institutions must satisfy stringent requirements in order to receive a license to issue Pfandbriefe.

A further opportunity for refinancing are mortgage backed securities. MBS are not standardised like Pfandbriefe which causes the MBS market to be less transparent. In Germany, funding of residential and commercial mortgage loans through MBS is still negligent by volume.

2. Real estate valuation

2.1. Terms of/for value

Within the Federal Republic of Germany different terms for value exist in the special fields of real estate matters including the real estate valuation.

Regarding property valuation, the market value and non-market values apply:

2.1.1 Market value

In Germany, the market value is defined by law. The definition of „Market Value“(Marktwert / Verkehrswert) is provided by § 194 Baugesetzbuch (German federal building code):

“The standardised market value is defined as the price which would be achieved in an ordinary transaction at the time when the assessment is made, taking into account the existing legal circumstances and the actual characteristics, general condition and location of the property or other object of assessment, without consideration being given to any extraordinary or personal circumstances.”

2.1.2. Non-market values

2.1.2.1. Mortgage Lending Value (Beleihungswert)

Art. 16 of the Pfandbrief Act provides a definition of the mortgage lending value. The definition reads as follows:

“The mortgage lending value must not exceed the value resulting from a prudent valuation of the future saleability of a property and taking into consideration the long-term, permanent features of the property, the normal regional market situation as well as the present and possible alternative uses.”

The Mortgage Lending Value is an independent value and is conceived as a safe top limit for long-term mortgage credits. Since, it is only based on the sustainable aspects of the property, its careful calculation is in line with the safety requirements of mortgage bonds (Pfandbriefe), thus protecting the mortgage bondholders against defaults and market volatilities. Article 16 of the Pfandbrief Act stipulates the main requirements for the assessment of the mortgage lending value. It explicitly states, for example, that the mortgage lending value may not exceed the market value, that the valuation has to be carried out by an independent and approved valuer and that speculative elements may not be taken into account.

2.1.2.2. Insurance value (Versicherungswert)

The insurance value is regulated in Par. 88 of the German Insurance Contract Act as the value of the building under consideration of a deduction for the age, deterioration and condition of the building. It is used for insurance of properties against damages caused by fire, flooding, storm, etc.

2.1.2.3. Value for taxation/ Tax value (Einheitswert)

The assessment of value for taxation purposes is laid down in the German tax valuation act. The definition is similar to the market value, there are some variations concerning date of valuation and methodology. A new regulation is going to be proposed in 2009. This value is used as assessment base e.g. for the property tax or inheritance tax.

2.1.2.4. Current or Fair Value (Zeitwert)

Fair Value is applied to a special point of time, normally the present point of time, and applied for accounting purposes.

2.1.2.5. Foreclosure Value (Wert in der Zwangsversteigerung)

Foreclosure Value is applied to processes of foreclosure and foreclosure sales.

2.2. Valuation methodology

2.2.1 Methods applied for the calculation of market value

The 'main' valuation methods are regulated in the German federal valuation decree (Immobilienwertermittlungsverordnung – ImmoWertV) and are therefore defined as regulatory methods.

This regulation, however, is not exhaustive but allows for other methods, procedures and/or assessments which also find general acceptance on the usual real estate market system. Mostly, those other methods consist in modified or similar methods and assessments for calculations based on the following three standardized or regulatory methods.

Regulatory methods are:

- **Comparative Method - Vergleichswertverfahren**, see §§ 15 + 16 ImmoWertV.

This method is used for land valuation and properties which are directly or indirectly comparable like freehold apartments, single-family houses, town houses etc. The use of this method, however, is dependent on the existence of adequate data to base such a comparisons on.

For this purpose, each board of expert valuers collects and evaluates purchase prices for lots and properties on real transfers. These benchmarks - in the case of land value, the board of expert valuers calculates reference values for land "Bodenrichtwert" - are published in cards "Bodenrichtwertkarte" and must be adjusted according to the valuation property's size, type, layout etc. mostly with official conversion coefficients.

The same procedure applies to purchase prices of freehold apartments, single-family houses and town houses. These comparative prices are annually published in real estate market reports by the local official committee of valuation experts. Additionally, each board of expert valuers carries out a purchase price collection.

- **Income Method - Ertragswertverfahren**, see §§ 17 - 20 ImmoWertV.

According to ImmoWertV, the capitalized income value of a property can be calculated according to three methods:

General Income Approach – “Allgemeines Ertragswertverfahren”: This approach divides the difference of income and costs, known as “Reinertrag”, into the part which is assigned to the building and the part which is assigned to the building lot. The latter is found by dividing the land value by an interest rate (gross property yield - “Liegenschaftszins” see § 14 (3) ImmoWertV) which is appropriate to this type and age of property and deducting the result (annual return of land value - “Bodenwertverzinsung”) from the net rental income. The remainder of the net rental income is the part assigned to the building and this sum is multiplied by a factor which reflects the remaining economic life span of the building using the same interest rate that was applied before. The land value as a whole is added to this sum and the result is the income derived value, known as capitalized income value - “Ertragswert”. The land value is capitalised indefinitely, the building value over the remaining lifetime of the property.

Simplified Income Approach – „Vereinfachtes Ertragswertverfahren“: The capitalized income value results from net income “Reinertrag”, which is capitalized using gross property return referring to its economic life – „Nutzungsdauer des Gebäudes“ plus land value – „Bodenwert“, which is to discount to valuation date.

Income Approach based on periodically variable income – “Ertragswertverfahren auf Grundlage periodisch unterschiedlicher Erträge”: The income value is calculated on the basis of, first, the periodically attainable net income derived from reliable data within the given period and, second, the residual value of the land at the end of this period, see § 18 (1) ImmoWertV. The periodic net incomes as well as the residual value of the land are to be discounted to the date of the valuation by applying the gross property yield.

The gross property yield – “Liegenschaftszins” is reflected by the interest rate derived from actual sales of comparable properties and applies to the present land value as well as to the building. The „Liegenschaftszins“ is available from the municipal committees of valuation experts (“Gutachterausschüsse”) and is produced on the basis of the ImmoWertV. Otherwise it is assumed that the valuer can derive this interest rate from his knowledge of the market.

This German use of the income approach results in approximately the same results as the income approach as applied in other countries where the income is not separated into part for the buildings and part for the land. If the remaining life span is less than 30 years, the differences increase and for life spans of ten years and less the results differ significantly. In these cases, the costs of demolition and site clearance have to be calculated and subtracted then from the result.

In the event that the net rental income is less than part of the net income assigned to the lot, it is necessary to use the so-called liquidation method of valuation – “Liquidationswertverfahren” see §16 (3) ImmoWertV.

- **Depreciated Replacement Cost Method - Sachwertverfahren**, see §§ 21 - 23 ImmoWertV.

This method is based on the total of land value and construction value, taking into consideration depreciation and outstanding repairs, used to evaluate single-family houses that are difficult to compare or other buildings which have specialized uses. The calculated value has to be adjusted to the market situation.

The valuer is required to provide assessment of the market value of the land in its existing use to which the hypothetical cost of providing a similar property and relevant exterior features and soft development costs are added. Deductions are made from this gross sum to account for matters that would influence the value of any existing property, compared to any replacement property. Allowance is made for factors including depreciation, age, condition, and economic and functional obsolescence.

In the German use of the method, the initial result, i.e., the sum of the land value and the building value – “Sachwert” is not the final result. It is then adjusted to reflect the market situation, and this is done by applying a factor which is generated by the local committee of valuation experts for different types of owner occupied properties. The prices for properties which are comparable in price-group, location and age are divided by the result of the DRC. The mean of these factors is used as a correction-multiplier for this initial value – “Sachwert” – to arrive at the market value.

- **Other, non regulatory methods, like DCF and residual method/s:**

These methods apply to special purpose valuations (i. e. managed properties, investment decisions, respectively properties under development or undeveloped land). Non-regulatory methods are:

- **Discounted Cashflow Method (DCF)**

Due to periodically variable earnings, the income valuation approach as it is described in ImmoWertV §17 (3) does not correspond with the international understanding of the DCF process.

The discounted cashflow method is the same procedure as that found in the international standards of the DCF. At the moment, it is difficult to evaluate current market data, in particular yields (discount rate and cap rate).

- **Developer Method**

The objective is to identify the maximum achievable sales price for a lot from the perspective of the buyer. This is a subjective process and will be used for project development. Parameters are market value, construction costs, developer profit, cost of financing and time.

- **Investment Method**

At the moment, many internationally active real estate companies are using this method.

2.2.2 Methods applied for the calculation of non market values: Mortgage Lending Value (Beleihungswert)

The “Regulation on the Determination of the Mortgage Lending Value” (Beleihungswertermittlungsverordnung - BelWertV), that entered into force on 1 August 2006 lays down the definition and valuation methodology of the mortgage lending value as well as the required form and content of the valuation report, as well as qualification requirements and independence of the valuer.

With regard to the general valuation approach, the comparative, depreciated reconstruction cost and income methods also apply to the assessment of the mortgage lending value. But there are significant differences in the appraisal of the parameters

that are the basis for each valuation method. The most important particularities are as follows:

Income Method:

- Sustainable net rental income: The income stream of the property is limited to its sustainable net rental income, excluding any over-renting and additional extraordinary cash flows.
- Discount of property management and administration costs: Property management and operational costs which are not recoverable from the tenants reduce the net rental income. These costs also include maintenance costs and vacancy risk. For mortgage lending, there is a minimum total rate for these costs which have to be considered. Reserves for immediate need of repairs or refurbishment have to be considered additionally.
- Minimum capitalisation rate: The capitalisation rate must reflect the long term market developments, the sustainable income producing capacity of the property, alternative uses as well as its future marketability. The banking supervisory authority fixes capitalisation rate floors for several commercial and residential uses according to long term market observation.

Depreciated Reconstruction Cost:

- In order to take into consideration any possible reductions in sustainable construction prices and, with that, the lasting validity of the amounts stated, the construction cost is to be reduced by a safety margin of a minimum of 10%.

3. Types of Real Estate Valuers

3.1 Organisation of the profession

The Term „Expert“ is neither legally protected nor regulated. Protected are the professional qualifications of „Publicly appointed Expert“ and “Certified Expert”, if experts are either appointed or certified by a state appointed certification body (e.g. Chambers of Industry and Commerce, Chambers of crafts, Chambers of architects, Chambers of engineers and other Certification bodies.) These Chambers are public corporations. They offer public services.

Only experts with outstanding qualifications are to be publicly appointed or certified. It is not compulsory to join a professional organisation. The existing organisations however are nearly all members of TEGoVA. The estimated amount of enlisted publicly appointed or

certified experts is ca. 11.000. Another great number of self appointed valuation professionals is acting in the real estate market.

A German specificity is the municipal committees of valuation experts. Essential task of these independent advisory committees is to provide transparency for the real estate market (beside their valuations for municipal necessities). They are equipped with experts of the public administration and valuers from various relevant sectors, their offices are usually located at local cadastre offices. Base and aim of the committees work is the maintenance of a digital inventory of property transactions (purchase price collection) and proper valuation of real estate. Nearly one million contracts of sales are the data base of their analyses. The outcome is a determination of average values, plots, diagrams, indices and other influential factors of real estate market values. The results are to be published and they are essential knowledge for every expert carrying out valuations in Germany.

3.2 Publicly appointed and sworn valuers

The applicant for a public appointment has to have a sufficient practical experience in his profession. He has to demonstrate his competence by submitting a proper documentation (e.g. CV, copies of certificates for all relevant academic and professional qualifications, work experience and experience as expert, referees, reports, training). The applicant has to give evidence of his competence as expert by oral, written, practical, a combination of the before mentioned methods, or other assessment, to a committee of instructed specialists with appropriate knowledge and experience in the field of the activity of the applying candidate. In total 140 Chambers exist with Chamber Admission committees and 120 Technical Assessment committees consisting of judges, experts, and lawyers.

After his appointment, the expert is registered for 5 years. After 5 years, a re-certification process is compulsory, including a check of further training needs and a review of valuation reports presented. The enlistment ends with removal by the certification body in case of age limit (68 years), if the public appointment has not been renewed, if the public appointment has been revoked because the expert has breached with his duties or after complaints concerning his competence or his integrity or if the expert does no longer meet current standards.

All certification bodies follow a Standardising Document (Status: 21.06.2001) to harmonize the personal and technical conditions of admission. More precisely, the certification procedure for publicly appointed property valuation experts follows the following rules:

Application

The candidate must submit together with his application a description of his professional career as well as copies of appraisals which are not older than three years and which were prepared by the candidate in the area to be certified. The candidate will be admitted to the certification examination if the requirements specified in the requirements profile of the respective certification area have been satisfied in full.

Educational background of the candidate

The candidate has to prove a completed course of study at a state-recognised university or college of a pertinent discipline, e.g. architecture, construction engineering, surveying, economic sciences or of a different discipline suitable for this certification area. In addition:

- at least five years of practical work in the area of valuation of developed and undeveloped property within the last eight years before application
- at least five years of activity within the last eight years in the area of valuation of rural real estate, i.e. rural properties and not built-up rural land
- at least three years of activities within the last five years in the area of property valuation for lending purposes

or

- at least ten years of practical experience within the last fifteen years in the area of property management, the nature of which was such to provide the requisite know-how for the valuation of property.

The candidate should have completed a period of practical training in the specialised area of property management which can be considered as practical experience of up to three years.

In particular, the following practical experience can be considered in this respect:

- Real estate brokerage
- building contractor or project developer
- house or property management
 - relevant real estate or lending activity in the credit or insurance industry
 - employment in property companies, property funds
 - expert office for the valuation of developed and undeveloped property

- experience as a valuation professional in dedicated offices

The following can be taken into consideration in particular as areas of recognised professional training:

- architecture, construction, surveying and property business
- property and economics
- credit and insurance industry
- commercial training

Proof must be provided of pertinent practical experience within the past fifteen years.

The candidate must also include with the application documents to be submitted at least five appraisals with differing valuation problems which have been made anonymous and have been personally drawn up by the candidate.

The suitability of the appraisals is to be confirmed by the examination committee. It is responsible for the procedure regarding the scrutiny of appraisals.

Professional requirements

- During the certification procedure the candidate must prove that at the time of the examination he has knowledge and skills in the areas specified below: Economic knowledge
- Technical knowledge
- Knowledge of the specific law
- Knowledge of the valuation procedures and their application in individual cases
- Special knowledge of content, structure and composition of appraisals
- Knowledge of liability, office technologies and organisation

In the case of an expert in an employment relationship, a confirmation of the employer which shows that the candidate has had practical experience of property valuation, at least three years of which as expert in this certification area.

A freelance expert must credibly show that he has had practical experience in the valuation of property, at least three years of which as expert in this certification area.

A list of appraisals prepared may be requested for this evidence of practical experience as an expert.

Examination

Any person satisfying the respective requirements profile may participate in the certification examination. The objective of the certification examination is to ascertain the extent to which the requirements expected of the expert as described in the respective professional requirements profile have been satisfied. The invitation to take part in the certification examination, where appropriate, will be preceded by scrutiny of the documents by the certification office.

The certification examination consists in principle of a comprehensive theoretical/written and oral examination.

The certificate will then be valid for five years.

3.2.4.1 Written examination

The written part of the examination involves the solving of valuation problems according to set circumstances and questions. The examination is divided into three parts. The first part of the examination involves the processing of two standard cases of valuation (2 hours). The second part of the examination comprises a plausibility check using specified criteria (1 hour) The third part of the examination comprises the processing of a questionnaire under consideration of the respective examination subjects directory (2 hours).

3.2.4.2 Oral examination

The oral examination is similarly based on the examination subjects directory and supplemented by a questionnaire which is to be updated constantly and which is to be treated confidentially by the certification office. Questions which refer to the submitted appraisals are similarly admissible and are to be incorporated in the assessment in the same way as supplementary or detailed additional questions.

3.2.5 Monitoring of certificate holders

3.2.5.1 Further training

In order to ensure the technical qualification of the certificate holder, he must provide evidence of annual further training of at least three days per year in appropriate training seminars. The requisite subject matter of this further training must refer to the respective "professional requirements profile". Confirmation of participation must be presented to the certification office.

3.2.5.2 Random checks/samples of work

In order to ensure the quality of the appraisals drawn up by the certificate holder, he must provide the certification office upon request with copies of at least three appraisals which he has drawn up within the period of validity for monitoring purposes. All personal data must be blacked out by the author beforehand. This requirement must be satisfied at least twice within the period of validity of the certificate. This does not apply to extraordinary monitoring measures to be taken by the certification office in individual cases owing to special circumstances. The check is made by examiners on the basis of minimum requirements placed on an appraisal in the respective area of certification applicable to the certification. At least two thirds of the appraisals must be assessed positively. Should this condition fail to be satisfied, the certified expert will be called upon to take corrective measures. Supervisory assessments in situ may also be drawn up.

3.2.5.3 Supervisory assessment

Supervisory assessments can take place during the entire period of validity of a certificate by an examiner to be determined by the certification office, and serve to monitor the certification conditions. If random checks are assessed negatively, the certification office decides whether a supervisory assessment will take place.

The supervisory assessment consists of random checking of appraisals as well as the approach adopted by the certificate holder in practical appraisal preparation. The minimum requirements placed on an appraisal in the respective area of certification are decisive in this assessment. The result of the supervisory assessment is summarised in a document. The certificate can be withdrawn should shortcomings be ascertained.

3.2.6 Re-certification

In good time before the certificate validity expires the certified expert must prove in a discussion, which is analogous to the oral examination (item 4.2), that his knowledge is up to date. The discussion will centre around new aspects referring to the expert within his area of certification in accordance with the respective current examination subjects' directory. The expert will be admitted to re-certification if the outcome of monitoring measures is positive. The necessary monitoring measures to participate in recertification are evidence of annual further training, the positive assessment of random checks and the positive evaluation of any supervisory assessments which may have been performed.

3.3 Certified valuers according to EN ISO/IEC 17024

The certified valuer according to EN ISO/IEC 17024 represents a third category of valuers in Germany (in addition to 'self-appointed valuers' and 'publicly appointed and sworn-in valuers'). Valuers are certified by a private, accredited body following the requirements of EN ISO/IEC 17024.

This certification is awarded for 5 years and the holder of the certificate is constantly monitored during this phase. The international ISO standard 17024, which is tied to the person, allows property valuers to furnish proof of their competence with respect to preparing appraisals and complying with professional principles. In addition to the demanding examination for the first certificate, specific further training activities and appraisals drafted by the valuers that are certified are constantly monitored for purposes of quality assurance. Furthermore, they have to pass a re-certification exam every five years.

The certification focuses on evaluating the technical knowledge and expertise and the capabilities when completing certain responsibilities. A steering committee establishes the quality standard of the respective subject. Thus, the quality of a service rendered by a person is revised whether it complies with standards that were previously defined and standardized.

The principles for exercising the profession determine how the certified valuer behaves in his relationship with customers, leads, colleagues, applicants, suppliers, associations and the public.

Certified valuers may also be employed. The professional principles also apply to the internal relationship with internal customers (e.g. a bank's loan department) for valuers who work in the valuation departments of financial and insurance companies.

When carrying out his responsibilities, i.e. in particular when determining a value, the employed valuer is not bound by any directions. Of course, this does not mean that the competence of instructions of the employer for purposes of discipline is suspended by these professional principles, and this also applies to industry-specific principles such as the banking secret, compliance etc.

Admission requirements

To be admitted to the examination procedure, the applicant must fulfil certain admission requirements. In addition to reading and writing the German language at a good level, previous education as well as professional experience are important aspects.

The applicant must fulfil one of the following criteria in order to be admitted to the certification examination:

➤ **University degree**

Degree from a generally recognised **third-level college** or **university of applied sciences**, e.g. in architecture, civil engineering, geodetic surveying, geography, surveying, law or economics

and

- at least **three years** work experience in real estate,
- of which **three years** in real estate valuation
- within the **five years** before application

➤ **Practitioner**

Applicant with years of experience i.e.

- at least **eight years** work experience in real estate,
- of which **five years** in real estate valuation
- within the **ten years** before application

Practical experience in real estate as mentioned above means a person's main professional activity i.e. intensive practical work in the area of valuation of developed and undeveloped properties and similar property leasehold rights and property rights. The practical work must be such that the basic knowledge of economics, technology, law and other areas named in the examination catalogue is learned. Appropriate areas would be in particular broker, property developer, project developer, facility and real estate administration, credit and insurance, as long as this work is related to real estate or the construction financing activities of a company, real estate companies, real estate funds etc. Up to one year of an apprenticeship completed in the area of property valuation can be counted as part of this practical experience. Completed apprenticeships that would be recognised include in particular those in the areas of architecture, construction technician, surveyor, real estate, business administration, credit and insurance as well as administrative apprenticeships.

Requirement profile

To work as a certified real estate valuer, the certificate holder must

- have knowledge of the structure and functioning of the real estate market (prices, costs, rents, leases etc.)
- be able to assess the development of the property, rent, construction and capital markets and in particular the local supply and demand situation as well as trends in development
- have knowledge of the economic impact of rights and burdens on properties (under private and public law) as well as how to treat them in terms of evaluation
- have mastered the necessary theory of financial, statistical and economic rent methods
- have mastered the methods of market, location and returns analysis
- have basic knowledge of valuation-related business administration (balance sheet and accounting principles, principles of construction financing etc.)
- have special expertise in the area of business administration for the valuation of managed/operated real estate
- have valuation-related technical knowledge
- know about ground conditions, including contamination, structural design and static; construction methods and procedures; construction materials, characteristics and application; relevant standards and technical regulations; procedures and criteria to identify and eliminate construction damage and deficiencies.
- have knowledge of public planning, construction and ground law as well as valuation law (calculation of market value and *Verkehrswert*, calculation of mortgage lending value and insurance value)
- know the relevant parts of the civil code including the ancillary laws, public and private law concerning the respective interests of neighbours, land register and ground register law and real-estate-relevant fiscal law.
- know the main statutory stipulations and regulations concerning residential real estate
- have knowledge of the main framework conditions of the national (bank) supervisory authorities and Basel II
- know the main aspects of valuing real estate portfolios (framework conditions, valuation design etc.) and be able to compile and plausibilise these in accordance with the usual methods (aggregated individual valuation, package valuation, mass valuation, desktop valuations)
- know the principles of project development which are relevant to valuation
- have knowledge of how to value special properties
- know the valuation procedure and have mastered its application
- be able to assess and explain which procedure is needed for which purpose (*Verkehrswert*/market value, mortgage lending value, insurance value) when valuing a

certain property and what information this procedure provides in terms of, for example, results in conformity with the market or eligibility of securities (and other investments) for the investment of funds set aside as capital reserves.

- be able to compile and complete appraisals correctly
- have knowledge of liability and third-party insurance for surveyors as well as of managing and organising a surveyor's office.
- have knowledge of special regulations in the area of real estate fiscal law as well as year-end closing
- have mastered special methods of analysing the income and cost situation of (managed) real estate and of calculating the profitability of land use zoning (incl. use of buildings) and potential use.

Professional principles

The professional principles regulate the behaviour of the certified valuers in their relations with clients, interested parties, employees, applicants, suppliers, associations and the public.

The certified valuers undertake to follow these principles. They sign a separate agreement stating that they will submit to the certification body's arbitration court in case of dispute.

Certified valuers can also be in permanent employment. Valuers working in valuation departments in credit and insurance companies must also follow the professional principles in their relations with internal clients (e.g. credit department of a bank).

Valuers in permanent employment are bound by these instructions in carrying out their professional activities, in particular in the process of valuation. The employer's authority to give disciplinary instructions is not, of course, affected by these professional principles. This is also true for principles specific to the industry, such as banker's discretion, compliance etc.

- Behaviour
- Personal situation
- Commitment
- Competence and professionalism
- Objectivity, neutrality, responsibility
- Confidentiality
- Conflicts of interest
- It is forbidden to contract people away
- Appraisals for several clients forbidden

- Fair competition and professional advertising
- Obligation to keep records and documents, complaints
- Obligation to report to and inform certification body
- Monitoring and penalties

Written examination

In the written examination the applicant must prove that he can apply the usual methods to solve problems in the different areas tested within a certain period of time and with limited tools to support him.

The applicant passes the written examination if he achieves a mark of at least 50% in each individual section of the examination. Over all sections of the examination he must achieve an average of at least 70%.

Structure and duration of written test

Part I: Two mortgage lending value appraisals, one of which is a mixed-use property as well as (mainly) commercial property (incl. special properties). The applicant receives an oral description of the property, and maybe some other documents (plans etc.) as well as a valuation form.

Duration: two hours.

Part II: Plausibility test of an incorrect mortgage lending value analysis based on instructions provided.

Duration: one hour.

Part III: Answering of individual questions on various topics from the examination catalogue. The applicant receives approximately 10 to 15 individual questions (divided into the areas and degrees of difficulty of the examination catalogue).

Duration: two hours.

Oral examination

In some certification areas an oral examination must be taken. Admission to the oral examination is granted after the written examination has been passed successfully.

An examination commission of three examiners normally supervise the examination. Representatives of the certification body and the accreditation body may attend the examination. The individual examination lasts 30 minutes, group examinations last 60 minutes with two participants or 90 minutes with three participants. The areas tested are based on the certification body's examination catalogue. The questions should cover different topics from the

examination catalogue. The main points of the examination are recorded in note form by the certification body.

The examination commission judges the applicant's performance in the oral examination and informs the applicant of the result after the examination (pass or fail). The oral examination is considered passed if at least 70% of the maximum numbers of points possible have been achieved.

Monitoring the certificate holder

During the validity period of the certificate, the certificate holder is subject to ongoing monitoring by the certification body. He must prove on a regular basis that his qualification is up to date by submitting documentation on participation in further training measures. In addition, the certification body requires submission of appraisals so that it can check for compliance with set quality standards. The following is obligatory

- Annual **further training of at least three days** in specialised further training courses. In addition, intensified further training may be recommended or prescript within the framework of the initial or re-certification process.

These further training courses must cover content specific to the area of activity of the real estate valuer and the respective certification area. The certified valuer must keep a record of the continuing and further training courses he has participated in. This record must be submitted to the certification body once a year, as a rule on request (list of courses attended with location, date, time, topic, and trainer). The certification body carries out regular random tests by requesting the original copies of the seminar certificates.

- At least **three anonymised appraisals in a complexity that is customary in banking, carried out by the valuer himself** for each certification area, on request of the certification body. In addition, further appraisals may be requested or prescript within the framework of the initial or re-certification process.

The Valuer is responsible for seeing that the appraisals meet the property types requested in first time certification.

Within the validity period of the certificate, the certification body will request appraisals at least twice. All appraisals must receive a positive assessment. If this condition is not fulfilled, the certified valuer will be requested to take corrective action. We refer to the appraisal requirements in the annex. In special cases, a control audit may take place on site.

Re-certification

Re-certification extends the validity period of the certificate by another five years.

The main precondition for participation in a re-certification examination is a positive assessment of the certificate holder during the ongoing monitoring process, i.e. full proof of further training each year and a positive assessment of the appraisals requested as well as a positive assessment by any control audit carried out.

Re-certification must be applied for at the latest three months before validity of the certificate comes to an end. The certification body then fixes a date for an interview with the certified valuer, which will be along the lines of the oral certification examination and in which the valuer must prove that his level of expertise is in accordance with the current status in the area certified.

The re-certification examination takes 30 minutes. If the examinee holds several certificates, the duration of the examination is extended by 15 minutes per additional certificate.

The interview will deal with any new developments affecting the area certified, in accordance with the examination catalogue, as well as general valuation methods and the appraisals submitted during the ongoing monitoring process.

The main points of the examination are recorded in note form by the certification body.

The examination commission judges the applicant's performance in the oral examination and informs the applicant of the result after the examination (pass or fail).

If the oral examination has only been passed by a small margin, the examination committee can make the following recommendations and request additional documents:

- Re-certification reduced to one year
and/or
- Submission of one or several appraisals (if applicable with a focus on a particular aspect of valuation)
and/or
- Repeat examination (oral interview) at the latest after one year, whereby the applicant is not admitted to the examination until the new appraisals submitted are without deficiencies.

If the examination was judged "not passed", a repetition of the examination may be applied for. For this purpose, the applicant must submit another application as well as two appraisals (the aforementioned rules shall apply). The examination may be repeated only once and it must be held within one year after not passing.

After the repeat examination has been passed, the period is extended by the remaining four years.

Disciplinary measures

If a certificate holder breaches the rules of the certification body or does not fulfil the requirements made upon certified valuers in some other way (e.g. misuse of competence certificates), this must be followed up on by the certification body and its committees. The certification body reports any breaches or similar issues to the certification committee. The certification committee assesses how serious the breach is and its offices request a statement from the certified person. Depending on how serious the breach is, the certification committee will carry out the following measures:

- Warning
- Suspension of certification (withdrawal)
- Revocation of certification (nullification)

Suspension (withdrawal) and revocation (nullification) of certification must be announced within one month. The person concerned must be removed from the list of certified valuers.

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