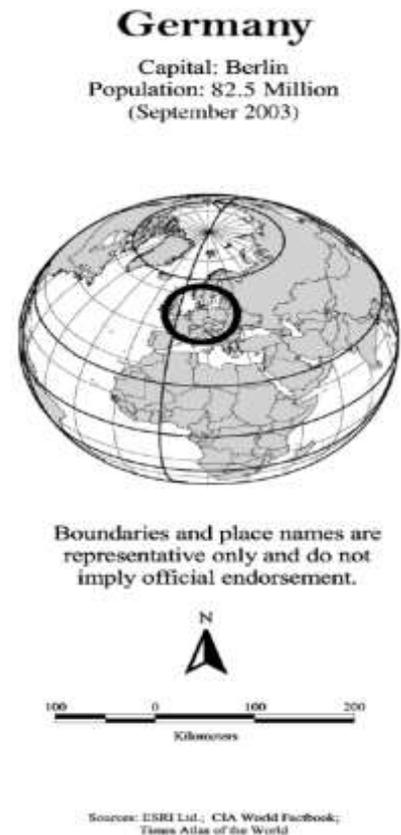


# Introduction to the German Federal System

Prepared by Sascha Tyler



## Overview of the country

<sup>1</sup>With a territory of 357,021 square kilometres and a population of about 82 million people, Germany is the largest and, with roughly 231 inhabitants per square kilometre, also one of the most densely populated countries in Europe. In economic terms, Germany is the largest country in the European Union (EU) and \*one of the largest in the world. Its gross domestic product (GDP) in 2012<sup>2</sup> amounted to US\$3.367 trillion, and the GDP per capita was US\$41,167. [...]

Compared to some other European countries, Germany's population is fairly homogeneous in cultural and linguistic terms. Historically, there have been only a few ethnic minorities (e.g., Danes in northern Germany, Frisians in the Northwest, and Sorbs in the East). Due to immigration from other EU countries and, to a greater extent, from countries outside the European Union, this population make-up has

<sup>1</sup> Forum of Federation Publication "Federal Republic of Germany" by Martin Burgi 2009 Page 138-139

<sup>2</sup> See International Monetary Fund: World Economic Outlook Database, October 2012

changed slightly. Today, some 90% of the people are ethnic Germans, whereas 7.4 million people come from foreign countries. About 53 million people profess to be Christian [...], and there are around 3.3 million Muslims, mostly of Turkish origin (1.8 million), 230,000 Buddhists and 90,000 Hindus. Largely on account of immigration from the former Soviet Union, the Jewish community has grown again in recent years; today, it amounts to roughly 108,000 people. However, this is still only about one-fifth of the German Jewish population before the Holocaust.

The political system established under the Basic Law has proven very stable. Two parties, the Christian Democrats (CDU/CSU) and the Social Democrats (SPD), usually each win between <sup>3</sup>20% and 45% of the total number of votes, whereas two smaller parties, the Liberal Free Democrats (FDP) and the Greens (Bündnis 90/Grüne), each attract between 5% and <sup>4</sup>15% of all voters. The CDU/CSU and the SPD have alternated in power in the federal arena as well as in the *Länder* (*The German States*). Apart from some local or *Land* elections, where they at times have won an absolute majority, major parties usually depend on a smaller party as a coalition partner.

Following reunification in 1990, the Party of Democratic Socialism (PDS) emerged as a newly leftist party, which had evolved from the Socialist Union Party (SED), the ruling communist party of the former German Democratic Republic; it continues to attract around 20% of voters in the East German *Länder* and is equally strong in local elections. In 2007 the PDS merged with the newly established Electoral Alternative for Labor and Social Justice (WASG) in the hope of forming a far-leftist party (Die Linke) with nationwide appeal. Their success in the federal election in 2005, in which both parties already cooperated, (8.7% of the votes) was one of the main reasons for the CDU/CSU and the SPD to form, for only the second time, a so-called “grand coalition” in the federal arena.

## **<sup>5</sup>History and Development of Federalism**

Federalism is one of the key features of the political system of Germany. This is based on historical foundations and was re-established in the post-World War II situation. Before political unification in 1871 (at which time the German Empire under Prussian leadership was established), “Germany” consisted of a patchwork of states. These states formed the “Old Empire” (*Altes Reich*) with a common institution, the so-called *Immerwährender Reichstag* (*Everlasting Parliament*) in Regensburg (1663–1806), composed of representatives of the respective territories. Its major features were power-sharing, bargaining and compromise-seeking. Following the dissolution of that Empire in 1806, 39 territories formed, under Napoleon’s protectorate, the *Rheinbund* (Rhine-Confederation) which was unwieldy and inefficient. The Vienna Congress in 1815 established the confederal *Deutscher Bund*

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<sup>3</sup> Number changed due to the Election of the Bundestag in 2009, as SPD gained only 23 percent of the votes.

<sup>4</sup> Number changed due to the Election of the Bundestag in 2009, as FDP gained 14.6 percent of the votes.

<sup>5</sup> Forum of Federation Publication Handbook of federal Countries: Germany (Country Profile) by Rudolf Hrbek 2005 Page150-153

(*German Confederation*), as successor of the Old Empire and with the Bundesrat (upper house) [...] as the supreme but weak institution.

Following a revolution in 1848, a constituent assembly (*Frankfurter Paulskirche = Church in Frankfurt*) established an alternative structure (a democratic federation similar to the American model, but again with much weight given to the executives from the participating entities). Due to the resistance of Austria and Prussia, however, this model could not be realized. Political unification was then achieved under Prussia's leadership in two subsequent steps:

In 1867 Otto von Bismarck formed the *Norddeutscher Bund*, which then developed into the German Empire, with the larger states in southern Germany as additional members.

The Empire was a federation of 25 states of which Prussia was the dominant entity. The states continued to possess considerable internal autonomy and formed the Bundesrat as the supreme sovereign institution representing the governments of the states. Federalism was characterized by the dominance of executives and public administrations, by the preservation of special features in the participating states, and by the lack of a single national centre.

After World War I, under the constitution of the Weimar Republic, the federal elements in Germany were weakened by strengthening the Reich authorities (President, government and *Reichstag* as Parliament) at the expense of the states, which were now called Länder. They were represented at the Reich level by the Reichsrat, the second chamber, composed of members of Länder governments (formed by political parties), in line with the executive-bias tradition of German federalism. Although the Reichsrat was weak, bargaining between the administrations of the Reich-government and the governments of the Länder continued to be the prevailing feature of decision making.

The totalitarian Nazi regime following thereafter (1933–45) abolished all remaining federal elements and established a highly centralized system. World War II ended with the unconditional surrender of Germany. At this time, there were no German authorities, not even at the local level. The USA, UK, Soviet Union and France took over all powers and responsibilities in the country. They agreed to divide German territory into four occupational zones and to dissolve Prussia. From 1946 Länder were established in all four zones under the supervision of the respective occupational power. These decisions, although not designed to prescribe the future territorial structure of post-war Germany in all details, had a major impact on its future development.

The Cold War deepened the gap between the Soviet and the three Western zones and made an agreement among all four powers on the future of Germany impossible. The three Western allies, after having merged their occupational zones for practical purposes, decided in summer 1948 to further stabilize the situation by establishing a German state in the area of the three zones they administered. In June 1948 they called upon the German authorities to prepare a constitution and demanded that its provisions should protect basic individual rights, be based on democratic principles, and introduce a federal structure. These requirements, a reaction to the centralized and undemocratic Nazi regime, were fully accepted by the German representatives. The federal structure was primarily expected to provide for

a system of checks and balances and, thereby, contribute to the principle of separation of powers, and strengthen democracy. The body to formulate the new constitution, designated the Parliamentary Council (*Parlamentarischer Rat*), was not a directly elected constituent assembly but rather was composed of representatives of the Länder Parliaments in the three Western zones (reflecting the strength of political parties in these Parliaments).

Although the Germans agreed on the establishment of a federal structure, the deputies in the Parliamentary Council disagreed on how to define the relations between the federal government and the Länder in terms of distribution of competences and allocation of powers. The solution laid down in the Basic Law (*Grundgesetz*) – this was the name of the new constitution which entered into force in May 1949 – can be regarded as a compromise, according to which the strength of the central authority was modified by the establishment of the Bundesrat. According to the Basic Law, the Bundesrat is composed of representatives of the Länder governments (in line with the historic tradition of its “predecessor” in the 1871 Empire), with considerable powers in the legislative process at the federal level. These provisions, however, did not determine ultimately and comprehensively the balance between the two levels. This was to emerge, to develop and to change in the course of the political development of the new West German state (*Bundesrepublik Deutschland* / Federal Republic of Germany (FRG)) in the following years.

The Soviet Zone was transformed into the German Democratic Republic (GDR / *Deutsche Demokratische Republik*), the second German state, with all the features of a communist regime. As early as 1952 the GDR adopted a centralist territorial structure by abolishing the five Länder which had been established after 1945 and replacing them with 15 administrative districts (*Bezirke*). This centralist territorial structure was in accordance with the dominance of the Communist Party – a real federal structure would have been incompatible with such a regime.

Although the federal structure of the FRG is protected against abolition by a special constitutional provision (Article 79.3) – the so-called “eternity clause” – territorial reform should be possible, since with the exception of Bavaria and the two city-states (Bremen and Hamburg) which have historic continuity, all other Länder were artificial creations. On the basis of a special constitutional provision (Article 118) three newly established Länder in the southwest of Germany (<sup>6</sup>Baden, Württemberg-Baden, and Württemberg-Hohenzollern) merged to become Baden-Württemberg in 1952. However, all subsequent efforts towards territorial reform – aiming at the formation of a smaller number of larger and stronger Länder – failed.

In 1957 the Saarland joined the FRG to become the eleventh Land, following the rejection by two-thirds of the electorate of a proposal to give this territory, under French control since 1945, a “European Statute” (which would have meant that it would adopt the special status of a “Europeanized” area rather than joining either Germany or France).

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<sup>6</sup> added information

Following the collapse of the Communist regime in the GDR, and in the context of the reunification process in 1990, the five original Länder were re-established and the reunified Germany now consists of 16 Länder (<sup>7</sup>former Laender: Bavaria, Baden-Wuerttemberg, North Rhine-Westphalia, Lower Saxony, Hesse, Hamburg, Bremen, Berlin, Rhineland-Palatinate, Saarland and Schleswig- Holstein: new Laender: Saxony, Saxony-Anhalt, Mecklenburg-Vorpommern, Brandenburg and Thuringia). An attempt to bring about a merger of Berlin and Brandenburg failed in a referendum held in these two Länder in May 1996, much to the disappointment of those who had hoped that a positive decision would increase the possibility of territorial reform throughout Germany. [...]

### **<sup>8</sup>Constitutional Provisions Relating to Federalism**

The Länder as constituent units of the FRG have the quality of states, with their own institutions. The constitutional order of the Länder has to conform to basic principles, such as basic human rights, democracy, rule of law and it has to provide for directly elected political representation of the citizens (Article 28). Each of the Länder has a parliamentary system of government, with a directly elected Parliament (with a four or five year legislative term) and a government accountable to it. The Länder constitutions differ, however, in terms of provisions on special aspects of the governmental system, such as referendums, government formation procedures, provisions on motions of non-confidence or votes of confidence, individual accountability of ministers, etc. There are also differences concerning rights; in the constitutions of the five new Länder we find, for example, provisions on both basic human rights and social rights (including employment, environment, housing, education, etc.).

According to the “eternity clause” in Article 79.3 the federal system as such must not be abolished. Territorial reform is, however, possible which means that there is no guarantee of the existence or territorial integrity of individual Länder. The Basic Law envisages two procedural routes for territorial reform: a very complicated procedure (Article 29) which is seen as a barrier to reform; and a clause (following the model of Article 118 for reform in the German southwest, as mentioned earlier) relating to the special case of Berlin and Brandenburg (Article 118(a)), allowing territorial reform via bilateral agreement, including a referendum in both Länder.

The constitution sets out the division of legislative powers between the federation and the Länder. Matters falling into the exclusive jurisdiction of the federation are listed in Article 73. Matters falling into concurrent jurisdiction are listed in Article 74, and matters for which the federation has the right for framework legislation are in Article 75 (a framework law gives only a general outline and requires subsequent Länder legislation, thus allowing the Länder to decide on details). Article 72 sets out conditions under which the federation may legislate in matters falling into concurrent jurisdiction, namely “if and to the extent that the creation of equal living conditions throughout the country or the maintenance of legal and economic unity makes federal legislation necessary in the national interest.” Article 70 stipulates that “the Länder have the right to legislate insofar as this Basic Law does not confer

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<sup>7</sup> added information

<sup>8</sup> Forum of Federation Publication Handbook of federal Countries: Germany (Country Profile) by Rudolf Hrbek 2005 Page 154-156

legislative powers on the Federation.” Their exclusive competencies are, however, restricted to issues in connection with their own constitutions and related to the local level, to the organization of the administration, and to matters relating to police and public order, culture, the media and education.

It is a feature of German federalism that the Länder are responsible for implementing federal legislation in their own right (Article 83). There are very few examples of direct federal administration (matters such as foreign services, the army, border control, air traffic, waterways, inland navigation and federal finances including customs are under direct federal administration).

The Länder participate in federal legislation via the Bundesrat (Upper House). It is composed of members of the Land governments, and the number of votes varies as follows: each Land has at least three votes; Länder with more than two million inhabitants have four; Länder with more than six million inhabitants five; and Länder with more than seven million inhabitants six votes (Article 51.2). The votes of each Land have to be cast uniformly (in practice as a block vote by one Land government member) and cannot be split. Participation in federal legislation applies, first, to the right of the Bundesrat to initiate federal legislation and submit a bill, as do the Bundestag (Lower House) and the federal government. Second, each bill, after having been adopted by the Bundestag, has then to be submitted to the Bundesrat. There are two categories of laws: those which require the explicit consent of the Bundesrat, with a majority of its votes; and those which do not. This second category gives the Bundesrat a suspensive veto which, after a limited period of time, can be overruled by the Bundestag with an absolute majority (or two-thirds majority if two-thirds of the Bundesrat votes have been cast against). The major criteria for laws requiring approval in the Bundesrat are that the law would affect administrative powers of the Länder (they have to implement federal legislation) or have financial implications for the Länder. More than half of all federal legislation fell into this category until 2006.

The constitution provides, in this context, for a special mediation procedure – the “Mediation Committee” (*Vermittlungsausschuss*) – which is composed of an equal number of members from the Bundesrat (16, one for each Land government) and the Bundestag (16, selected according to party strength). The function of the committee is to find a consensus which is submitted to both Houses for approval. This Mediation Committee can be called upon by the Bundesrat, the Bundestag and the federal government.

In terms of financial arrangements, the constitution provides that the most important tax revenues are shared between the federation and the Länder. Thus income and corporate taxes are shared half and half, and the Value-Added Tax (vat) is shared in a ratio which has to be adjusted every three years by federal legislation requiring Bundesrat approval. Other tax revenues are apportioned either to the federation (e.g., excise duties) or the Länder (e.g., property, inheritance, motor vehicle and beer taxes). Of particular importance are mechanisms and measures of financial equalization between the federation and Länder and, horizontally, amongst the Länder themselves.

Constitutional disputes, amongst them those related to the federal system, are resolved by the Federal Constitutional Court (*Bundes-verfassungsgericht*), upon

appeal by one of the disputing parties. The Court consists of 16 members elected (2/3 majority) by an electoral body composed jointly of members of the Bundestag and Bundesrat. In its decisions, the Federal Constitutional Court has repeatedly formulated and confirmed the principle of federal comity (*Bundestreue*) which is seen as representing a basic feature of the German federal system, even if there is no explicit clause in the constitution. This principle obliges the federation and Länder to consider, when conducting their affairs, the concerns of the other side.

## <sup>9</sup>Local Government

Local authorities are considered a constituent part of the *Länder*; thus, in legal terms, they are not a separate order of government in the federal system. Local authorities and their right to self-government are constitutionally recognized in principle in Article 28(2). However, local autonomy is granted only “within the laws”; therefore, it is subject to limitations by federal and *Land* legislation. Furthermore, as local authorities are considered a constituent part of the *Länder*, they possess a hybrid character; they serve not only as self-governing units but also, depending on the issue at hand, as the most subsidiary unit of *Land* administration. In this capacity, they are used to implement federal and *Land* legislation. In fact, most administrative tasks and services with direct implications for citizens are administered by local authorities. This sphere of delegated responsibilities (delegated sphere) has grown continuously over the years. However, as administrative duties have increased, local government resources have become strained. In particular, with the expansion of the welfare state, local governments have had to assume increasing responsibilities for providing (costly) social welfare services, leaving fewer assets for actual self-government. Not surprisingly, finance is one of the top issues for local governments.

[...]

<sup>10</sup>In Germany local government is administered through counties and municipalities. No areas fall directly under federal or *Land* rule; the entire country is subject to local government. However, as jurisdiction over the organizational powers of local authorities lies with each of the sixteen *Länder*, “local government” may come in different shapes; this is particularly true for its internal organization but may equally be said of its precise powers and responsibilities. Nevertheless, some general trends may be discerned. Large municipalities with more than 100,000 citizens are usually assigned the status of “independent city” (i.e., “county-free”). Because of their size, these municipalities can offer public services through the city administration as a single unit. In rural areas, by contrast, public services are provided by counties as well as by their constituent (smaller) municipalities. Again, the precise division of duties between counties and their municipalities is laid down in *Land* statutes and may therefore vary. As a general rule, the division of responsibilities depends on the capacities of the individual local unit; for reasons of administrative efficiency, counties will regularly assume the execution of duties that cannot be handled effectively by their constituent municipalities. For instance, hospitals will usually be run by the county, whereas administrative duties, such as residential citizen

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<sup>9</sup> Forum of Federation Publication “Federal Republic of Germany” by Martin Burgi 2009 Page 137-138

<sup>10</sup> Forum of Federation Publication “Federal Republic of Germany” by Martin Burgi 2009 Page 140-142

registration, may remain with the constituent municipalities. Very small municipalities have become rare as repeated territorial reforms have redrawn municipal boundaries and amalgamated these communities with adjacent (larger) municipalities (through a process termed *Eingemeindungen* = *incorporation of one local authority by another*) in an effort to increase the administrative capacities of individual local units. From a functional perspective, counties could be described as the rural-area equivalent to independent cities. Overall, there are roughly 12,241 municipalities, only 116 of which are “county-free” independent cities, whereas the overwhelming majority are constituent municipalities of the 313 counties. [...]

The concept of local self-governance [...] implies the general competence of local authorities to attend to all affairs of importance to the local community (so-called *Allzuständigkeit*, or general competence). This means that, in principle, local authorities may (and are supposed to) attend to all issues of local importance.

As this concept of *Allzuständigkeit* is a main characteristic of local governments, there is no such thing as “single-purpose” local governance. Nonetheless, local authorities may, of course, agree among themselves to join forces and create joint administrative units to serve just *one* purpose, in what is called *interkommunale Zusammenarbeit*. For instance, they may, having regard to capacity and cost effectiveness, share their resources and establish a joint administrative body to take care of sewage and/or waste disposal. Such joint administration is particularly common between smaller communities but is equally practised within larger conurbations, as well as between counties and independent cities. However, it is important to emphasize that such joint administrative units have no right to self-government because only their constituent members are considered “local government” in the constitutional sense; only they enjoy local autonomy.

As regards metropolitan regions, one has to distinguish Berlin, Hamburg, and Bremen, which are historical peculiarities because they have always been recognized as *Länder*. However, all three city-states possess institutions and administrative structures that are somewhat similar to those of municipalities. Berlin, for instance, possesses the institutions of mayor and senate, which constitute the *Land* executive, and the so-called house of representatives (*Abgeordnetenhaus*), which is the *Land* parliament.

However, due to Berlin’s double nature as a city-state, the mayor, senate, and the house of representatives equally serve as “local government”; in fact, there is no separate level of local government apart from the said institutions because Berlin’s famous districts (*Bezirke*) are mere subdivisions of the main city-state administration and have no legal personality of their own. Due to their double nature, city-states may, at times, serve as important mediators in political debates between local governments and the *Länder*.

[...]

## Recent Political Dynamics

<sup>11</sup>There are three issues which have substantial implications for German federalism: the consequences of reunification; the challenge of European integration; and initiatives towards a comprehensive reform of the federal system.

Reunification has increased the economic and financial disparities amongst the Länder. This has had the result that weaker Länder are more dependent on the federation and thus the federation could win additional weight, which could have consequences for the overall federal balance. Furthermore, the system of horizontal financial equalization (*horizontaler Finanzausgleich*) has been affected by the widening gap. All five new Länder – Brandenburg, Mecklenburg-Vorpommern, Sachsen, Sachsen-Anhalt and Thüringen – belong to the group of net receivers, with consequences for previous net-receivers (they may become net-payers or, at least, suffer some losses) and the “traditional” net-payers (their burden, transfer payments, may grow).

And, finally, the party system in the five new Länder differs from the pattern in the “old” Länder, [...] as mentioned earlier. This has had consequences for coalition patterns (SPD with die Linke<sup>12</sup>, or grand coalitions, if one party cannot form a majority on its own) which has an impact on political developments in German politics as a whole.

The deepening process of European integration has posed a persistent challenge to the legal status of the Länder and therefore to the federal structure of the FRG. The first challenge arises from the fact that the European Union (EU) has extended its functional scope considerably which means that EU activities fall into areas which have been reserved to the Länder in the internal allocation of competencies. The second challenge has arisen from the modalities of EU decision making. In the EU, the Council of Ministers is the most important decision making and legislative body, and Germany is represented in the Council by the federal government. This means participation of the federal government in decisions in fields belonging to the exclusive competence of the Länder. The third challenge lies in the field of implementation of European legislation in Germany; this is primarily the responsibility of the Länder which until recently had no opportunity to influence the legislation and thus saw themselves under a strong degree of control by the federal government.

The Länder have reacted to this challenge successfully. First, they established in 1992–93 (in the new Article 23, supplemented by the “Law on the Cooperation of Federation and Länder in Affairs of the EU”) rights of participation in dealing with EU matters at the domestic level. The federal government now has to consider Länder concerns, formulated by the Bundesrat, and in matters which fall under the exclusive competence of the Länder, is even obliged to hold to the Bundesrat view. A further transfer of sovereign powers when this would alter the content of the Basic Law requires a two-thirds majority in support of the measure in the Bundesrat. Second, the Länder have established and developed autonomous EU activities (e.g., setting up representatives in Brussels and lobbying directly). Finally, they have acquired the

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<sup>11</sup> Forum of Federation Publication Handbook of federal Countries: Germany (Country Profile) by Rudolf Hrbek 2005 Page 156-159

<sup>12</sup> Party name changed, as PDS joined with WASG to become die Linke

right to participate formally and directly in the decision-making process at the EU level. They are represented in the Committee of the Regions established in 1993 (in an advisory capacity only), and they can represent Germany in the Council when matters falling under their jurisdiction are on the agenda. In addition, the new Article 24.1(a) allows the Länder to transfer (subject to federal government consent) sovereign powers to cross-border institutions insofar as the Länder have the competence in the policy fields concerned.

On the whole, the position of the Länder has been strengthened. This is illustrated by the fact that two Länder representatives have participated in governmental conferences (Amsterdam 1996 and Nice 2000) on reforms of the EU-treaties; and that the Bundesrat and Bundestag were represented by one member each in the convention on the EU constitution in 2002/2003.

The thorough and substantial reform of federalism has been on the political agenda since the 1980s with the Länder – amongst them primarily the stronger ones – pushing towards “competitive federalism” (*Wettbewerbsföderalismus*) instead of “participatory federalism” (*Beteiligungsföderalismus*). They demand an increase in their autonomous competencies, combined with the reduction of federal level activities (e.g., in the areas of concurrent and framework legislative powers). Second, they are interested in further extending their freedom of manoeuvre in cross-border activities and “external” relations. Here they refer to functional needs in connection with the EU “Internal Market” policy (i.e., abolish internal economic borders and create a unified market for all EU member countries) and the new geographical centrality of Germany with a larger number of neighbouring countries in an enlarging EU. The third topic, which is very controversial amongst the Länder themselves but vis-à-vis the federation as well, has to do with the financial system. The stronger Länder (as net-payers) are trying hard (by appealing to the Federal Constitutional Court and through political negotiations aiming towards a consensual new equalization system) to reduce their burden. The weaker Länder (as net-receivers) insist on solidarity both from the federation (which they expect to allocate additional resources to them in connection with extending their legislative autonomy) and from the stronger Länder, and believe that financial equalization, even if reduced, should continue. Since all changes would affect vested interests, one can only expect modest reform.

[...]

<sup>13</sup>[...] The first phase of federalism reform (in 2006), which was aimed at better federal and Länder decision-making ability, a clearer division of responsibilities and greater efficiency in carrying out tasks, is one of the most extensive changes ever made to the Basic Law. A total of 25 articles were amended, deleted or added.

<sup>14</sup>In essence, the first phase of reform covered the following areas:

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<sup>13</sup> Text from the German Federal Ministry of the Interior website:  
[http://www.bmi.bund.de/EN/Themen/PolitikGesellschaft/VerfassungVerwaltung/Foederalismusreform/Foederalismusreform\\_node.html](http://www.bmi.bund.de/EN/Themen/PolitikGesellschaft/VerfassungVerwaltung/Foederalismusreform/Foederalismusreform_node.html)

<sup>14</sup> Based on the Text from the German Federal Ministry of the Interior website:  
[http://www.bmi.bund.de/EN/Themen/PolitikGesellschaft/VerfassungVerwaltung/Foederalismusreform/Foederalismusreform\\_node.html](http://www.bmi.bund.de/EN/Themen/PolitikGesellschaft/VerfassungVerwaltung/Foederalismusreform/Foederalismusreform_node.html)

- a reduction of required consent from the Bundesrat on federal law-making
- A reduction of framework legislation and more legislative power for the Bundesrat in certain areas like education
- Clear designation of financial responsibility, for example by reducing mixed financing arrangements between the Federation and the Laender [...] or strengthening regional tax autonomy.

[...]

After the first phase was completed, the financial relations between the Federation and the states were also to be modernized in a second phase of reform (2009) [...]. The proposed reforms were intended to give local governments greater responsibility and financial resources sufficient for their tasks.

[...]

The central element of the reform is improving constitutional limits on borrowing by the Federation and Laender. [...] Amendments in the area of administration were primarily intended to give more responsibility to territorial authorities and improve productivity by streamlining and coordinating tasks and standardizing and improving cooperation.

[...]

### **Tables of the relations between the federal and the state governments**

<sup>15</sup>Table 1 summarizes de jure legislative responsibility and actual provision of services by the three different spheres of government. The EU is included in order to show which kinds of responsibilities have been fully adopted by that organization. The shared responsibilities in Germany's federalism that result from the distinction between legislation and execution become obvious (e.g., in health policies that are executed by all three spheres of government, with a predominant federal legislative responsibility). Other functions, like road construction, are split between all three spheres, with federal responsibility for federal roads. But these functions are executed by the Länder, with Land responsibility for Land roads and local responsibility for local roads. This area is even more complicated by the provision of subsidies that induce additional changes in decision-making power. The shared responsibilities of the three spheres of government on the spending side are evident in Table 2 (calculated according to administrative tasks). [...]

<sup>16</sup>Table 1 shows the legislative responsibility and provision of services by different spheres of government from 2007:

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<sup>15</sup> Forum of Federation Publication Federal Republic of Germany by Lars P. Feld and Juergen von Hagen 2007 Page 135

<sup>16</sup> Forum of Federation Publication Federal Republic of Germany by Lars P. Feld and Juergen von Hagen 2007 Page 136

Legislative responsibility and actual provision of services by different spheres of government

<i>Legislative responsibility (de jure)</i>	<i>Public service</i>	<i>Executive responsibility</i>
Federal/land/local		Federal/land/local
EU	Monetary policy	EU
EU	Customs	EU
Federal	Defence	Federal
Federal	Foreign affairs	Federal
Federal	Citizenship	Federal
Federal	Customs	Federal
Federal	Rail and air transport	Federal
Federal	Post and telecommunication	Federal
Federal	Social security	Federal/Land
Federal	Health including health insurance and local health facilities	Federal/Land/Local
Federal	Social assistance (supplementary welfare)	Federal/Land/Local
Federal	Waste disposal	Local
Federal/land joint task	Regional economic policy	Land
Federal/land joint task	Coastline preservation	Land
Federal/land joint task	Agricultural policy	Land
Federal/land joint task	Publicly funded research	Federal/Land
Federal/land	Environmental protection	Land
Federal/land	Water supply	Local
Federal/land	Sewerage	Local
Land	Law and order	Land
Land	Culture	Land
Land	Schools and education	Land
Land	Universities	Land
Local	Local roads	Local
Local	Sports and recreation	Local
Local	School construction	Local
Local	Public housing	Local

<sup>17</sup>Table 2 shows the direct expenditures by function and sphere of government in 2007:

<i>Function</i>	<i>Federal (%)</i>	<i>Land (%)</i>	<i>Local (%)</i>	<i>All (%)</i>
Defence	100	0	0	100
Debt servicing	77	19	4	100
General administration	19	29	52	100
Law and order	11	60	29	100
Schools	0	80	20	100
Universities	10	90	0	100
Other education	20	56	24	100
Science and research	72	26	2	100
Social security	65	13	22	100
Health, environment, sports, and recreation	7	40	53	100
Housing, urban development, regional planning	16	47	37	100
Local public services I <sup>1</sup>	0	4	96	100
Subsidies	39	51	10	100
Traffic and communication	44	26	30	100
Public enterprises	63	13	23	100
<i>Total</i>	47	37	17	100
Local public services II <sup>2</sup>	11	53	36	100

<sup>17</sup> Forum of Federation Publication Federal Republic of Germany by Lars P. Feld and Juergen von Hagen 2007 Page 137

<sup>18</sup>The following table shows the tax assignment for various orders of government from 2007:

	Determination of			Shares in Revenue (%)				
	Base	Rate	Tax collection and administration	Federal	Land	Local	All orders	
<i>Federal</i>								
Mineral oil tax	Federal	Federal	Federal	100	0	0	100	
Tobacco tax	Federal	Federal	Federal	100	0	0	100	
Spirits tax	Federal	Federal	Federal	100	0	0	100	
Sparkling wine tax	Federal	Federal	Federal	100	0	0	100	
Intermediate good tax	Federal	Federal	Federal	100	0	0	100	
Coffee tax	Federal	Federal	Federal	100	0	0	100	
Insurance tax	Federal	Federal	Land	100	0	0	100	
Electricity tax	Federal	Federal	Land	100	0	0	100	
Solidarity levy	Federal	Federal	Land	100	0	0	100	
<i>State or provincial</i>								
Property (wealth) tax	Joint Federal/land	Joint Federal/land	Land	0	100	0	100	
Inheritance tax	Joint Federal/land	Joint Federal/land	Land	0	100	0	100	
Real estate purchase tax	Joint Federal/land	Joint Federal/land	Land	0	100	0	100	

<sup>18</sup> Forum of Federation Publication Federal Republic of Germany by Lars P. Feld and Juergen von Hagen 2007 Page 141-142

The following table shows the tax assignment for various orders of government (continued):

	<i>Determination of</i>		<i>Shares in Revenue (%)</i>				
			<i>Federal</i>	<i>Land</i>	<i>Local</i>	<i>All orders</i>	
	<i>Base</i>	<i>Rate</i>	<i>Tax collection and administration</i>	<i>Federal</i>	<i>Land</i>	<i>Local</i>	<i>All orders</i>
Motor vehicle tax	Joint Federal/land	Joint Federal/land	Land	0	100	0	100
Betting and lottery tax	Joint Federal/land	Joint Federal/land	Land	0	100	0	100
Fire protection tax	Joint Federal/land	Joint Federal/land	Land	0	100	0	100
Beer tax	Joint Federal/land	Joint Federal/land	Land	0	100	0	100
<i>Local</i>							
Business tax	Joint Federal/land	Local	Land/Local	4.4	15.4	80.2	100
Real estate taxes	Joint Federal/land	Local	Land/Local	0	0	100	100
<i>Shared taxes</i>							
Personal income tax	Joint Federal/land	Joint Federal/land	Land	42.50	42.50	15	100
Interest rebate	Joint Federal/land	Joint Federal/land	Land	44	44	12	100
Corporate income tax	Joint Federal/land	Joint Federal/land	Land	50	50	0	100
VAT	Joint Federal/land	Joint Federal/land	Land	49.50	48.40	2.10	100

