

Federal Republic of Germany

(Bundesrepublik Deutschland)



Capital: Berlin

Inhabitants: 82.210.000 (2007)

Area: 357.021 km²

1. Introduction



Within the German federal and highly decentralized political system, the municipalities (*Gemeinden*), the district-free cities (*kreisfreie Städte*), and the districts (*Kreise*) enjoy a constitutional guarantee as institutions of local government or, put in the traditional German parlance, “local self-administration” (*kommunale Selbstverwaltung*). This implies the right of the municipalities (and to a somewhat lesser degree of the districts (*Kreise*) “to attend all matters relevant to the local community in their own responsibility within the frame of the existing legislation” (Art. 28, paragraph. 2 Basic Constitutional Law). This “general competence clause” amounting to an “all purpose” model (*Allzuständigkeit*) mirrors a historical path dependency that dates back to the early

19th century, when the municipalities were recognized and mandated as functionally strong, multi-purpose organisations.

Until today, a peculiar feature of the German model can be perceived in the fact that both “delegated” state tasks and local self-administration functions are institutionally integrated at the local level. With particularly the districts and the district-free cities (*kreisfreie Städte*) embodying and carrying out this “dual function” model standing, the districts in most German States (*Länder*) also serve, with regard to some of the “delegated” functions, as serving as “bottom level State administration” operated, at least formally, outside the local self-government scheme. This functionally strong model of “local self-administration”/local government was further strengthened in the course of the 1970s when, resulting from territorial reforms (showing considerable variance between the Federal States - *Bundesländer*), demographically and territorially enlarged units of local authorities emerged which provided the ground for so called functional reforms, that is, for further devolution of State functions to the local authorities (see below).



2. Territorial structure

The German local government system is characterized by a two-tier structure within which cities and municipalities serve as the bottom (local) level of self-administration whereas the districts are the upper (supra-local) tier – with the district-free (that is, standing outside district boundaries) cities (*kreisfreie Städte*) combining the municipal and the district functions. During the late 1960s and early 1970s the States to whose power it constitutionally falls to decide the territorial format of “their” municipalities and districts embarked upon territorial reforms which, reflecting their individual responsibility, showed significant variance between the States (for details see Wollmann 2004). In some States (for instance Bavaria, Baden-Württemberg, Rheinland-Pfalz, Schleswig Holstein) which refrained from large-scale amalgamation of municipalities, inter-municipal cooperative bodies (*Verwaltungsgemeinschaften*) were created as an additional institutional layer between the districts and the municipalities, meant to serve as administrative “muscle” of their “member” municipalities. Whereas the northern German federal States (for instance *North Rhine Westphalia* with 373 municipalities embracing 48,000

inhabitants on the average) belong to what has been called the North European type of local government structures, the Southern German States (*Länder*) which largely retained their small scale and fragmented structure of the municipalities are closer to the South European model.

By the end of the 1990s further attempts at territorial reform have been undertaken in East Germany. Those were meant to overcome the atomised structure of local government through amalgamations of municipalities. For example, in the course of the territorial reforms in Brandenburg, the number of municipalities has been reduced from 1,793 (including 1,169 municipalities with less than 500 inhabitants) in 1990 to 419 in 2004. Similar steps have been pursued in Thuringia where after the completion of a voluntary period, during which the number of municipalities had been cut down from 1,717 (1990) to 1,179 (1996), legislations for redrawing local government boundaries have likewise come into force. Similarly, the voluntary period for Saxony expired in 1998.

3. Local Democracy

The German local system was traditionally characterized by a predominance of representative democracy with the directly elected council and an indirectly elected mayor – with the important exception of the “South German” *Länder* (Bavaria and Baden-Württemberg) that introduced the directly elected (executive) mayor as early as in the 1950s. In the early 1990s, in a conspicuous sequence of amendments to their municipal statutes¹ all *Länder*

Table 1: Territorial Structure of local government in Germany (2002)

Level	Number	Average population
Districts (<i>Kreise</i>)	323	256.000
District-free cities (<i>kreisfreie Städte</i>)	117	Not avail.
Intermunicipal Cooperation-bodies	1708	Not avail.
Municipalities	13299	6.000

Source: Kuhlmann 2008 (with further references)

¹ Up to the 1990's, four models of municipal charters were used to be distinguished: „Norddeutsche Ratsverfassung“, „Süddeutsche Ratsverfassung“, „Rheinische Bürgermeisterverfassung“ and the „Unechte Magistratsverfassung“.



introduced binding local referendums² and direct election of the mayor (Wollmann 2005). While the local population now may, via local referendum, address all "local matters", local budgetary and internal organisational matters of local administration, as an important exception, are not eligible for local referendum (for current data see Vetter 2006).

As a consequence of these reforms, there has been a general trend of convergence to the „*Süddeutsche Ratsverfassung*“ (see fn. 2) with the directly elected mayor being the leader of the council as well as the executive head of the local authority (for details see Wollmann 2008a). These developments mark an, as it were, constitutional rupture with historic tradition especially in the Northern German *Länder*, the municipal charters of which had largely been influenced by the British local government system. Recent studies reveal that the introduction of the directly elected mayor has strengthened his role as executive leader, whilst the former predominance of political parties in the local arena has significantly shrunk (Bogumil 2001). At the same time, the municipal councils appear to have lost influence in the local politico-administrative system.

4. The central/local relations and representation of local interests

The position of two-tier local government level, that is, of the municipalities and of the districts, in Germany's intergovernmental setting is marked by some ambivalent, if not contradictory features. Germany's federal system consists, in constitutional terms, of two layers, to wit, of the federal level (*Bund*) and the (16) States (*Länder*) while the

municipalities and districts are, in terms of constitutional law, regarded as institutionally belonging to the organisational body of the *Länder* (with the exception of Berlin, Hamburg and Bremen which, under the Federal Constitution, have the status of so called "*Stadtstaaten*" (City States) that is of entities which combine the status of municipalities with the constitutional status of *Länder*. In practical and functional terms, however, the municipalities constitute a "third" layer and level by which the bulk of public tasks (including most of the pertinent legislation; see below) are carried out. This primacy of the two-tier local government structure in its key role to implement and "deliver" public policies is also evidenced and supported by the fact that, under the Federal Constitution of 1949, the federal level is not allowed, with only a few exceptions, to have field office of its on the *Länder*, regional or local levels. In a similar vein the *Länder* have largely refrained from establishing their own field offices on the sub-regional or local levels in leaving most public tasks to be carried out by the local authorities.

The scope and plenty of tasks of the municipalities and districts, be it local self-government responsibilities proper or "delegated" state functions, point at, and substantiate the strong functional standing which local government has in the intergovernmental setting. In fact, in internationally comparative terms, because of the combination of political and functional strength to which, at least in most *Länder* with marked territorial reforms, the criterion of "territorial viability" may be added, the German local government model can be counted among the strongest types of local government in Europe, besides the Scandinavian countries, particularly Sweden (see Wollmann 2008b). This functional and administrative strength is mirrored by the comparatively high percentage of local

² Prior to the reforms, Baden-Württemberg was the only Land to provide, since the mid-1950, for referendums.



employees out of total public employment, although with a clearly decreasing tendency during the last years (see table 2).

Yet, the autonomy of the local government units in carrying out their tasks, including the local government tasks proper, has been restricted and constrained in sundry crucial dimensions. First, Germany's local government level has been marked by a dense (and ever denser) array of regulations the layers and "cascades" of which are made up of federal legislation, *Länder* provisions and more recently European Union norms. Besides Germany's *Rechtsstaat* tradition, a main driver for the growth and persistence of regulation comes from the peculiarity that, under the German Constitution, the federal level is not allowed to have regional or local field offices of its own to organizationally ensure the implementation of federal legislation and policies and, thus, resorts, to often detailed, if not over-detailed legal regulation as a crucial resource to direct and control implementation (see Wollmann/ Bouckaert 2006). A further dimension crucially impinging on central government/local government relations is the kind of supervision which the State, that is in the German case first of all the Land authorities exercise over the decisions and activities pursued by the local authorities. In fact the type of "delegated" tasks has the potential to "integrate" the local authorities into the State structure to the point of turning them

into "local agents of the State".

For the advocacy and representation of their interests in intergovernmental policy-making the local authorities have traditionally established three separate organisational structures: the big and larger cities the German Cities Association (*Deutscher Städtetag* with 5.700 cities), the middle-size and small municipalities the German Town Association (*Deutscher Städte- und Gemeindebund* for some 13.000 municipalities) and the districts the German District Association (*Deutscher Landkreistag* for 323 districts). In accordance with the overall federal structure each of the three associations is organised on the federal as well as on the *Länder* levels. They are financed by contributions from their members. Both on the federal and the *Länder* levels the local government associations are regularly involved in the legislative process as all legislative drafts (of the Federal Parliament as well as of the respective *Land* parliament) which are submitted to them for comments and consultation at an early stage of the legislative process.

5. Responsibilities/ functions of local government

Compared with other local government systems, German local government is well-known for its multi-function model and an unusually broad range of duties and responsibilities discharged by the cities,

Table 2: Local Public Employment in Germany

Local Employees 2003 (in 1.000)	Local Employees as % of Total Public Employment 2003	Local Employees per 1.000 inhabitants 1991	Local Employees per 1.000 inhabitants 2003	Reduction of Local Public Employment 1991-2003	
				1.000	%
1447	30,0	24,8	17,5	-549	-37,9

Source: Kuhlmann 2008 (with further references)



municipalities and districts. This reflects a main feature of the German constitutional and administrative tradition within which legislation is "centralized" at the federal level, whereas public administration and policy implementation, including the execution of federal laws and policies, falls to the *Länder* and particularly to the communes. According to estimates, approximately 70 to 85 percent of federal and State laws (as well as most of EU legislation) is executed by local governments. Local governments have been, from the 1960s onwards, discharging a growing number of tasks, which previously fell to the *Länder*-administration. This applies particularly to public welfare and health policy, but also to public housing and environment protection. Today, the main function of local governments are to be seen in welfare policy, especially in child and youth care, care of old, frail and disabled persons, in building and housing policy, urban planning ("*Bauleitplanung*") and public transport. We must, however, take into account that a considerable part of local welfare services (e.g. kindergartens, care for the elderly, youth hostels) are not rendered by public agencies but – according to the "subsidiarity principle" – by non-public organisations, thus limiting the municipal sector, in principle, to an "enabling" (and funding) function.

6. Local government finances

The German local governments finance their expenditures on the one hand by tax revenues that account for roughly 7% of the entire national tax revenue (72% taxes within the "revenue sharing system" (*Gemeinschaftssteuern*), 16% Federal taxes, 4% State taxes) and on the other hand by allocations of *Länder* governments. The proportion of revenues that derive from taxes (including the local government shares of the purchase and

income tax) only accounts for 34% of the entire local government income. Additionally, one has to bear in mind that local governments have no influence on the purchase and income tax levied by the Federation and the *Länder* within the "revenue sharing system". Therefore it should not be considered as "own" tax revenue. Against this background the percentage of "own" tax revenues is, compared to other OECD countries, quite moderate revealing that local governments' discretion is comparatively low - at least in terms of funding through own taxes. Hence, German local governments are on the one hand discharging a broad range of duties and responsibilities. On the other hand, they are severely restricted in the discretion by financial and legal constraints set by the state at Federal and *Länder* level.

Table 3: Structure of Local Government Revenues in Germany 1996

Type of Revenue	Amount/ Share of Local Government Revenues	
	Amount	Share In %
Tax revenues	79,50	34,3
State Allocations	51,37	22,1
Investment Allocations	11,73	5,1
Credits	4,54	2,0
Other*	84,91	36,6
Total Local Government Revenues	232,05	100,0

Source: Karrenberg/ Münstermann 2002; calculation by the authors



Table 4: Local government outlays as a percentage of the GDP (2001)

Level	Public Outlays 2001 in billions of EURO	Outlays as a percentage of the GDP* in %
Länder	255,5	12,3
Local governments	147,9	7,1
Federation	265,7	12,8
Entire National Budget	957,0	46,2

Source: Stat. BA 2002; calculation by the authors

In previous years, local spending has increased significantly while income has shrunk (losses in local business tax; Karrenberg/ Münstermann 2002: 14 f.). This development is mainly due to growing expenditures in the field of local welfare policies with the communes being responsible for financing and paying social assistance. At the beginning of the 1990s German communes already had a budgetary deficit of about 4.2 billion EURO (1992) which has continued to increase into the beginning of the new century (2002: 4.9 billion EURO; see Karrenberg/ Münstermann 2002).

7. Local Employment

The employment status, career structures and qualification requirements for public servants are (still) uniform across different German *Länder*, which reveals the typical inclination to what has been called "unitary federalism"³. Human resource

³ With the aforementioned constitutional reform (see fn. 1) major legislative competencies have been devolved to the *Länder* to decide on "their" civil servants (e.g. on payment). Accordingly, more variety between the *Länder* can be expected in the time to come, thus challenging the traditionally quite uniform German civil service system. This concerns the *Länder* as well as the local servants.

management in German municipalities is restricted by a large number of Federal and *Länder* regulations on civil service law matters restricting the "personnel sovereignty" (*Personalhoheit*) of the communes (Kuhlmann/ Röber 2006). Even so, significant decisions on local personnel matters (recruitment, promotion, dismissal etc.) fall under the responsibility of the municipality as local employer.

Local public employment is marked by some peculiarities compared to the *Länder* and Federal level (see Kuhlmann 2007a; Kuhlmann/ Bogumil 2007). The traditional dual status system (civil servants/*Beamte* vs. public employees/*Angestellte*), which characterizes the German Civil Service in general, has become less and less important. The share of local civil servants is remarkably low and has shrunk further since reunification (to 12% in 2002; by contrast: 64% at the federal and 58% at the *Länder* level; Kuhlmann 2007a). This can be explained in the way that local administration's tasks have predominantly service character and the so called "*Hoheitsaufgaben*" which require civil servants play a minor role. In general, the dual employment structure has become less appropriate and relevant, since the boundaries between the two categories of service law have become increasingly blurred in practice.

Due to the unprecedented transformation process in East Germany, local government development in the last decade has differed from West Germany. In East German communes, public employment soared dramatically following reunification, in some large cities to as much as 5.000 or even 10.000 employees. This primarily refers to the fact that the social and cultural facilities of the former GDR, which had been managed by state institutions or nationally owned enterprises, were now (re) transferred to the local authorities ("recommunalised"). As a result, East



German municipalities (and districts) had significantly more public personnel than their West German counterparts. Thus, in 1991, the "personnel density" of East Germany local authorities amounted to 42 public servants per 1.000 inhabitants and was, thus, double of that in West Germany (21). In the subsequent period, both West and East German public authorities were increasingly faced with budgetary problems and the need to cut back public spending and personnel. Their enormous efforts at cutback management can be seen from the fact that in East Germany the density of local public personnel per 1.000 inhabitants was halved between 1991 and 2001.

Having a look at the percentage of women in German local councils the table below shows that there are only slight differences between East and West Germany. Whereas in administrative (low and middle ranging) positions the women's share in East Germany was up to the middle 1990s considerably higher than in West German local governments (for heads of departments – "Amtsleiter": 30% in Eastern municipalities compared to 6% in Western municipalities), the proportion of female councillors is in East and West Germany quite similar amounting to roughly one quarter (23,4%) of all members and tending to increase.

8. Recent reform trends

External organisational changes

Traditionally, German municipalities offer a multitude of local public services in their own "régie" - the "Regie-Model" thus being the predominant model of public service delivery in Germany. This is especially true for public utilities (water, energy, waste management) usually being part of the multi-purpose local government model. They form a "protected market" within which the municipality acts as the sole supplier and enjoys a quasi-monopolistic status (Wollmann 2002). This German model of local government "self-production" was witnessing dramatic incisions resulting from EU-liberalization (and respective Federal legislation), NPM-reforms and local cutback policies. In the energy sector not only have nearly all local companies meanwhile been formally privatized (as Ltd. companies – GmbH - or incorporations - AG) but also the sale of shares to private companies ("*materielle Teil-Privatisierung*") is particularly advanced in this policy area. According to a survey conducted by the German Institute of Urban Studies (Difu) only 30% of municipal energy companies are still entirely the property of the cities whereas more than 70% have external share holders (for details see Kuhlmann 2007b). Municipalities have minority holdings in roughly 20% of energy suppliers to big

Table 5: Public Employment in German Local Authorities 1991-2001

Year/ Change	German Democratic Republik		Federal Republic of Germany		Germany*	
	Number in 1.000	Per 1.000 Inh.	Number in 1.000	Per 1.000 Inh.	Number in 1.000	Per 1.000 Inh.
1991	662	41,6	1334	20,8	1996	25,0
1994	476	30,7	1330	20,2	1806	22,1
2001	309	20,6	1161	17,2	1470	17,8
<i>Change 1991-2001 in %</i>	<i>-53,3</i>		<i>-13,0</i>		<i>-26,4</i>	

Source: Kuhlmann/ Röber 2006 (with further references)



cities in Germany. Although the time honoured “*Stadtwerke*” have not yet completely disappeared from the local landscape, energy supply in Germany is increasingly determined by private companies, especially by four big groups acting as regional monopolies (E.ON, RWE, EnBW and Vattenfall), whereas local governments have been partially displaced and lost their steering capacities. Private firms hold shares of nearly 40% of the cities’ companies and every tenth municipal company (11%) is, through a majority holding, the property of private firms (for details see Universität Potsdam/ KGSt 2003: 22 f.). Because of the single-purpose driven centrifugal drift, endemic to such organizational settings and holdings, the influence and control over them (“holding steering”, *Beteiligungssteuerung*) by the elected council (and its normative mandate to advocated and ensure the common good and community perspective) has been questioned and eroded (see Wollmann 2002). There are empirical indications that the pendulum has in the meantime to begin to swing back by returning to more “unified” organisational fabric of local government (instead of a “corporate group” scheme) and by bringing holdings again closer under the political control of local government.

Internal organisational changes

In the 1990s, the NPM-inspired New Steering Model (*Neues Steuerungsmodell* - NSM) became the predominant reference model for local government management reform in Germany (for details see Kuhlmann et al. 2008 with further references). It was largely pushed ahead by the KGSt (Banner 2006) and required a re-organization of administrative structures (internal decentralization, profit-centres etc.), a modernization of resource management (e.g. output- instead of input-orientation in budgeting), controlling systems (e.g. performance measurement,

new accounting systems) and human resource management as well as a new relationship between politics and administration. While the impact of the NPM/NSM-guided modernisation drive on local administration has fallen short of early (high-flying) expectations, its effects have been, no doubt, significant (for details see Bogumil et al. 2007; Kuhlmann 2008; Kuhlmann et al. 2008). According to a survey, virtually all German communes with more than 10,000 inhabitants (93%) have pursued modernization activities since the 1990s, 80% guided by the NSM-concept. Yet, after more than ten years of NSM-modernization in Germany, there is no single element of the NSM which has been implemented by a majority of German local governments. Only 22 communes (2%) can be referred to as “NSM-hardliners” considering that they have implemented (according to their own statements) seven important NSM-core elements in all their administrations. The reform gains are however particularly noticeable and positive in reform projects in certain policy fields where traditional reform concepts, dating back to the 1970s and 1980s, and NPM/NSM-inspired ones have been merged (“amalgamated”) (see Jaedicke et al. 2000: 24). In a comparative assessment the “amalgam” which seems characteristic of the *Germany’s* modernisation track has been called a “Neo-Weberian” model (see Bouckaert 2006, Bogumil et al. 2007: 315 ff.).

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