Territorial organisation and subnational government responsibilities

Main features of territorial organisation. The German federal system, set up by the 1949 Basic Law, reformed in 2006 and again in 2009, is based on the principle of co-operative federalism. The three-tier system of subnational governments includes, below the Länder level, a local government level composed of 295 rural districts (Landkreise) and 107 district-free cities (Kreisfreie Städte), and at the lower level, municipalities. While local government status is constitutionally guaranteed, they are governed by their Land, thus with an organisation varying from one Land to another. Several districts and municipal merger policies were carried out by the Länder over the last decades, and more recently, in Land Saxony-Anhalt for example. Overall, the number of German municipalities has decreased by one-third between 1990 and 2016.

Main subnational governments responsibilities. According to the Basic Law, all legislative and administrative functions are assigned to the Länder, except for those under exclusive competency of the federal government. There is some overlap in several areas (in addition, joint federal-Länder tasks were introduced in 1969). A reform of the federation’s SNG expenditure took place in 2006 (Föderalismusreform I) which clarified responsibilities and transferred new ones to the Länder. Today, their wide-ranging responsibilities include: education (including universities), internal administration, regional economic development, public welfare and health, culture, environmental protection, public order and local government affairs. Local government functions, defined by the Land, vary considerably from one area to another. However, they usually include both mandatory and optional functions. Mandatory district functions include secondary roads, public transport, spatial planning, fire protection, nature and landscape, hospitals, education (secondary schools), etc. For municipalities, they include local roads, town planning, housing, sewerage, waterways, education (primary schools), recreational areas and social and youth welfare. Optional functions include cultural activities, economic development, tourism, local public transport, sports and leisure, etc.

Subnational government finance

German SNGs are key economic and social actors. Their share in GDP and public spending is above the OECD average (respectively, 16.6% and 40.0%). SNGs are also key public employers, accounting for more than three-quarters of total public staff spending. SNG role in investment is also significant: SNG share in public investment is ten percentage points above the OECD average (of 56.5%), and even when only federations are considered (60.2%). However, the share of SNG investment in GDP is significantly below the OECD average of 1.8%. The Länder accounted for 63% of SNG expenditure in 2013. Within the local sector, municipalities account for the greatest part of local spending. Compared to OECD unitary countries, spending responsibilities of local governments in Germany are significantly lower, both in terms of current and capital expenditure.
Social protection, general public services and education are the three main areas of spending, weighing similarly. They are followed by economic affairs and transport. Länder primary areas of spending are general public services, education and social protection. Local spending goes primarily to social protection, general public services, education and economic affairs/transport. SNGs are responsible for the large majority of overall public spending in the areas of security and public order, environment, housing and community amenities, recreation, culture and education.

The Basic Law sets out detailed fiscal provisions, in particular the assignment of exclusive and shared taxes, intergovernmental transfers as well as equalisation principles between the federal government and the Länder. It also includes specific arrangements relating to municipalities although local government financing is established by the Länder. The 2009 Federalism reform (Föderalismusreform II) modified some financial arrangements. SNG financing is based mainly on tax revenues, whose share in SNG revenue, public tax revenue and GDP is significantly above the OECD average. However, there is a relatively low level of subnational tax autonomy, the Federation having almost exclusive power to legislate on tax bases, rates and sharing arrangements.

TAX REVENUE. The SNG tax system is based on shared and own-source taxes. Länder represent around three-quarters of SNG tax revenue. In 2013, shared taxes accounted for around 55% of all SNG tax revenue. Most of Länder tax revenue comes from shared taxes, essentially the PIT, CIT and the VAT. Their own taxes include inheritance tax, vehicle tax, real estate purchase tax, lottery tax, beer tax, etc. Länder have little control over own taxes, with the exception of real estate purchase tax. Main local shared taxes (around 40% of local tax revenue) are the PIT and tax on interest, and marginally the VAT. Own source tax includes the local business tax (41% of local tax revenue) and the property tax (13% of local tax revenue amounting 0.4% of GDP, one of the lowest levels of the OECD). Shared taxes are part of the formula-based fiscal equalisation system between Länder defined by the Equalisation Law. 25% of Länder VAT revenues being used for equalisation. At the local level, each Land is in charge of its own equalisation mechanism.

GRANTS AND SUBSIDIES. Besides tax equalisation, there are horizontal equalisation transfers to Länder, aimed at reaching equal public services in all regions. Länder with lower-than-average fiscal capacity are compensated through federal transfers. In addition, specific transfers are made to reflect certain needs of the Länder, to finance joint tasks or for specific purposes. At the local level, there is no direct federal grant to local governments, only state grants. They represent a significant source of revenue and comprise general, compensation, investment and specific grants.

OTHER REVENUES. Other revenues, in particular user charges and fees paid by local citizens and corporations as users of local public services, are a significant source for SNGs, especially for local governments.

Balanced structural budget provisions and a “debt brake rule” were introduced in 2011 at the federal and Länder levels following the 2009 Constitutional reform. After a period of transition, it will take full effect in 2020 for the states. The rule calls for structurally balanced budgets for the Länder. Local governments must balance their budgets and have borrowing restrictions, determined by each state. Commonly, local governments may borrow to fund capital investment with the approval of the supervisory authority. German SNG debt, as a percentage of GDP and public debt, are above OECD averages, the Länder accounting for around 80% of the SNG debt. In 2013, debt included exclusively loans and bonds in equal proportion. Municipal borrowing is only under the form of loans while bonds represent around 60% of outstanding debt for Länder.