

Reorganizing Local Government: Between Territorial Consolidation and Two-tier Intermunicipality

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Territorial reorganisation of local governments can rely on voluntary or imposed mergers of general-purpose local units or on creating functionally oriented intermunicipal bodies. Detailed institutional analysis of the German and the French local self-governments has been conducted. Other European comparative examples, except Germany and France, are also analysed. The Nordic model of consolidation by mergers has been practised, in different stages of their institutional development, in the U.K., Sweden, Poland, Bulgaria, Lithuania, Denmark, and more recently in Greece. Fragmentation, small units and intermunicipal cooperation are characteristics of the Czech Republic, Slovakia, and Hungary. Special attention is given to Turkish case, which has been developing in line with North European model based on merging small municipalities.

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1. Introduction

In this article¹ the territorial reorganization of local government is hypothesized to be premised on two alternative organizational principles, that is, on the territoriality-based general-purpose elected local government form, on the one hand, and on functionality-based (basically non-elected) intermunicipal bodies, on the other. Germany and France have been chosen as comparative cases in point for conceptual reasons. For one, with regard to historical development the subnational/local institutional structures in these two countries may be seen as, methodologically speaking, »most dissimilar cases« (Przeworski and Teune, 1970). In Germany the subnational/local arena has been traditionally marked by politically and functionally strong elected local authorities, whereas in France it has been traditionally characterised by small-size and functionally weak municipalities (communes). Second, the subsequent and particularly the most recent institutional development, including the territorial and functional consolidation of the local level authorities, can be assumed to have been exposed to similar driving forces and influences. Other European comparative examples are also used, for illustrative purposes.

Against this background our comparative analysis is primarily guided by the question whether (and why) the institutional developments in the two countries have continued to follow *divergent* tracks or whether (and why) they have shown *convergence*.

In pursuing an institutionalist and historical approach the article will address the development of the country-specific institutional combination of (territorially and functionally) consolidated local government and intermunicipal bodies particularly since the 1990s. Then it will analyze the institutional changes at the local government levels during recent and current territorial and organisational reforms and identify the factors that have been driving them – with the guiding question in sight whether (and why) the institutional development in the two countries has shown convergence or divergence.

¹ While leaning, in significant sections, on an earlier article by the author (Wollmann 2010c), the article has, for this publication, been thoroughly revised and updated on a number of recent relevant developments.

2. Country Analysis: Germany

2.1. Historical and Intergovernmental Setting

In Germany's federal system the regional/federal States (*Länder*, 11 before 1990, 16 after 1990), by political and constitutional tradition, claim a »quasi-sovereign« status (*Eigenstaatlichkeit*). As in other federal systems (such as in the USA), the (two tier) local government level, consisting of counties (*Kreise*) and municipalities (*Städte, Gemeinden*), is constitutionally regarded as constituting an integral part of the administrative structure of the respective *Land*. Consequently, the *Länder* possess the legislative power to individually determine the statutes as well as the territorial structure of local government.² Furthermore, they exercise legal and, as far as administrative functions have been delegated by the *Land* level to the local authorities, also operational oversight (*Fachaufsicht*) over them. Thus, while in their relation to the federal level the *Länder* assume a distinctly decentralist stance; they often take a downright centralist stand in their relation to the local government levels (Wollmann and Bouckaert, 2006: 23).

Table 1 Intergovernmental structure (data for 2006–2009)

	Country		Levels	Number	Population ø
1	Germany	Federal	Federal States (<i>Länder</i>)	16 ¹ (of which three City States: Berlin, Hamburg, Bremen)	average 5.2 million
			(Two-tier) counties (<i>Kreise</i>)	323	170.000
		Local	Municipalities (within counties) (kreisangehörige <i>Gemeinden</i>)	12.196	6.690 ² 75 percent of the municipalities with less than 5.000 inhabitants

² It should be added that, as it has been laid down both in the Federal Constitution of 1949 and in the constitutions of the individual *Länder*, the municipalities (and counties) are given the right to exercise »local self-government« and each of them may bring a case of violation of that »institutional guarantee (say, by some piece of Land legislation) before the Federal Constitutional Court or the respective Land's constitutional court. However, it is the accepted constitutional and judicial doctrine that this »institutional guarantee« does not pertain to the existing territorial boundaries of a municipality or county.

			(Single-tier) county cities (kreisfreie Städte)	116	
		Inter-municipal	Intermunicipal bodies	1.708 administrative unions (Verwaltungsgemeinschaften, Ämter, etc.) ³	
2	France		Régions	21 + 4 (d'outre-mer)	2,3 Mio.
		Local	Départements	96 + 4 (d'outre-mer)	550.000
			Communes	36.569	1.560 95 percent of communes with less than 5.000 inhabitants
		Inter-communal	Intercommunalité	15.903 syndicats ⁴ 2.596 communautés (à fiscalité propre) ⁵	

¹ Varying in size between Land of Nordrhein-Westfalen with 18 m inhabitants and the Land of Bremen («City State») with 550.000 inhabitants

² In the Land of Nordrhein-Westfalen: ø 45.000 inhabitants, in Land of Rheinland-Pfalz: ø 1.700 inhabitants

³ In the Land of Rheinland-Pfalz 95 per cent of the municipalities are affiliated with an intercommunal body (such as Verwaltungsgemeinschaft), in Land of Bayern 62 per cent, but in Land of Nordrhein-Westfalen and Hessen none

⁴ As of January 1, 2009: 15.903 syndicats intercommunaux or syndicats mixtes = Syndicats à vocation unique, SIVU; syndicats à vocation multiple, SIVOM, syndicats mixtes or syndicats »à la carte«

⁵ As of January 1, 2009: 16 communautés urbaines, 174 communautés d'agglomération, 2.406 communautés de communes, 5 syndicats d'agglomération nouvelle

Source: mainly Dexia, 2008; Comité Balladur, 2009: 39, own compilation + calculation, own table (H. Wollmann)

2.2. Local Level Territorial (Re-)Organisation

German local government system is historically rooted in the territoriality-based multi-functional elected local government model. Within boundaries that mostly date back to the 19th century and beyond, (West) Germany's two-tier local government structure was, until the 1960s, made up of 24.200 municipalities with a country-wide average of 2.400 inhabitants and 425 counties (*Kreise*) with an average of 80.000 inhabitants. Furthermore, 135 large and middle-sized cities had the traditional status of (single-tier) »county cities« (*kreisfreie Städte*) that combine county and

municipal functions – somewhat comparable to the (single-tier) county boroughs and unitary authorities in England (Wilson and Game, 2011: 68–75).

During the 1960s and 1970s, the German *Länder* individually embarked upon territorial reforms of the municipal and county levels. In doing so they joined the U.K. and Sweden that undertook large-scale territorial reforms in that period, in what was comparatively labelled the »North European« territorial reform pattern (see Norton, 1994: 41). After the German unification of 1990, the (five) »new« East German *Länder* followed suit in territorially reshaping their local government levels (details in Wollmann, 2004).

Within the federalism-typical variance of territorial reform strategies *grosso modo* two groups of *Länder* can be distinguished. On the one hand, the *Länder* of *Nordrhein-Westfalen* and *Hessen*, which are among the most urbanized *Länder* and together comprise about 30 per cent of the country's entire population, pursued the strategy of creating (territorially and functionally consolidated) municipalities (*Einheitsgemeinden*) by way of large-scale mergers and of doing without installing intermunicipal bodies. In the case of *Land of Nordrhein-Westfalen* the average size of the municipalities reached 44.000 inhabitants which by and large concurred with the »North European« pattern as exemplified by England's territorial reform of 1974 (resulting in districts/boroughs averaging 120.000 inhabitants) and by Sweden's territorial reform of 1974 (leading to municipalities averaging 34.000 inhabitants).

On the other hand, most (West German) *Länder* and, following German unification, East German *Länder* also decided to embark upon »softer« territorial reform strategies in that they chose to carry out minor or even no mergers and instead to establish a new layer of *intermunicipal bodies* whose members the (small) municipalities were bound to become. While in most *Länder* the members of deliberative councils of these intermunicipal bodies (called, depending on Land-specific terminology and institutional nuances, *Amt*, *Verwaltungsgemeinschaft*) are elected by the councils of the member municipalities, the (West German) *Land of Rheinland-Pfalz* »invented« a remarkably innovative organizational form of intermunicipal cooperation when so called *Verbandsgemeinden* (»federated municipalities«) were established. These were construed as a kind of two-tier (»double decker«) municipality consisting of the »upper tier« and of the member municipalities. They are marked by a distinctive feature that, unlike »normal« intermunicipal bodies, the »upper tier« institutionally ap-

proaches a »fully fledged« local government form as the members of its council are elected directly. In order to achieve this local level structure the *Land of Rheinland-Pfalz* pursued a »soft« reform strategy as it largely did without mergers and left the average population size of municipalities at 1.700, while putting in place the two-tier *Verbandsgemeinden* with 95 per cent of all municipalities grouped under them (Table 1, fn 3).

The rationale to create such dual structures has been two-fold. For one, the preservation of the historically rooted small-size local governments is meant to retain them as an arena and a haven for local democracy and local identity. Furthermore, a new layer of intermunicipal bodies has been designed to institutionalize local level actor cooperation and coordination, besides providing operational support to their member municipalities.

Functionally, the intermunicipal bodies are put in charge of operationally supporting their member municipalities, *inter alia* by carrying out functions delegated to them by the member municipalities and those transferred to them by the *Land*. They are run by a governing board that is elected by the councils of the member municipalities. For the conduct of their tasks they have their own personnel operating under an administrative director who is appointed by their governing board. They are funded by the budgets of the member municipalities or the *Land*.

The variance of strategies among the *Länder* was accounted for particularly by the difference in settlement structures and by the respective *Land* and period-specific politico-ideological constellation. *Vis-à-vis* the duality of and tension between the goals, characteristic of territorial reform measures, of increasing administrative efficiency and of safeguarding (local) democracy, these two factors weighed on the preference and accentuation given to one of the goals or the other.

Hence, the strategy of having large-scale mergers, embarked upon in the *Länder of Nordrhein-Westfalen* and *Hessen*, can be plausibly explained by their high degree of urbanization. Second, it was shaped by the then governing Social Democratic majorities which, politically and ideologically subscribing to the planning and rationalist *zeitgeist* of that era, regarded large-scale territorial consolidation as a means to enhance administrative efficiency (*economies of scale*) as well as the planning and coordination capacity of local government.

By contrast, most of the *Länder* opting for small-scale (or no) mergers and for putting in place a *dual structure* with intermunicipal bodies instead, were marked by a more rural settlement structure, at least in their agrarian *hinterland*, and were typically governed by Christian Democratic ma-

juries. After German unification, the decision of most of the (new) East German *Länder* to leave the existing small size municipalities territorially unchanged was inspired and prompted by the political will to recognize and pay respect to the local grass-root movements which greatly contributed to toppling the Communist regime (see Wollmann, 2003, 2010c). At the same time, the adoption of the dual structure with intermunicipal bodies was also a case of institution transfer (from West German to East German *Länder*) and of *mimetic isomorphism* (Di Maggio and Powell, 1983).

Procedurally the territorial reform measures in all *Länder* were characterized by a »carrot and stick« approach, so that in each of them the reform drive was typically opened by a participatory (advisory commissions, public hearings etc.) and a voluntary phase during which the municipalities and counties concerned had the opportunity to »voluntarily« adopt to and comply with the proposed territorial structure. Subsequently, however, if local consent had not been attained until a fixed deadline, the new territorial scheme was determined, as a last resort, by binding (coercive) parliamentary legislation. This, again, concurred with the *North European* pattern, pursued also in the U.K. and in Sweden, of giving parliament the last say.

By the end of the 1990s, the German *Länder* counted the total of 12.250 municipalities averaging 6.690 inhabitants.³ While the *Länder of Nordrhein-Westfalen* and *Hessen* have a *mono-structure* of (territorially and functionally consolidated) municipalities (*Einheitsgemeinden*), resulting from their large-scale territorial reforms, in the other *Länder* an institutional mix has been put in place in which, along with large and middle-sized cities that constitute *Einheitsgemeinden*, the dual structure made up of small municipalities and intermunicipal bodies prevails (with the latter amounting to some 1.700 units country-wide; see Table 1 middle column).

In sum, at the end of the 1990s, the German *Länder* seemed to be an intriguing laboratory of different territorial reform strategies.

2.3. Recent Territorial and Organizational Reform Wave

In the East German *Länder* a new push for local level territorial reforms has been launched in the late 1990s. These reforms essentially aim, by

³ Furthermore, there are 323 counties (averaging some 200.000 inhabitants) and 116 (single tier) »county cities« (*kreisfreie Städte*).

way of mergers, at increasing the size, the number and the coverage of (consolidated) municipalities (*Einheitsgemeinden*) and, correspondingly, at reducing the number and coverage of intermunicipal bodies.

The reform debate has been inspired and fuelled by criticism in which operational and democratic deficits of the *dual structure* have been increasingly addressed. First, it has been observed that the small municipalities, particularly in peripheral areas, are politically and demographically »bleeding empty« (Mier, 2003), fostering political absenteeism and alienation. Revealingly, it has turned out more and more difficult to find a sufficient number of candidates for council and mayoral elections.⁴

Furthermore, negative effects on the operational performance of such small municipalities have been highlighted. On the one hand, in the assumption that they are operationally supported by their intermunicipal body, member municipalities tend to thin out their organization and personnel to the point of losing any administrative competence and skills of their own (Mier 2003). On the other hand, notwithstanding the support provided by the intermunicipal body, mayors of the member municipalities, in order to keep up their political and operational profile in the intermunicipal context, are inclined to continue to employ, if not expand, local personnel, thus duplicating the personnel in the intermunicipal setting and driving up the costs and spending (Büchner and Franzke, 2002: 104).⁵

Moreover, intermunicipal bodies are increasingly criticized for lacking direct political legitimacy and accountability. This democracy deficit is deemed to become the more serious as the more functions are delegated to the intermunicipal bodies by their member municipalities or by the Land level.⁶

⁴ In some small municipalities in the *Land of Brandenburg* the municipal elections had to be called off because of the insufficient number of candidates (Hoffmann, 2002: 10 ff).

⁵ See also Ministry of the Interior of Land of Thüringen, document of March 3, 2005, <http://www.thueringen.de/imperia/md/content/tim/abteilung3/gemgebreform.pdf>

⁶ In a decision which the (newly established) Constitutional Court of *Land of Schleswig-Holstein* on February 26, 2010 handed down, a piece of *Land* legislation that stipulated the transfer of further functions from the *Land* level to intermunicipal bodies (*Ämter*) was declared unconstitutional on the ground that it violated the constitutional guarantee of elected local self-government. In the view of the Court the incriminated unconstitutionality could be remedied either by introducing the direct election of the governing boards of the intermunicipal bodies (which would transform the *type II* intermunicipal bodies into a full-fledged additional *type I* local government level) or by transferring functions back to the existing *type I* municipalities. In a remarkable *obiter dictum* the Court hints at the

Finally, the issue of conflict, coordination and transactions costs that are generated by the dual structure has been critically raised. These costs are seen to be ever more acute as the individual intermunicipal bodies increase the number of their member municipalities.⁷

Reacting to this mounting criticism, the (East German) *Land of Brandenburg* was the first, in 2002, to tackle a new territorial reform (details in Mier, 2003; Bolgherini, 2010). In the face of persistent scattered local opposition, the *Land's* parliament, in October 2003, finally laid down a new territorial structure by binding legislation.

As a result, the number of municipalities has been reduced by mergers from 1,479 to 421 (that is by 70 per cent), thus raising their average size from 2,600 to 8,400 inhabitants. Of these 421 territorially redrawn municipalities, 33 per cent have been turned into (territorially and functionally consolidated) municipalities (*Einheitsgemeinden*) as compared to 2 per cent prior to the reform. While the dual structure continues to exist, the percentage of municipalities belonging to intercommunal bodies has dropped from 95 to 66 per cent.

A similar territorial reform move is under way in the (East German) *Land of Sachsen-Anhalt*. Legislation has been passed which, by way of mergers, reduced the number of municipalities from 1,111 to 219, i.e. by 80 per cent (as of January 1st, 2011). Of the remaining 219 municipalities 47 per cent became (consolidated) municipalities, while 53 per cent belong to an intermunicipal body.⁸ Interestingly, in institutional construction of the intermunicipal bodies, the *Land of Sachsen-Anhalt* drew on the example of the *Land of Rheinland-Pfalz* in introducing the *Verbandsgemeinde*, that is, a two tier (“double decker”) local government form consisting of the

need of strengthening multi-functional elected (*type I*) local government by carrying out a territorial reform through mergers instead of through having intermunicipal bodies. See *Frankfurter Allgemeine Zeitung*, March 22, 2010 and *Schleswig Holsteinische Zeitung* of Februar 26, 2010 <http://www.shz.de/nachrichten/top-thema/article/111/verfassungsgericht-kippt-amtsordnung.html>

⁷ Ministry of the Interior of Land of Thüringen, document of March 3, 2005, <http://www.thueringen.de/imperia/md/content/tim/abteilung3/gemgebreform.pdf>

In this context, a recently conducted empirical study on the regional governance arrangements based on (voluntary) intermunicipal cooperation (in Greater Frankfurt, Germany, and in Greater Warsaw, Poland) should be mentioned. The study arrived at a (blunt) conclusion that “voluntary cooperation is condemned to failure because its constraints are difficult to remove by preserving the voluntary character” (Lackowska, 2009: 363).

⁸ <http://www.sachsen-anhalt.de/LPSA/index.php?id=27353>

upper tier and the lower tier member municipalities with each tier having directly elected councils.

In sum, in East German *Länder* the territorial and organizational landscape of the municipal levels has been or is being reshaped significantly by expanding the (consolidated) local government form and by concomitantly diminishing the number and coverage of intermunicipal bodies.

In some East German *Länder* steps have been taken to territorially redraw the counties (*Kreise*) by way of mergers. The (East German) *Land of Mecklenburg-Vorpommern* is a conspicuous case in point. In 2007, a large-scale territorial county reform was adopted by the Land parliament that would have transformed the existing 12 counties and 6 (single-tier) county cities into 5 *macro counties* (*Großkreise*); these would have reached the average size of 350.000 inhabitants, which would have been a population size unprecedented in the history of German counties. When some counties took the matter to the *Land's* Constitutional Court the latter handed down a decision (on July 26, 2007) that this piece of legislation on territorial county reform was unconstitutional. While the Court based its ruling on procedural grounds, it expressed the view, in a widely noted *obiter dictum*, that the challenged legal provision was constitutionally questionable also on substantive grounds, as the envisaged territorial size of the counties would not allow the county councillors to fulfil their elective mandate adequately because of the geographical extension (Wollmann, 2010a: 262 ff).⁹ In the meantime, the Land government has amended its legislative scheme which now provides for 6 counties and two county cities.¹⁰

With regard to the West German *Länder*, in two *Länder* (*Nordrhein-Westfalen* and *Hessen*,) which comprise about one third of the country's entire population, the mono-structure of (consolidated) municipalities (*Einheitsgemeinden*) has been in place since the 1960s and 1970s, respectively. While in other West German *Länder* the dual structure with intermunicipal bodies has been established since that period, there has been recent indication that even in these two *Länder* a critical reassessment has set in.

A revealing indication may be seen in the legislation recently adopted in the (West German) Land of *Schleswig-Holstein*, aimed at reshaping its intermunicipal bodies (*Ämter*) and, as already mentioned, nullified by the *Land's* Constitutional Court on the grounds of lacking democratic legitimacy.

⁹ http://www.mecklenburg-vorpommern.eu/cms2/Landesportal_prod/Landesportal/content/de/_aktuell/Archiv_/2007/Verfassungsgericht_ki///ppt_Kreisgebietsreform/index.jsp

¹⁰ http://www.mecklenburg-vorpommern.eu/cms2/Landesportal_prod/Landesportal/content/de/_aktuell/Archiv_/2009/Kabinett_beschliesst_Kreisgebietsreform/index.jsp

3. Country Analysis: France

3.1. Historical and Intergovernmental Setting

Since 1789, the French unitary and (Napoleonic) centralized State was made up, at the sub-national levels, by a two-tier local government system (*collectivités locales*) consisting of 96 *départements* and some 36.600 municipalities (*communes* averaging 1.720 inhabitants). While most of the public functions, including urban planning, were carried out by the central State and its sub-national administrative levels and units, particularly by the *préfet*-directed *départements*, the municipalities (*communes*) were functionally almost marginal. The epochal decentralization of 1982 transformed the centralist France into a, in the words of the 2003 constitutional amendment, *decentralized republic* (*république d'organisation décentralisée*) (see Hoffmann-Martinot, 2003; Thoenig, 2006). Regions (22) have been introduced as a (third) local government level (*collectivités locales/territoriales*) and major public functions have been transferred from the State to the three local government levels, particularly to the *départements* and, to a lesser degree, to the *communes* and *regions* (Wollmann and Bouckaert, 2006; Wollmann, 2008; Kuhlmann, 2009a, 2009b).

3.2. Local Level Territorial (Re-)Organisation

France's municipal level has historically been characterized by an unusually high degree of territorial fragmentation made up of about 36.000 municipalities with an average of 1.700 inhabitants, and with boundaries that date back to the time of the Great Revolution of 1789 and beyond.

Responding to the multitude of small municipalities, national legislation was adopted as early as in 1890 to provide a legal frame for setting up intermunicipal bodies (*Etablissements publics de coopération intercommunale*, EPCI), which were meant to promote and support intermunicipal cooperation among (small size) municipalities. While the early 1890 legislation introduced the legal basis for the (voluntary) formation of *single-purpose* intermunicipal bodies (*syndicats à vocation unique*, SIVU) for the joint provision of public services, the 1959 legislation was destined to encourage and enable the municipalities to (voluntarily) establish *multi-purpose* intermunicipal bodies (*syndicats à vocation multiple*, SIVOM). Organizationally, the *syndicats* are run by governing boards elected by their member municipalities and are also funded by the latter.

In 1966, the *communautés urbaines* were introduced as a new form of inter-municipal bodies that differed from the traditional form of the *syndicats* in two significant aspects. First, procedurally, in conspicuously deviating from the traditional principle of “voluntariness”, the 1966 legislation, by way of binding legislation, set up *communautés urbaines* in four metropolitan areas around the country’s largest cities: Lyon, Strasbourg, Bordeaux and Lille. Subsequently, ten other big cities and their neighbouring municipalities in metropolitan areas followed suit, voluntarily, to form *communautés urbaines*, including Marseille and Toulouse.

Second, and not less conspicuously, the *communautés* were given the right to levy local taxes of their own (*à fiscalité propre*) independent of and in addition to the local taxes collected by their member municipalities (Marcou, 2000).

Although their councils (*conseils communautaires*) continued, like those of the *syndicats*, to be indirectly elected by the member municipalities, it was particularly their taxing power (*à fiscalité propre*) that constituted a remarkable step towards a functionally and financially more *integrated* intermunicipal body which arguably showed certain traces of a (consolidated) local government form (Marcou, 2010a: 41).

In 1971, France seemed braced for joining the territorial reform movement under way during that period in the UK, Sweden, and Germany as the *Assemblée Nationale* adopted legislation (*Loi Marcellin*) that was meant to initiate a municipal territorial reform by way of mergers (West, 2007: 72). In stark contrast to the *North European* territorial reform policy hinging on the claim and right of parliament to put territorial reforms into effect, as a last resort, by binding legislation, France’s legislation of 1971 was premised on the principle of »voluntariness« (*volontariat*).

Along with being culturally and politically embedded in the French (*girondist*) traditional localism (Neméry, 2004), the principle of *volontariat* has been firmly entrenched in the political power and influence which the local mayors (*maires*) have over national legislation due to the traditional practice of the *cumul de mandats* (*accumulation of elected offices*; Hoffmann-Martinot, 2003: 167) according to which many of them are also elected members of the *Assemblée Nationale* as well as of the *Sénat* (France’s Second Chamber).¹¹ It is particularly the *Sénat* and its mayoral members

¹¹ In 1998, 95 per cent of the members of the National Parliament were, at the same time, local mayors and 68 per cent sat department councils (*conseils généraux*). For the Senate, the analogous ratio was 68 per cent and 44 per cent, respectively (Hoffmann-Martinot, 2003: 167).

(*maire-sénateurs*) that have proved staunch advocates of local interests and defenders of the institutional *status quo* (Wollmann, 2010b).

The legislation (*Loi Marcellin*) of 1971 resulted in a complete failure since the required local approval to mergers with other municipalities could nowhere be obtained. This fiasco marked a turning point in that no policy initiative has been undertaken ever since to achieve a local level territorial reform by way of straightforward mergers. Instead the reform strategies have been directed at reshaping the institutional architecture of the *intercommunalité*.

In 1999, a piece of legislation (*Loi Chevènement*) was passed that essentially aimed at giving the scheme of the *communauté à fiscalité propre*, previously applying solely to the *communautés urbaines*, country-wide coverage by »inventing« another two variants of *communautés* – one targeting at the municipalities in urbanized areas (*communautés d'agglomération*) and the other addressing the rural and semi-urban areas (*communautés de communes*). Hailed by some as a »real intermunicipal revolution« (Borraz and LeGalès, 2005) and as »the most important reform in recent years« (Marcou, 2010b), the strategic idea of *Loi Chevènement* was to simplify and restructure the existing maze of municipal and intermunicipal units by inducing the existing municipalities to (*voluntarily*) join one of these three types of *communaautés*.

Indeed, the legislation of 1999 has proved remarkably successful since a total of 2606 *communautés à fiscalité propre* have come into existence¹² that comprise more than 95 per cent of all 36.000 municipalities, thus extending the coverage of the functionally and financially integrated institutional variants of *intercommunalité* to almost all municipalities. As of February 1 2011, the municipalities are grouped in 191 *communautés d'agglomération* and 2.387 *communautés de communes* – apart from 16 *communautés urbaines*. Quite convincingly, the 1999 legislation and its implementation have been interpreted as France's »pragmatic path to achieve territorial reforms despite the failure of mergers« (Marcou, 2010a: 41), thus moving the country's traditional *intercommunalité* in a »pragmatic« and gradual manner, towards a (consolidated) local government form (see also Kuhlmann, 2010).

¹² That is 16 *communautés urbaines*, 181 *communautés d'agglomération* and 2.409 *communautés de communes*.

3.3. Recent Reform Discussion and Legislative Moves

Notwithstanding these institutional advances, the French intergovernmental and intermunicipal system continues to be criticized for operational and democratic shortcomings. First, the country's intergovernmental architecture has been blamed for institutional overcrowding, vertical and horizontal fragmentation, functional overlaps and »institutional labyrinth« (*surinstitutionnalisation, morcellement, emiettement, enchevêtrement, labyrinthe institutionnel*) (Comité Balladur, 2009: 61). One of the main reasons for what is colloquially often called a *mille-feuille* (»cream slice«, literally translated »thousand slices«; Thoenig, 2006: 41) is seen in a style and practice of institutional reforms which is critically labelled "piling up" (*empilement*), i.e. the practice of creating new institutions without removing those which the new ones are intended to replace. It has been pointedly said that »the unitary French state looks like a loosely coupled network of actors« (Thoenig, 2006: 43).

Second, regarding a large number of very small municipalities, it has been critically observed that politically and democratically they are fading away, as indicated by the difficulty to find enough candidates in municipal elections,¹³ and that administratively they are becoming a »wasteland« (*véritables friches administratives*; Jegouzo, 1993).

Moreover, the *communautés* whose councils (*conseils communautaires*) continue to be elected *indirectly* by the member municipalities are increasingly criticized for lacking direct legitimacy and accountability.¹⁴

Furthermore, the *dual structure* has come under criticism for its cost-driving functional and personnel overlaps and duplications (*doublon*) (Comité Balladur, 2009: 60).

Last, but not the least, the dual structure has been critically identified as a source of time-consuming and decision-retarding conflicts and rivalries and as a factor ensuing conflict costs and transaction costs (Hoffmann-Martinot, 2003: 179).

¹³ Comité Balladur, 2009: 62: »In the smallest municipalities it has become more and difficult to recruit candidates for elective municipal offices.«

¹⁴ For a case study on the *Communauté Urbaine de Bordeaux* see Hoffmann-Martinot, 2003: 179. He concluded that *communautés urbaines* have »resulted in depriving communes of responsibilities and transferring them to intercommunal structures that work in a opaque and expensive manner, without enough democratic control«.

On this background of rising reform demands, in October 2008 President Nicolas Sarkozy appointed a high-calibre advisory commission (*Comité pour la réforme des collectivités locales*), chaired by the former Prime Minister Edouard Balladur, and mandated to work out the recommendations for reforming the local government and intermunicipal system. The recommendations which the *Comité* came out with in its report of March 2009 (Comité Balladur, 2009)¹⁵ were far-reaching and ambitious (Némery, 2010; Wollmann, 2010b; Marcou, 2010a, 2010b) as their guiding idea is that »the intermunicipal bodies ought to transform themselves into fully responsible municipalities which would allow France to dispose of strong municipalities in a reasonable number«. ¹⁶

To highlight just three of the *Comité's* 20 recommendations (*propositions*):

First, the councils of the *communautés* shall be directly elected by the local citizens.

Second, the formation of new (fully fledged) *type I* municipalities (*communes nouvelles de plein exercice*), by way of mergers, shall be procedurally and financially promoted, but, to be sure, still on the basis of *volontariat*.

Moreover, in an all but »revolutionary« proposal, 11 of the existing *communautés urbaines* (with the country's largest cities) shall be transformed, by way of binding legislation, into so-called *métropoles*. As these *métropoles* would have directly elected councils, and as additional functions would be transferred to them both from the *département* concerned and from member municipalities, they would be given a degree of political as well as of vertically and horizontally functional integration that would move them ever closer to a consolidated metropolitan government form.

While the *Comité* report served as a frequent reference in the subsequent legislative debate, its recommendations were significantly scaled down in the government's legislative draft bill of October 21, 2009 and were further diluted in the version which was finally adopted and went into force on December 16, 2010 (Loi no. 2010–1563). The *Sénat*, traditionally dominated by the local mayors and their interests, once again turned

¹⁵ <http://www.vie-publique.fr/actualite/alaune/collectivites-locales-propositions-du-comite-balladur.html>

¹⁶ Proposition 9: »L'objectif à atteindre est, à terme, que les intercommunalités se transforment en communes de plein exercice, ce qui permettrait à la France de compter des communes fortes, en nombre raisonnable«.

out to be the champion of the institutional status-quo when it comes to defending France's traditional world of small municipalities.

Notwithstanding these retarding forces and factors, a number of remarkable changes, which are scheduled to enter into force on January 1, 2014, have been introduced by the new law.

Having in mind the long criticized democracy deficit of the *communautés* whose deliberative councils have so far been elected indirectly, such councils will be redressed by having their councillors (*conseillers communautaires*) directly elected insofar as their member municipalities have more than 3.500 inhabitants. With regard to smaller municipalities, the *conseillers communautaires* continue to be elected indirectly by the municipal councils.

The *métropoles* (metropolitan municipalities) are to be put in place in metropolitan areas as a new (forth) intermunicipal structure intended to be even more functionally integrated than the existing *communautés urbaines*. As a conspicuous innovation, it is intended that the *métropoles* shall, by way of delegation, be given important functions from the member municipalities, but also, lo and behold!, from the *département* and *région* levels. It should be borne in mind, however, that, contrary to the earlier recommendation of the *Comité Balladur*, which called for the creation of the *métropoles* by binding legislation, the establishment of *métropoles* in metropolitan areas is premised on the voluntary principle, i.e. on the consent of the municipalities, but also of the *département* and *région* concerned.

Furthermore, the existing municipalities and *communautés* are encouraged to form (consolidated) »new municipalities« (*communes nouvelles*) by way of financial incentives, but still on the voluntary principle.

Thus, on the one hand, particularly because of the institutional conservatism of the *Sénat*, the final outcome of the current legislative process has distinctly fallen behind the ambitious recommendations of *Comité Balladur*. On the other hand, the legislation of December 2010 has clearly added momentum to the institutional dynamics set off by the 1999 *Loi Chevènement* legislation and its implementation. Thus, another noticeable step forward has been ushered in on France's »pragmatic path towards territorial reforms despite the failure of mergers« (Marcou, 2010a: 41), moving it still further, in »pragmatic« and gradualist manner, towards a (consolidated) local government form.

4. Comparative Summary

4.1. The German – French Perspective

Regarding the configuration of local government and intermunicipal bodies, the German *Länder* have shown a mixed picture. On the one hand, in the *Land of Nordrhein-Westfalen* and the *Land of Hessen*, which comprise almost one third of the country's entire population, territorial reforms were carried out during the 1960s and 1970s and a mono-structure of (consolidated) local authorities (*Einheitsgemeinden*) was put in place through large-scale mergers. On the other hand, in the remaining twelve *Länder*,¹⁷ softer territorial reform strategies have been introduced by having small-scale or no mergers of the existing municipalities and by introducing a dual structure hinged on (small) municipalities and intermunicipal bodies. Following the German unification, East German *Länder*, in embarking upon soft territorial reform strategies and focusing on intermunicipal bodies, were conceptually guided by (West-East) institution transfer and mimetic isomorphism. In line with the North European pattern, the territorial reform schemes have been put into effect in all German *Länder*, by binding parliamentary legislation as a last resort.

Resulting from the recent wave of territorial reforms in East German *Länder* the demographic and geopolitical coverage of the (consolidated) local authorities has been enlarged by way of mergers, while the number and coverage of intermunicipal bodies has been diminished and absorbed. Hence, the local government structure in East German *Länder* has (*convergently*) moved towards a prevalence of the local government form exemplified by the mono structure of (consolidated) local authorities that has been in place in *Nordrhein-Westfalen* and *Hessen* since the 1960s and 1970s, respectively.

The recent wave of territorial reforms in East German *Länder* has been driven by the political wish and will to overcome the shortcomings of the dual structure which have been critically identified in the operationally and democratically problematic »undersize« of its (small) member municipalities as well as in the conflict and transaction costs and democratic deficit of its intermunicipal bodies. On top of that, the recent territorial reforms in East German *Länder* have been triggered off by their ever

¹⁷ In seven »West German« and five »East German« *Länder*, not the three so-called »City States« (*Stadtstaaten*).

more pressing socio-economic and demographic problems which have been caused, particularly in peripheral areas, by economic (de-industrialization) and demographic (de-population) erosion, calling for redrawing local level boundaries in order to territorially and administratively respond and adapt to this dramatically changed socio-economic and demographic landscape. The sequel of reforms, in *Land* after *Land*, can also be seen as a process of mimetic isomorphism.

In France, following the complete failure of the *volontariat*-premised legislation of 1971 (*Loi Marcellin*) that was meant to achieve territorial reforms by way of mergers of municipalities, the further institutional development in the subnational-local space has revolved around the evolution of intermunicipal bodies (*intercommunalité*). The 1999 legislation (*Loi Chevènement*) marked a »real revolution of the *intercommunalité*« (Borraz and LeGalès, 2005) as it aimed at giving country-wide extension and coverage to the concept of the *communauté* as a new variant of intermunicipal bodies which, endowed with taxation power of their own, *à fiscalité propre*, and with additional functions, constituted a functionally and financially *integrated* form of an intermunicipal body. This applied particularly to the *communautés urbaines* and to the *communautés d'agglomération*. The 1999 legislation and its successful implementation have been assessed and interpreted as »France's pragmatic path towards territorial reforms despite the failure of mergers« (Marcou, 2010a: 41, 2010b), pointing at incipient traces of the (consolidated) local government logic.

Although the recent legislation of December 2010 has clearly fallen behind the ambitious reform steps recommended by the *Comité Balladur*, the legislative stage has been set so that, by the beginning of 2014, France's subnational and local world will have moved, on the country's typical »pragmatic path« (Marcou, 2010a: 41), towards territorially, politically and functionally reforming its intermunicipal space and coming (*convergently*) closer to the (consolidated) local government form – by providing for direct election of the councils of the *communautés*, and by promoting *metropoles* as well as *communes nouvelles*.

4.2. Wider European Perspective

The advances of the *type I* local government observed in the recent territorial reforms in Germany as well as – still in a more incipient and »pragmatically« gradualist trajectory – in France concur with similar developments in other European countries, which shall be mentioned briefly.

First, it should be recalled that, in what has comparatively been called the *Nordic* territorial reform pattern (Norton, 1994: 41), the *U.K.* carried out a massive territorial reform of its county and district levels in 1974 by bringing the average size of the latter to up to 170.000 inhabitants (critically qualified as »sizeism«; Stewart, 1990). In 1974, *Sweden* enacted a territorial reform of its municipalities (*kommuner*) cutting their number to 288 with an average of 34.000 inhabitants. In *Germany*, large-scale reforms were put in place during the 1960s and 1970s in two of the (then) eight *Länder* (*Nordrhein-Westfalen* and *Hessen*, with an average municipal size of 44.000 in the former). The average population size (if not »over-size«) of these (*Nordic*) reform measures is brought home by the fact that the average size of municipal population in the (currently 27) EU member countries is 5.410 (Dexia, 2008: 41).

In 2007, linking up with an earlier territorial reform of 1970 and falling into line with the *Nordic territorial reform* pattern, *Denmark* diminished the number of municipalities by mergers from 271 to 98 with average of 55.400 inhabitants, the second largest in Europe after the *U.K./England* (Dexia, 2008: 249; Vransbaek, 2010).

In 1997, *Greece* was the first South European country to dramatically deviate from the *South European* principle of *voluntary* territorial reforms and to instead embark upon the *North European* track of effecting territorial reforms by way of binding (coercive) legislation. The number of municipalities was reduced from 5,825 to 1,034 (that is, by over 80 per cent) averaging 10.750 inhabitants. Even more conspicuously, in 2010, under the impact of the unprecedented financial crisis, under growing external pressure (through the IMF and the EU) and in an ensuing attempt to reduce personnel costs and to achieve more cost-efficient subnational administration, the ruling Socialist government pushed through an unprecedented territorial reform (Hlepas, 2010; Manojlović, 2011).

Through the so-called *Kallikratis* programme not only was the number of municipalities reduced from 1,034 to 325 within a year, but 50 prefectures and 13 regional authorities were abolished and replaced by a new second tier of local government (at the level of the former 13 regional authorities) with a directly elected council and a directly elected executive head. This reform is surprising insofar as a great number of prestigious and powerful political posts have been lost. Before the crisis, they would have been regarded as necessary to keep party clientelism alive. However, as the recent financial crisis in Greece demonstrates, it depends on the actors using a 'window of opportunity' to overcome the resistance against

a far-reaching territorial reform which for years has been perceived as desirable. The reform became possible because of external pressures and because it was emphasised that this reform was inevitable.

In some of the post-socialist Central Eastern European countries (recent overview in Swianiewicz, 2010; Local Government Studies 2010) the structure of small-size municipalities inherited from the Communist era has been retained, if not initially further fragmented, while at the same time intermunicipal bodies have been introduced. Cases in point are the Czech Republic (with municipalities averaging 1.870 inhabitants), the Slovak Republic (averaging 3.170 inhabitants) and Hungary (averaging 3.170 inhabitants). While the initial decision to leave the small size format of the local government level unchanged mirrored the *post-revolutionary* and *transformational* situation and the political will of the relevant actors to heed and encourage small-size »grass root« local democracy, possible subsequent moves towards territorially reshaping of the local levels have been barred.

By contrast, as early as in 1991, Bulgaria transformed its local territorial structure left by the socialist state into 264 municipalities arriving at the high average of 29.090 inhabitants (Dexia, 2008: 199). Lithuania followed suit in 1994 by drastically reducing its 581 administrative authorities that had been taken over from the socialist period (by 88 per cent) to 56 municipalities averaging 55.000 inhabitants (Dexia, 2008: 442). This, in European comparative terms, extraordinarily high average size (coming second after England's average of 170.000 and equalling Denmark's average of 55) has in the meantime been criticized for being oversized; a legislative amendment is in the making.

It should be mentioned that in Poland (which, with 38 million people, is demographically and geopolitically by far the largest among the Central East European countries) a radical territorial reform was carried out under the Communist regime in 1975 and resulted in 2,478 municipalities averaging 15,390 inhabitants (Dexia, 2008: 499). The model of multi-functional democratically elected local government was reinstalled on this territorial basis after 1990.

Finally, the case of Turkey deserves attention. Turkey (with over 70 million people) has three types of local government. In the first, tailored on the French departmental/prefectural system, in each of the 81 provinces there is a dual structure of deconcentrated state administration headed by a governor appointed by the central government on the one hand, and the so-called special provincial administration with an elected provincial

council and a chairman who delivers services to the residents living in rural areas outside the boundaries of municipalities on the other. Secondly, there are municipalities. In 16 metropolitan areas a two-tier structure of metropolitan municipalities has been put in place, where the upper tier is made of the metropolitan capital city, while the lower tier consists of district municipalities (i.e. the district capitals) and other municipalities. There are close to 3.000 local or district municipalities. Third, villages exist in low density rural areas with population of less than 2.000. There are over 34.000 villages managed by the »councils of the elders« and headmen or *muthars* elected by the latter.

Following the general election of 2002, in which the AK Party under the leadership of Recep Erdogan gained power, traditionally centralist Turkey embarked upon territorial reform (Ministry of the Internal Affairs, 2010: 5 ff). In recognizing that many of the country's municipalities were too small to discharge their functions effectively, the minimum size of municipalities was raised from 2,000 to 5,000 in a piece of legislation adopted in 2005. The subsequent Scale Reform Act of 2008 was destined to remove all municipalities with under 2.000 inhabitants. In principle, the territorial reform legislation was meant to be »binding«, thus falling in line with the North European model. The 2008 legislation aimed, inter alia, at merging the 'ordinary' first-tier municipalities with the district municipalities in the jurisdiction of the respective metropolitan municipality, and it actually took place. For the rest, however, the effect of this legislative drive towards amalgamation has been limited (Congress, 2011: 8).

This applies to a territorial reform of over 34,000 villages which in the past had less than 2,000 inhabitants and are typically situated in rural areas. While the villages are managed, in a traditional way, by the 'councils of the elders' and by headmen (*muthars*), elected by the council, they still operate at the local level without a 'true' local self government form ('no European Charter-compliant local government'; see Congress, 2011: 9) with the special provincial administration (with elected provincial councils) constituting the only level of 'true' local government responsible for them.

Following the general election of June 2011, when the AK Party and Prime Minister Erdogan were re-elected, the reform strategy has been resumed and sped up. In the White Paper on decentralization and local government reform which is being prepared, the territorial and organizational reform of the local levels, including the villages, consequentially looms large.

5. Conclusion: Convergence or Divergence?

Taking up the guiding question whether the development of the territorial structure of local level government in European countries has shown institutional convergence or divergence the conclusion to be drawn from our analysis appears to be clear:

Notwithstanding the salience which the formation and operation of inter-municipal bodies as a vehicle of intermunicipal cooperation still possess, the general trend unmistakably points at the creation of territorially and demographically enlarged municipalities as a strategy to achieve higher operative efficiency and viability while retaining democratic legitimacy. The conceptual common ground can be seen in attaining and ensuring the model of territorially and multi-functionally viable democratic local government which arguably characterizes the European local government tradition (Norton, 1991) and which possibly somewhat contrasts with the profile and ensuing territorial reform concepts typical of local government in the US (Wollmann and Thurmaier, 2011).

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REORGANIZING LOCAL GOVERNMENT:
BETWEEN TERRITORIAL CONSOLIDATION AND
TWO-TIER INTERMUNICIPALITY

Summary

Territorial reorganisation of local governments can rely on voluntary or imposed mergers of general-purpose local units or on creating functionally oriented intermunicipal bodies. A detailed institutional analysis of the German and the French local self-governments has been conducted. In certain German Länder (Nordrhein-Westfalen, Hessen), consolidated local authorities were created during 1960s and 1970s. Others have chosen softer reform strategies, retaining small municipalities and introducing intermunicipal bodies. Recent reforms in East Länder are directed at enlarging local units by way of mergers. France faced an unsuccessful attempt to merge a large number of small local units in the beginning of 1970s. Intermunicipal bodies have traditionally been in the focus of institutional development. On the basis of 1999 legislation, there were substantial changes regarding intermunicipal bodies – communauté is a new kind of intermunicipal body with taxation power and additional functions. Legislation of 2010 has provided for moving France (2014) towards territorial, political and functional reform of its intermunicipal space by providing for the direct election of the councils of the communautés, by promoting metropolises as well as communes nouvelles. Other comparative examples, except Germany and France, are also analysed. Nordic model of consolidation by mergers has been practised, in different stages of their institutional development, in the U.K., Sweden, Poland, Bulgaria, Lithuania, Denmark, and more recently in Greece. Fragmentation, small units and intermunicipal cooperation are characteristics of the Czech Republic, Slovakia, and Hungary. Special attention is given to Turkish case, which develops in line with North European model based on merging small municipalities.

Key words: local government, territorial consolidation, intermunicipal cooperation, local self-government reforms, comparative analysis

REORGANIZACIJA LOKALNE SAMOUPRAVE:
IZMEĐU TERITORIJALNOG POVEĆANJA JEDINICA
I SURADNJE NA DVA STUPNJA

Sažetak

Reorganizacija lokalnih samouprava može se osloniti na dobrovoljno ili nametnuto spajanje lokalnih jedinica opće namjene ili na stvaranje funkcionalno orijentiranih međuopćinskih tijela. Detaljno su analizirane njemačka i francuska lokalna samouprava. U nekim njemačkim zemljama (Sjeverna Rajna i Westfalija te Hessen) došlo je do okrupnjavanja lokalnih jedinica tijekom 1960-ih i 1970-ih, dok su druge njemačke zemlje odabrale umjerenije reformske strategije, zadržavajući male lokalne jedinice i formirajući tijela za njihovu suradnju. Novije reforme u zemljama njemačkog istoka usmjerene su na stvaranje većih lokalnih jedinica spajanjem manjih. U Francuskoj je početkom 1970-ih došlo do neuspješnog pokušaja okrupnjavanja većeg broja malih lokalnih jedinica. Temeljem Zakona iz 1999. došlo je do značajnih promjena u pogledu tijela međuopćinske suradnje, jer je uvedena nova vrsta takvih tijela, *communauté*, s ovlastima oporezivanja i dodatnim javnim poslovima. Zakonodavstvo iz 2010. omogućava da se teritorijalnom, političkom i funkcionalnom reformom od 2014. ojačaju oblici međuopćinske suradnje, jer određuje provedbu neposrednih izbora vijeća u toj novoj vrsti tijela (*communautés*), kao i snaženje metropoles i *communes nouvelles*. Osim njemačkog i francuskog analizirani su i drugi europski primjeri. Nordijski model okrupnjavanja spajanjem manjih lokalnih jedinica primijenjen je u različitim fazama njihovog institucionalnog razvoja u Ujedinjenom Kraljevstvu, Švedskoj, Poljskoj, Bugarskoj, Litvi, Danskoj i u novije vrijeme Grčkoj. Fragmentacija, male lokalne jedinice i međuopćinska suradnja su karakteristične za Češku, Slovačku i Mađarsku. Posebna je pažnja posvećena razvoju lokalne samouprave u Turskoj, koja slijedi sjevernoeuropski model utemeljen na spajanju malih lokalnih jedinica.

Ključne riječi: lokalna samouprava, teritorijalno okrupnjavanje, međuopćinska suradnja, reforme lokalne samouprave, komparativna analiza