

# Reform Policy in Rhineland-Palatinate

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## Functional and Territorial Reform in Rhineland-Palatinate Recent Issues and Lessons learned

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September 28<sup>th</sup> 2010 two very important reform laws passed the parliament of Rhineland-Palatinate, one concerned with the rearrangement of tasks and duties mainly between the state and the local level ("functional reform"). The other one was focused on territorial reform. The last fundamental administrative reform including territorial aspects in Rhineland-Palatinate dated from the early seventies of the last century. Since then there was a lot of isolated reforms either within the state or the local level. On the state level the transmission of the construction office out of the ministry into a public enterprise could be mentioned as an example. The latest step on the local level was the introduction of accrual accounting combined with some new steering instruments.

The need for a new fundamental reform<sup>2</sup> indeed was obviously. During the discussion in preparation of the 4<sup>th</sup> development program 2008-2018 the challenges mainly from demographic change played a prominent role. At the beginning of the reform process the former minister of the interior, Karl-Peter Bruch,<sup>3</sup> pointed out:

- The demographic change which will occur all over the country but of course with different intensity<sup>4</sup>
- The fiscal crisis of the public sector with high and fast rising short-term debt of many local authorities<sup>5</sup>
- The change in public services and public service provision
- The possibilities by using new information and communication techniques.

Indeed what was not said in detail was the change in spatial structures over the last 40 years.

- New traffic routes and the change of economic and working conditions must be mentioned.
- The importance of the industrial sector has declined while the service sector (more flexible – even in a spatial sense – than the industry) has become dominant.

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<sup>2</sup> For an overview see M. Wallerath, Steuerung des Wandels durch kommunale Gebiets- und Funktionalreformen – Zur aktuellen Kommunal- und Verwaltungsreform in Rheinland-Pfalz, DÖV 64 (2011), p. 289ff.

<sup>3</sup> S. K.P.Bruch, Die Kommunal- und Verwaltungsreform in Rheinland-Pfalz, in: K. Beck/J. Ziekow, Mehr Bürgerbeteiligung wagen, Wiesbaden 2011, S. 137f.

<sup>4</sup> The county of Bitburg-Prüm for instance will loose about 5% of its population until 2020 while the county of Mainz-Bingen still will grow by 3,2% in the same period. But in both counties the share of people aged more than 65 will rise between 2020 and 2035 by nearly 50%.

<sup>5</sup> The mean short-term debt (for current purposes) per capita has now (mid-2011) reached 1.400 Euro; it exceeds long-term investment related debt.

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- The migration mainly of younger people and families from the core city to the suburbs which took place for a long period caused a lot of spillover-effects which are not compensated by fees or grants.
- In addition: Sustainable growth claims for a cautious consumption of land, therefore the sprawling of suburbs is no longer acceptable.
- Many problems and challenges cannot be met within the boundaries of a small municipality so bigger entities or more cooperation between municipalities are needed.
- Last but not least the rising complexity of public service production calls for a well-skilled labor force within the local administration in face of a shrinking work-force population.

The Government instead claimed for a better service-quality on the local level ("close to the people") and more opportunities for citizen's participation in public affairs. Both aspects of course are very important for the future of our society.

At this point I should mention the fundamental (still common) paradigm of spatial planning in Germany. This is the principle of equivalent (not equal!) living conditions mentioned (it is not strongly postulated) in Article 72 of the German Constitution in combination with a system of Central Places. The alternative would be a concentration on Growth Poles and/or Metropolitan Regions. Following the principle of equivalent living conditions has (often) led to widespread financial transfers ("giving money by the watering can"). Faced with the demographic change and the fiscal crisis in all public budgets it becomes more and more difficult to ensure equivalent living conditions.

II.

The conditions for reforms are quite different between the German Länder. Rhineland-Palatinate – a middle sized Land with a population of 4 million – is a bit different from others. Even after the territorial reform of the seventies it has the most municipalities in relation to its population. There are more than 2.300 municipalities from which more than 1.000 have a population of less than 500 people and only 33 exist with a population of more than 10.000. So the local sector is very small sized – even the counties for instance have less than 50% of the population on average as in North Rhine-Westphalia. Moreover many of the cities (the combination of municipalities and counties) are quite small, the smallest one having only a population of 35.000.

One of the fundamental theoretical problems yet not solved is concerned with the optimum size of a municipality. Economies of scale have to be considered as well as diseconomies of large scale.<sup>6</sup> But economics are not all. For a lot of public duties (e.g. water supply) physical conditions as the topography determine the scale of the service; others must be seen through the eyes of consumers just as touristic regions which do not fit administrative boundaries at all. The Rhine Valley might be a good example with many counties having parts of their area at the borders of the rivers and others up upon the hillside. The consequence is

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<sup>6</sup> See e.g. the considerations of B. Tarkan, Die kommunale Gebietsreform auf der Ebene der Landkreise in Rheinland-Pfalz, Kaiserslautern 2009, p. 95

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(often) the forming of different organizations spatially overlapping with a lot of problems of coordination and some transaction costs.<sup>7</sup>

In a political sense optimum size is the best balance between the (political and administrative) capacity to handle local problems and the distance between citizens and the political or professional actors. Therefore very small municipalities are linked together in associations of municipalities (with professional staff) on the one hand and very big cities divided into several (more or less autonomous) parts. Already at the beginning of the reform process in Rhineland-Palatinate it was clear that the existence even of the very small communities should be untouched.<sup>8</sup> There could be voluntary mergers between such municipalities of course but the fundamental structure should remain in the future. As the Minister of the Interior said: "...municipalities guarantee fast decisions close to the citizen. In the municipalities there is a very large voluntary engagement."<sup>9</sup> This is the expression of the firm conviction not only of the minister himself but of the leading politicians in the Land.

III.

For functional reforms there should be first a critical analysis of tasks and duties which could be eliminated changed or transferred to the local level. If a transfer to the local level is intended the second step must be an analysis of the administrative capacities of different local authorities. In Rhineland-Palatinate there is the choice between the county level (which includes cities) or the level of the associations of municipalities (which includes towns not belonging to such an association). Ideally there should follow a pilot study before the transfer is carried out. Of course an estimation of the costs and the required compensation is needed.

The second law which embodied the functional reform did not follow this very simple path. The first draft of the law contained 33 duties to be transferred to the local level many of them from the sphere of responsibility of the Ministry of the Interior. The number seemed too low so the ministries were requested to add more to the list. In the end a number of 64 duties were reached. But the composition of the so called "64-list" seemed to be a selection by chance. Even more: In some cases the activities to be transferred were quite unpopular in the ministries or corresponding state offices. And sometimes the principle of efficiency was heavily violated when an activity done by one person in a state office was transferred to 36 local authorities!

Because of the small size of local authorities in Rhineland-Palatinate the destination of the transfers mainly was the county- (and city-) level. The administrative capacity of the associations of municipalities mostly is (and will stay) too low to get many new duties. The (possible) complementary process of transfer of duties from the counties to the associations of municipalities did not take place. So the counties can be said to be the winners in this race. While in

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<sup>7</sup> Some considerations can be found in B. Tarkan (fn 6), p. 127ff.

<sup>8</sup> For a critical view see H. Wollmann, Das aktuelle rheinland-pfälzische Reformprojekt im Kontext und Vergleich der Kommunalreformen in Deutschland, in: K. Beck/J. Ziekow, Mehr Bürgerbeteiligung wagen, Wiesbaden 2011, p. 184

<sup>9</sup> K.P.Bruch (fn 1), p. 142, own translation.

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other Länder like North-Rhine-Westphalia the (much bigger) communities are responsible e.g. for the secondary schools this is in Rhineland-Palatinate a duty of the county level.

IV.

The territorial reform was not only bounded by the guarantee for the existence of the small municipalities. In addition the borders of the counties – and consequently – of the cities should not be touched. So the reform concentrated on the level of the associations of municipalities and the smaller towns resp. The government saw mainly the merger of two such associations or of a town with its surrounding association. The first case done is the merger of the town of Cochem with its surrounding forming a new association of municipalities with Cochem as one of them. The exclusion of counties and cities is heavily criticized by the experts who assessed the provided reform.<sup>10</sup> The creation of better structures for counties and cities will be hindered if the associations of municipalities got their new shape. This is very crucially for the cities because the core city-suburb problems can no longer be solved by incorporation. So the territorial reform in Rhineland-Palatinate will only go half of the way which is necessary.

Although there is no clear cut evidence about an optimum size the Government fixed minimum sizes for the associations of municipalities. Without going into the details the lower limit is set at a population of 10.000 or 12.000 resp. This is a little bit less than the economic expert Martin Junkernheinrich recommended. The law defines two phases. In the first phase voluntary mergers are possible – the partners are not set by the law but associations of municipalities can choose (if possible) between neighbors. This phase is supported by the government with financial aid (“wedding incentives”: grants, debt-relief, merging costs a.s.o.). The voluntary phase ends 2014, then necessary changes will be made by law. If this will be done as rigorous as the law suggests is not really clear yet. When the two laws passed the parliament in 2010 the Green Party – now partner of the Socio-Democrats in the newly formed coalition – was not represented. So perhaps some changes might occur. Already now it can be said that not all mergers needed to reach the minimum sizes will take place until 2013.

At the time some expertise is done. As the government has informed in July 2011 results are available for 5 specific cases. In addition broader research is undertaken for the associations of municipalities within 7 districts. One of the crucial questions is the possible gain in efficiency by the merger. If there are synergy effects it is not understandable why the merger must be accompanied by fiscal aid – if there are not the sense of the merger should be questioned. But in practice much more simple questions are raised as f.ex.: Where shall the office building of the newly formed association be placed or more critical: which of the two (or more) old ones shall be closed down?

Unfortunately the reform discussion did not give many answers how to meet the challenges of the future. Only some questions can be raised here:

- How should services be provided for an ageing society? Are mobile offices a good answer?

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<sup>10</sup> See M. Wallerath (fn 2), p. 291

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- How can private services as medical care, grocery stores a.o. be guaranteed?
- How can local public services be financed in the future with a (possibly) declining tax base?
- How can local public administrations conserve and improve their professional quality?
- How can the suburban sprawl be reduced and inner-cities (and inner-municipalities too) be enforced?
- How can cooperation – if mergers are not possible or not wanted – be strengthened?

V.

The reform process in Rhineland-Palatinate has a lot of deficits. But it is unique because of its strong participatory elements.<sup>11</sup> In the beginning information and discussion started with the political representatives of all of the local authorities also including those who are not directly affected as the cities. The second step was the inclusion of citizens. 5 regional forums were organized in which 800 people took part. Then 6 workshops lasting 4 days with 25 participants each were held ("Planungszelle"). The participation ended with a representative survey reaching 10.000 citizens. One interesting result of this participatory way is that citizens are not overstrained even if confronted with a complex theme like an administrative reform.

The targets of the reform resulting in the two already mentioned laws of course were influenced by the opinions of the citizens. They made a lot of detailed proposals esp. concerning the quality of local public services but refused radical reforms. This is not very surprising but the government felt confirmed to go the right way.

The Government announced a following phase for the counties and the cities.<sup>12</sup> With view to the counties the main question might be the reduction from now 24 to then perhaps 12 counties or even less. One constraint indeed is a decision of the High Court of Mecklenburg-Vorpommern. The Government of this Land wanted to form very big counties not with regard to their population but to the covered area. The High Court claimed that the single representative of the county council would not be able to be informed about such a big entity. This was one of the arguments for the government of Rhineland-Palatinate to justify the exclusion of the county-level.

Much more difficult is the intended next phase for the cities. As the surrounding municipalities have formed new associations of municipalities there is no chance to extend the city borders. What might happen – as it was the case in Hessen – is the incorporation of the smaller cities (about 7) into the neighbored county so they will lose their former status. If there is a development outlook for the other 5 cities must be questioned.

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<sup>11</sup> For a short description see U. Sarcinelli, Bürgerbeteiligung im Rahmen der Kommunal- und Verwaltungsreform (KVR), Ergebnisse der wissenschaftlichen Begleitforschung, in: K. Beck/J. Ziekow (Hrsg.), Mehr Bürgerbeteiligung wagen, Wiesbaden 2011, p. 149ff.

<sup>12</sup> See K.P.Bruch (fn 3), p. 146f.

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To avoid this the association of cities has made the proposal to form a city-county around the city. The municipalities in this area will not lose their autonomy but a lot of local services will be delivered by the core city. This might lead to economies of scale and might reduce the city-suburban conflicts. Very freely spoken this model is a bit similar to the "communautés urbaines" in France.

But perhaps something totally different happens: After the ongoing reform no second step of reform will follow. Instead there might be many incremental steps as in the last decades. This could be seen already during the ongoing reform. Despite all considerations about a good political and administrative structure the school system was fundamentally changed. As a consequence the responsibility for all secondary schools was transferred to the counties. It is not unreal that this will happen in the future.

What are the main lessons from Rhineland-Palatinate?

- No reform without ex-ante-analysis
- No partial reform but a reform which covers the whole Land
- More ideas for the challenges of the future are needed
- Participation of the citizens is possible

Unfortunately it seems too late to give the reform in Rhineland-Palatinate another, better direction. So people in this Land have to wait perhaps another decades ...