

NOTA

**AUTONOMY AND EVOLUTION OF GERMAN EDUCATIONAL FEDERALISM<sup>1</sup>**by **Ursula Münch**

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**I. INTRODUCTION:  
DISTINCTIVE FEATURES OF GERMAN EDUCATIONAL FEDERALISM**

There is an important difference between the allocations of competences in educational policy compared to other German policies: Nearly all policies in the German federal state are organized in the way that the federal government (including the *Bundesrat* as second chamber) is responsible for the legislation and that it is the competency of the *Laender* to implement this federal legislation. The German educational federalism differs from this “normal” German model of federalism. Here we find a distribution of powers and modes of governance obviously different than in other fields of federal policy. Legislation as well as the administration of the education system lies in the responsibility of the *Laender*.

**II. THE FEDERAL REFORM OF THE YEAR 2006**

The general objective of the 2006 constitutional reform was to disentangle the interwoven legislative, administrative and financial competences in the federal system of Germany. It changed several paragraphs of the Basic Law with regard to higher education.

Former negotiations of the federal system even broke down because of the request of the *Laender* to gain complete control over the educational system – concerning secondary as well as higher education. Transferring responsibility to the *Laender* for several aspects of education was a necessary compromise for achieving success in the federalism reform package.

**III. THE PRECEDENCE OF THE LAENDER  
IN SECONDARY EDUCATION**

Especially in the secondary education formal competences of the federal government are to be seen as an exception. But following the founding of the Federal Republic of Germany in the year 1949 it soon became obvious that a high level of harmonization was seen as a kind of compensation for the publicly bemoaned lack of a strong federal role in education (Burkhart/Manow/Zieblatt 2008, 536). There are several reasons for this attitude. First: The German public is asking for an organization supporting geographic mobility. Second: The coordination on the horizontal level was not only promoted with regard to the opportunity of mobility but first and foremost with regard to the general attitude to provide “uniform” living conditions all over the republic. Third: Due to the necessity to have nationwide standards with regard to higher education entrance qualification the “Standing Conference of the Ministers of Education and Cultural Affairs of

the *Laender* in the Federal Republic of Germany” (*Kultusministerkonferenz*) has agreed on several fundamental common features for the school system.

#### **IV. MODES OF GOVERNANCE IN THE FIELD OF EDUCATIONAL FEDERALISM**

While we have seen quite similar school systems all over the Federal Republic in the past there are obvious policy changes to be seen in the last years. The most important change with regard to German school policy and to the ambitions of the *Laender* was a result not of the federal reform in the year 2006 but of the reaction to the Program for International Student Assessment (PISA). Different quality management programs were introduced in the *Laender*. Nevertheless some *Laender* governments took advantage of the results and introduced programs they already had aimed at long before.

#### **V. THE ROLE OF THE FEDERAL LEVEL IN SECONDARY EDUCATION**

One of the reasons for the federal government’s interest in education is the fact that education policy is a popular political issue: Although it might be easier to lose than to win an election after campaigning based on education policy, all political parties engage themselves in this field because of the public attention towards it.

Regarding schools, there was no vertical cooperation practiced until the red-green federal coalition (1998-2005) started several joined programs. One of these programs was the investment program „Future of Education and Care” (*„Zukunft Bildung und Betreuung”*) of the year 2003. According to this administrative agreement the federal government put four billion Euros at the federal states’ disposal to invest it into the development of all-day schooling. The end of the red-green coalition brought the end of these joined educational programs. And since the federal reform of 2006 came into effect (Article 104 b) no grants-in-aid are allowed any more.

#### **VI. THE ABOLISHMENT OF “MIXED FINANCING” (MISCHFINANZIERUNG)**

One of the permanent grievances about the collaborative federalism in Germany concerned “mixed financing” (*Mischfinanzierung*). This former joint financing increased the federal role and it also brought an element of hierarchy at the expense of the *Laender* and reduced their autonomy. Since the provision was deleted due to the federalism reform of 2006 (Gunlicks 2007) the *Laender* gained responsibility for this expensive task, obtaining certain compensation until the year 2019.

Another achievement of the *Laender* governments in the Federal Reform was a new provision in the German Basic Law (Article 104b), the so called *Kooperationsverbot*. Since it statutes that the federal government can co-finance investments of the *Laender* or the cities only if the federal government has legislative competences in this field of policy. This new provision limits the reach of grants-in-aid in educational policy from Berlin.

#### **VII. THE EFFECTS OF PARTY POLITICS IN EDUCATIONAL FEDERALISM**

In the 1970s and 1980s education policy was a very controversial partisan issue in Germany:

The basic discussion about the school system referred to the conflict between a more egalitarian direction and a merit system.

While we see a declining importance of ideology we have a rising differentiation in the German school system on the other hand. First: It seems to be quite obvious that the German unification was followed by a pluralization of school types. Second: As a result of PISA we see a new adjustment of educational policy in the direction of a standards-based education system. Third: Following economic necessities and the higher rates in mother's employment a new orientation towards the necessity of all-day-schools with regard to economic necessities is to be seen. And finally the demographic change is the main reason for a more pragmatic stance with regard to comprehensive schools: In those areas with a declining population these schools are often the only way to keep at least one school in the area.

In the public opinion these new variations are not seen as a positive result of the federal reform. Even the opposite: The public prejudice towards an educational federalism constraining regional (but also social) mobility is even growing.

### VIII. A REFORM OF THE REFORM?

While a majority of the *Laender* appeared very keen to achieve a status with less influence from Berlin the willingness of the *Laender* to make use of these new competences in educational matters (in both schools as well as universities) seems to be fading. The main reason for this new reluctance is the fiscal heterogeneity of the *Laender*. The governments of these *Laender* argue that the rigid separation of legislative competences in the education sector does not seem to match with the requirements following the high ambitions in education politics – especially after PISA. They ask for the official abandonment of the *Kooperationsverbot* in educational affairs, introduced with the federal reform in 2006.

### IX. CONCLUSION

In German educational federalism, there are several examples which prove the gap between federal theory and federal practice. The plan of a really big reform (basing on the idea of more competition in German federalism) promoted especially by the so-called “economic overachievers” seems not to be practicable in real politics. At least it seems not to be practicable in times of demographic change and fiscal restraints and the necessity to react to the ambitions of the OECD. The main reason that competition is not really functioning in educational federalism seems to be a certain unwillingness of the German public with regard to education to accept differences based on competition.

### LITERATURE:

- BURKHART, Simone/Manow, Philip/Zieblatt, Daniel (2008): A more efficient and accountable federalism?, in: German Politics, 17, pp. 522-540.
- GUNLICKS, Arthur (2007): German Federalism Reform: Part One, in: German Law Journal, 8, pp. 111-132. ■