

## The German Experience of Federalism

*20<sup>th</sup> January, The German House, 34 Belgrave Square, London SW1*

**We are grateful to the German Embassy for their hospitality and help in organising this event.**

### **Professor Rudolf Hrbek, Tübingen**

**University** gave a talk in which he defined the concept of federalism and set out two ways in which it can be realised, 'dual' and 'cooperative'. Describing how Germany had adopted 'cooperative' federalism, he explained the problems associated with this model and recent attempts to resolve them.

Prof. Hrbek described federalism as one of the key features of Germany. He referred to the so-called 'eternity clause', Article 79 of the Constitution, stipulating that federalism must never be abolished.

Federalism was a normative term, meaning a combination of elements of shared rule and regional self-rule, of unity and diversity. A federal political system attempts to bring this system about.

There were two ideal types of federalism: dual federalism, where the different levels can be clearly identified; and cooperative federalism, where there was less competition between the tiers. The German system fell into the second category.

Germany has a tradition of never being highly centralised, even during the Empire when Prussia had a degree of prominence. Then the Nazis abolished all federal/confederal elements.

Unconditional surrender at the end of the Second World War meant that the allies had all the power. The three Western allies decided in 1947-8 to transform the zones they occupied into a state-like entity. It was to be composed of Länder, which were artificial entities, created in the wake of the dissolution of Prussia. West Germany had to have human rights, democracy and a federal structure. This approach for West Germany was favoured not only by the US, a federal state, but France and the UK.

West Germany soon developed a vertically and horizontally interlocked system. It was open to criticism in two aspects: 1) Efficiency, for problem-solving 2) Democracy, in terms of accountability and transparency.

In the German system there are few exclusive powers and a range of

concurrent powers. The federation can take action in special circumstances, in the interests of the 'uniformity of living conditions'. The constituent parts of the federation have been happy to take part in decision-making at federal level. There is a permanent process of horizontal and vertical negotiations, within which the party political factor is important. A high degree of overlap occurs in finance. Länder have no taxation powers and the federation can give them assistance. 70% of taxes are jointly apportioned.

There have been various reform attempts made. In the 1970s reform was blocked because constitutional change requires a two thirds majority in Bundestag and Bundesrat – there must be a grand coalition for change. There was some redistribution of legislative competence in 2006. In 2009 it was decided that from 2020 Länder would not be able to incur debt. The idea of autonomy in taxation powers was not touched.

There were divergent views of the form future reform could take. One route was more competition and autonomy; another was a more unitary system. The political elite was disposed towards reform. Opinion poll data showed that the public were opposed to centralised structures but supported uniformity of living conditions, cooperation and coordination.

**Jonannes Leithäuser, Frankfurter Allgemeine Zeitung**, noted that East German Länder had a stronger identity as a group than did the "old" Länder.

He expressed the view that the approach taken to health and

education in Germany, where it is regionalised and localised, was preferable to the centralisation of policy in the UK.

Länder provide political recruitment for parties. National party HQs have less power than in the UK, owing to the federal and electoral system, with election lists drawn up by the parties in the Bundesländer.

**In discussion** there was interest in the origins of pressure for reform, which Prof. Hrbek attributed to think tanks, representatives of stronger and wealthier Länder; and representatives of industry and business.

There was discussion of the status of the city states of Berlin, Bremen and Hamburg.

On the question of whether Germans feel they have too much government, Prof. Hrbek noted that a 2008 poll showed that local government was regarded as the most important tier; then the federation, then the EU. A quarter felt that the Länder were 'not necessary at all'.

There was further discussion of the principle of subsidiarity and the central redistribution of funding.

In conclusion both speakers agreed that the most positive feature of federalism was the cultural richness and variety which it engendered.

*Andrew Blick*  
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