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TERRITORIAL REFORM IN FRANCE

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Abstract

In the last two years comprehensive legislative reforms have been passed in France which aim to change the territorial architecture of the Republic to ensure increased transparency and efficiency in public administration in the long term. The reforms focus on the metropolises, the merging of regions and the reorganisation of the powers of the various levels of regional bodies. Cross-border cooperation on the Upper Rhine and in the Greater Region is affected but not called into question by the reforms.

Keywords

France – territorial reform – région – Grand Est – Département – inter-municipal associations – cross-border cooperation

1 Starting point

The territorial reform in France has an impact on the two border areas examined here, the Greater Region and the Upper Rhine region. Hence, the main spatially-relevant changes enacted by this reform will be briefly outlined below.

France has four levels of local administration which share competences: municipalities (36,700), inter-municipal associations (2,600), *Départements* (101) and *régions* (22). This stacking of administrative levels is often referred to as a ‘territorial mille-feuille’. This form of organisation lacks transparency for citizens and compromises the effectiveness of public policy.

A comprehensive reform package¹ envisages changing the territorial architecture of the Republic, with the aim of reducing public spending and taking better account of citizens’ concerns.

2 The reform package

A first legislative project was implemented in January 2014 with the act on the modernisation of territorial public policy and on the strengthening of metropolises (Act No. 2014-58 of 27 January 2014). The creation of a new status for metropolises was the first step towards clarifying powers at the local level. On 1 January 2015, the metropolises of Rennes, Bordeaux, Toulouse, Nantes, Brest, Lille, Rouen, Grenoble, Strasbourg (*Eurométropole de Strasbourg*) and Montpellier were established on this basis.

1 The reform package essentially consists of the following three pieces of legislation:
 Act No. 2014-58 on the modernisation of territorial public policy and on the strengthening of metropolises (*Loi n° 2014-58 de modernisation de l’action publique territoriale et d’affirmation des métropoles, MAPTAM*) of 27 January 2014 as published in the declaration in No. 0023 of the *Journal Officiel (JO)* of 28 January 2014.
 Act No. 2015-29 regarding the delimitation of the *régions*, elections in the *régions* and *départements* and the modification of the election calendar (*Loi n° 2015-29 relative à la délimitation des régions, aux élections régionales et départementales et modifiant le calendrier électoral*) of 16 January 2015 as published in the declaration in No. 0014 of the *Journal Officiel (JO)* of 17 January 2015, page 777.
 Act No. 2015-991 on the reorganisation of the territory of the Republic (*Loi n° 2015-991 portant nouvelle organisation territoriale de la République, NOTRe*) of 7 August 2015 as published in the declaration in No. 182 of the *Journal Officiel (JO)* of 8 August 2015.

The new administrative units are intended in particular to contribute to the economic dynamism of the country and now have expanded powers. Metropolises close to borders (Lyon, Strasbourg) can join cross-border cooperation structures. With its establishment, the Eurométropole de Strasbourg has assumed all the powers of the former *Communauté urbaine de Strasbourg (CUS)*, supplemented by new mandatory powers.²

The second legislative package, which is also relevant for cross-border cooperation, includes the act on the delimitation of the régions, elections in the régions and départements and the modification of the election calendar (Act No. 2015-29 of 16 January 2015), which reduced the number of régions from 22 to 13. The act lays down the new boundaries of the régions. This ‘new map of the régions’ was adopted in December 2014, against the express wishes of the Alsace région. The reasons for the merger and thus for the creation of larger régions are to strengthen the régions as economic areas, to give them more powers and, in particular, to provide more instruments for economic development.

The decision to merge the régions entered into force on 1 January 2016. For the border area with Germany and thus for the territorial remit of the Regional Working Group, the restructuring and merging of the regions of Alsace, Lorraine and Champagne-Ardenne into the new Grand Est région plays an important role.³ Its (new) dimensions mean that this region will help to bring the cross-border cooperation areas of the Greater Region and Upper Rhine regions closer together.

The third package concerns the act on the reorganisation of the territory of the Republic which entered into force on 7 August 2015 (Act No. 2015-991 of 7 August 2015). The key objective of the law is to newly regulate the territorial organisation of the country by establishing a statutory basis for the powers of the various levels of territorial authority (régions, Départements, inter-municipal associations, municipalities). The ‘general competence clause’ in effect up to that point was largely abol-

2 Cf. Decree No. 2014-1603 regarding the establishment of the metropolis named ‘Eurométropole de Strasbourg’ (*Décret n° 2014-1603 portant création de la métropole dénommée ‘Eurométropole de Strasbourg’*) of 23 December 2014 as published in the declaration in No. 0298 of the *Journal officiel ‘Lois et Décrets’ (JORF)* of 26 December 2014.

On 1 January 2017, the Eurométropole de Strasbourg assumed further powers from the Département du Bas-Rhin (road network in the area of the Eurométropole, social security fund, housing solidarity fund, youth welfare fund). Cf. Fortier, Jacques: *Decentralisation: Ce qui bouge le 1er janvier*. In: *Dernières Nouvelles d’Alsace (DNA)*, 1 January 2017, page 12.

3 The Grand Est région in north-eastern France spans approximately 57,800 km² and has a population of about 5,550,000. The région comprises 200 cantons and 5,195 municipalities. The average population density is 97 inhabitants/km², with the région combining very different sub-regions (cf. *Atlas de la région Alsace Champagne-Ardenne Lorraine*, URL: <http://www.grandest.fr/atlas/> [as on 30 March 2017]). The name ‘Grand Est’ is the result of a citizens’ survey and entered into force with Decree No. 2016-1262 on establishing the name of the Grand Est région (*Décret n° 2016-1262 portant fixation du nom de la région Grand Est*) of 28 September 2016 as published in the declaration in No. 0227 of the *Journal Officiel (JO)* of 29 September 2016.

ished, in particular for the régions and Départements.⁴ The regulatory content of the act is relevant for spatial development as well as for the development of the border regions, and includes in particular the following relevant sections:

Section I (Articles 1-13) deals with the further development and strengthening of the regional level in favour of balanced spatial development:

- > Definition of the responsibilities of the régions in the areas specified by the law (housing, urban policy and urban renewal)
- > Allocation of powers for the economy and economic development, transport, management of the public departmental road network
- > Allocation of a leading power for tourism
- > Introduction of a regional waste prevention and management plan and a regional plan for spatial planning and sustainable development

Section II (Articles 14-23) aims to rationalise the territorial organisation and facilitate inter-municipal associations:⁵

- > new targets for inter-municipal associations;
- > joining/integration of previously isolated municipalities into inter-municipal associations;
- > strengthening the mandatory tasks of inter-municipal associations;
- > supplementing the remit of inter-municipal associations in such a way that they can be considered eligible for general financial allocations from the central government.

4 The general competence clause (*clause générale de compétence*) confers general regulatory powers to act on territorial authorities without specifying the individual powers. This ‘general competence clause’ was initially abolished through Act No. 2010-1563 on local government reform (*Loi n° 2010-1563 de réforme des collectivités territoriales*) of 16 December 2010 and was then reintroduced with the MAPTAM Act of 27 January 2014 for the départements and régions, only to be revoked again by the NOTRe Act of 7 August 2015 in favour of precise allocations of powers to the régions and Départements. According to the current legal position, the general competence clause in France now only applies to the municipalities. Cf. *Clause générale de compétence : une décision du Conseil institutionnel*. URL: <http://www.vie-publique.fr/focus/clause-generale-competeence-decision-du-conseil-constitutionnel.html> (as on 16 September 2016).

5 Intermunicipal cooperation at the level of public law takes place in France in the legal form of an intermunicipal public entity (*établissement public de coopération intercommunale, EPCI*) with financial sovereignty and legal competence. The various types of association organised as an EPCI include municipal associations [*communautés de communes*] (established by the Act of 6 February 1992), urban communities [*communautés urbaines*] (Act of 31 December 1966), agglomeration communities [*communautés d’agglomération*] (Act of 12 July 1999) and metropolises (*métropoles*) (Acts of 16 December 2010 and 27 January 2014).

Section III (Articles 24-29) introduces a number of measures aimed at ensuring solidarity and equality among spatial units, including:

- > the primary power of Départements for ‘social and spatial solidarity’;
- > shared powers for culture, sport and tourism with the introduction of central contact points.

3 The spatial impact of the reforms

The municipalities remain the only level of territorial authority to which the general competence clause continues to apply.⁶ This allows municipalities to take care of all the everyday concerns of their citizens.

The local level is also strengthened by new instruments to promote intra-municipal associations to ‘new municipalities’ (*communes nouvelles*), a legal status introduced by the act on local government reform (2010).⁷ The *commune nouvelle* is a territorial authority that merges and thus replaces several neighbouring municipalities. A new law provides that municipalities that choose to take this step can benefit from financial incentives.⁸

Municipal associations [*communautés de communes, CDC*] close to the border (e.g. CDC du Pays de Wissembourg, CDC du Sauer-Pechelbronn, CDC de l’Outre-fort, CDC du Pays Rhénan, CDC de la Plaine du Rhin) have signalled their interest in joining the EGTC Eurodistrict PAMINA as a member, thereby further consolidating the local roots of the Eurodistrict.

In future, the Départements will mainly carry out social tasks (solidarity) with a particular focus on preventive measures, people in need, childcare and safeguarding the independence of seniors. In addition, there are tasks in relation to territorial solidarity, e.g. in the form of the development and provision of the required technical and specialist capacities to provide assistance and support to municipalities and inter-municipal associations in areas where the latter lack adequate resources (road construction, housing, etc.).

Other previous responsibilities of the Départements are gradually transferred to other territorial authorities; for example, the Bas-Rhin Département is handing over

6 Cf. Footnote 4.

7 Act No. 2010-1563 on local government reform (*Loi n° 2010-1563 portant réforme des collectivités territoriales*) of 16 December 2010 as published in the declaration in No. 0292 of the *Journal Officiel (JO)* of 17 December 2010, page 22146.

8 Act No. 2015-292 regarding the improvement of the legal framework of the *commune nouvelle* for stronger, viable municipalities (*Loi n° 2015-292 relative à l’amélioration du régime de la commune nouvelle, pour des communes fortes et vivantes*) of 13 March 2015 as published in the declaration in No. 0064 of the *Journal Officiel (JO)* of 17 March 2015, page 4921.

powers to the Eurometropolis of Strasbourg⁹ and the Grand Est région¹⁰. The precise arrangements for this transfer (financial resources, employees, etc.) are governed by agreements concluded between the Département, the région and the Euro-métropole de Strasbourg.

4 Perspectives

The régions, as key players of economic policy at the subnational level, will be strengthened: they are now required by law¹¹ to draw up a plan for economic development, innovation and internationalisation by 1 January 2017,¹² as well as to take over the future management of ports and airports. They have lead responsibility for regional railway transport (*Transport Express Régional, TER*) and public intercity bus transport, as well as for the public road network. In addition, they have been the administrative authority for European funding since 2014 and have been fully responsible for vocational education and training since 1 January 2015.

The impact on cross-border cooperation cannot be foreseen in detail at this stage (cf. *MOT [Mission Opérationnelle Transfrontalière]* 2015). In principle, it can be assumed that the newly merged larger régions will take over the existing memberships and formal legal obligations of the former régions (e.g. the Grand Est région is a member of the EGTC Eurodistrict PAMINA), unless explicitly different resolutions are adopted.

The scope for régions and Départements to enter into cross-border cooperation is not called into question by the reforms; both levels of territorial authority can continue to engage across borders within the framework of their own and shared powers. For example, when regional plans and programmes are drawn up, it is possible¹³ to provide for areas that specifically focus on cross-border issues and/or to involve neighbouring regions in the preparation of planning documents. In this sense, formal and informal cross-border participation in environmental and spatial projects, plans and programmes will continue to be pursued in the Upper Rhine region, and in

9 Cf. Decree No. 2014-1603 regarding the establishment of the metropolis named 'Eurométropole de Strasbourg' (*Décret n° 2014-1603 portant création de la métropole dénommée 'Eurométropole de Strasbourg'*) of 23 December 2014 as published in the declaration in No. 0298 of the *Journal officiel 'Lois et Décrets'* (*JORF*) of 26 December 2014.

10 The transfer of powers to the Grand Est région relates in particular to economic development and transport (bus transport outside urban areas and school transport).

11 Act No. 2015-991 on the reorganisation of the territory of the Republic (*Loi n° 2015-991 portant nouvelle organisation territoriale de la République, NOTRe*) of 7 August 2015.

12 The adoption of the Regional Strategy for Economic Development, Innovation and Internationalisation (*Schéma régional de développement économique, d'innovation et d'internationalisation, SRDEII*) Grand Est by the Regional Council is scheduled for 28 April 2017 (cf. URL: <https://www.grandest.fr/wp-content/uploads/2016/09/srdeii-livret-1-orientations.pdf> (as on 25 March 2021)).

13 E.g. *Schéma régional de développement économique, d'innovation et d'internationalisation (SRDEII)* (cf. URL: <https://www.grandest.fr/wp-content/uploads/2016/09/srdeii-livret-1-orientations.pdf>) or *Schéma régional d'aménagement, de développement durable et d'égalité des territoires (SRADDET)* (cf. URL: <https://www.grandest.fr/politiques-publiques/sraddet/>).

particular in the Eurodistrict PAMINA, in accordance with established and proven practice. This is particularly true for the regional scheme for Regional Strategy for Spatial Planning, Sustainable Development and Equality (*Schéma régional d'aménagement, de développement durable et d'égalité des territoires, SRADDET*), which is often referred to as the 'Plan of plans' and must be elaborated for the Grand Est région by the end of 2018. As the Grand Est région is the French region most shaped by cross-border interaction and cooperation, there are strong arguments here to provide adequate space for the cross-border approach in the context of the co-construction of the SRADDET.

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