

Paris, Didier; Gustedt, Evelyn

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Didier Paris, Evelyn Gustedt

INSTITUTIONAL DIFFERENCES IN GERMANY AND FRANCE – BETWEEN SPATIAL REFORM AND PERSISTENCE

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Abstract

Germany and France offer two different models of political and administrative organisation: a federal state on one side of the Rhine and a unitary state on the other, albeit one that has become more decentralised over the last 40 years. Thus, the French *régions* have reduced capacities for action compared to the *Länder*. At the local level, the administrative structure was strengthened in Germany by merging municipalities, whereas France chose to use intermunicipal structures. In contrast to the political and administrative stability in Germany, local and regional organisation in France is constantly evolving, faced with a succession of laws, the pace of which has accelerated over time. The same applies to spatial planning, which has been framed from the outset by the German *Grundgesetz* (GG - Basic Law), but which has undergone much more evolution on the French side, even if the *loi d'orientation foncière* (LOF - Basic Land Act) of 1967 and the *loi solidarité et renouvellement urbain* (SRU – Law on Urban Solidarity and Renewal) (2000) represent two fundamental stages. In both countries, the strategic dimension of planning has been strengthened, and each side has developed its own tools for the management of urban projects.

Keywords

State – administrative organisation – local authorities – planning – drivers of change

1 Administrative structure in both countries

After the Second World War, both Germany and France had to rebuild their national administrations. In Germany the Allies created four occupation zones – Russian, American, British and French. After the breach between the Russians and the West, two German states were founded in 1949. In the East, the German Democratic Republic (GDR) was a centralised socialist state integrated in the Warsaw Pact. In the West, the Federal Republic of Germany (FRG) was based on a federal model in line with the constitution adopted on 8 May 1949. Konrad Adenauer was the architect of the German-French rapprochement and played an important role in European integration; he was the first German chancellor (1949-1963). The division into 11 *Länder* (federal states) – including the three *Stadtstaaten* (city states) of Hamburg, Bremen and West Berlin – occurred within the occupation zone of the Western powers. The former capital city Berlin was soon divided into two by the ‘Wall of Shame’ (1961). West Berlin was enclosed and surrounded by the GDR and connected to the West by Tempelhof Airport, especially during the crisis of the Berlin blockade (1948-1949). After the reunification of East and West Germany in October 1990, the old pre-GDR districts were abolished, five new eastern federal states joined the FRG and a reunified Berlin replaced Bonn as the capital of the country once again.

In the immediate post-war period in France a provisional government was established (1944-1946), initially led by General De Gaulle until the proclamation of the Fourth Republic and the adoption of a new constitution. This was the regime that committed France to NATO, to the integration of Europe (Robert Schuman, Jean Monnet) and to an ambitious reconstruction programme with the *Commissariat Général au Plan* (General Planning Commission, from 1946 to 2006 the authority responsible for Five-Year Economic Plans under the prime minister). The regime was, however, plagued by chronic political instability, particularly in connection with the crises that accompanied decolonisation, which led to the fall of the government. In 1958 Charles de Gaulle appeared as a saviour and the adoption of the new constitution marked the beginning of the Fifth Republic. The referendum of 1962 changed the nature of the constitution so that the president of the republic was now elected by direct universal suffrage. These episodes marked a return to greater political stability. France remained a strongly centralised state, strengthened by powerful administrative and technocratic mechanisms, particularly by the prefects in the departments and the *Ecole nationale d'Administration* (ENA – National School of Administration), a national educational establishment created to train the high-ranking executives required by the country at the time.

2 Federal state from the outset versus central state developing towards decentralisation and regionalisation

2.1 Germany: the structure of the national state, the competences of the federal states and municipalities

Germany's federal structure and the division of legislative powers between the federation on the one hand and the federal states on the other hand are most important for urban and spatial planning. A distinction is made between exclusive legislation and concurrent legislation. This is governed by Articles 70-74 of the German *Grundgesetz* (GG – Basic Law). According to the Federal Statistical Office, on 31 December 2018 there were the following administrative units in the 16 German federal states: 19 *Regierungsbezirke* (administrative districts) (only in the states of Bavaria, Baden-Wuerttemberg, Hesse and North Rhine-Westphalia), 294 *Landkreise* (districts), 11,014 *Gemeinden* (municipalities) with 2058 towns and cities including *kreisfreie Städte* (administratively independent cities) (Deutscher Städtetag 2019).

There are many different types of municipalities in Germany. They vary between the federal states due to specific stipulations based on the individual state legislation (e.g. *Niedersächsisches Kommunalverfassungsgesetz* – Municipal Constitution Act of Lower Saxony or *Gemeindeordnung Nordrhein-Westfalen* – Municipal Code of North Rhine-Westphalia, non-existent in Berlin and Hamburg). What they all have in common is a directly elected municipal leader, usually known as the mayor, and a directly elected municipal council. The three so-called city states of Berlin, Bremen (consisting of the two cities of Bremen and Bremerhaven) and Hamburg contrast strikingly with the situation of cities in France. These three city states are federal states in their own right and have competences comparable to those of the other federal states, e.g. in terms of legislative responsibilities. The elected representatives of the people have different titles in these three cities and can be compared with the state parliaments and the state premiers of the other federal states in terms of their rights, obligations and responsibilities. They have something of a dual function: city government and state administration. They therefore are also members of the *Bundesrat* (Federal Council).

There have been various administrative reforms in Germany since the end of the 1960s. They are primarily the responsibility of the states. The federal states organise their own administrations and use municipal codes to provide municipalities with a corresponding framework. The German federation is primarily responsible for reform of civil service regulation and influences the administrative activities of the other territorial bodies by extending or transferring public tasks. The municipalities are by no means merely responsible for execution. As well as having the right to organise their own administrations they also have considerable flexibility in the implementation of measures.

The administrative system as a whole is distinguished by its great continuity and the public administration in Germany continues to bear the characteristics of a classical Weberian bureaucracy. In recent decades it has, however, also been possible to identify clear changes.

2.2 France: the long march towards regionalisation

In contrast to federal Germany, in the 1960s the term ‘regional action’ came gradually to the forefront in the centralised state of France. In the 1950s and 1960s there were numerous regional expansion committees consisting of representatives from regional civil society and elected members. Following the example of the most emblematic of these committees, the *Comité d'étude et de liaison des intérêts bretons* (CELIB – Committee to Assess and Represent Breton Interests), these ‘regional actions’ were intended to promote strategic reflection about the future of the regions and decentralisation. The state defined spatial frames of reference (1960) for these ‘regional actions’, and in the course of the deconcentration reform (1964) these units were placed under the authority of the regional prefects and were led by an advisory body, *Commission de développement économique régional* (CODER – Commission for Regional Economic Development). The consolidation of the regional level in the still centralised state culminated in 1972 in a reform proposed by President Pompidou which created *Établissements publics régionaux* (EPR – Public Regional Bodies). These administrative bodies brought together elected representatives who had not, however, been elected for this purpose and were only provided with a symbolic budget. In actual fact, the territorial organisation of the state continues to be based on a centralised pyramid of three levels: the central state; the departments (today there are 96 *départements* on the French mainland and five overseas), which are led by a prefect as a representative of the state and an elected departmental council (known in the past as the *Conseil général*); and *communes* (municipalities) on the local level.

Decentralisation was a major issue at the beginning of the socialist presidency of François Mitterrand. Legislation passed in 1982 strengthened the competences of the municipalities (especially in the field of urban planning) and the departments, and established the *région* as a territorial authority of equal standing to the departments, with no hierarchies between the levels but with a division of competences. For instance, the primary schools were financed by the municipalities, the secondary schools by the departments, and the grammar schools and professional training by the *régions*, while state influence continued in the form of a national education policy related to teacher training and training programmes. When the departments were established at the time of the French Revolution, their territories often emerged from the provinces that had previously existed, and similarly the boundaries of the 22 metropolitan *régions* were based on past territorial divisions. In 2015 legislation was passed to reorganise the *régions* by amalgamation, leading to the creation of 13 large metropolitan *régions* (five overseas) (Bonnet-Pineau 2016). Two arguments defended this move: economies of scale (in actual fact not particularly relevant) and the strengthening of the *régions* in comparison with other European regions (particularly the German federal states, in line with the common misconception that the German states are equivalent to *régions* without taking into account their actual political and budgetary power). The case of Alsace stands out here: despite opposition from local public opinion and the elected representatives, Alsace was made part of the *région* Grand Est, which also includes Lorraine and the former Champagne-Ardenne. At the beginning of 2021, the two departments (Haut-Rhin and Bas-Rhin) fused to create a European Collectivity of Alsace with extended competences (particularly with regard

to cross-border cooperation and bilingualism). In contrast, the amalgamation of Bourgogne and Franche-Comté was well accepted, fulfilling or even anticipating the wishes of the elected representatives of both former *régions*.

3 Reorganisation and rationalisation of local territorial structures: the fusion of territorial authorities in Germany versus French-style intermunicipality

3.1 Persistence and territorial changes since the post-war period in Germany

During the post-war years there were four major phases of administrative reform: the phase of ‘active politics’ with the reform of municipal territories at the end of the 1960s and beginning of the 1970s; the phase of de-bureaucratisation, de-nationalisation, increased engagement with citizens and the simplification of administrative procedures from the mid-1970s and into the 1980s; the phase of internal administrative modernisation inspired by business practices in the course of the public management movement from the early 1990s; and the phase of discussions about the enabling state or the guarantor state and civil society from the end of the 1990s. In the first phase (financial reform from 1969), the focus was on homogenising the infrastructural capabilities of the federal states by introducing a scheme of financial transfer between the federal states and new instruments for common federal/state tasks (Art. 104a Para. 4 GG). This is seen as an overall success with the primary effect of having largely homogenised the financial resources available to the federal states and municipalities.

Attempts to reform the territories of the federal states (by fusing states) have, however, been unsuccessful, despite continued heated discussion on the topic. The municipal reform aimed to create more efficient administrative units and to generally decentralise the execution of tasks by creating territories that made a transfer of tasks both organisationally and economically feasible. The parameters used were population, administrative capacities, democratic legitimation and infrastructure (schools, transport, swimming pools). Overall, it was possible to drastically reduce the number of districts and municipalities in all eight non-city states of the old FRG within a decade, despite considerable opposition from a number of municipalities that faced annexation (reduction from 24,411 to 8,513 municipalities).

The creation of the five federal states in the former GDR was governed by GDR legislation (*Ländereinführungsgesetz* of 22 July 1990). With the establishment of these states the former 14 districts of the GDR ceased to exist, and the states then joined the FRG in accordance with Art. 23 GG as then valid. The city state of Berlin was a special case as here the former east and west parts of the city were reunified (Bogumil 2006: 369 et seq.)

After German reunification – or more precisely after East Germany joined the FRG – this territorial reform of the federal states was extended to the lower administrative levels, particularly in relation to the *Landkreise* (districts). They were reduced in number by a ratio of between 1:4 and 1:5. As a result, each of the six remaining districts

in Mecklenburg-Vorpommern are larger in area than the state of Saarland. Complaints that the amalgamations led to a loss of identity are heard in the political debate. In the first years after reunification there was discussion about fusing the states of Berlin and Brandenburg, but this failed in 1996. Since then, any attempt to discuss a reform of state territories anywhere in the country has immediately been stifled.

3.2 French-style intermunicipality

In France, the vast number of municipalities (36,000 in 1970-2015 and still 34,968 in 2019) is a recurring topic, particularly in connection to the continued growth of the urban agglomerations. In light of the failure of all attempts to fuse municipalities (e.g. the 1971 Marcellin Act), an answer had to be found in cooperation through the *Etablissement public de coopération intercommunale* (EPCI – Public Establishment for Intermunicipal Cooperation). From the end of the 19th century the municipalities were able to join together in associations with one aim (a specific social issue) or with a number of social objectives (from 1959) or also as a multi-purpose association (from 1935). The association partners are municipalities or indeed other units, particularly departments. In 1959 urban districts were created as the first form of cooperation on the level of the urban agglomerations, but they were of very limited success.

In 1966 an act was passed to create urban authorities (*Loi n°66-1069 du 31 décembre 1966 relative aux communautés urbaines*) in agglomerations, introducing a new form of highly integrated intermunicipal authority known as *communautés urbaines* (urban communities). In contrast to the urban districts, the urban communities were given a large number of competences that were delegated from the municipalities (planning, commercial zones, streets, sanitation etc.). The central state required Bordeaux, Lille, Lyon and Strasburg to establish intermunicipal communities but seven others were also voluntarily created, Dunkirk as the first (1968) and Arras as the last (1999) before the passing of the *Chevènement* Act on intermunicipality in 1999. This introduced a new type of EPCI and the intermunicipal urban community was restricted to agglomerations with over 500,000 inhabitants. After the *loi de modernisation de l'action publique territoriale et d'affirmation des métropoles* (MAPTAM – Law on Modernisation of Public Territorial Action and Affirmation of Metropolises) of 27 January 2014 came into effect, which reduced the cut-off point for urban communities to 250,000 inhabitants, a number of agglomerations that are too small to be metropolises decided to opt for the status of urban community; to date 14 agglomerations have chosen this option.

In places where it was not possible to introduce an urban community, the question of intermunicipality remained unresolved until the 1990s, despite debate around the topic. The urban cores were criticised for leaving the burdens of the agglomeration (financing of large-scale projects) to the suburban municipalities (without facilities or taxation revenue and with extreme social problems) and the peri-urban municipalities, which are often relatively well-off (taxation revenue from commercial zones,

peripheral shopping centres, affluent middle-class population). In 1992 a new law was passed to create urban communities for towns (*communautés de ville*) and for rural areas (*communautés de communes*), but without much success.

It was 1999 before the *Chevènement* Act brought a more rational approach with *communautés urbaines* (urban communities > 500,000 inhabitants), *communautés d'agglomération* (agglomeration communities > 50,000 inhabitants around a town centre of > 15,000 inhabitants) and *communautés de communes* (communities of municipalities in rural areas), creating a new system that was extremely successful: the French intermunicipal map was quickly filled. Later adjustments were carried out to consolidate the system. In 2015, the *Nouvelle administration territoriale de la République* (NOTRe – New Territorial Organisation of the Republic) stipulated the minimum size of communities of municipalities as > 15,000 inhabitants. The areas not yet affected were thus able to learn from the lessons of the forced political integration carried out at the level of the urban communities and agglomerations, which are provided with very similar competences. These competences, which are delegated to the communities by the municipalities, are being continuously extended and encompass all important fields of local development: planning, economic development, housing policy, large sporting and cultural facilities, public transport, etc.

Intermunicipality thus seemed to be an alternative to the municipalities' longstanding rejection of amalgamation, at least until 2010 when a law reforming local authorities was passed (*La réforme des collectivités territoriales de 2010*). This opened the door for the creation of 'new municipalities' through the fusion of existing ones, a process that was to continue until 2020 (new local elections) and that has witnessed a certain amount of success, particularly for rural municipalities but also for a number of agglomerations (Annecy), with a total of 238 amalgamations completed by 01 January 2019, involving the fusion of 624 previously separate municipalities.

The legislation of 2010 (*La réforme des collectivités territoriales de 2010*) and especially of 2014 (MAPTAM Act) created metropolises and a system for cooperation between agglomerations (metropolitan poles). The creation of this new form of intermunicipality, which was strengthened at the expense of the departments (transfer of authority) represents the latest stage in the development process (see Demazière et al. 2022) but is probably not the last.

4 Differentiated development of planning instruments

4.1 Foundations of the planning system in Germany

The term *Städtebau* (urban design) emerged at the end of the 19th century in Germany (with publications by Joseph Stübben and Camillo Sitte). Previously the term *Stadterweiterung* (urban expansion or town extension) was more common and was usually connected with the more or less free play of market forces (Borchard 2018: 2382). In the 1920s the term *Stadtplanung* (town or urban planning) emerged, which

is understood today as a specialist discipline concerned with the planning and control of spatial development on the municipal level. Even at that time the strong growth of urban areas led to the creation of the Ruhr Association and Greater Berlin (see below). The close of the 19th and beginning of the 20th centuries saw the laying of scientific, design, normative and legal foundations for the ordered development of built-up areas, not only in Germany. Notwithstanding this, settlement ideology and urban and spatial planning under National Socialist rule was characterised by the systematisation of towns, urban functions and land requirements (with the development of the central place theories of Walter Christaller from 1933, which continue to be prominent today). From the 1960s, Lenort then introduced new terminology: *Stadtentwicklungsplanung* (urban development planning) to refer to all activities related to the creating, sustaining and continual improvement of the functionality of the municipal organism (Wékel 2018: 2435 et seq.). *Stadtentwicklungsplanung* is carried out in municipalities of quite different sizes, no matter whether they are cities or not (Pahl-Weber/Schwartz 2018: 2509 et seq.).

The time after the Second World War was very important for urban planning and thus for the development of the towns and cities, as it led to the creation of the German Basic Law and the federal states in West Germany (see Section 2.1). Art. 28 Para. 2 GG guarantees the autonomy of the municipalities in terms of their planning authority: 'Municipalities must be guaranteed the right to regulate all local affairs on their own responsibility, within the limits prescribed by the laws'.

Guiding principles (e.g. the notion of the car-oriented city) that had emerged in Germany before, during and immediately after the war, were further developed at the beginning of the 1960s in the wake of the intensive phase of reconstruction. In the face of increasingly complex problems, this led to the development of urban planning as an independent discipline. This was connected to specific legal developments and the establishment of university courses in planning (e.g. in Dortmund and Berlin, and at the beginning of the 1970s also in Kaiserslautern). Equally relevant was the development of differentiated specialist strands of planning (for water, waste, energy, etc.) and the establishment of planning authorities in the municipalities.

Thus while in France the administrative units were repeatedly changed through legislation from the end of the 1950s (see Section 2.2), with the 1959 creation of the urban districts until NOTRe in 2015, in Germany building legislation was passed that was directly relevant to urban and spatial development: the *Bundesbaugesetz* (BBauG – Federal Building Code) of 1960, the *Raumordnungsgesetz* (ROG – Federal Spatial Planning Act) of 1965 and finally the *Städtebauförderungsgesetz* (StBauFG – Urban Renewal and Development Act) of 1971. These pieces of legislation regulate the municipalities' autonomous local planning competences throughout Germany. The Federal Building Code (which is today called the *Baugesetzbuch* – BauGB – and has included the *Städtebauförderungsgesetz* since 1987) gives all municipalities the right to prepare plans that regulate land use on their own responsibility. In the public interest, the municipalities may thus restrict private land-use rights, which are also protected by the German Basic Law. Supra-local planning law is equally binding for the municipalities; this takes the form of the ROG and the 16 planning acts of the federal

states (the names of which differ). Both of these types of legislation address a public task that focuses on the common good. They represent a coordinating interface between the various specialist disciplines and politics (Pahl-Weber/Schwartz 2018: 2509 et seq.).

The above-mentioned Federal Building Code is implemented in the municipalities while the supra-local planning based on the Spatial Planning Act is implemented by the federal states and the administrative districts, in several federal states also by the rural districts and in a number of other federal states by specially constituted planning associations.

One of the most important foundations of spatial planning remains the Central Place Theory (*Zentrale-Orte-Konzept*), which has been repeatedly subject to criticism. Nonetheless, it has not yet proved possible for any of the relevant experts to put forward a better and historically more reputable approach. Though we all know that reality is more complex than the Central Place Theory suggests, it therefore continues to be used as a basis for the categorisation of urban and municipal functions in terms of greater or less centrality. This involves normative stipulations on central places in the plans and programmes of the states in accordance with Art. 8 Para. 5 ROG. They represent the Central Place Theory specific to each federal state and thus create a fundamental framework for the development of cities and municipalities.

Supply is the classical function of central places in terms of providing the population with goods and services. The plans and programmes of the federal states generally categorise central place functions in three levels: low-order centres for supplies of everyday needs, middle-order centres supplying more sophisticated needs, and high-order centres for supplies of specialised and diversified goods and services. The categorisation is associated with particular functions, either existing or desired: e.g. the existence of a hospital or a particular educational offer (Terfrüchte/Flex 2018: 2969 et seq.).

4.2 Spatial planning in France: from a normative instrument to a strategic dimension and future perspective for agglomerations

The inter-war period witnessed the passing of the *Cornudet* Law (1919, revised 1924) and planning on the municipal level was introduced. In 1934 the *Plan Prost* organised planning for the Paris region and finally in the 1960s the framework for spatial planning in France was provided by the *loi d'orientation foncière* (LOF – Basic Land Act) of 1967 (Vadelorge/Ripoll 2019). This law, which was fundamentally reformed in 2000 by the *loi solidarité et renouvellement urbains* (Law on Solidarity and Urban Renewal) and further adapted by later legislation, provides the basis for understanding current regulations.

In the wake of the *Plan Prost*, the 1960s saw the Paris region supplied with plans intended to provide a framework for urban development (*Plan d'aménagement et d'organisation générale de la région parisienne* – PADOG 1960; *Schéma directeur*

d'aménagement et d'urbanisme de la région de Paris – SDAURP 1965) and particularly to create New Towns and the *Réseau express régional* (RER – Regional Express Network). The state also wanted to enable interested agglomerations and the municipalities comprising them to plan their spatial development. This was the objective of the Basic Land Act associated with the *Schéma directeur d'aménagement et d'urbanisme* (SDAU – Master Plan for Development and Urban Planning) on the level of the agglomerations and the *Plan d'occupation des sols* (POS – Land-Use Plan) on the level of the municipalities. Supervision by the prefects ensured that the state maintained control over the plans (prior to the decentralisation of 1982). These plans were normative documents intended to organise urban growth and allow the use of agricultural land with no substantial reserves. The approach reflected an extensive, space-consuming logic within which the strong economic and urban growth of the country was associated with the creation of institutions, housing, infrastructure and new fields of activity.

In 1982 and 1983, following the *lois Defferre* (decentralisation laws), the local authorities were made responsible: the administrative supervision of the prefects (a priori control) was replaced by legality control (a posteriori). The municipal POS was made subordinate to the mayors and new master plans (*Schéma directeur* – SD) – on the level of the agglomerations – came under the jurisdiction of the EPCI or the mixed revision syndicates if the SD extended beyond the limits of the EPCI. In this new context the presidents of the intermunicipal and the SD revision syndicates, who were often the mayors of the large, central cities, wanted to make planning more strategic. The aim was to move beyond mere reflection about the areas of land necessary for development to consider the competitive conditions (in a European setting) that allowed this development. The SD of Lyon was produced in the 1980s and 1990s and, after many highs and lows, that of Lille was completed between 1990 and 2002 (in France, planning is also a risky legal exercise with many opportunities for claiming compensation); both these plans demonstrate the new strategic dimension, as highlighted by the authors (Motte 1995).

In 2000, the *loi solidarité et renouvellement urbain* (SRU – Law on Urban Solidarity and Renewal) was passed, transforming the SD into a *Schéma de cohérence territoriale* (SCoT – Scheme for Territorial Coherence) and the POS into a *Plan local d'urbanisme* (PLU – Local Urban Plan). Behind the change of name was a confirmation of the strategic and project-based dimension of the planning instruments with a new emphasis on controlling urban expansion, further confirmed by the subsequent development of legislation with the 2010 *loi portant engagement national pour l'environnement* (ENE – Law on National Commitment for the Environment), defining objectives for the economical use of space. Later, after debate and in pursuit of rationalisation, the 2014 *loi pour l'accès au logement et un urbanisme rénové* (ALUR – Law on Access to Housing and Urban Renewal) transferred responsibility for the PLU from the municipality to the intermunicipal instance in the form of the *Plan local d'urbanisme intercommunal* (PLUi – Local Plan for Intermunicipal Urbanism). For metropolises under the MAPTAM Act (2014) and urban municipalities this transfer was obligatory, for agglomeration communities and communities of municipalities it

remained optional. After a modest start, today almost half the EPCI have adopted the PLUi. This is undoubtedly a remarkable move towards intermunicipality, although the mayors continue to cling to their rights in relation to urban planning (they are still responsible for building permits).

Another important change in terms of the hierarchy of plans occurred in 2015 when planning on the regional level was strengthened thanks to the *Schéma régional d'aménagement, de développement durable et d'égalité des territoires* (SRADDET – Regional Scheme for Planning, Sustainable Development and Territorial Equality). Unlike the previous regional plans, it was inserted into the hierarchy of plans above the SCoTs, as was the *Schéma régional de développement économique, d'innovation et d'internationalisation* (SRDEII – Regional Scheme for Economic Development, Innovation and Internationalisation), with the exception of the metropolises, which are autonomous here.

5 Specific instruments for the development of urban and rural projects

5.1 Selected development approaches in Germany

Federal programmes based on the aforementioned Urban Renewal and Development Act aim to stabilise and upgrade urban neighbourhoods and centres facing particular challenges. The federal and state authorities make administrative agreements governing the programme funding. The areas eligible for funding are selected by the federal states (competitive process). An integrated approach is taken, so that selected neighbourhoods have to present their promotional measures in an *Integriertes Handlungskonzept* (IHK – Integrated Action Concept) and must also develop neighbourhood management in the course of the funding. A third of the financing of the measures comes from the federation, a third from the state and a third from the municipality in question. The focus of the funding is revealed by the title of the programmes. Thus, for instance, the urban renewal programme for cities and urban neighbourhoods facing severe functional and physical challenges (e.g. caused by demographic shrinking); here the funding allows the demolition and adaptation of buildings to suit changed needs (BBSR n.d.a; here are also references to other programme focuses such as 'Small towns and municipalities', 'Restoration and development' etc.).

One of the best-known German development projects of recent times is probably the HafenCity project in Hamburg. In 1997 the *Gesellschaft für Hafen- und Standortentwicklung* (GHS – Port Area Development Corporation) was founded to manage the development; in 2004 the company was renamed *Hamburg HafenCity GmbH*. It is a 100% subsidiary of the Free and Hanseatic City of Hamburg and is entrusted with a public mandate to develop the HafenCity Hamburg. This process is undertaken in cooperation between the supervisory board of the limited company (made up of members of the senate and thus subject to political control), the Land Commission, the Urban Development Commission and the Authority for Urban Development and

Housing. The jury judging the architectural, urban development and landscape planning competitions is made up of private developers, freelance architects and representatives of the district administration and the *HafenCity Hamburg GmbH*. The limited company administers the *Sondervermögen Stadt und Hafen* (plots owned by the City of Hamburg in the HafenCity zone). The sale of this land finances a large proportion of the public investment necessary, e.g. for streets, bridges, squares, parks etc. It is also responsible for clearing and preparing the land for development, the planning and building of public spaces, the infrastructure, the acquisition of and contractual agreements with property developers and users, and public relations and communications. The projects completed thus far include about 3000 dwelling units, the HafenCity University, the Elbphilharmonie and the establishment of approx. 930 companies creating about 45,000 jobs (HafenCity Hamburg GmbH 2020).

The *Internationale Bauausstellung* (IBA – International Building Exhibition) has repeatedly reconceived itself since its inception at the beginning of the 20th century (BBSR n.d.b). Initially the IBA was primarily an exhibition publicising exceptional architecture (e.g. the development of *Mathildenhöhe* in Darmstadt or the 1957 exhibition known as *Interbau* which led to the popular and much visited *Hansaviertel* neighbourhood of West Berlin). Over the years and certainly by the time of the equally well-known *IBA Emscher Park*, the exhibition increasingly became an instrument of sustainable urban and regional development. These days this federally supported programme is also esteemed by neighbouring countries (Vienna) and in border areas (Basel). The structures necessary for the exhibition vary from case to case. In Hamburg a 100% subsidiary of the City of Hamburg was created as a limited company (IBA Hamburg GmbH n. d.). With a focus on globalisation, climate change, energy transformation, sustainability and the creation of high-quality housing, the first objective here was to transform the image of the urban district of Wilhelmsburg. After the IBA was completed in 2014, the limited company continued as an urban development enterprise creating new neighbourhoods in the city and currently employs 34 staff for ten projects with a total area of 440 hectares.

A similar instrument was created with the international, federal and state garden shows. The *Deutsche Bundesgartenschau Gesellschaft* (DBG – German Federal Garden Show Society) organises a competition to select cities and municipalities to host the shows. The first *Bundesgartenschau* (BUGA – Federal Garden Show) was held in 1951 in Hannover, where the park thus created continues to play a major role in the network of public green spaces. From the mid-1990s such shows became increasingly regarded as overall urban development concepts relevant to an entire city. They are usually implemented by limited liability companies with a range of structures. Funding comes from various federal and state programmes as well as from sponsors and donations from local firms.

5.2 Planning and development of cities through urban projects: ZAC, SEM, SPL (France)

At the same time as the mayors of the large cities were given new autonomy through the *lois Defferre* (decentralisation laws, 1982), several of them started large programmes to develop new urban neighbourhoods, thus leading to a generation of 'Building Mayors' and 'French-style' urban projects. Georges Frêche in Montpellier (*Project Antigone*) and Pierre Mauroy in Lille (*Project Euralille*) were the first representatives of this movement. However, they were only able to embark upon this type of large urban project (*Ile de Nantes*, *Deux-Rives* in Strasbourg etc.) because the necessary instruments had already been introduced.

With the aim of accelerating urban growth, in 1955 the state commissioned the *Caisse des Dépôts* (Saving Bank) to found the *Société centrale d'équipement du territoire* (SCET – Central Corporation for Territorial Infrastructure Development), a state bank specialising in saving deposits to support and finance the municipalities with their various social housing projects. The sphere of intervention of the *Société d'économie mixte* (SEM – semi-public company) was also extended, as was the extent of financial involvement of the local territorial bodies. The SEM companies with their public and private partners gradually established themselves as the administrators of local projects. Despite being organised under private law they remain under the control of the district authorities. This 'French-style' model of public-private company has characterised the development of the district authorities for half a century. It continues to exist today. However, in the 2000s the liberal European Union regulations for public contracts and concessions for public services led to France founding the *Sociétés publique locales d'aménagement* (SPLA – Local Public Development Companies, 2006) and the *Sociétés publiques locales* (SPL – Local Public Companies, 2010), which are 100% public. With the SEMs, some of which still exist although they have to compete with private developers, the overall system meets the requirements of free competition in Europe and the wish of the local elected representatives to maintain control over their large projects.

The Basic Land Act of 1967 was particularly important in introducing a new operative instrument for urban development: the *Zone d'aménagement concerté* (ZAC – Concerted Development Zone). In connection with the great housing shortage immediately after the Second World War, an accelerated urban development procedure was introduced (1958): the *Zone à urbaniser en priorité* (ZUP – Prioritised Urban Development Zone), which was not subordinate to the prefects of the departments but came under the control of the state. These ZUPs were part of France's urban development processes until the second half of the 1970s, producing 800,000 dwelling units, mostly in the towers and blocks of the so-called *Grands ensembles*. From 1967 onwards, the ZAC represented a step in the direction of 'integrated urban planning' between the state and local authorities. After decentralisation (1982), the ZAC came completely under the control of the local elected representatives and thus emerged as a significant operational instrument for the development of large urban projects. (The so-called *lotissements* – housing

estates – are another operational instrument for urban development.) The ZAC was reformed by the SRU legislation in particular. It remains the preferred instrument among elected representatives for large projects. It is usually administered by an SEM or SPL, which is responsible for its development (purchase, redevelopment of plots, urban design studies, streets, sanitary infrastructure etc.). Through the sale of the plots, the development costs are passed on to the private developers who respond to the calls for projects.

6 Conclusions and current issues

The administrative and territorial structures in post-war Germany experienced significant change in two separate phases (1970s: municipal reform, early 1990s: incorporation of the new federal states in eastern Germany in the FRG). This did not create new spatial entities in a piecemeal succession throughout the entire country to the same extent as in France. The changes made to planning processes, the nature of plans themselves and the distribution of responsibilities were, in comparison to the French situation, also rather marginal. On the other hand, development schemes became more differentiated with less classical urban and spatial planning approaches gaining importance, ones that can rather be categorised as informal planning. A plethora of instruments of this sort continue to evolve and become further differentiated, so that it is only possible to mention a selected few (see Section 5.1; for further information, see Danielzyk/Sondermann 2018). Such informal instruments have advantages in terms of adequate, adaptable and creative action in response to specific situations and actors/constellations of actors. There are of course critical aspects to such approaches, particularly related to the democratic legitimisation of planning and development activities.

While in France the territory, the function or even the very existence of administrative units (department) is subject to discussion and solutions are sought, in Germany such debate is far less significant. In contrast, questions concerning legitimisation and the overlapping of jurisdictions and decision-making authorities are clearly of importance in both countries.

In Germany this can be observed with reference to overlaps in spatial and in sectoral terms. More recent developments such as the spatial impacts and planning processes linked to the energy transition in Germany involve new challenges for the relationships between urban planning, spatial planning and the sectoral planning authorities. They also cause considerable tension between the various levels of spatial planning because the implementation of measures, e.g. the route for the 380 KV power lines from the North Sea and the Baltic Sea to the south of the country, rob the municipalities of ‘room to breathe’, i.e. of options for spatial development (designation of building areas). In many cases this arises from multiple claims on the land in question, not just for power lines but also for transport (motorways, railways) or nature and landscape protection. Overlaps between administrative units tend to occur in Germany primarily in the metropolitan regions, which are the subject of discussion in Demazière 2022.

Small and medium-sized towns and also entire regions, often characterised by a shrinking population, are faced with considerable restrictions on their development due to declining budgets. It is now (June 2020) clear that the effects of the COVID-19 pandemic will exacerbate the problems of both small and large municipalities. This is certainly not only the case in Germany but will need to be tackled in all countries, also in France.

While certain neighbourhoods and regions continue to lose population, elsewhere there is a significant unsatisfied need for housing. It remains to be seen whether present attempts to solve this problem without endangering the requirements of sustainable development (see Kanning/Scholles/Mancebo 2022 and Douay/Lamker 2022) can be continued in light of the effects of the pandemic, or whether they will be subject to cuts or must even be abandoned.

In France the territorial institutional parameters have undergone considerable developments in recent decades. There still survives the image of a centralised state with a strong central authority far superior to local power, which is split between the renowned '36,000' municipalities. In fact, the state has recognised that it can no longer cope with the task of territorial development alone and introduced contractual types of control in the mid-1970s (*Contrats de ville moyenne*). From this time on, the state contributed to local or regional projects on the basis of contracts that were signed between the state and the local authorities. Contractual control has thus dominated relations between the state and the territorial authorities. This was also true of policies targeting the social development of cities such as the *Développement sociale des quartiers* (DSQ – Social Neighbourhood Development) in the 1980s and 1990s, and the *Programme national de rénovation urbaine* (PNRU – National Urban Renewal Programme, introduced in 2003) or the *Nouveau programme national de renouvellement urbain* (NPNRU – New National Urban Renewal Programme, since 2015), which were implemented by the *Agence nationale pour la rénovation urbaine* (ANRU – National Urban Renewal Agency). It also applied to urban areas (contracts governing urban districts in the 1990s) and to rural regions (pertinent contracts from the end of the 1970s and again in the 1990s after the *Voinet* law). Particularly since the mid-1980s, relationships between the state and the *régions* have developed in accordance with the *Contrat de plan État-Région* (CPER – Plan Contract State Regions). The current sixth generation of contracts should profit from a state contribution of 12.5 billion euros between 2015 and 2020, in addition to the share assumed by the *régions* and other local partners equalling a total of 30 billion for all the CPER.

Furthermore, the local elected representatives found that the decentralisation laws of 1982 gave them new scope for action as they allowed local authorities to undertake larger projects. The strengthening of intermunicipality and the creation of 'new municipalities' through fusion (2010) gave local actors more influence. The 1966 law on urban communities paved the way for strengthened, integrated power for the agglomerations, and the *Chevènement* Act (1999), MAPTAM (metropolises, 2014) and NOTRe (2015, demographic minimum threshold of 15,000 inhabitants for an intermunicipality) moved in the same direction.

Over time the *région*, via the SRADDET, became the coordinator for local policies. The amalgamations to create large *régions* in 2015 aimed to strengthen the *régions* on the European stage. Nonetheless, neither budgets nor responsibilities are comparable to those of the German federal states.

This development is not yet at an end. The following questions remain unanswered: What is the future of the departments, which are sandwiched between the more powerful *régions* and the metropolises, both of which compete with the departments for jurisdiction? Is there a need for a leading figure for rural areas which are organised in communities of municipalities and *pays*? Will the departments simply be given up in favour of the *régions*?

What are the prospects of democratic representation for metropolises, agglomeration communities and urban communities? When will there be direct elections for these communities, in light of the fact that the municipality continues to be the most important setting in terms of local elections, despite the considerable increases in the jurisdictions of the communities affecting all citizens? The establishment of local committees of civil society, such as the development councils (Voynet law 1999 and MAPTAM 2014), cannot be regarded as sufficient in this context.

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Authors

Didier Paris is Professor of Urban Planning at the University of Lille. He directed the Urban and Regional Planning Institute of Lille (IAUL), the Territories, Cities, Environment and Societies laboratory (TVES). He chaired the Association for the Promotion of Teaching and Research in Urban Planning and Development (APERAU). He represented France at the AESOP council. In Lille, he was a member and Chair of the Council of Development of Lille-Metropole. He is a member of the editorial board of the Revue internationale d'urbanisme (RIURBA). His work focuses on planning, transformation of industrial regions, metropolitan governance and regional development.

Evelyn Gustedt was Head of the Scientific Section 'European and International Issues in Spatial Development' at the ARL from 1998 to the end of 2021. She studied landscape architecture, landscape and open space planning as well as state and regional planning at Leibniz University Hannover (LUH). After working in private-sector planning offices and research institutions, she was employed at the LUH, where she completed her doctorate under Dietrich Fürst on intermediary organisations. The focus of her many years of ARL work was on planning systems, especially in European countries.