



Local Government in Germany

Key Features of Local Administration and Democracy

Prof. Dr. Sabine Kuhlmann
Universität Potsdam



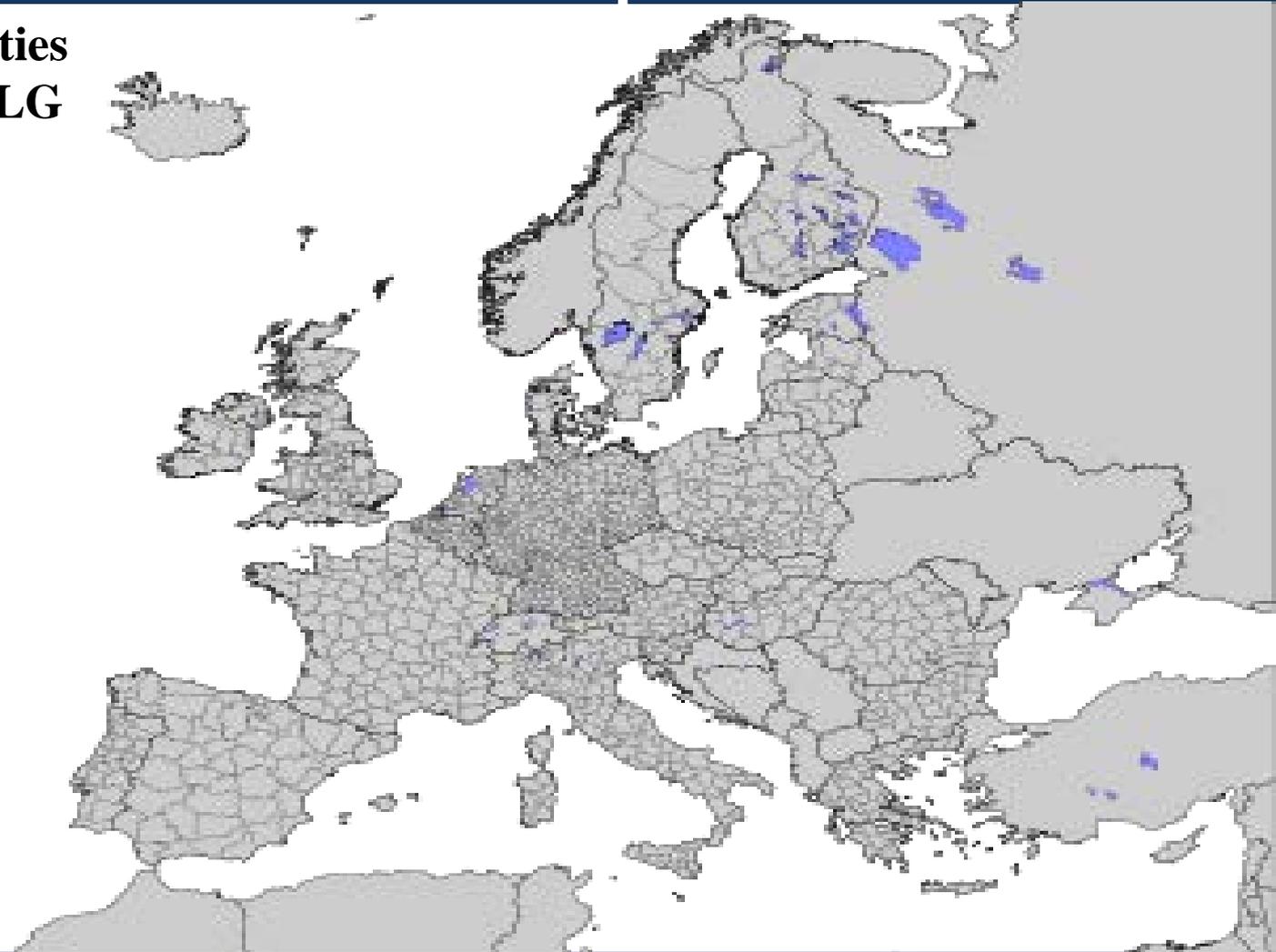
Structure of the presentation

- Institutional Position and Legal Status
- Territorial Structures and Variance across “Bundesländer”
- Local Government Functions and Finances
- Local Democracy and Municipal Charters
- Comparative Outlook



The Importance of Local Self-Government in Europe

- **91,200 municipalities**
- **1,100 second-tier LG**
- **50% of EU-total public employment**
- **Ø 16% of EU-GDP**
- **34% of EU-public spending**



Federal Parliament (*Bundestag*)/Federal Council (*Bundesrat*); Federal President/Federal Chancellor; Federal government (pop.: 81.75 million)

16 Länder; Land parliaments (*Landtage*); Land governments
(average pop.: 5.2 Mio.)

16 Land administrations*

Länder administration

Highest Land authorities
(e.g. ministries)

Higher Land authorities
(e.g. environmental authorities)

Intermediate Land authorities
(e.g. administrative districts)

Lower Land authorities
(e.g. tax offices)

Local self-government

295 counties
Average pop.: 180,200

107 county-free cities
Average pop.: 240,000

Inter-municipal level
(1,708 inter-municipal/ local government associations)

11,146 municipalities
Average pop.: 5,030

Federal administration*

Highest federal authorities
(14 federal ministries; Federal
Chancellery; Federal Audit
Office)

Higher federal authorities (e.g.
federal police headquarters)

Intermediate federal authorities
(e.g. regional finance offices)

Lower federal authorities (e.g.
district recruiting offices)

Legal Status

- Article 28 para. II of the Basic Law for the Federal Republic of Germany: “The municipalities must be granted the right to settle all affairs of the local community within the scope of the law on their own authority. The counties also have (...) the right of self-government (...)”
- General Competence Clause; universality of the local sphere of influence

Legal Status

- Federal/Länder Laws („within the scope of the law”)
- LG-legislation = matter of the Länder (Municipal Charters)
→ intra-federal variance
- Additional regulations regarding LGs (Budgets, Salaries and Urban Planning etc.)
- Municipal statutes as legally binding rules for the LG-territory (e.g. planning documents)

- Elements of Local Self-Administration (Kommunale Selbstverwaltungshoheit):
 - Personal autonomy: selection, recruitment, promotion and dismissal of officials and employees
 - Organizational autonomy: arrangement of internal organisation
 - Planning autonomy: urban planning within the LG-territory
 - Statute autonomy (Satzungsrecht): regulating own affairs through statutes
 - Fiscal autonomy: own income, determination of expenses, administration of own assets
 - Area Autonomy: exercising of power within the respective territory
 - Jurisdiction in tax matters: levying own taxes (e.g. business tax; property tax); influence on the collection rate

Legal Status

- Federal and state law as a framework
- LG-legislation as affairs of the 16 states (different municipal charters)
- State law regulations regarding municipal institutions/personnel/ policies (budget law, salary law, building law, etc.)
- Municipal Statute Competencies (e. g. urban planning)



Territorial Structures

Two major levels of local self-government	Number/Population	
	Abs.	<i>Average Population</i>
(1) Counties	323	256,000
(2) Municipalities	13299	6,000
County-free Cities (as unitary authorities)	117	<i>n/a</i>
Inter-municipal bodies (only partly with self-government status)	1708	<i>n/a</i>



Territorial Structures

***LGs* =**

***Communes* :**

- **13.000 municipalities**
- **117 „county-free“ cities**
- **323 counties**

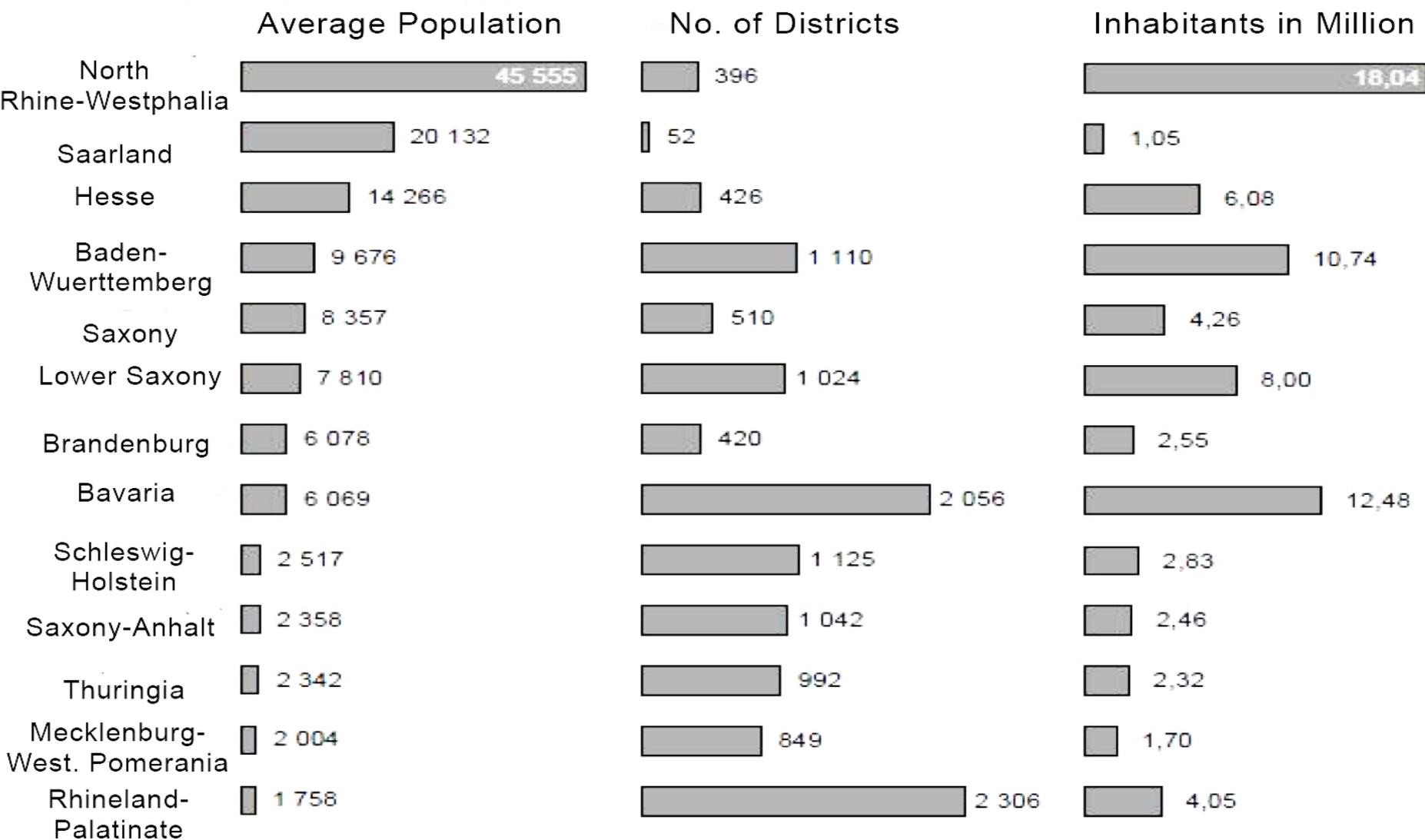
■ Differences between the *Länder* due to administrative federalism:

- North-Rhine-Westphalia: 396 municipalities with Ø 48.000 inh. (“Northern European type”)
- Rhineland-Palatinate: 2,300 municipalities with Ø 1,700 inhabitants (“South European type”)
- East German states initially Southern European type; now, tendency toward Northern European type

State (East-Germany)	Counties		%	Municipalities		%	Ø EW 2010
	1990	2010		1990	2010		
Bbg	38	14	-63,2	1739	419	-76	6052
MV	31	12	-61,3	1149	814	-29	2064
Sachs	48	10	-79,1	1626	485	-70	8701
S-A	37	11	-70,2	1270	345	-73	6991
Thür.	35	17	-51,4	1699	951	-44	2407



Size of Municipalities (30.06.2006)



Country	Ø Inhabitants per municipality	Ø km ²	% municipalities < 5,000 PT	% municipalities > 100,000 PT
Czech Rep.	1,640	13	96	5
France	1,720	15	95	37
Hungary	3,170	29	91	9
Spain	5,430	62	85	58
Estonia	5,930	199	80	2
Germany	6,690	29	77	81
Italy	7,270	37	71	43
Greece	10,750	128	53	8
Finland	12,660	813	52	6
Poland	15,390	126	25	39
Bulgaria	29,090	420	11	11
Sweden	31,310	1,552	4	13
Denmark	55,480	440	3	6
Lithuania	56,570	1,088	2	5
UK	139,480	562	Not relevant	68
EU27	5,410	47	82*	500



Local Government Functions

- Art. 28,2 Basic Law: general competence clause
- 85% of all executable laws (state, national, EU) implemented by LGs
- 2/3 of all public investment through local authorities
- Local administration as most important level of policy implementation in Germany
- Communes as „multi-function“/ „all-purpose“ institutions
- De-concentrated state administration quite “lean”
- LGs execute transferred state tasks (delegated sphere) and municipal tasks (own sphere of action)
- County-level is ‘Janus-faced’: lower level the state administration; upper level local self-government



Local Government Functions

- Employment and Social Affairs
- Construction, Planning, Transport
- Education
- Europe
- Family and Youth
- Health and Consumer Protection
- Urban Development
- Culture
- Rescue Service and Civil Protection
- Road Transport
- Public Safety and Order
- Environmental Protection
- Promotion of Economy

Local Government Functions

Traditional local service production in Germany

- Model of self-producing municipalities (local public services/ public utilities)
- Background: De-privatization in the 19th century
- Exception: delegation of social service delivery to NGOs (subsidiarity principle)
- Local public utilities with cross subsidization (energy, water, public transport) → “city works” (Stadtwerke)
- Privatization strategies in the 1990s/ 2000s; mixed economy/ PPP (partly with municipal shareholders in minority)
- Current tendencies of re-municipalization of privatized local companies

Local Government Functions

- LGs discharge two types of tasks:
 - A) Transferred state tasks
 - B) Local self-administration tasks
- Integration of state and local self-administration tasks = dual task model/integrationist task model/ fused system
- Counties are “Janus-faced” because at the same time:
 - lower level of state administration
 - upper level of local self-administration

Local Government Functions

1	2	3	4	5	6	7	8
General Administration	Financial-Administration	Legal-, Safety- and Order-Administration	School- and Cultural-Administration	Social-, Youth- and Health-Administration	Building Administration	Administration for public Institutions	Administration for Economy and Transport
10 Main Office	20 Kämmerei/ Finances	30 Legal Office	40 School Administration Office	50 Social Office	60 Building Office	70 City Cleaning Office	80 Office for economic and transport support
11 Personnel Office	21 Cash-desk	31 n.b.	41 Culture Office	51 Youth Office	61 City Planning Office	71 Slaughterhouses and Cattle	81 Own Operations
12 Statistical Office	22 Tax Office	32 Order Office	42 Library	52 Sport Office	62 Measurement and Land Registry Office	72 Market Office	82 Forest Office
13 Press Office	23 Property Office	33 Inhabitant and Registration Office	43 Adult Education Centre	53 Health Office	63 Building Registration Office		
14 Auditing Office	24 Office for Defence Affairs	34 Registry Office	44 Music School	54 Hospitals	64 Living-Support Office		
		35 Insurance Office	45 Museum	55 Ausgleichsamt	65 Hochbauamt		
		36 n.b.	46 Theatre		66 Tiefbauamt		
		37 Fire Brigade	47 Archive		67 Green-space Office		
		38 Civil Defence Office					



Local Government Functions: „Weight“ of the Local Public Service

Year	Federation	Länder	Communes	All levels
	Shares/Changes in %			in 1.000
1960	18,5	48,6	32,9	1953
1990	17,9	49,7	32,4	3092
1993	14,3	49,6	36,2	4060
2002	15,0	53,1	31,9	2982
<i>Change 1960-1990 in %</i>	+ 53,5	+ 61,7	+ 56,1	+ 58,3
<i>Change 1993-2002 in %</i>	- 22,7	- 21,3	- 35,2	- 26,6

Municipal Finances

Type of Revenue	German Municipalities (2002)	
	in Millions of Euros	% of total revenue
Revenue from taxes	47570	32.5
Current allocations	39560	27.0
Investment allocations	8320	5.7
Credit	710	0.5
Other	50140	34.3
Total local revenue	146300	100.0

Local Fiscal Discretion Compared

Country	Proportion of own taxes (without social contributions) in overall municipal revenue in % (2009)
Sweden	63.6
Switzerland	59.2
Slovak Republic	50.3
France	44.6
Spain	43.4
Norway	41.9
Czech Republic	41.2
Germany	39.6
Italy	37.4
Denmark	33.7
Portugal	33.6
Poland	30.9
Hungary	22.8
United Kingdom	12.9
Netherlands	8.3
Greece	6.6

Source: OECD 2011

- *Länder* decide autonomously on municipal charters/
introduction of participatory elements
- German LG-system regarded as politically strong
- Local democracy seen as “value in itself”; 60% turnout;
- Traditionally: *representative* local democracy prevalent
- Elements of direct democracy until the 1990s only in 2 states (BW, B → influence of American allied forces)
- Elements of participatory democracy since the 1960s (planning procedures, citizens consultations);
- Significant steps towards direct democracy during the 1990s (election of mayors; binding local referenda)

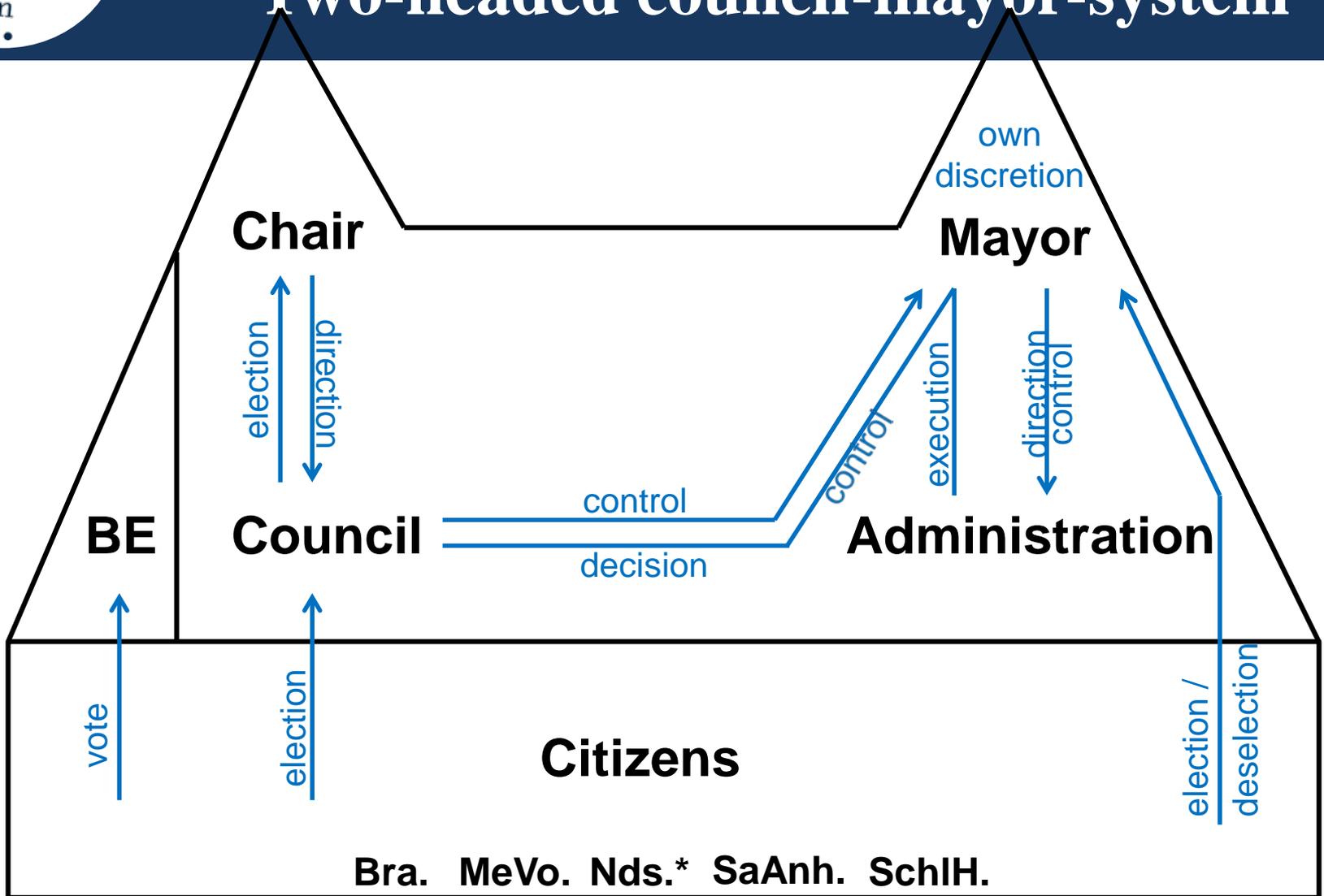
Local democracy and municipal charters

- Until the 1990s four types of municipal charters (West)
- Resulting from the influences of the (British, American, French) allied forces
- Most important distinction: North-/ South-system
- Northern German system:
 - Local parliamentary system/competitive democracy (e.g. NRW):
 - Strong council, weak mayor (non-executive; elected by the council; only presides council; two-headed executive)
 - Parliamentary fusion of executive and council majority
- Southern German system:
 - Local presidential system/concordance democracy (e.g. BW):
 - Weak council, strong directly elected executive mayor
 - Presidential separation of council and executive

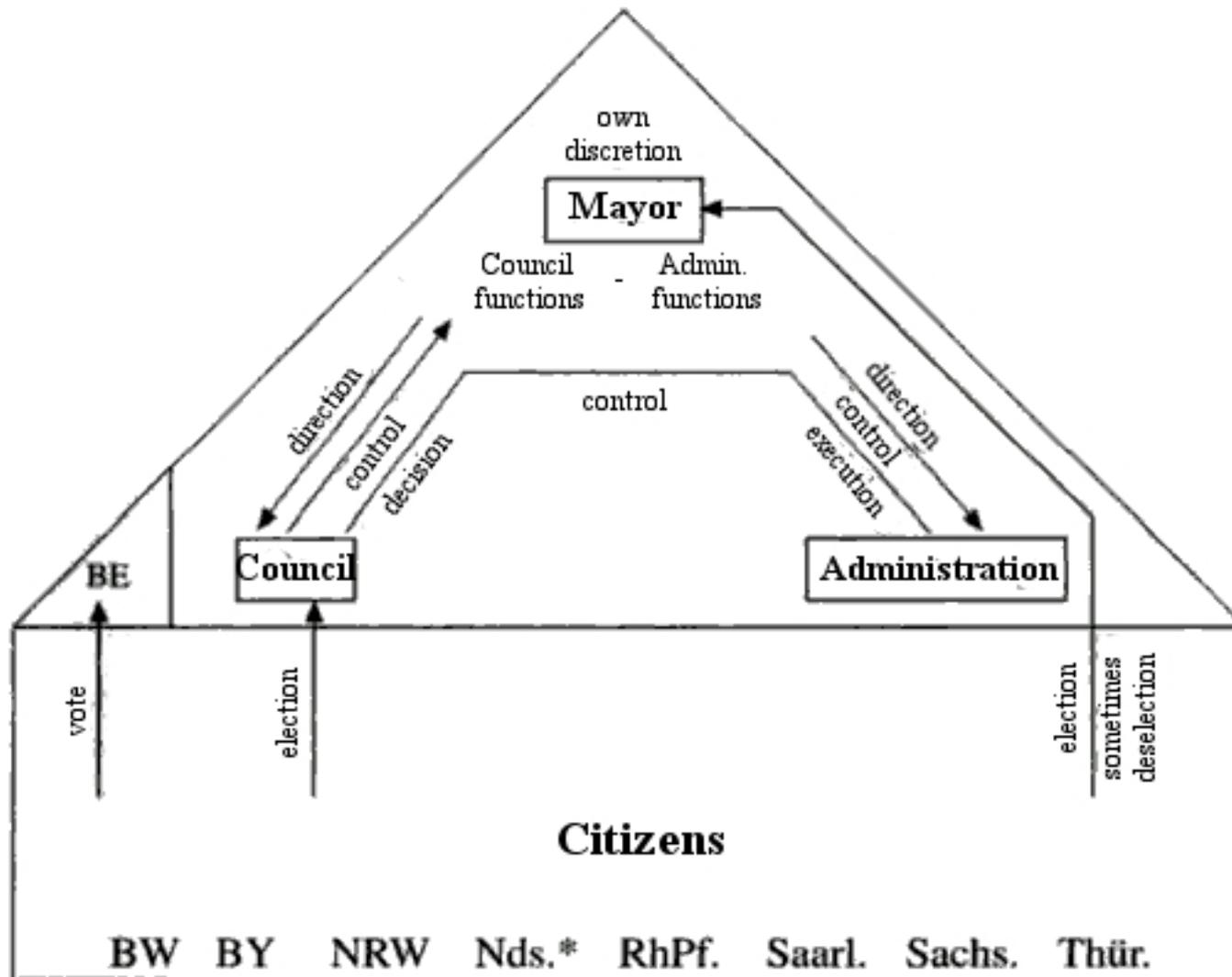
Local democracy and municipal charters

- Since the reforms of the 1990s general convergence towards the “Southern German model” of municipal charter
- All German States have introduced:
 - the executive mayor (yet with different functions/ powers)
 - the direct election of mayors (partly also of county chief executives)
 - the dualistic distribution of tasks between the mayor and the council
 - legally binding local referenda (yet with different rules; e.g. quorum between 20 and 30%)
 - Some states introduced direct-democratic recalls for mayors
- Today, three major types of municipal charters:
 - One-headed council-mayor-system (e.g. NRW, B, RhP)
 - Two-headed council-mayor-system (e.g. Bbg, MV, SH)
 - Magistrate system (collegial executive; only Hesse)

Two-headed council-mayor-system



One-headed council-mayor-system



* Option



Local Democratic Reforms

Citizen Participation through Direct Democracy			„Participatory Democracy“ (within representative-democratic model)		
Direct Election of Mayor/ Recall	Referenda		Municipality as a civic community of citizens (self-organization/ co-production; participation in policy implementation)	Municipality as a political community of citizens (political decision-making/ participation in policy formulation)	
	Council initiated	Citizen initiated		Formalized/ Codified	informal/ not codified

Direct and participatory democracy

Direct democracy: referendum (legally binding)

- In all German States
- With different formal rules (quorum between 20 and 30%)

Participatory democracy / democracy of proximity (not binding)

- Participation in the administration and delivery of services
 - E.g. management of voluntary services (sports, culture, social services)
 - Main motivation for local authorities: cost savings (without transferring the power of decision-making)
- Participation in local political decisions
 - E. G. in urban planning; local budget (participatory budgets)
- Important promoter of participation: the (directly elected) mayor →
97% of cases in NRW/ BW

Problems and criticisms:

- Participation results are poorly implemented
- Administration's resistance towards participation
- Local council ("parliament") is marginalised
- The mayor's/ the executive's position is reinforced
- The majority of citizens does not participate in decisions
- Increasing costs of participation

Comparative Outlook

Comparative Feature	North Middle European Group	Franco-Group	Anglo-Group
Constitutional Status	high	high	low
Central-local- Interweavement and state control	low/medium	high	low
Functional Strengths	high	low	high
Room for manoeuvre	high/mediocre	Medium	high
Political strength/ community identity	high	high	low
Countries	Core-Group: N, S, DK Sub-Group: A, CH, D, NL	F, I, B, E, P, GR	UK, IRL*

The non-European LG-models of CA, AU, USA, NZ can be regarded as belonging to the Anglo-Group

Source: Own Graph (based on Hesse/Sharpe 1991)

Comparative Outlook

North Middle Europ. Group (e.g. Germany, Sweden)	Franco Group/ Napoleonic tradition (e.g. France, Italy, Spain)	Anglo Group (e.g. UK, Ireland)
Functionally strong municipalities <i>multi purpose model of local self-government</i>	Functionally weak municipalities; strong territorial state <i>single purpose model of locally operating state offices</i>	“Ultra vires”-principle; functionally strong municipalities <i>multi purpose model of local self-government</i>
Partly separation (Sweden)/ partly integration (Germany) of state and local government tasks; weak (Sweden)/ medium (Germany) control from above	Integration of state and local government tasks = fused system; strong control from above	Separation of state and local government tasks = separational system/ dual polity; weak control from above
Politically strong, parliamentary/presidential	Politically strong; powerful mayors; <i>cumul des mandats</i>	Politically weak, no community identity/ leadership

Comparative Outlook

Functional profile	Vertical division of tasks (central/local governments)	Separationist system: UK, S Fused system: D, F, I, H
	Scope of tasks	High/multi purpose: UK, D, S, H G Low/single purpose: F, I
	Financial autonomy (own tax revenue)	High: S, F Medium: D, I Low: UK, H
Territorial profile	Size of Municipalities; voluntary principle vs. enforced amalgamation	Northern European: UK, S Southern European: F, I, H Hybrid: D
Political profile	Local leadership; council- executive-powersharing	Strong mayor systems/dualistic: D, F, I, H Committee systems/monistic: UK, S
	Citizen participation (local referenda)	Shaped by direct democracy: D, I, H Representative democr.: S, UK, F
	Central-local interweaving; “upward” access	High: F, I, H Medium: D Low: UK, S

Kuhlmann/Wollmann 2013

Comparative Outlook

Proportion
of Public
Sector
Employees
by Level
(2005);
Kuhlmann/
Wollmann
2013

	Local Government	State/Region	Central Government	Special Sector
<i>Germany</i>	35%	53%	Federal 12%	
<i>France</i>	30%		51%	Public Health System 19.0%
<i>U.K.</i>	56%		16.9%	National Health Service 26%
<i>Sweden</i>	83%		17%	
<i>Italy</i>	13.6%	3.8%	54.7%	Public Health System 20.3%
<i>Spain</i>	23.6%	49.9%	22.5%	

Conclusion and Prospects

- The German LG-system was during the last decades:
- On the one hand strengthened through:
 - Decentralization of state tasks
 - Re-Introduction of local Self-Government in Eastern Germany
 - Territorial reforms, Administrative Modernization (NPM)
 - Institutional and political enhancement of the executive and citizens
- On the other hand weakened through:
 - EU-market liberalization; Privatization strategies; Staff cutbacks
 - Fiscal constraints; increasing dependence from State subsidies
- Most recent reform steps reinforce the traditional model of a functionally/politically strong local government system:
 - Further decentralization, more territorial viability, re-municipalization of companies