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Institutional transformation and change after 1990 in Central East European and West European countries in comparative perspective: from decentralization to (re)-centralization?

The paper aims at analyzing and comparing the institutional ruptures and changes that have occurred after 1990 in the ex-communist Central East European (CEE) countries as well as in “West European” countries. In the CEE countries the year 1990 marks a secular turning point due to the collapse of the Communist regime. But also, in “West European” countries it turned out a landmark in triggering institutional changes, not least by the acceleration of the European Integration and in the aftermath of the global financial crisis since the mid-2000’s.

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Institutional transformation and change after 1990 in (ex-communist) Central East European and West European countries in comparative perspective: from decentralization to (re-)centralization?^{1*}

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1. Introduction

The paper aims at analysing and comparing the institutional ruptures and changes that have occurred after 1990 in the ex-communist Central East European (CEE) countries as well as in “West European” countries. In the CEE countries the year 1990 marks a secular turning point due to the collapse of the Communist regime. But also, in “West European” countries it turned out a landmark in triggering institutional changes, not least by the acceleration of the European Integration and in the aftermath of the global financial crisis since the mid-2000’s.

From among the CEE-countries Hungary and Poland will be selected and discussed Poland and Hungary are chosen as the two countries that were frontrunners of post-communist transformation in Central Eastern Europe (CEE). In the country selection Germany makes for an intriguing case as, on the one side, the ex-communist German Democratic Republic after 1990 underwent a fundamental transformation akin to the other ex-communist countries, while, on the other side, the ‘unified’ Federal Republic shared institutional repercussions in line with other European countries. Moreover, Italy was chosen as a country which has since the 1990s experienced far-reaching institutional changes.

The intended comparative discussion two conceptual and methodological

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dimensions are envisaged, that is, a cross-country dimension which addressed several countries, and a longitudinal (over time) dimension which aims at identifying the changes over time. In its cross-country dimension the comparative is confronted with a significant variance of basic country features (ex-communist transformation countries vs. other European countries, federal vs. unitary countries etc.) except their common membership in the EU. For coping with such constellation in the pertinent social science debate reference is often made to the ‘most different systems’ approach (Przeworski & Teune 1970).

Conceptually the discussion of the factors which have impinged on institutional change draws on variants of the institutional debate (see Kuhlmann & Wollmann 2019, 58 et seq.). The actor-centred variant highlights the influence of the will and interest of relevant actors while the historical variant emphasizes the impact of institutional (and mental) givens and ‘legacies’ (‘path-dependently’) swaying the further course of institution building.

In the cross-country and ‘over time’ discussion of institutional development of these countries the analytical focus and “litmus test” will be the position and function of the meso-level institutions (Länder or regions), particularly with regard to the central government level, within the respective ‘multi-level system’. Hereby the guiding question will be whether, when, to which degree and why the institutional architecture of the countries has moved into a decentralising or centralising direction.

As a ‘warning’ and caveat it should be said that pursuing the cross-country and ‘longitudinal’ ambition of this paper runs the risk and may carry the price of having to put up with a ‘broad brush’, possibly over-simplified argumentation.

2. Country analyses: Ex - communist countries

2.1 Hungary

In Hungary in the early 1950s, like in the other countries of the Soviet Block, the (Stalinist) centralist state model was imposed in abolishing local self-government and Hungary. As in the other countries of the Soviet bloc the imposition of the Stalinist state model in Hungary in the early 1950s resulted in abolishing local self-government and in turning the traditional districts (*megyék*) into regional administrative *oblast*-type strongholds of the centralist State and Party rule (Wollmann 1997, 465 with references).

Since the early 1970s Hungary’s institutional development began to differ significantly from the other CEE countries as the Communist regime, probably in a retarded reaction to the 1956 uprising, began to cautiously decentralize the state’s

administrative and economic structures. In a series of acts the municipalities, “settlements,” were conceded a modest form of local self-administration. In order to strengthen the administrative capacity of some 3.000 settlements (half of which had less than 1.000 residents) two thirds were transformed (amalgamated) into joint councils and administrative units (Szente 2012, 284).

After 1989/1990 Hungary’s politico-administrative transformation was based on “negotiated transition” (Batt 1991), that is, on an agreement and consensus reached among the opposition and the (reformist) communist that the communist centralist state should be radically dismantled and that the country should be fundamentally decentralized (Wollmann/Lankina 2003, 94 with references). Hereby decentralization revolved around local self-government “as a pillar of the European model of democracy” (Kovacs et al. 2016, 797). Hence, the re-introduction of local self-government by the Act ‘on municipal self-government’ adopted on August 2, 1990 was among the first legislative matters taken up by the newly elected parliament. In assigning to local self-government a wide range responsibilities and autonomy it was deemed “extremely liberal by any international standards” (Davey 1995, 74). The provision that this Act was given the legal status of a constitutional law whose amendment requires a two-thirds parliamentary majority underscores its outstanding importance, but, as the further development was to show, proved to be a ‘path-dependent’ hurdle to any meaningful adaptations (Kuhlmann & Wollmann 2019, 117 et seq.).

Epitomizing the localist gist and premise of the new legislation all localities were given the right to split from existing local entities. Within a short time, many settlements made use of this opportunity to undo the amalgamation effected under the communist and to (again) form municipalities in their own right. This brought the number of municipalities (again) to over 3.000 (half of which with fewer than 1.000 residents) (Szente 2012) making Hungary’s municipal level one of the most fragmented and small-sized in Europe and belonging, in comparative terms, to the “South European” pattern (Norton 1994).

During this early phase the institutional development of Hungary’s new politico administrative system was significantly influenced by conflicts and competition between the central government led by the centre right Democratic Forum and (left leaning) camp of the Free Democrats and the Young Democrats (FIDESZ) holding majorities in most (particularly major) municipalities.

In an apparent attempt to counterbalance the constitutionally and politically fostered preponderance of the local government level the central government set upon building up (or retaining ‘inherited’ administrative structures) their own special purpose field offices at the lower levels forming hierarchical pillars of State offices,

widely labelled '*decos*' (= deconcentrated offices) (see Wollmann 1997, 467, Wollmann/Lankina 2003, 97 with references).

Thus, in Hungary's founding period a "dualism" and "parallelism" of functionally strong (but territorially fragmented) local authorities, on the one hand, and of vertical 'silos' of special purpose State administration ('*decos*') took shape that, ushering in overlaps, inconsistencies and conflicts, came to (path-dependently) influence the further development (Szente 2012, 285).

Since the mid-1990s a new round of institutional reforms gained momentum which was significantly pushed by Hungary's application to become a member of the EU and of NATO (Wollmann/Lankina 2003, 99). In September 1994 an amendment to the Local Self-Government Act of 1990 was approved. For one, the (19) counties were functionally and politically strengthened in their self-government capacity by having their councils directly elected and by enlarging their responsibilities (as further pursued in subsequent legislation of 1996 and 1999). Second, at the county level Public Administrative Offices (PAO's) were established that were directed by a central government-appointed prefect-type heads and disposed of an administrative staff of their own. Thus, the dual and parallel structure of elected self-governments (at the county and municipal levels), on the one hand, and lower level state administration (PAO's and '*decos*') has been maintained and accentuated.

Subsequent attempts to achieve further decentralization by creating regions with elected councils and self-government responsibilities largely failed. In 1996 the Hungarian Government stressed the need for "... a comprehensive public administration reform in order to eliminate the typical deficiencies and to prepare the public administration for the changing domestic needs and the tasks of the Euro-Atlantic integration" (Public Administration Reform Program 1996, quoted in Wollmann/Lankina 2003, 99). Responding to the need to create regions to be eligible for EU structural funding in March 1998 seven so called "NUTS2" regions (in accordance with the EU's "NUTS" system, that is, with its Nomenclature of Statistical Territorial Units) were established. Lacking any territorial or institutional precedent or reference in Hungary's institutional architecture seven new NUTS2 regions were created to serve merely statistical purpose without any operational significance for managing EU funding (Loewen 2018, 113). Instead the operational responsibility and management authority was assigned to government ministries and at last to the Prime Ministers's Office; thus, notwithstanding the creation of NUTS2 regions the absorption and management of EU funding has, somewhat paradoxically, had a centralizing effect (Loewen 2018, 110, 116). Since 1999 the political debate about creating regions once again picked up momentum (Kovacs et. al.2016, 798). In

the reform programme released by the government in 2002 the objective to replace the existing county structure with directly elected regions was promoted by explicitly referring to EU requirements (see Balazs et al. 2015, 32). In 2006 a leftist government coalition embarked upon a comprehensive regionalisation reform but did not achieve the parliamentary two thirds majority required for amending the pertinent 1990 legislation (Szente 2012, 306, Balazs et al. 2015, 33).

Thus, well into the 2000's the absence of a politically and functionally strong regional level and the high fragmentation of the local level have remained "unresolved problems" of Hungary's institutional development (Kovacs et al. 2016, 790).

Hungary's chequered trajectory towards decentralization came to an end and experienced a dramatic shift towards recentralization when in the parliamentary election of 2010 the rightist FIDESZ party led by *Victor Orbán* won in a landslide victory and gained a parliamentary two thirds majority which opened the door to tackle large-scale constitutional and legal reforms. That drive was ideologically based on what *Orbán* said in a much-quoted speech on July 26, 2014 labelled "illiberal democracy" (Orban 2014). Besides questioning traditional 'liberal' principles (such as separation of powers, independent judiciary etc.) the concept of 'illiberal democracy' takes issue with decentralization and subnational autonomy as sources of inefficiencies which call for "centralization" (Kuhlmann & Wollmann 2019, 115 et seq.). Besides, the neo-liberal belief in the superiority of the private sector and marketization has been politically questioned entailing the remunicipalization and "re-nationalization" of previously privatized assets. Moreover, the call for the strong state and strong central government is ideologically underpinned by its alleged role as bulwark and defender of the national independence and identity against the influx of immigrants and against foreign interference, particularly against the purported "*diktats*" by the European Union.

The "fundamental rupture" (Kovacs et al. 2016, 799) showed in the New Constitution of 2011 called Fundamental Law and by the Cardinal Act on local self-government of 2011 which replaces the 2010 Act. In the preamble to the New Constitution it is stated that "local governments shall function as part of the organisation of the State" while in a general explanation to the New Cardinal Act of 2011 it was said that "the democratic system of local government has fulfilled its mission over the past 21 years... Now it is clear... that our system of local government is in need of a complete reform... The reform is pressed by the radically changed economic, social and legal environment" (quoted from Balacz et al. 2015, 7).

The centralization thrust manifests itself in that, on the one hand, the subnational elected self-government bodies as key drivers of decentralization have been

significantly weakened, while, on the other side, the organizational and political presence of the State in the subnational space has been greatly expanded and strengthened (see Hajnal et al. 2018, 434). “The decades-long dispute over the meso level finished with a total defeat of both regions and counties” (Kovacs et al. 2016, 800).

On the county level, the Public Administrative Offices that had been put in place in 1994 in the 19 counties and in Budapest were functionally and operationally significantly upgraded by turning them into County Government Offices. While retaining the “dual” structure introduced in 1994 the elected county level self-government bodies have been stripped of most of their functions and competences (Hajnal et al. 2018, 434, Loewen 2018, 114).

On the local level the organizational and administrative presence of the central state has been expanded and reinforced by the creation of District Administrative Offices in the newly established 168 districts (*járás*). They have taken over most of the centrally defined public tasks previously ‘delegated’ to the chief administrative officers of local government authorities (Hajnal et al. 2018, 435). The task portfolio and the autonomy of the municipalities have been significantly reduced by the central government resuming (‘re-centralizing’) a broad gamut of tasks including pivotal service areas such as schooling, culture and secondary health care services as well as a broad range of administrative services (Hajnal et al. 2018, 430).

Indicating the impact of the rampant recentralization measures on the functional scope of the local authorities their share in the total public expenditure has dropped from 25, 37 percent in 2010 and 15.79 % in 2015 (Hajnal et al. 2018, 429). Similarly according to the afore-mentioned comparative study on 39 countries Hungary’s rating on the “autonomy” of local authorities has dramatically dropped since 2010 to arrive, in 2014, in the lowest group along, among others, with Albania (see Ladner et al. 2016, p. 345, table 3).

2.2 Poland

Similarly, in Poland in March 1950 the Soviet-type state model was enforced by transforming the traditional 17 regions (*województwa*) into regional strongholds of centralist State and Party rule (see Wollmann 1997, 468). In 1972 the municipalities (*gromady*) were territorially redrawn by way of large-scale amalgamation reducing them from 4315 to 2345 with an average population of some 16.000 residents.

In the early 1980s the communist regime in an obvious response to the growing protest movement spearheaded by *Solidarnosc* moved cautiously towards strengthening the local authorities. During the reign of the martial law in July 1983 was enacted in which for the first time a general competence of the elected local

councils “in all local matters” was recognized (Wollmann 1997, 469 with references).

Different from Hungary’s “negotiated transition” Poland’s system change was, in its crucial initial phase, brought about in a ‘dilatatory compromise’ in which the oppositional *Solidarnosz* and the (still holding its ground) Communist Party were pitted against each other, each hoping to come out, at the end, as the winner (Wollmann 1997, Wollmann/Lankina 2003). In this ‘dilatatory’ power struggle *Solidarnosz* was resolved and set on establishing strong local government as its power base and even a “counter society” to challenge and overcome centralist communist rule, while the Communist side was eager to hold on to central government and to the regions (*województwa*) as its traditional strongholds.

Hence, in the founding phase the institutional change focused on the political and functional reform of the some 2.400 municipalities (*gminy*) in the territorial boundaries created by the communist regime in 1972 by way of amalgamation which (with an average population of some 15.500 inhabitants) in comparative terms approximates the “North European” size pattern (Norton 1994). At that stage, restoring the traditional counties (*powaty*) as upper tier of local government was not considered that had been abolished under the communist regime.

As part and parcel of the ‘dilatatory compromise’ the central government largely remained the domain of the communist party and with it the centralist influence on and organizational presence in the subnational space. The 49 regions (*województwa*) inherited from the communist era were retained and, headed by the central government-appointed *wojewód*, operated regional/meso level administrative tasks. On the top of it, central government set up 267 administrative districts (*rajony*) which, being territorially congruent with (abolished) counties (*powaty*), constituted, comparable to Hungary’s ‘*décos*’, a vertical chain of state administration parallel to the local authorities (Wollmann/Lankina 2003, 102).

Thus, notwithstanding the significant political and functional advanced that the municipalities achieved Poland remained “a highly centralized country” (Regulska 1997, 187).

Since the mid-1990s in Poland the debate on decentralization by further local and regional government reforms entered in a second stage. It gained momentum from the country’s application to join the European Union (Wollmann/Lankina 2003, 105, Tomini 2014, 868). It materialized in a legislative package adopted in June 1998 and enacted on January 1, 1999 that consisted of two core elements of decentralization.

For one, the regions (*województwa*) underwent radical changes on two scores. First, the 49 regions which had been created in 1975 under the communist government were territorially upscaled and replaced with 16 regions (*województwa*) which, returning to their pre-communist territorial format, had an average population

of 2.5 million. Moreover, the regions were politically and functionally recast by introducing a “dual” structure in which, on the one hand, they remained the location of meso-level state administration headed by a governor (*voivod*) who was appointed by the Prime Minister and had an administrative apparatus of his own. On the other hand, marking a pivotal shift, the regions were turned into a self-government level with directly elected regional councils as the decision-making bodies and an executive board whose head (marshal) is elected by the councillors (see Kulesza/Szescilo 2012, 486). This “dual” structure is akin France’s 1982 departmental reform (with a central government appointed *préfet* and elected departmental councils, *conseils généraux*) and similar to Hungary’s county level after the 1994 reform (with State related Public Administrative Offices and elected county self-government councils) and also similar to Hungary’s 1994 county reform (with Public Administrative Offices and elected county self-government councils).

The adoption of Poland’s reform package of 1998/99 unmistakably bore the stamp of the EU Commission’s recommendations in its ‘progress report’ specifically mentioning the country’s decision to establish regions and counties (see Wollmann/Lankina 2003, 105). The newly staked out regions were classified in the EU’s nomenclature as NUTS2 regions eligible for EU funding. At the same time the head of the regional council (marshal) – nota bene: not a central government ministry or agency - was put in charge, as Managing Authority, of operating EU funding.

Second, the *powiaty* (counties) that had been abolished in 1972 under the communist regime were restored as the upper tier of local government thus returning to the country’s traditional two-tiered local government structure. 373 counties (*powiaty*) were reinstalled with an average population of 104.000. These include 65 county towns which, in combining county and municipal functions, again link up the county’s pre-communist tradition. At the same time the 268 territorial states offices (*rajony*) that central government had been established in the early 1990s were abolished and their tasks transferred to the county (*powiaty*) self-government which signalled and underscored the organizational retreat of central government from the subnational space.

As a result of these reforms Poland is deemed to rank “among the most decentralized EU countries with strong regional and local self-government” (Mazur et al. 2018, 785) and that “Poland is the most decentralized country in Central and Eastern Europe with powerful and autonomous local government” (Regulski/Drozda 2015, see also Swianiewicz 2014). The degree of decentralization is plausibly indicated by the percentage municipal expenditures have as compared to the total public expenditure. With a share which rose from 19 percent (in 1994) to 32,64 percent (in 2010 and declined only slightly to 30,77 percent (in 2015) Poland’s local

authorities rank higher than all other CEE countries (for comparative data see Kowalzyk 2000, 245, Levitas 2014, 8 chart 2, Mazur et al. 2018, 785). Moreover, Poland's local authorities have been highly rated also with regard to "local autonomy". In a study in which 39 countries were compared, inter alia, on "local autonomy" Poland ranks among the 8 countries with the highest level of local autonomy - along with Scandinavian countries, Switzerland and Germany – in the time sequence of 1990, 2000, 2010 and 2014 (see Ladner et al. 2016, p. 345, table 3; see also Szescilo 2019, 170).

After Poland established itself since the mid-1990s 'among the most decentralized EU countries with strong regional and local government (Mazur et al. 2018, 785) the country has recently moved towards centralisation.

The first move in this direction took shape when the (rightist) 'Law and Justice Party' (PiS) won the parliamentary elections of 2005 and formed the national government under Prime Minister *Jaroslav Kaczynski*. The incoming government proclaimed the creation of a 'forth republic' aiming ideologically at a 'maximisation of executive power' (Tomini 2014, 856). However, this government was short-lived (2006-2007) so that this first attempt at redefining the role of central government failed.

The political constellation changed significantly when in the parliamentary election of 2015 the PiS under the party leadership of *Jaroslav Kaczyinski* won a parliamentary majority and one-party government was formed. Ideologically sympathising with *Orbán*'s concept of 'illiberal democracy' the new government was, first of all, eager to strengthen the power of the central government (Szescilo 2019, 171). Its related moves to erode the independence of the judiciary as a pivot of the ('liberal') rule of law (*Rechtsstaat*) have provoked a protracted conflict with the EU.

In the vertical relations between the central and the subnational levels the new 'centralist' policy drive has impacted as well ushering in a 'creeping (re-)centralization', so far particularly in certain sectors of local and regional governments, particularly in education and environmental protection (Szescilo 2019, 166). Thus, in a country report adopted on April 7, 2019 by the Congress of Local and Regional Authorities of the Council of Europe it was stated that "the situation of local and regional democracy in Poland has changed significantly over the past years; formerly one of the 'top ten' countries in the EU, in terms of the level of local autonomy, Poland now shows 'relatively alarming trends'... The recentralisation of competences, the increase in detailed national regulations aimed at setting standards for local services, and the pervasive supervision of local authorities, all these appear to be elements of a larger political struggle that is underway in Poland and that is ultimately undermining many of the *acquis* of the last thirty years" (CoE 2019).

However in a rebuttal to this report a Polish minister claimed that in the field of primary and secondary education in which the local authorities have, in the past, been given far-reaching autonomy some regulation and intervention by central government is warranted to ensure “unified minimum standards (in terms of access to and quality of services) nation-wide”.

In sum, observers have concluded that Poland’s “local and regional government went through the ‘stress test’ of illiberal democracy weakened, but not demolished... it demonstrated stronger resilience (Szescilo 2019,176). This balanced assessment appears corroborated by the finding that the percentage of municipal expenditures as compared to the total public sector expenditures declined between 2010 and 2015 only slightly from 32,64 to 30.77 percent (Mazur et al. 2018, 785).

2.3 East Germany

Following Nazi Germany’s defeat and Germany’s liberation from the Hitler regime in 1945 East Germany fell under Soviet Occupation and communist rule. In 1949 the German Democratic Republic (GDR) was established in the Soviet Occupational Zone. In 1952 14 regional administrative districts (*Bezirksverwaltungen*) were, in line with the Soviet oblast structure, put in place as the regional strongholds of centralist government put in place (Wollmann 2002). Unlike Hungary and Poland, the East German hard-line communist regime showed, until its collapse in October 1989, no signs of lessening its centralist grip (for the section see also Wollmann 2020a with further references).

In conspicuous contrast to Hungary and Poland where secular transformation took place in national states which had regained independence after having been subjugated by the Soviet Union, in East Germany the transformation was part and parcel of the process of German Unification through which the GDR ceased to be a separate state and was ‘integrated’ into the “ready made state’ (Rose/Haerpfer 1997) of the ‘old’ Federal Republic (Wollmann 1997, 472; 2002, 154 et seq.). The integrationist gist and thrust was epitomised in the Unification Treaty that was concluded between the two German governments on August 31, 1990. It had the historically unprecedented effect of transferring, in the “logical second” of Unification at midnight of October 3, 1990, most of the ‘old’ Republic’s constitutional and legal world to East Germany, while, at the same moment, the German Democratic Republic ceased to exist as a separate state and its legal system perished. By the same token, importantly East Germany eo ipso became part of the European Union.

The “institution transfer’ was accompanied by an unprecedented “personnel transfer” as thousands of West German officials from Länder and local authorities (temporarily or often also permanently) moved to the East German Länder and local

authorities to advise and support them in rebuilding and operating the new structures. Through the of the combined thrust of “institution transfer” and “personnel transfer” (not to mention the massive “financial transfer”) East Germany’s transformation has significantly shaped by “exogenous” factors making it a special, if not unique case (*Sonderfall*, see Wiesenthal 1995, 50) of post-communist transformation.

Whereas, hence, the transfer and adoption of basic constitutional and institutional principles of democratic decentralized government (such as federalism and local self-government) have been as it were, ‘exogenously’, pre-decided by the GDR’s “accession” to the “old” Federal Republic, other crucial matters (such as the regulation of the political, administrative and territorial structure of local government and of the institutional structure within the ‘new’ Länder) remained to be decided by (and within the exclusive competence of) each of the newly established Länder and in their respective political arena, that is, by East German actors (most of them political novices) who were disposed and resolved to bring to bear their “native” East German intents and interests and to thus ‘endogenously’ shape decision-making. These matters are decided in the regional context of each of the Länder while in Hungary and Poland, being unitary countries, they needed to be determined in the national arena thus being driven and fuelled by national level political party competition and conflicts.

A decisive step towards decentralizing the GDR’s centralist State has been achieved by restoring five East German Länder as ‘federal regions’ (see Kuhlmann & Wollmann 2019, 144 et seq.) which, in Germany’s constitutional tradition, are seen to possess a ‘quasi-State’ quality and ‘quasi-sovereignty’ (*Eigenstaatlichkeit*). As the East German Länder have, in the wake of Unification, eo ipso become part of the EU and have become beneficiaries of EU structural funding, four of them have been identified wholly as single NUTS2 regions, while one of them (Land of Saxony) has been divided into 3 NUTS2 regions. In all of them the respective Land ministries have been put in charge, as Managing Authorities, of handling the EU structural funds (comparable to Poland’s ‘regional’ solution).

As already prepared by the Municipal Charter of May 17, 1990 adopted by the democratically elected People’ Chamber (*Volkskammer*) of the then still existing GDR and, after Unification, enacted by the municipal charters passed by the parliaments of the new East German Länder, the two tiered local level structure inherited from the GDR has been turned into the two tiered structure of local self-government. The municipalities as well as the counties were given a wide range of local self-government responsibilities. Moreover, in line with the dual function model rooted in the German-Austrian local government tradition the municipalities and counties, that is, their executives, have been put in charge of carrying out, besides

self-government responsibilities, also functions ‘delegated’ to them by the Land (see Kuhlmann & Wollmann 2019, 95).

At the same time, the new Länder governments, again in line with the German administrative tradition, have established (meso or local level) special purpose administrative units of their own (*staatliche Sonderbehörden*) (somewhat comparable to Hungary’s ‘decos’). In fact, during the early founding period they tended to set up such sectoral administrative units of their own instead of making use of the ‘delegation’ of tasks to local authorities; this initially resulted in some ‘top-heaviness’ and vertical ‘silos’ of Land administration.

From the outset in each of the Länder heated controversies arose about the fate of the 19 meso level districts (*Bezirke*) inherited from the communist era. In the view of many the districts were gravely discredited by the repressive role they played in the past as meso-level strongholds of the centralist State and Party rule. Not least for this reason it was decided in three of new Länder to do without a meso-level and to embark upon a two-layered institutional architecture (Land government and local government levels). Contrarily two Länder governments decided to turn the previous GDR district into meso level administrative districts (*Regierungspräsidien*). In opting for a three-layered administrative structure (central government, meso level, local government level) they have fallen in line with (albeit increasingly contested) practice of most West German Länder and with Germany’s long administrative tradition (which historically traces back to France’s 19th century prefect (*préfet*) scheme) (Kuhlmann & Wollmann 2019, 94).

In most East Germany Länder on the basis of the territorial reforms of the counties that went into effect around 1994/95 so called functional reforms were undertaken through which the conduct of public functions was decentralized (‘delegated’) by the Länder to the local authorities (see Kuhlmann & Wollmann 2019, 173 et seq.). Thus, the Land administration centred ‘top-heaviness’ of the administrative build up has been rectified.

In sum, propelled by the thrust of East Germany’s accession and ‘integration’ into the ‘old’ Republics ‘ready-made’ state of decentralized government the institutional build-up and organizational set-up of the ‘new’ Länder has reached the ‘West German’ standard within 10 to 15 years remarkably fast (see also Jann 2004).

3. “West European countries”

As was said in the introduction, the following section turns from ex-post transformation countries to ‘West European’ countries to explore whether, when and

why trends of institutional change after 1990 have been set off. As explained earlier ('unified') Germany and Italy shall be discussed.

3.1 Germany

Before turning to identifying the institutional changes which the ('unified') Federal Republic has undergone after 1990 some sketchy notes shall be made on some basic features of the 'old' Federal Republic (see Kuhlmann & Wollmann 2019, 85 et seq. for further references).

When the Federal Republic established on May 8, 1949 in the then Occupational Zones of the three Western Allies it was based on a new Constitution (Basic Law', *Grundgesetz*) which, in line with a long historical tradition, introduced a federal system made up of the federal level (Bund) and the federal States (Länder). A crucial feature was a vertical division of functions according to which the legislative (and policy making) functions are essentially assigned to the federal level while the administrative functions are ascribed almost entirely to the Länder (and the local authorities) (as a result of which, as a conspicuous feature, unique among federal countries, only some 10 percent of the public workforce are employed by the federal level (see Kuhlman & Wollmann 2019, 128, table 3.5 for comparative data). The vertical division of the legislative and the administrative functions, due to its inherent need for the federal and Länder levels to 'co-decide', 'co-finance' and 'co-administer', has made 'composite federalism' (*Verbunds föderalismus*), 'cooperative federalism' (*kooperativer Föderalismus*) and the 'interweaving of politics' (*Politikverflechtung*, Scharpf et al. 1976) hallmarks of the post-war development of German federalism (see Kropp 2010, Kuhlmann & Wollmann 2019, 89). As another pillar of vertical division of power the Federal Council (*Bundesrat*) was established which, as a kind of 'Upper Chamber' besides the Federal Parliament (Bundestag), is designed to give the Länder the right to 'participate in the legislation and administration of the Federation' (art. 50 Basic Law) (see Kuhlmann & Wollmann 2019, 89). Due to its peculiar composition (the members of the Federal Council and their votes are appointed and controlled by the Länder governments and, nota bene, not by the Länder parliaments) the Federal Council lays a 'power axis' between the federal government and the Länder governments which makes 'executive federalism' (*Exekutivföderalismus*) (see Lehbruch 2002, 103) a linchpin of German federalism. It gives significant clout to the Länder governments while 'dwarfing' the Länder parliaments and enfeebling Länder politics altogether.

In 1969 a major constitutional reform was adopted in which the 'centralising' ('federalizing') gains were constitutionally recognized as well as 'fenced in' constrained which the federal level had made since 1949 in tackling and coping with the unprecedented post-war economic and social problems. For instance, 'joint tasks'

(*Gemeinschaftsaufgaben*) were introduced to constitutionally define policy areas in which the federal level and the Länder were involved in co-financing and co-administration (see Kropp 2010).

In ‘broad brush’ summarising the pre-Unification development of the ‘old’ Federal Republic it may plausibly be argued that, while still retaining important federalism-typical decentral elements, the ‘old’ Republic exhibited a ‘centralising’ (‘federalizing’) trend which in critical analyses was described as moving towards a ‘unitary federal State’ (‘unitarischer Bundesstaat’, Hesse 1962) or a ‘disguised unitary State’ (‘*verkappter Einheitsstaat*’, Abromeit 1992).

The unification of the two German States which was effectuated on October 3, 1990 by defunct GDR’s ‘accession’ (*Beitritt*) to the ‘old’ Republic took tellingly place without any relevant changes in the latter’s ‘old’ constitution (*Grundgesetz*).

A first major constitutional change occurred when on September 1st, 2006, following federalism-typical long debates and bargaining between the federal level and the Länder, the so called ‘federalism reform I’ went into effect (see Kropp 2010, 209 et seq.). On the one hand, the federal level attained its goal to curb the scope of federal legislation requiring the veto-armed consent of the Federal Council. On the other, the Länder succeeded in reducing and disentangling the areas of co-financing, co-administration and ‘interweaving’ (*Politikverflechtung*) which had been enhanced in the constitutional reform of 2006. Most importantly, the Länder ‘recaptured’ the sole responsibility in the field of education which, dating back to the 1950s, they have regarded as the core of their ‘sovereignty in cultural matters’ (Kulturhoheit’) and as the centre piece of their ‘quasi-statehood’ (Eigenstaatlichkeit) into which the federal level had, in the 1969 reform, achieved palpable inroads. The financial and operational retreat of the federal level from the education sector (which included schools and universities) was interpreted as a ‘prohibition’ of the federal level to financially and operationally ‘cooperate with the Länder (*Kooperationsverbot*)’ (see Seckelmann 2012). All in all, the ‘federalism reform I’ of 2006 could pass as significant decentralization move which seemed apt to undo and revert some of the previous centralizing momentum.

However, subsequently a series of constitutional reforms have resumed the centralization course.

On August 1st, 2009 the so called ‘federalism reform II’ entered into force which – in the face of mounting deficits in public budgets and in compliance with the ‘European Stability and Growth Pact’ – hinged on the introduction of the system of ‘debt brakes’ (*Schuldenbremse*) which obliged the Länder to be guided, in the budgetary policy, by the parameters set by the federal government and the European Union. At the same time, a federal/Länder commission (*Stabilitätsrat*) was

constitutionally put in place as a ‘watchdog’ over budgetary discipline of the Länder. The centralizing implications of these provisions are obvious.

On September 30, 2017 the constitutional reform of the ‘horizontal financial equalization’ among the Länder (*Länderfinanzausgleich*) was adopted. Dating back to the 1950s the ‘horizontal financial equalization’ was based on a collective and mutual solidarity scheme through which, in order to ‘adequately equalize the different financial capacity’ of the Länder, the ‘rich’ ones shared and transferred financial resources to their ‘poor’ counterparts. However, since long the distribution and retributions of the financial resources has been a permanent bone of contention between the ‘rich’ and the ‘poor’ Länder. Recently the solidarity-based equalization system has broken down. In what might be called an act of self-disempowerment the Länder accepted the offer of the federal level to replace the existing solidarity-based system with federal scheme of financial assistance handed out by the federal government ‘top down’ individually to needy Länder.

Finally, in 2019 following a long political controversy a constitutionally provision was adopted according to which the federal government can provide financial assistance to the Länder for ‘investing in the local educational infrastructure’. This move was politically and constitutionally highly controversial and sensitive because the federal financial intervention involves the school sector which is the very core of the ‘sovereignty in cultural matters’ (*Kulturhoheit*) traditionally assigned to and exercised by the Länder.

Against this backdrop it can plausibly be argued that these recent constitutional changes have moved Germany’s federal system still further towards what may be called a ‘centralised federal state’ (*zentralisierter Bundesstaat*) and what in earlier critical analyses was labelled a ‘unitary federal state’ (*unitarischer Bundesstaat*, Hesse 1962) and a ‘disguised unitary state’ (*verkappter Einheitsstaat*, Abromeit 1992).

3.2 Italy

Another conceptually and comparatively intriguing West European country is Italy. In its post-war Constitution of 1948, which introduced regions into the country’s until then traditionally centralist (‘Napoleonic’) State organisation the distinction was made between (five) regions with a special status (*regioni a statuto speciale*) and (15) ‘ordinary’ ones (*regioni a statuto ordinario*). However, on the former (among which Alto Adige/Südtirol stood out) were given noteworthy functions and autonomy, while all others remained politically and functionally irrelevant (see Palermo 2017,84, Kuhlmann & Wollmann 2019, 81 et seq.).

In 1990, in the wake of huge corruption scandals the country’s political system

slid into a major crisis which resulted in 2001 in a large-scale constitutional reform whose scale was compared to a ‘Copernican revolution’ (Palermo 2017, 86). Since, among others, the ‘ordinary’ regions were given significant legislative and operative responsibilities and autonomy, the constitutional reform of 2001 has been deemed to lead Italy towards a ‘quasi-federal system’ (see Kuhlmann & Wollmann 2019, 82 for references).

However, since the early 2010’s the country’s decentralization has stalled and has been reversed. Recentralization has been triggered by the (‘technocratic’) national government under Mario Monti (2011-2013) that, under rising budgetary pressure and in compliance with the EU’s ‘European Stability Pact’, embarked upon a fiscal austerity policy tellingly under the Anglo-Saxon language label ‘spending review’. Through a constitutional amendment passed on April 20, 2012 a ‘debt brake’ (‘tetto del debito’) was introduced which, committing the national government as well as the regional authorities to have ‘balanced’ budgets (*‘principio del pareggio di bilancio’*), aimed particularly at disciplining and restraining the financial autonomy of the regions (see Palermo & Valdesalici 2019, 299). Other central government inventions followed suit in further curtailing the functions and resources of the regions.

4. Comparative summary: ‘Macro’ trends and if so why?

The institutional transformation of the former GDR after 1990 was a "special case" (Wiesenthal 1995) in several respects compared with the other ex-communist countries of Central Eastern Europe. The linchpin of the development was that the Transformation took place as a process of German reunification, while in Hungary and Poland, as in the other CEE countries, it unfolded as a process of 'nation building', of recapturing the national independence and national identity.

So, in East Germany the basic questions of institutional organisation (federal structure, local self-government, membership of the EU) were essentially *pre*-decided by the GDR's ‘accession’ to the ‘Old’ Federal Republic according to art. 23 Basic Law (*Grundgesetz*, GG), while in Hungary and Poland as in the other CEE transformation countries the key questions of the future organisation, including EU membership, were decided in often protracted conflicts and negotiations between the pertinent national actors. Moreover, the build-up of the organisational and personnel structures in the East German Länder was greatly shaped by the triad of institution transfer, personnel transfer and financial transfer ‘from West to East’ for which there was no parallel in the other CEE countries. As a result of this singular constellation of factors, the organizational and personnel and organizational structures in East

Germany reached, within ten to fifteen years, a standard that was by and large comparable with West Germany after ten to fifteen years (cf. Jann 2004).

In Hungary after 1990 the decisive steps of decentralization were taken by introducing politically and functionally strong local self-government while the creation regions stalled. Significantly, later the management of the EU structural funds has been allocated to the ministries (with a 'centralising' effect) rather than 'regionalised'. After 2010, the right - wing FIDESZ party led by *Victor Orbán*, under the shibboleth of 'illiberal democracy', initiated constitutional and administrative reforms aimed at imposing a centralised 'strong state' by weakening the horizontal separation of powers and reducing vertical decentralisation.

In Poland, after conflict-ridden beginnings, a reform package was adopted in 1994, in which the newly redrawn territorial 16 regions with directly elected regional representatives were politically and functionally upgraded; significantly, their chairmen have been charged with the Management of the EU structural funds. Against this background, Poland was ranked among the "most decentralised countries in the EU" (see Mazur et al. 2018, 785). After 2015, the right – wing conservative 'Justice party' (PiS) led by *Jaroslaw Kaczynski* pursued a policy that, in ideological neighbourhood to Orbán's 'illiberal democracy', strives for establishing a centrally governed 'strong state'. So far, this policy manifests itself in horizontally strengthening central government power, particularly by eroding the independence of the judiciary, and shows vertically 'in a creeping (re-)centralization in certain fields of local and regional institutions' (Szescilo 2019, 166) which, however, exhibit 'greater resilience' (ibid., 176).

The development of the federal system of the Federal Republic has, since the late 2000's, shown a centralising trend in the relationship between the federal government and the Länder. This has come in several steps. First, in the 'federalism reform II' of 2009, against the backdrop of the financial crisis and in line with the 'European Stability and Growth Pact ', the 'debt brake' has been introduced along with the obligation of the Länder comply, in their budget decisions, with the federal and the EU's requirements. Second, in 2017, the Länder withdrew from the traditional solidarity-based financial equalization scheme among them and left it, in an act of self-disempowerment, to the federal government to fill the resulting financial gap by federal financial allocations to individual Länder. Finally, in 2019 the federal government has obtained the right to financially intervene in the school sector, to wit, in a core area of the traditional "cultural sovereignty" (*Kulturhoheit*) and "quasi-statehood" (*Eigenstaatlichkeit*) of the Länder.

In Italy where, in 2001, a massive decentralization drive ('Copernican revolution', Palermo 2017, 86) had been launched through the extension of the political,

legislative and operational competences of the regions, since 2010, in reaction to financial crisis and under pressure from the European Union, a fiscal austerity policy was inaugurated which aimed essentially at curtailing the financial and operational autonomy of the regions.

Notwithstanding considerable differences among them the countries compared here share convergent common macro – trends in that their constitutional and administrative systems were decentralized in the 1990s and early 2000s, especially in the ex - communist transition countries, including the former GDR), and that since the mid-and late 2000s they have gone through centralizing steps, again conspicuously in Hungary and Poland.

Different factors, in varied constellation and strength, can be identified as plausibly accounting for these in the first phase decentralizing and subsequently centralizing trends in the countries under consideration.

In Hungary and Poland as central eastern European transformation countries, as well as in the former GDR, a radical decentralization of the centralist state of communist provenance was part and parcel of the secular system change. In addition, substantial decentralising impulses came from the preparation for and the implementation of EU accession. Conversely, strong centralization has been triggered and driven when right-wing conservative parties under political leaders gained power and embarked upon strategies aimed at establishing strong central government with the proclaimed goal to ensure national independence (in the face of supposed ‘diktats by Brussels’) and national identify (vis-à-vis the influx of immigrants).

In Italy, the 2001 constitutional reform that ushered in a ‘quasi-federal’ regionalisation was inspired the assumption and conviction that decentralization was a crucial element in the indispensable constitutional reform radical and also needed to create competitive Italian regions in the context of an emerging ‘Europe of Regions’. In Germany, the federalism reform I of 2006 received its decentralization impulse essentially from the interest and the intention of the Länder to undo a some of the ‘centralising gains which the federal government had made in the constitutional reform of 1969 and in particular to strengthen the role of the Land parliaments and thus the salience of Land politics as a whole. Since the late 2000’s in Germany as well as in Italy the centralising trend has also been prompted, for one, by the budgetary crisis and by ensuing commitments to the ‘European Stability and Growth Pact’ as evidenced by the introduction of a ‘debt brake’ and its repercussions for the Länder respectively the regions. Moreover the policy initiatives and interventions of the central/federal level have noticeably been guided by the perception and reasoning that in the face of advancing internationalization and globalization of the political, financial and economic world the intervention of the national level and its

central/federal government is imperative in order to ensure competitiveness and ultimately survivability of the individual national states, whereas the subnational levels fall short of adequately coping with this challenge.

Furthermore, as the development in the countries under consideration shows (which all are – ‘old’ or ‘new’ - EU member states) the European Integration process has – varying in phases aspects but overall increasingly – influenced the development of and on the Länder respectively regional levels. Since its creation in 1993 the EU has become a new level within a multi-level government/governance system made up of the European, the national government as well as the subnational (Länder/regional) levels (see Hooghe & Marks 2001, Benz 20002). Through its (expanding) norm-setting and structural funds financing the EU entails “Euro-centralisation’ which impact legislation and implementation on the national as well as subnational (Länder/regional) levels. From the perspective of the Länder/regions ‘Euro-centralisation’ comes adding to the ‘centralisation’ which their national governments confront with.

Finally, the question arises as to whether the conclusion of this paper that the discussed countries, notwithstanding differences, show convergent (‘mega’) trends’ towards decentralization respectively centralization may hold true (be ‘generalised’) also beyond this country sample.

It is obvious that in order to give a methodically and empirically valid answer to this question the comparative discussion would have to be extended to other countries and would require further extensive analysis of literature and research.

At this point, only two other countries shall be mentioned whose institutional development seems pertinent under the question pursued here.

For one, as another intriguing example of an ex-communist transition country (albeit outside the EU) the Russian Federation (RF) comes into view. While in its politically turbulent founding phase after 1990 under President el'tsin the RF was characterized by a high degree of autonomy, if not semi-independence, of the federal regions (see Wollmann 1995, Wollmann 2004), it has since 2000 under President Putin has turned into a centralized quasi-authoritarian state (see Gel'man 2008).

As another Western European country France attracts attention. In 1981 in a first step (*Acte I*) France's traditional ('Napoleonic') centralist state organisation was radically decentralised. The regions were upgraded y giving them the status local self-government (*collectivités territoriales*, yet explicitly without any 'federative' connotation) and numerous central state tasks were transferred to the regions, *départements* and municipalities (see Kuhlmann & Wollmann 2019, 165 FF.). This was followed in 2003 by a reform move (*Acte II*) which further upgraded regions politically and functionally, albeit characteristically still without a 'federative' inkling.

By contrast recently, under the presidency of *Emmanuel Macron*, a development has shaped up which, apostrophised by critics as 'Jacobin centralization', '*centralisation Jacobine*', hinges on strengthening the presidential power while curbing the (especially financial) autonomy of the subnational levels (see Kuhlmann & Wollmann 2019, 169).

If one looks for cases and evidence in a geographically more comprehensive scope and ventures to tap studies and publications with a global coverage (see UCLG 2008, Kersting et al. 2009, Wollmann 2020b) one might plausibly gather that, in apparently congruent 'macro' trends, between the 1980's and early 2000's in many countries, including developing countries in Latin-America, Africa, etc., decentralization of state organization, usually going along with democratization, has prevailed, whereas during the past ten, fifteen years many of these countries have (re-)turned to centralisation, often accompanied by the rise of (semi) authoritarian central rule and rulers (see Tyler Dickovick 2011). The emergence of populist 'central power-concentrating' leadership styles and leaders (currently exemplified also by US President *Donald Trump*) can arguably be interpreted as showing a similar track.

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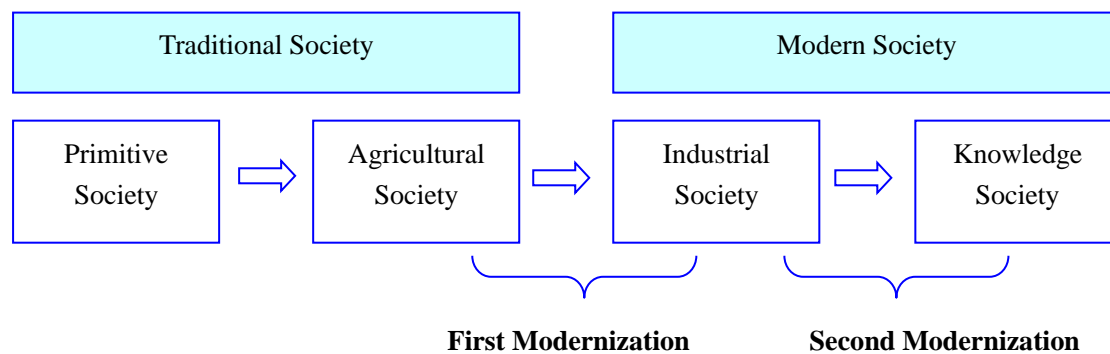


Figure 1-1 The first and second modernization

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