

§ 4 The structure of "central" government - the example of Germany (overview)

I. Two levels of "central" government in a federal state

- execution of laws by the Federation and the Länder with *separate, independent administrative systems and structure* and even partially different administrative law (cf. art. 30, 83 ff. BL)
- within the Länder, the activities of *Land authorities* (who are *also state authorities*) are also perceived as "central" government
- formally, the Federation and every Land each have their own administrative procedure law - however, Land law usually copies or refers to the Federal Administrative Procedure Act, with little deviations

II. The distribution of the administrative competences

1) The execution of Land law:

- always by and in the responsibility of the Land
- administrative structure and procedure regulated by Land law
- many *tasks delegated to the counties and communes* (with functional supervision by the Land)

2) The execution of federal law:

- a) *generally by the Länder*, in their own right and responsibility (art. 83)
 - administrative structure and procedure in principle regulated by Land law (cf. art. 84(1) BL)
 - many *tasks delegated to the counties and communes*
- b) *in some cases by the Länder in federal commission* ("Bundesauftragsverwaltung", art. 85 BL)
 - in these cases, often the admin. structure is regulated by federal law with consent of the Bundesrat
- c) *in some cases by federal administrative authorities*
 - e.g. Federal Police, Federal Criminal Police Office, Federal Defence Administration, Foreign Service

3) The execution of European Union law:

- same distribution of competences as if it was German law (art. 84 et seq. BL applied analogously)

III. The administrative structure

1) Of the Länder

- general and specialised Land authorities
- traditionally 3 levels of Land authorities
 - Land ministries & other central authorities, regional Land authorities (eliminated in some Länder) and local authorities

2) Of the Federation

- federal ministries, central federal authorities and federal corporations and institutions
- only *in few cases* (e.g. Federal Police) federal authorities *with own admin. substructures* (supreme and higher federal authorities, intermediate and lower federal authorities, art. 87 BL)

IV. The federal supervision of the execution of federal law by the Länder

- if Länder execute federal law in their own right and responsibility: *federal legal supervision* (art. 83, 84(4) BL)
 - on application of the Federal Government or the Land concerned, the *Bundesrat* [Federal Council] decides whether the Land has violated the law; its decision may be challenged before the Federal Constitutional Court
- where Länder execute federal law in *federal commission: federal functional supervision*
 - Länder subject to instructions from highest federal authorities, who survey legality and expediency (art. 85(3, 4) BL)