



Regional development studies

The EU compendium of spatial planning systems and policies Germany

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European Union

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Regional development studies

**The EU compendium
of spatial planning
systems and policies
Germany**

European Commission

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Preface

Each year, the Directorate-General for Regional Policy and Cohesion of the European Commission launches a number of studies in the field of regional policy and regional planning. These studies mainly aim at providing a basis for policy formulation internally, as well as the preparation of programmes and initiatives and a basis for analysing the impact of current or planned activities. The most interesting or innovative of these are published in a series entitled 'Regional development studies'.

With this series, the Directorate-General hopes to stimulate discussion and action in a wider sphere on the research results received. The publication of the studies is addressed to politicians and decision-makers at European, regional and local level, as well as to academics and experts in the broad fields of issues covered.

It is hoped that by publicising research results the Commission will enrich and stimulate public debate and promote a further exchange of knowledge and opinions on the issues which are considered important for the economic and social cohesion of the Union and therefore for the future of Europe.

Readers should bear in mind that the study reports do not necessarily reflect the official position of the Commission but first and foremost express the opinion of those responsible for carrying out the study.

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Compendium's objectives

The compendium is made up of numerous documents. The main volume is the Comparative review of systems and policies (Regional development studies — Study 28) which provides a summary of the characteristics of each system and illustrates the principal similarities and differences in approach across the EU. This was prepared from information supplied by subcontractors in each Member State which is also published in individual country volumes (Regional development studies — Study 28A to Study 28P). There are also volumes which consider the operation of planning in practice through examination of case studies on topics of particular interest to the EU

The Informal Council of Ministers for Regional Policy and Planning confirmed in 1992 the need for a compendium of spatial planning systems and policies in the EU. The increasing need for cooperation between planners in different Member States at national, regional and local levels and the impact of EU policies within the changing economic, political and social context requires a better knowledge of the various mechanisms of spatial planning in other Member States.

The compendium is intended to provide an authoritative and comparable source of information on planning systems and policies, but is not intended to evaluate the relative merits or shortcomings of different approaches. It is recognised that the very different economic, social and cultural conditions across the EU can have a determining effect on the operation of spatial planning. The overriding objective of the compendium is to provide information in order to improve understanding of the variety of approaches.

Form and content

The principles that have guided the preparation of the compendium are that it should:

- provide an authoritative first source of information, but avoid unnecessary detail and should not reproduce material readily available in the Member State;
- enable comparison of the systems and policies across different countries and regions, enabling the reader to cross-reference one section with similar material in other volumes;
- respond to the different needs of the many potential audiences, especially with regard to the foreign reader who will require an uncomplicated and comprehensible explanation;
- be built up step by step and allow for regular updating and expansion;
- be produced in hard copy and computer formats.

Level of detail

These considerations have given rise to inevitable compromises in the production of the material, especially in balancing the need for an authoritative account whilst not overloading the text with

unnecessary detail. The panel of experts have been most helpful in determining where more or less (or clearer) explanation is required. The compendium is designed to provide summary descriptions of the main features of the system and thus explain how the system works. Obviously there is some variation in the complexity of the systems, especially where the law concerning spatial planning is extensive and complex, and thus the depth of understanding provided by the compendium for Member States will vary.

The compendium is certainly not intended to be a manual for operating within a particular system and does not replicate or reproduce extensive extracts of law or procedural guidance that is available in the Member State. The accounts are necessarily general. The categories used for the main structure are also very general because they need to apply to 15 different countries and an even larger number of systems. They are unlikely to be ideal categories or headings for a particular country, but all contributors have had to make a best fit for their system within these headings. The great benefit is that this gives considerable scope for very worthwhile comparisons. Sources of further information are given for those who need to explore in more depth.

Regional variations

The complexity of a 'planning system' will be great where federal or regionalised structures of government give rise to major variations within the Member State. In these cases to avoid unnecessary complexity and research, the approach agreed with the subcontractors and Commission was to provide an full explanation of one of the regions (where possible the most typical or widely applied system) and to note the major variations to this 'typical system' elsewhere. This approach is more easily adopted for some countries than others. Inevitably some important and interesting variations are not covered fully, and it is hoped that this can be addressed in future updating.

Structure

The compendium is published in two parts. The first comprises a country volume for each Member State on systems and policies. The second part comprises topic volumes where case studies of spatial planning in practice from different countries are grouped together.

The country volumes of the compendium covering systems and policies include four main sections.

A. Overview

This is intended to give a brief explanation of the main features of the system, a description of the main factors that surround and shape it, current trends and a summary of the policy themes pursued at transnational, national regional and local levels.

B. Making and reviewing plans and policies

This is an explanation of the instruments which are used to guide spatial planning and national, regional and local levels, and the procedures which are used in their formulation.

C. Regulation and permits

This section provides an explanation of the types of regulation and permit systems predominantly used to control land use change, and the procedures by which they are sought, granted and enforced.

D. Agencies and mechanisms for development and conservation

There are many other ways in which governments engage in spatial planning outside the preparation of plans and regulation, and this section provides a summary of the many organisations and mechanisms which are employed both in implementing development and in protecting the natural and built heritage. Each volume on systems and policies for the Member States follows the same format. Each Member State volume includes other subheadings which help to structure the content relevant to that particular country and these are in ordinary type.

Language and terminology

One of the great difficulties of comparative work is the complications and ambiguity arising from translation from one language to another. The approach taken in the compendium has been to ensure that all names of elements of the planning system which are specific to that country (or region) are given in the 'home language', and these are in italics in the text. When first used these terms should be accompanied by a very brief explanation of the meaning of the term (if this isn't evident from the text). The explanation is repeated if necessary at the first mention of later main sections of the text. A glossary of home language terms is provided in each volume.

Literal translations of terms has been avoided because this gives rise to considerable ambiguity. For example the Danish term *lokalplaner* can be literally translated into English as 'local plan', but the UK local plan is a very different type of instrument to its namesake in Denmark. Contributors and editors have been sensitive as far as possible to the needs of the foreign reader, who is unlikely to be familiar with the system or the language, so undue repetition of complicated home language terms is avoided as far as possible.

Scope and content

The content of the compendium is focused on discussion of the policies, agencies and mechanisms which are primarily designed to promote 'land use and development issues which have spatial implications'. In the words of the brief the compendium is concerned with

spatial planning and development in the widest sense (strategic, regional and physical land use planning). It will have to deal not only with physical planning acts (or their equivalents) but also with other legislation and procedures directly affecting the spatial distribution of development at national regional and local levels of government. Other closely related areas (such as sectoral policies for transport, environment and energy) must be looked at in terms of their relationship with the (land use) planning system.

Spatial planning does not mean any particular form of planning adopted by a Member State. It is a neutral term which describes the arrangements used by governments to influence the future distribution of activities in space. It is undertaken with the aim of producing a more rational organisation of activities and their linkages, and to balance competing demands on the environment. Spatial planning also incorporates those activities undertaken to achieve a more balanced distribution of economic development than would arise from market forces alone. Spatial planning is important to the Community's policies of social and economic cohesion and the need to maximise the potential of the single European market.

However, the definition of what constitutes spatial planning in each Member State is no easy task. There is considerable difference in what is considered as part of the spatial planning system in different Member States. One benefit of the compendium is that it helps us to understand these differences.

Benchmark date

Because of the need for the compendium to provide comparative information in a rapidly changing world, a benchmark date was set of 1 January 1994. This relatively early date (close to the start of the project) was chosen because information on the various elements of systems and policies would be available. The operation of the system would be clear, especially in relation to the impact and significance of particular elements. There would be no need to speculate as to the relevance of more recent change. However, change is a central feature of planning systems and policies, and some countries are undergoing significant restructuring in one or both areas. In cases where there has been significant change since the benchmark date, this is noted in the text. Future updating and revisions of the compendium will address these points.

Author's note

We are very grateful to all the people who contributed to the German sections of the compendium and a great effort was spent collating all the information it contains. In particular, we would like to thank Professor H. W. E. Davies, Professor Marco Venturi, Dr Tim Westlake and Dr David Shaw who have provided detailed and useful comments on earlier drafts. The Bundesministerium für Raumordnung, Bauwesen und Städtebau, the Bundesministerium für Verkehr and the various Landesministerien für Raumordnung all took great care in reading and commenting on draft material to ensure the accuracy of the final document. We are also grateful to the Senatsverwaltung in Berlin, the Regionalverband Südlicher Oberrhein, the Wirtschaftsministerium Baden-Württemberg and the Bundesforschungsanstalt für Landeskunde und Raumordnung for permission to use material as illustrations.

We would like to emphasise that this document has been prepared as part of a comparative exercise and follows a format that has been designed to be used to describe all the very different planning systems in the European Union. It has also been written with the foreign reader and its comparative purpose in mind. Considerable attention has been paid to the use of various terms, especially in identifying those that should not be translated, whilst at the same time seeking to prepare a document which is as accessible and user-friendly as possible. Thus, the volume is very much a compromise solution and may not be in the most convenient structure or style of explanation for all users.

One particular limitation is the treatment of the detailed differences in the operation of supra-local spatial planning in the *Länder* of Germany. We have taken the approach of describing the operation of the system in one of the *Länder* as an example and then highlighting the differences that can occur in other *Länder*. We have tried to provide as representative a cross-section of the variations as is possible given the restrictions in space involved in presenting a concise and readable volume. However, there may be some apparent inconsistencies in the treatment of the *Länder* where we have applied our judgment in deciding how far to go in explaining the variations. The legislation relevant to spatial planning in each of the *Länder* and the organisation of regional planning in each of the 'area' *Länder* is provided in Appendix IV.

We are also aware that this volume represents an abstraction of the reality of the spatial planning system in the Federal Republic of Germany. The emphasis is on formal procedures and instruments and we recognise that it does not reflect the complex and resourceful nature of spatial planning in practice. The brief for the compendium was to describe the formal systems. The question of the operation of the system is addressed to some extent by the case studies which are provided in separate volumes.

The compendium is a concise comparative view of planning systems in the EU at 1 January 1994. Since law and procedures are constantly changing in Germany, at both the *Bund* and *Länder* levels, we have attempted to keep the volume up to date and to include the most significant changes in the system since that date. Finally, there is inevitably some interpretation of what is and is not significant in describing the German system. This document reflects the view of the authors and any omissions or errors remain our responsibility.

A. Overview of planning system

General summary

Introduction

A1. The system of spatial planning in the Federal Republic of Germany is determined by the federal structure of the country. The Federal Republic is made up of 16 *Länder* (States), of which three are *Stadtstaaten* (city States). The *Bund* (federation) ensures that there is a certain level of uniformity of spatial planning by means of legislation. The *Länder* are responsible for spatial planning at the level of the *Land* (State) and in doing so must take the constitutional guarantee of self government for local communities into consideration. The *Städte* and *Gemeinden* (cities and other municipalities), of which there are approximately 16 000, prepare local land use plans for the definitive control of land use — these statutory local plans are the *Flächennutzungsplan* (F-plan) (preparatory land use plan) and the *Bebauungsplan* (B-plan) (binding land use plan).

A2. On the whole, the German spatial planning system is defined by the following characteristics:

- The *Bund* only adopts very general regulations to guide spatial development policy. This is done in close cooperation with the *Länder*, via the *Ministerkonferenz für Raumordnung* (MKRO) (standing conference of *Bund* and *Länder* ministers for spatial planning). Every number of years the *Bund* carries out a detailed report on spatial planning and related policy issues, the *Raumordnungsbericht*, which is laid before the *Bundestag* (Federal Parliament).
- In general, the *Länder* exercise spatial planning at two levels. The first level comprises the preparation of a *Landesentwicklungsprogramm* (LEPro) (State development programme) or a similar *Landesentwicklungsplan* (LEP) (State development plan) for the whole of the *Land*. These are followed by *Regionalpläne* (regional plans), which comprise the second level and are prepared for regions within the *Land*. The *Regionalpläne* are binding on public administrations and the *Gemeinden* participate in their preparation in accordance with the *Gegenstromprinzip* (counter-current principle) — a process of reciprocal in-

Figure A1: Structure of spatial planning in the Federal Republic of Germany

Government level	Type of planning	Plan title
Bund (federation)	Raumordnung (federal spatial planning)	Raumordnungspolitischer Orientierungsrahmen (guidelines for spatial planning)
Länder (States)	Landesplanung (State spatial planning)	Landesentwicklungsprogramm (State development programme) Landesentwicklungspläne (State development plans)
Städte und Gemeinden (municipalities)	Regionalplanung (regional planning) Bauleitplanung ([local] land use planning)	Regionalpläne (regional plans) Flächennutzungsplan (preparatory land use plan) Bebauungspläne (binding land use plans)

fluence by both the *Länder* and the *Gemeinden* on each other's spatial plans.

- The *Gemeinden* are responsible for the definitive control of land use. Practically all *Gemeinden* have a *Flächennutzungsplan* (F-plan) (preparatory land use plan), which is the development plan for their whole administrative area. Individual building proposals or projects are controlled by the preparation of a *Bebauungsplan* (B-plan) (binding land use plan). The procedures for the preparation of these plans is regulated by federal law in the *Baugesetzbuch* (federal building code).
- Building proposals can also be approved if there is no B-plan, where the area surrounding the proposal is already built-up.
- In principle, the *Außenbereich* (surrounding undeveloped area), which comprises rural areas and other undeveloped or 'white land', is protected from building.
- The *Gemeinden* are provided with wide-ranging instruments to plan and control the implementation of development, which provide them with the means to maintain tight control over the supply of building land. Thus, any significant level of building outside of existing built-up areas can only be undertaken with the cooperation of the *Gemeinde*.
- However, since 1993, a binding land use plan, called the *Vorhaben- und Erschließungsplan* (VuE-Plan) (project and infrastructure plan), can also be initiated and prepared by a developer/investor. The VuE-Plan and attached contract can be adopted by the *Gemeinde*, thereby bringing the plan into force.
- The courts play a significant role in watching over the whole area of local land use planning and of *Baugenehmigung* (building permission).

History

A3. Until 1960 the legislative control of spatial planning was a matter for the *Länder*. The enactment of the *Bundesbaugesetz* (federal building act) in 1960 introduced the first federal act regulating local land use planning. In 1965 the (*Bundes-*) *Raumordnungsgesetz* (ROG) (federal spatial planning act) was passed, regulating supra-local spatial planning. The *Städte-*

bauförderungsgesetz (federal promotion of urban development act), which regulates urban renewal in particular, was added in 1971. Then in 1986 the *Bundesbaugesetz* and the *Städtebauförderungsgesetz* were combined together into a single planning code, the *Baugesetzbuch* (federal building code).

Regional variations

A4. Each of the *Länder* has its own *Landesplanungsgesetz* (State planning act). These acts must take the provisions of the *Raumordnungsgesetz* (ROG) into account. Differences between the *Länder* occur especially in the area of regional planning, which in some *Länder* is determined more at the *Land* level, while in others it is devolved to joint agreement between the local authorities concerned. In most *Länder*, the local authorities participate in the preparation of a *Regionalplan* via representation in a *Regionaler Planungsverband* (regional planning association) or *Regionale Planungsversammlung* (regional planning assembly). The aims of spatial planning laid down in the *Regionalplan* must be taken into account by the *Gemeinden*.

A5. The procedures of spatial planning at the local level are regulated by the *Baugesetzbuch*, which applies uniformly across the country. The actual contents of the local land use plans are a matter which is solely the responsibility of the *Gemeinden*, within the framework of the law.

A6. Following German reunification, special spatial planning regulations were initially applied in the new *Länder*. However, these special regulations are being increasingly removed. It is envisaged that by the beginning of 1998 there will no longer be any differences between the planning regulations in the new and old *Länder*.

Operation of the system

A7. The majority of building proposals require a *Baugenehmigung* (building permission). The issue of a *Baugenehmigung* certifies that the proposal applied for complies with all regulations under building law — that is it complies with both the regulations under planning law and the technical building regulations. Thus, there is no separation between the planning permission and building regulations permission. However, it is also possible, and indeed quite common, that the admissibility of a proposal under planning law (only) is established by an application for a *Vorbescheid* (preliminary decision).

A8. The *Baugesetzbuch* (BauGB) makes a distinction between three types of area in relation to the admissibility of building proposals:

- areas covered by a *Bebauungsplan* (B-plan);
- built-up areas not covered by a B-plan and
- surrounding undeveloped areas not covered by a B-plan.

A9. In areas covered by a B-plan and in built-up areas, building is permitted in principle. In the surrounding undeveloped areas, building is not considered desirable.

A10. The main instrument for controlling building development is the B-plan. It can be applied to virgin land to open it up for first-time development, or equally the B-plan can be prepared to cover areas already developed or to be redeveloped, where this is considered to be necessary in the interests of planned urban development.

A11. Where a B-plan is available, a building project is permissible where it complies with the provisions of the plan and the provision of local infrastructure is secured. The B-plan provides the planning criteria for the decision to issue or refuse a *Baugenehmigung*. Approximately two-thirds of all new buildings granted a *Baugenehmigung* are situated in areas covered by a B-plan.

A12. The binding nature of the B-plan has led to the situation that, in some *Länder*, one need not apply for a *Baugenehmigung* for housing proposals in areas designated for housing in a B-plan. The *Baugenehmigungsbehörde* (building permission authority) need only be notified of the proposal. The architect and the builder or owner carry the responsibility for compliance with all the regulations (including those of the B-plan).

A13. Where there is no B-plan, a building project may still be permissible if it is located in a built-up area, provided it fits in with the surrounding buildings. Approximately one-third of all new buildings granted a *Baugenehmigung* fall into this category.

A14. Only approximately 5 % of all new buildings are permitted in the surrounding undeveloped areas. These are mainly buildings and structures which belong in rural areas, such as those for agricultural and forestry uses or for gravel and stone quarries.

A15. A refusal of a *Baugenehmigung* can be appealed before the courts. The legality of the pertinent B-plan will also be reviewed by the court as part of this procedure, if applicable. The court will also examine the material legality of the contents of the plan. If the proposal applied for corresponds with a lawful B-plan, the *Baugenehmigung* must be granted; the administration have no discretion in this regard.

A16. The legal procedure in the courts extends over at least two levels of court. The possibility of judicial review is widely availed of and because legal action takes quite a long time, a temporary or interim injunction is also available.

A17. A building proposal is only permissible when the site is actually connected to the local infrastructure (i.e. serviced — provided with a public road, energy supply, water, etc.). The provision of local infrastructure is basically a responsibility of the *Gemeinde*, which recover the costs incurred by means of levying charges on the landowners concerned. A *städtebauliche Vertrag* (urban development contract) can be used to regulate the provision of infrastructure by a developer. This usually occurs where a large land area is to be developed by a single developer, who must undertake part or all of the costs of providing the infrastructure.

A18. The availability of instruments for freezing development and prohibiting transfers of property ownership ensures the *Gemeinden* that their plans will be followed.

Defining characteristics

A19. The German system of spatial planning is identified by its distinction between two planning functions:

- One planning function, supra-local spatial planning, is a top-down system. It is documented in the spatial guidelines of the *Bund*, the *Landesentwicklungspläne* or *Landesentwicklungsprogramme* (State development plans or programmes) of the *Länder* and the *Regionalpläne* (regional plans). In addition to these, there are the supra-local sector plans (for federal trunk roads, railways, waste management, energy supply, etc.).
- The other planning function, local land use planning, is a bottom-up process. It is documented in the *Flächennutzungspläne* (preparatory land use plans) and the *Bebauungs-*

pläne (binding land use plans) of the *Gemeinden*. The preparation of these plans is the sole responsibility of the *Gemeinden*, who prepare them within the framework of the law. This is an aspect of the principle of local self-government, which is guaranteed by the German constitution and protected by the courts.

A20. These two planning functions are linked together by the *Gegenstromprinzip* (counter-current principle). The supra-local plans cannot be prepared without the participation of the local authorities. The local plans must conform with the aims of the supra-local plans, which are documented in the *Regionalpläne*.

A21. Local land use planning provides the real definitive planning. Supra-local planning only lays down individual aims and the network of supra-local infrastructure, while paying increasing attention to environmental protection via the designation of supra-local areas for the protection of nature and natural resources.

A22. Local land use planning has a nearly perfect system of instruments at its disposal which it can use to accompany and implement local plans. These instruments provide possibilities for the freezing of development during plan preparation, the reorganisation of landholdings and site boundaries and, in the most urgent of situations, the use of compulsory purchase. On the other hand and under only certain circumstances, if public planning results in a reduction in the value of private property then the property owner is entitled to compensation.

A23. However, where major new urban development is to take place the *Gemeinde* can designate *städtebauliche Entwicklungsbereiche* (urban development zones), in which the *Gemeinde* must purchase all the land, at existing use value. Once it has prepared the plan and provided the local infrastructure, the *Gemeinde* must sell the land to developers and investors. In this way the increase in land values created by public urban planning remains in hands of the *Gemeinde*.

A24. The emphasis of local planning is not only on new construction, but also on preservation, urban conservation and urban renewal. At present these tasks are being especially promoted in the new *Länder*.

A25. All building operations are supervised by the building control departments of the State authorities. The majority of private building pro-

posals must be approved by the local *Baugenehmigungsbehörde*. The system of building permission and building control functions particularly well. The decisions of the *Baugenehmigungsbehörde* can be appealed and brought in a legal action before the courts, by the applicant and by any neighbour affected.

A26. Intensive public participation occurs in two phases during the actual preparation of local land use plans, both before and after the preparation of the draft plan. Nevertheless, any person who expects to suffer a disadvantage from the plan can bring it before the local administrative courts for a judicial review. In a similar way, sector plans (such as those for road or motorway construction) can be challenged in the courts. In individual situations this can lead to a long delay in the implementation of plans.

Sources

For an introduction to the spatial planning system see:

BM Bau (1994), *Law and practice of urban development in the Federal Republic of Germany*, Bonn, Bundesministerium für Raumordnung, Bauwesen und Städtebau.

Schmidt-Eichstaedt, G. (ed.) (1995), *Bauleitplanung und Baugenehmigung in der Europäischen Union — Land use planning and building permission in the European Union* (German-English), Köln, Deutscher Gemeindeverlag/Kohlhammer Verlag.

Context and principles

Constitution, legislation and judicial systems

A27. The *Grundgesetz* (basic law or constitution), which came into effect in May 1949, is the constitution of the Federal Republic of Germany. The principle of federalism ensures that legislative, executive and judicial powers are distributed between (i) the parliaments and administrations of the *Bund* and *Länder*; (ii) local government; and (iii) the law courts. (See Figure A2). The *Bund* and *Länder* are independent entities each with their own parliaments, constitutions, legislative and executive functions and law courts.

Figure A2: The legislative, executive and judicial structure in the Federal Republic of Germany

Government/Authority	Legislative	Executive	Judiciary
Bund (Federation)	Bundestag (Federal Parliament)	Bundesregierung • Bundeskanzler • Bundesminister Bund administration	Bund (Federal) courts including • Bundesverfassungsgericht (Federal constitutional court) • Bundesverwaltungsgericht (Federal administrative court)
Land (State)	Landtag (State Parliament)	Landesregierung • Ministerpräsident • Landesminister	Land (State) courts including: • Oberverwaltungsgerichte or Verwaltungsgerichtshöfe (higher administrative courts)
• Regierungsbezirk (District administration)		Land administration • Regierungspräsident (district chief executive)	• Verwaltungsgerichte (local administrative courts)
Landkreis (county)	Kreistag (country council)	Landkreis administration	
Gemeinde (municipality)	Stadtrat or Gemeinderat (municipal council)	Gemeinde administration	

A28. The Constitution includes a number of constitutional principles which are of importance in relation to spatial planning:

- The guarantee of a functionally active local self-government. This means that the *Gemeinden* (municipalities) alone are responsible for specific land use and development decisions in their own administrative area. This is referred to as the planning autonomy of the *Gemeinden* (Article 28 GG).
- The guarantee of access to the courts where a persons' rights or interests have been affected by a public decision (Article 19, paragraph 4 GG). This right may not be restricted by any law.
- The 'principle of equivalence of living conditions' throughout the FRG (established in Article 72, paragraph 2(3) GG). This principle forms the basis for spatial planning and regional development policies in Germany.
- The guarantee of the right of property along with the principle that property ownership imposes duties. Its use must also serve the common good (Article 14 paragraphs 1 and 2 GG). Expropriation is only permissible in the interests of the common good and may only take place under legislation which provides for the nature and extent of compensation payable. Such compensation shall be determined by establishing an equitable balance between the public interest and the interests of those affected. (Article 14 paragraph 3 GG).

A29. The Constitution also defines the legislative responsibilities of the *Bund* and *Länder* in terms of:

- exclusive legislation, which is the sole responsibility of the *Bund* (nationality law, currency and customs matters, etc.);
- concurrent legislation, which is the responsibility of the *Länder*, but only insofar as no legislation has been passed by the *Bund* (this covers the majority of fields of legislation and includes land law and local land use planning);
- framework legislation, where the *Bund* issues framework legislation and each of the *Länder* fill in the detailed regulations via their own legislation (this includes the areas of supra-local spatial planning, water management and nature conservation).

A30. In reality, the bulk of the important legislative power has been vested in the *Bund*. The *Länder* have exclusive legislative competence for such matters as policing, education and building regulations.

A31. However, the *Bundesrat*, which comprises representatives of the *Länder*, must approve all *Bund* legislation which affects the affairs of the *Länder* or those of local government.

A32. The most important pieces of spatial planning legislation in the Federal Republic of Germany are:

A33. The *Raumordnungsgesetz* (ROG) (federal spatial planning act), first enacted in 1965 and subsequently amended, most recently in 1997, is the federal act which contains:

- The framework principles and organisational procedures for all supra-local spatial planning in Germany (which is carried out by the *Länder*).
- The *Gegenstromprinzip* (counter-current principle) whereby each planning level must take account of the objectives of higher-level plans. At the same time, each lower planning level must be allowed to participate in the preparation of plans at the next higher level.

A34. Under the Constitution, the *Länder* are constitutionally responsible for carrying out supra-local spatial planning. Each of the area *Länder* enact their own State spatial planning act, called *Landesraumordnungsgesetz* LROG or *Landesplanungsgesetz* LPIG (see Appendix 4). Each of these acts provide for:

- spatial planning at the *Länder* level;
- the organisation of spatial planning at the sub-*Länder* or regional level; and
- the procedures and rules for the carrying out of regional planning.

A35. The 'city States' of Berlin, Bremen and Hamburg do not have such acts. In these cities the provisions of the ROG are incorporated into the F-plan (preparatory land use plan) for the city.

A36. The *Baugesetzbuch* — BauGB (federal building code) is the most important code of law for land use planning and development control at the local level. The latest edition of the BauGB was issued in 1986 and last amended in 1997. It has four main chapters which address the following issues:

General urban planning legislation:

- the preparation of local land use plans by the *Gemeinden*. These plans are the *Flächennutzungsplan*, F-plan (preparatory land use plan) and the *Bebauungsplan*, B-plan (binding land use plan);
- measures to safeguard the implementation of land use planning;

- the rules for the assessment of whether a development proposal is permissible or not, according to three different situations:
 - within an area covered by a B-plan (section 30);
 - within built-up areas, where no B-plan exists (section 34);
 - within the surrounding undeveloped areas, where no B-plan exists (section 35);
- matters dealing with compensation, land reallocation, compulsory purchase and the provision of public infrastructure.

Special urban planning legislation — which focuses on:

- urban redevelopment and development measures;
- urban preservation and urban enforcement orders;
- the social plan and the provision of hardship allowances;
- tenancy regulations;
- the improvement of the structure of agricultural land.

Other provisions:

- valuation, administrative regulations and the procedures before the law courts for building land matters.

Regulations:

- transitional and concluding regulations.

A37. The *Baunutzungsverordnung* — BauNVO (federal land use ordinance) 1990, as last amended in 1993, is made under the provisions of the BauGB. It specifies:

- the types of land use areas which may be designated in local land use plans: for the F-plan these are general land use areas (e.g. general residential building areas, general mixed building areas) and for the B-plan these are specific land use areas (e.g. residential-only areas, industrial areas);
- the types of development permitted in the land use areas (e.g. in residential-only areas

housing and shops serving the everyday needs of residents are permitted);

- the upper limits of site coverage, building density and building height permitted in each land use area.

A38. The *Landesbauordnungen* — LBO (State building regulations) are made by each of the *Länder* (see Appendix 4) and include:

- the designation of the *Bauaufsichtsbehörden* (building control authorities), their functions and powers;
- the developments which require a *Baugenehmigung* (building permission) and the developments which are exempt from permission;
- the procedures involved in applying for a *Baugenehmigung* and in the processing of the application by the *Bauaufsichtsbehörden*. These include, for example, the documents to be submitted with the application, the participation rights of neighbours, the issuing of permission and the commencement of construction;
- the technical building regulations, including regulations on standards of construction, design, building products, minimum size of habitable rooms, fire safety, etc.

A39. The *Fachplanungsgesetze* (sector planning acts) of the *Bund* and *Länder* cover a wide range of sector planning areas which have an impact on spatial planning, for example: waste disposal, the federal railways, federal and *Länder* trunk roads (see Section A: Sectoral policy).

A40. The court system in Germany is made up of five branches dealing with (1) criminal and civil law; (2) administrative law; (3) labour law; (4) social law and (5) financial/taxation law. It is the administrative law courts which are of most importance for disputes relating to spatial planning. These courts are organised as follows:

- The *Verwaltungsgericht* (local administrative court). Legal action begins in this court for most administrative law disputes (whether arising from a dispute with a local, *Länder* or *Bund* authority). These courts are established by each of the *Länder*. Decisions made by the court are subject to a right to appeal to the next higher court.

- The *Oberverwaltungsgericht* in northern Germany or the *Verwaltungsgerichtshof* in southern Germany (higher administrative court). This is the first court of appeal in administrative law disputes and it is primarily a court of fact and law. These courts are established by each of the *Länder*. Further appeal can be made only when allowed by the decision of the court to:

- The *Bundesverwaltungsgericht* (federal administrative court). This is the second court of appeal in administrative law disputes. It is a court of legal review considering breaches of federal law. This court is established by the *Bund*.

The *Bundesverfassungsgericht* (federal constitutional court) is the highest court in the Federal Republic of Germany. It is the guardian of the *Grundgesetz* and examines *Bund* and *Länder* legislation to ensure their constitutionality. It also rules in disputes between the *Bund* and the *Länder* and in disputes between individual *Bund* authorities or agencies.

Development process and market circumstances

A41. In 1992 investment in the construction industry in Germany totalled DEM 377 billion, equivalent to 12.5 % of GNP. Investment shares in the construction sector can be divided into the following three categories:

	1990	1992
Housing construction	47 %	50 %
Commercial and industrial construction	30 %	29 %
Public and transportation construction	23 %	21 %

A42. Between 1990 and 1992 the amount of investment in housing construction has increased as Germany experiences a boom in new housing construction (in both new and old *Länder*). This is due to a combination of factors, including immigration, internal migration from the new *Länder* to the agglomerations, increases in income, declining household size, increases in the dwelling space per person and the release of demand for better-quality housing in the new *Länder* following reunification.

A43. The construction of owner-occupied housing is undertaken mainly by the private sector and by the householders themselves in the more

rural parts of Germany. Private investment companies and individuals are also active investors in the higher end of the rented housing sector — for middle to higher income groups. Housing associations are major actors in the German housing markets in the towns and cities, these associations include *Wohnungsbaugenossenschaften* (non-profit housing cooperatives), *Wohnungsbaugesellschaften* (municipal-owned housing associations) and *gemeinnützige Wohnungsunternehmen* (semi-public housing companies).

A44. The *Landesentwicklungsgesellschaften* — LEGs (State development companies) are major property developers in the housing, commercial, industrial and leisure sectors. The LEGs are particularly active in inner-city redevelopment and renewal and in the redevelopment of derelict and contaminated industrial land. They also act as builders/investors, often in partnership with local housing associations.

A45. A distinct feature of German housing policy is that the public sector provides subsidies to private investors and the housing associations to construct 'social housing' for low-income and special category groups such as German immigrants from central and eastern Europe.

A46. The financing of building development is by varying shares of equity and loan capital. The main type of loan capital is a mortgage loan, either a *Hypothek* (mortgage) or a *Grundschuld* (land charge mortgage). All mortgages must be recorded in the *Grundbuch* (property register) of the *Landkreis* (county) or *kreisfreie Stadt* (county-free town).

A47. Public sector financial assistance for building projects is provided in a variety of ways:

- public subsidies and low-interest or interest-free loans provided by the *Bund*, *Länder* and/or the *Gemeinden* for a wide range of projects, for example for low-rent housing, the construction of 'social housing', measures completed under an urban renewal scheme (housing improvements, courtyard planting, etc.), the setting-up, expansion or relocation of businesses, etc.;
- tax advantages, in particular for new business premises and for owner-occupied housing;
- other more indirect subsidies provided by the *Gemeinden*, including the provision of cheap

sites for buildings and/or reduced charges for services.

A48. In the housing sector, more than 50 % of Germans are tenants. The level of ownership in inner-cities in the old *Länder* is only 18 %, with even lower levels in the centres of Hamburg and Berlin. In the new *Länder*, owner-occupation of housing is around 30 %.

A49. In the commercial and industrial sectors throughout Germany, larger buildings are generally owner-occupied, partly because the property can be offered as security for a mortgage loan. The main office rental markets are found in the largest German cities: Frankfurt, Munich, Düsseldorf, Hamburg and Berlin. The tendency towards the rental of office space is increasing and while many firms are concerned at the lack of protection given to commercial tenants under German law, the current oversupply of the market allows new tenants the possibility to negotiate more favourable rental terms.

A50. The development process is tightly controlled by the *Gemeinden* (municipalities). In general, development outside of built-up areas cannot be undertaken without the *Gemeinde* preparing a B-plan (binding land use plan) and providing the local infrastructure (roads, paths, sewerage, etc.) for the proposed development.

A51. In the old *Länder*, development occurs largely according to the market process. However, while there is often enough land zoned for building in the F-plans, there are shortages of land actually ready for building (with infrastructure — roads, water and sewerage available) in and around the major cities.

The special market conditions in the new *Länder*

A52. Under the centrally planned system of the former East Germany (GDR), nearly all industrial, agricultural and multi-dwelling properties were expropriated for 'socialist ownership'. Property expropriated by the GDR Government since 1949 can generally be claimed back by the former owner, with certain exceptions (e.g. where the property was legally expropriated and the correct compensation paid). Intense legal disputes are now taking place between former owners whose land was expropriated, and the present users, many of whom had bought or built their houses in good faith.

A53. Special legislation (the *Investitionsvorranggesetz*) can overcome these problems of ownership where business investment is concerned. Where land is already being used or is to be purchased in order to protect or create new jobs, it can be purchased by the investor even if the former owner makes a claim for its return. The former owner does not get the land back, but is given equivalent monetary compensation (from the purchase price paid by the investor).

Sources

Statistics of the Deutsches Institut für Wirtschaft from the *Bundesbaublatt*, 1994, Nos 4-6, Bonn, BMBau.

Dieterich, H., Dransfeld, E. and Voß, W. (1993), *Urban land and property markets in Germany*, London, UCL Press.

Economic development

A54. Since German reunification in 1990, the first task of *Bund* policy has been to change the economy of the new *Länder* from a communist command-style economy to a market economy. In 1990, the *Bund* established the *Treuhandanstalt* (a semi-public agency) to supervise the privatisation of the former State-owned industrial, commercial and agricultural enterprises in the new *Länder*. The *Treuhandanstalt* ceased operations at the end of 1994, by which time 7 800 enterprises had been privatised and 3 700 wound up.

A55. The process of economic change in the new *Länder* led to a swift collapse in production and employment, particularly in the agricultural and processing sectors. This is fostering migration to the agglomerations in the old *Länder* and cultivating rural decline in the new *Länder*. At the same time, the manufacturing and heavy industrial sectors of the economy in the old *Länder* are undergoing a process of structural change. Thus, the most important economic problem to be tackled is the increasing level of unemployment throughout Germany.

A56. The main tasks of German economic policy are to bring about German integration, to create new employment and to promote medium-term growth, within the context of changed national and international conditions (including the European internal market).

A57. A key element of *Bund* regional economic development and spatial planning policies is the

promotion of *gleichwertige Lebensbedingungen* (equivalent living conditions) throughout the country (contained in the ROG). While this aim has been achieved in the old *Länder* to a large extent, the new *Länder* lie quite far behind. The achievement of equivalent living conditions through Germany is now recognised as a long term and continuous aim. To achieve this the *Bund* and the financially stronger *Länder* provide assistance for projects and infrastructure which promote the regional economic structure and improve the industrial base of the new *Länder*. Financial assistance is also received from the Structural Funds of the EU in both the new *Länder* (EU Objective 1 regions) and the areas undergoing structural change in the old *Länder* (EU Objective 2 regions).

Source

BMBau (1993), *Raumordnungsbericht 1993*, Bonn, BMBau.

Environmental policy

A58. Environmental policy in Germany covers a broad range of sectoral tasks including environmental protection, nature conservation, protection of natural resources, waste management, pollution control and nuclear safety. This is highlighted by the grouping of these policy areas in the relevant *Bund* ministry — the *Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit* (BMU) (Federal Ministry of the Environment, Nature Conservation and Nuclear Safety).

A59. The environmental policy of the Federal Republic of Germany covers three levels of interrelated activity:

- the management, and eventual avoidance of, the environmental problems of an affluent society in a densely populated, highly industrialised country lacking in raw materials. This means that anticipatory environmental protection must be continuously improved and developed;
- repaying the considerable environmental mortgages that 40 years of socialist planned economy have left behind in the former East Germany (GDR);
- the acceptance of responsibility for the environment, both at home and beyond national

borders, in a European and worldwide partnership.

A60. The basic principles of German environmental policy are:

- the precautionary principle under which standards are set for environmental policy decisions for the purpose of preventing risks to people and the environment;
- the polluter pays principle under which the costs for failing to take anticipatory environmental protection measures or for inadequate stewardship of the environment, must be borne by the polluter;
- the principle of cooperation in the creation of an ecologically-orientated, social market economy via taxation incentives, fiscal charges, voluntary undertakings, etc., to bring about innovations.

A61. The *Ministerkonferenz für Raumordnung* (MKRO) (standing conference of the *Bund* and *Länder* ministers responsible for spatial planning) adopted the *Raumordnungspolitische Orientierungsrahmen* (guidelines for regional (spatial) planning) in 1992. These guidelines include general principles for the environment and land use including the following:

- In areas rich in environmental resources: conservation-orientated modes of land use are a priority. An inter-regional network of development-free spaces must be established to improve ecological qualities.
- Ecological resources are to be managed to sustain the area's natural regenerative capacity.
- Remedying damage to the environment: in the new *Länder* the elimination of serious environmental damage (mainly soil and groundwater pollution) from former mining and chemical industrial areas is a priority. The redevelopment of former industrial sites is also of importance for the restoration of traditional industrial regions in the old *Länder*.
- Reducing and avoiding pressures on the environment: polycentral spatial and settlement structures impose less of a burden on the environment.

A62. The priorities required for the protection of natural resources will depend on location:

- around agglomerations, priority is for the improvement of the (remaining) free spaces in order to support efficient regional spatial structures;
- in areas of national importance for their natural resources, the use of these areas must be based on the protection of these resources;
- in areas of national ecological importance which also serve regional recreational use and where land is to be provided for new uses (such as tourism), priority for the protection of resources must be rigorously maintained;
- in former military sites; many are of a high ecological quality and must serve the improvement of the inter-regional network of open spaces. Those of lesser ecological importance are to be used for housing and industrial development.

These general principles must be taken into account in spatial planning at the *Länder* and sub-*Länder* levels.

A63. Nature and landscape conservation is regulated by the *Bundesnaturschutzgesetz* (federal nature protection act), which is a framework act, and the *Landesnaturschutzgesetze* of the *Länder*, which provide the detailed legislation. These acts require that interference with nature is to be minimised and that where this is unavoidable, any damage to nature should be balanced by beneficial measures in another location.

A64. Individual projects are also regulated. Private projects which may have a significant effect on the neighbourhood or the environment (generally this applies to large projects of an industrial nature) require a special licence under the *Bundes-Immissionsschutzgesetz* (BImSchG) (federal control of pollution act).

A65. Under the *Gesetz zur Umweltverträglichkeitsprüfung* (UVPG) (federal environmental impact assessment act) any project included on a special list of projects must undergo environmental assessment procedures in accordance with Directive 85/337/EEC (in Germany all projects listed in Annex I to the directive require an EIA). However, the EIA is not a separate procedure since environmental impact assessment is also undertaken for all proposed development as part of the procedures for the preparation of F-plans and B-plans.

Sources

Federal Environment Ministry (1994), *Environmental policy in Germany*, Bonn, BMU.

BMBau (1993), *Raumordnungspolitischer Orientierungsrahmen*, Bonn, BMBau, pp. 11-14.

European Union

A66. The impact of the European Union on spatial planning matters within the German context is wide ranging. It includes the following impacts:

(i) at the Bund/Länder level

A67. The *Raumordnungspolitischer Orientierungsrahmen* (guidelines for regional (spatial) planning) adopted by the *Ministerkonferenz für Raumordnung* (MKRO) (standing conference of *Bund* and *Länder* ministers responsible for spatial planning) in 1992, list as one of the main objectives the integration of the changed situation in Europe (completion of the internal market/opening up of eastern Europe) into a European spatial planning precept. This is recognised as not just a matter of various departmental policies at national level, it also requires greater cooperation among the EU Member States.

A68. The provision and improvement of transport infrastructure plays an important role in spatial planning in Germany and in Europe. An efficient cross-border transport network is an essential part of an integrated Europe. Furthermore, the provision of efficient East-West connections, beyond the borders of the EU will contribute to permanently ending the division of Europe. The current *Bundesverkehrswegeplan 1992* (federal transport infrastructure plan) seeks to fulfil the new conditions and challenges placed on transport infrastructure in Germany and Europe by means of:

- the promotion of railway transport so that it may be able to play its part in overcoming the increasing levels of traffic expected and to contribute to an environmentally acceptable transport system;
- the consistent integration of the transport network while at the same time securing the interaction of the transport system to maximise the advantages to the individual transport agencies;
- transferring a major part of freight transportation from roads to railways and inland waterways;

- extending and coordinating the German and European high-speed rail networks and linking them up with eastern Europe, notably Poland and the Czech Republic;
- relieving congested north-south routes by providing a new route from Scandinavia via Berlin, Dresden and Prague to Vienna.

(ii) at the Länder/regional level

A69. In the old *Länder* the influence of the EU is mainly related to the provision of structural funding for the redevelopment and restructuring of declining traditional industrial areas. Since 1990 the major focus for funding is the economic restructuring of the new *Länder*.

A70. Between 1991 and 1993 the EU Structural Funds contributed about 11 % of the total funding for the improvement of regional economic structure in the new *Länder*. The *Bund* and the old *Länder* provided the rest between them. The level of EU funding increased following the designation of the new *Länder* as EU Objective 1 regions from the beginning of 1994.

A71. It is now recognised that there is a need to include EU funding in the planning process and to coordinate the instruments of the EU, *Bund* and *Länder*. Furthermore, there is a need to increase inter-regional and trans-border cooperation and to bring about the harmonisation of trans-border regional planning. The *Länder* are responsible for the coordination of these tasks within each *Land*, in consultation and cooperation with the *Gemeinden*.

(iii) on agriculture

A72. Of most importance here is that the new *Länder* have become EU Objective 1 regions thereby benefiting from higher EU development funding. In the old *Länder*, many of the border areas to the former East Germany have now lost their EU border status. However, the disadvantaged rural areas, including the North Sea coastal areas, the mountainous areas in western and northern Bayern and the areas of small agricultural landholdings in Saarland, receive funding as EU Objective 5b regions.

General principles for Europe

A73. The coming together of Europe has consequences for spatial and settlement structures in

Germany, as it now constitutes a new interface between western and eastern Europe and between northern and southern Europe. At the same time, the tasks and problems caused by the changes in Europe cannot be solved by the individual countries on their own. Although the EU does not have an independent competence for spatial planning, the Maastricht Treaty does contain specific objectives which relate to spatial development.

A74. In the EC document 'Europe 2000', prepared in 1991, considerable importance was attached to continued spatial interlocking and to urban networks as factors favourable to development in the whole of Europe. The update of that document, 'Europe 2000+', was a task in which Germany actively cooperated.

A75. The German policy towards the issue of European spatial planning is that European guidelines for spatial planning could help to provide for:

- an orientation to the principle of a relatively balanced polycentral settlement structure;
- support for cooperation between European cities and regions in the creation of transnational urban networks;
- improving accessibility within the existing spatial structure by developing hierarchical networks extending even into sparsely populated areas;
- quickening the development of transnational networks (transport, energy, telecommunications);
- rejecting rigid spatial development approaches;
- strengthening regional centres against European-scale agglomerations.

A76. In accordance with the principle of subsidiarity, the EU should concentrate its pan-European spatial planning efforts on areas affected by existing or potential development problems. From the German point of view, joint spatial planning is needed for the following tasks:

- establishing dynamic development regions in the new *Länder* which support polycentral settlement structures and provide stimulation for development in eastern Europe;

- the integration of the new *Länder* into the transnational networks;
- redeveloping traditional industrial areas and regions facing major structural adaptation problems;
- the development of an efficient railway network throughout Germany to provide for increased north-south and west-east traffic;
- the promotion and development of trans-border cooperation at national and local level along Germany's border areas, in particular along the borders with Poland and the Czech Republic, which are also EU borders and where the emergence of a 'wall of prosperity' in the heart of Europe must be prevented.

Sources

BMBau (1993), *Raumordnungsbericht 1993*, Bonn, BMBau.

BMBau (1993), *Raumordnungspolitische Orientierungsrahmen*, Bonn, BMBau, pp. 19 and 20.

Flexibility

A77. The planning system in the Federal Republic of Germany comprises a hierarchy of spatial planning instruments at the *Bund*, *Länder* and *Gemeinde* (municipal) levels. A significant feature of the system is the *Gegenstromprinzip* (counter-current principle), whereby lower-level authorities must take account of higher-level plans on the one hand, while on the other hand they must also be allowed to participate in the preparation of the higher-level plans.

A78. Spatial planning in Germany is a continuous process. At any one time new plans or changes to existing plans at one level require a re-evaluation and, perhaps, alteration at the next level. The counter-current principle seeks to ensure that this occurs on the basis of consensus between the *Bund*, the *Länder* and the *Gemeinden*.

A79. At *Bund* level, the *Raumordnungsgesetz* (ROG) sets out the framework of aims and principles which are to guide the spatial planning policies of the *Länder* and *Gemeinden*. Each of the *Länder* have to transfer the aims of the ROG into their own *Landesplanungsgesetz* (State (spatial) planning act) and into more concrete form in their *Landesentwicklungsplan* (LEP) or *Landesen-*

twicklungsprogramme (LEPro) (State comprehensive development plans or programmes — whichever is adopted in the respective *Land*). In this way the framework spatial policy of the *Bund* becomes binding on the *Länder*. The main objectives of a LEP/LEPro are adopted as legislation by the *Länder* and are binding on the *Gemeinden* and other public authorities.

A80. The *Regionalpläne* (regional plans) are evolved from the LEP/LEPro and provide a broad spatial framework for specific regions within the *Länder*. The *Regionalpläne* are adopted as legal ordinances and specific aims contained in the plans are binding on the *Gemeinden* and other public authorities (but not on private individuals or companies).

A81. Land use planning takes place at the level of the *Gemeinde*. The land use plans comprise the *Flächennutzungsplan* (F-plan) (preparatory land use plan) and the *Bebauungsplan* (B-plan) (binding land use plan). The F-plan must be prepared for the entire area of the municipality and must take account of the aims and objectives of the *Bund* and *Länder* (including the *Regionalpläne*). F-plans are binding on the municipality and other public authorities.

A82. B-plans must be derived from the F-plan and are legally binding on everybody. Generally however, they are only prepared where the *Gemeinde* expects or intends building to take place. It must be borne in mind that the provision of public infrastructure (roads, water, sewerage) for new development areas is also the responsibility of the *Gemeinde* and normally requires the existence of a B-plan. Thus, it is only in built-up areas that new building can be undertaken without a B-plan, since the infrastructure already exists.

A83. B-plans regulate building projects in great detail and provide legal certainty to all concerned. In general, all development must comply with the provisions of the B-plan in order to be issued a *Baugenehmigung* (building permission). However:

- exceptions can be allowed in relation to the type and scale of a project provided that the exceptions are stated in the B-plan;
- dispensations from single provisions of a B-plan may be allowed under certain circumstances (for example where this would be in the public interest — see Section C: Departures from plan).

A84. B-plans can also be amended. Where the amendment does not involve a departure from the intention of the plan, a simplified amendment procedure can be used (see Section C: Changes to plan). Speeded-up amendment procedures also apply to plan amendments involving the provision of housing (throughout Germany) and the provision of commercial and industrial development in the new *Länder*.

Government structure and powers

A85. The government structure of the Federal Republic of Germany comprises three main levels:

- *Bund* (federal) government: 1 *Bund* (federation);
- *Länder* (State) government: 16 *Länder*; comprising 13 'area' *Länder* and 3 'city States';
- *Kommunal* (local) government consisting of:
 - 324 *Landkreise* (counties),
 - 110 *kreisfreie Städte* (county-free towns/cities), and approximately
 - 16 000 *kreisangehörige Gemeinden* (municipalities belonging within a county).

A86. Federal government: The *Bund* is responsible for the *Raumordnungsgesetz* (ROG) (federal spatial planning act), which is the framework federal legislation on spatial planning. The *Bund* is also responsible for the *Baugesetzbuch* (BauGB) (federal building code), which is the legislation governing land use planning and development control.

Länder government

A87. The *Länder* prepare their own *Landesplanungs-gesetze* (State (spatial) planning acts) under the framework provisions of the ROG. These *Länder* acts provide for the preparation of (a) *Landesplanung* (State (spatial) planning), comprising the LEPs/LEPros — the spatial plans and programmes at *Länder* level, and (b) *Regionalplanung* (regional planning) to be carried out for regions within the *Länder*.

A88. Since each of the *Länder* is autonomous and has its own *Landesplanungsgesetz*, the organisation of administration and of regional planning differs between the *Länder* (see Appendix

4). In the case of *Land* Nordrhein-Westfalen the structure of government is as follows:

- 1 *Land* (State);
- 5 *Regierungsbezirke* (district administrations);
- 31 *Landkreise* (counties);
- 23 *Kreisfreie Städte* (county-free towns/cities); and
- 373 *kreisangehörige Gemeinden* (municipalities within a county).

A89. Regional planning is carried out in each of the 13 'area' *Länder*, but the authorities responsible for carrying it out differ from *Land* to *Land*. There are basically four different types of arrangements (details of the organisation of regional planning in the individual *Länder* is provided in Appendix 4).

A90. In Nordrhein-Westfalen there are five *Bezirke* (districts), each with its own *Regierungsbezirk* (district administration), which are purely administrative authorities at the middle level, between the *Land* and local government. Each of the *Regierungsbezirke* is headed by a *Regierungspräsident* as the district chief executive. In Nordrhein-Westfalen regional planning for the whole area of the *Bezirk* is carried out by the *Regierungspräsident* in cooperation with a *Bezirksplanungsrat* (district planning board). The latter is made up of representatives from the *Landkreise* and *Kreisfreie Städte* in the *Bezirk*.

A91. Other *Länder* are sub-divided into regions for the purpose of regional planning. Each region has a *Regionale Planungsverband* or *-versammlung* (regional planning association or assembly), comprising representatives of the *Landkreise* and *kreisfreie Städte* within the region. In these *Länder* regional planning is carried out by the *Regionale Planungsverband* or *-versammlung* and is supervised and approved by either:

- the *Regierungspräsident* (e.g. Bayern), or
- the *Landesminister* (State minister) responsible for State planning (e.g. Brandenburg).

A92. In the smaller *Länder* regional planning is carried out by the *Landesministerium* (State ministry) responsible for State planning, as in Saarland and in Schleswig-Holstein. In Niedersachsen regional planning is carried out by the *Landkreise*

and the *kreisfreie Städte*, which is an exceptional arrangement in Germany.

A93. The 'city States' of Berlin, Bremen and Hamburg incorporate the requirements of the ROG into their city-wide F-plan.

Local government

A94. Local government comprises the *Landkreise*, the *kreisfreie Städte* and the *kreisangehörige Gemeinden*, each of which have an elected council, independent financial resources and the rights and duties of local self-government (protected by the constitution).

A95. The *kreisfreie Städte* and the *kreisangehörige Gemeinden* are collectively known as *Gemeinden* (municipalities). Their functions include local administration, local finance and taxation, the provision of schools and local facilities, local transport policy, health policy and local land use planning. The latter includes the preparation and adoption of the F-plan and the B-plans.

A96. The *Landkreise* carry out functions which cannot be undertaken by the *kreisangehörige Gemeinden* on their own, including for example road construction, public transport and waste disposal. The *Landkreise* are also 'lower level' administrative authorities of the *Länder*. In this role they are the *Baugenehmigungsbehörde* (building control authority) for all building within their area (i.e. within the *kreisangehörige Gemeinden*).

A97. The *kreisfreie Städte* possess both *Gemeinde* and *Kreis* functions and therefore undertake all of these responsibilities.

A98. The *Gemeinden* prepare the F-plan for their entire administrative area. Smaller *Gemeinden* are often formed into joint-associations for the preparation of an F-plan. The F-plan must be adopted by the *Gemeinderat* or *Stadtrat* (municipal council) and approved by the higher State authority.

A99. The *Gemeinden* prepare B-plans according to the need to provide legally binding provisions for new building projects. A B-plan has to be derived from the F-plan; although in special circumstances a '*vorzeitiger B-plan*' (preliminary B-plan) can be prepared before an F-plan has been adopted (for example in the new *Länder*). The B-plan lays down legally binding provisions for new

buildings and land uses, and is binding on all persons. It is adopted as a *Satzung* (local statute) by the *Gemeinderat* or *Stadtrat*. Where it has not been derived from the F-plan (i.e. a preliminary B-plan) it must be approved by the higher State authority.

A100. The planning responsibilities at local government level can be summarised as follows:

- the *kreisfreie Städte* and the *kreisangehörige Gemeinden* prepare and adopt the F-plan and the B-plans;
- the *kreisfreie Städte* and the *Landkreise* are responsible for issuing the *Baugenehmigung* (and in doing so are bound by any B-plan for the area).

A101. The 'city States' of Bremen and Hamburg are responsible for the preparation of an F-plan and B-plans for their respective cities. Their plans are adopted by the *Bürgerschaft* (city parliament in Bremen and Hamburg) and since these cities are also *Länder*, their plans do not require further approval. In Bremen and Hamburg the city executive, the *Senat*, is responsible for issuing *Baugenehmigungen* (building permissions).

A102. In Berlin the F-plan is prepared by the *Senat* (city executive) and is adopted by the *Abgeordnetenhaus* (Berlin parliament). Berlin has 23 *Bezirke* (administrative districts), each with an elected assembly. The *Bezirke* are responsible for preparing and adopting most B-plans and issuing *Baugenehmigungen*. However, the *Senat* enjoys the last word on all matters and the *Bezirke* do not have full local government status. The *Senat* may call-in a B-plan for adoption by the *Abgeordnetenhaus*. The *Senat* may also call in and make the decision on any *Baugenehmigung*. These procedures are regularly used by the *Senat* in relation to large development proposals which have a city-wide impact.

Land policy and land and building quality

A103. Some *Gemeinden* leave land policy entirely to market forces. Others operate a policy of land banking, in which they maintain a supply of land. Generally, the *Gemeinden* use long-term land banking to provide for commercial and industrial sites.

A104. The *Gemeinden* may also acquire land by compulsory purchase or by pre-emption (first-refusal of a property offered for sale). Compulso-

ry purchase is only used as a method of last resort. Apart from ordinary pre-emption dealings (covered by civil law), the BauGB (federal building code) gives the *Gemeinden* the right to use pre-emption in special cases, provided it is in the public interest (see Section D: Public sector development policies). This can be where land is designated for public use (for streets, schools, etc.) in a B-plan or for public and other uses in an area specially designated by a local statute.

A105. However, the *Gemeinde* must resell the land as soon as the intended project can be implemented (for example the provision of housing). Therefore, pre-emption is not suitable for long-term land banking.

Land taxation

A106. The system of land taxation is similar throughout Germany. The main land taxes are as follows:

- The *Gewerbsteuer* (local business tax), which is made up of two parts based on business profits and on the capital of the business. The *Gemeinde* set the level of the tax (within a range provided by the *Bund*). About 60 % of the local business tax is kept by the *Gemeinde*, the other 40 % goes to the *Bund*.
- The *Grundsteuer* (land property tax), which is a tax on all land and buildings and is paid to the *Gemeinde*. The amount of this tax is very low compared to property market values. There is only a slight variation in the rates of tax between the *Gemeinden*. It contributes to about 10 % of the revenue of the *Gemeinde*.
- There is also a tax on speculation, based on the profit from the purchase and sale of the same property within two years. After two years any profit made is free from this tax. In practice the tax does not restrict speculation as the two-year period is too short.

A107. The *Gewerbsteuer* is a very important source of revenue for the *Gemeinden*. As a result the *Gemeinden* are always keen to attract new commercial and industrial enterprises. This leads to competition between the *Gemeinden* and places the companies in a relatively advantageous position. Other taxes, including wealth tax and land transfer tax do not have a significant effect on the market for land.

Subsidies for development

A108. Subsidies for the development of land are made available by the *Bund* and *Länder* to the *Gemeinden* and by the *Bund*, *Länder* and *Gemeinden* to companies, investors and property owners. These can include subsidies for:

- regional economic development (see Section D: Regional economic development and Section F: Economic development policy);
- housing for low-income groups and for the construction of 'social housing, including reduced-price land and low-interest or interest-free loans (see Section F: Housing policy);
- urban improvements within a designated *Sanierungsgebiet* (redevelopment zone), comprising grants and low-interest loans for improvements to housing, traffic measures, open space, industrial development and the reclamation of contaminated industrial land;
- for the carrying out of certain urban improvements as part of an urban renewal programme funded by the individual *Länder* and *Gemeinden*;
- industrial development, the sale of land at a reduced price by the *Gemeinden* and/or reduced service charges (for example water or waste disposal charges).

Tax advantages are available for the purchase of owner-occupied housing and for owners of rented housing (see Section F: Housing policy).

Land and building quality

A109. The *Gemeinden* decide where and to what extent land is to be made available for building, having weighed up all the considerations as part of the land use plan preparation process. In doing so the *Gemeinde* must take account of the objectives of *Landesplanung* (State (spatial) planning), which specifies, for example, the areas of natural resources, regional open spaces, forests and agricultural areas which may not be designated as building land by the *Gemeinden*.

A110. In built-up areas, there are special restrictions (on alteration or demolition) and design requirements for proposals in *Erhaltungsgebieten*

(preservation areas) and in areas adjoining a monument to be preserved. The maps and plans showing these areas are available from the *Gemeinde*. There are also *Denkmallisten* or *Denkmalbücher* (lists or books of monuments) in which the buildings, ensembles and other structures to be preserved are listed. These lists are prepared by and available from the *Landesdenkmalamt* (State monuments office).

A111. There are approximately 517 000 hectares of identified contaminated land in over 4 300 locations in the new *Länder*. The contaminated land is mainly found on the sites of former industrial facilities, waste disposal areas, military bases and military training areas. Since German reunification, these areas of land have been scientifically examined and restrictions placed on their use until such times as any dangerous wastes can be removed. Other areas of contaminated land occur in the old *Länder*, particularly in regions where heavy industry and mining have ceased operations.

A112. Current spatial planning policy on this issue is that the *Gemeinden* shall not designate areas for new development in local land use plans, without prior examination as to whether the land to be designated is free from waste and contamination. Removal of waste and the reclamation of contaminated land is a special priority for sites suitable for economic redevelopment.

Sources and further information

BMBau (1994), *Raumordnungsbericht 1993*, BMBau, Bonn.

Dieterich, H., Dransfeld, E. and Voß, W. (1993), *Urban land and property markets in Germany*, London, UCL Press.

Market circumstances

A113. Amendments to the BauGB (federal building code) in 1993 introduced changes to promote housing, commercial and industrial development, particularly in the new *Länder*. The main changes (which were in force until the end of 1997) involve:

- a greater degree of flexibility in the carrying out of the *Raumordnungsverfahren* (spatial planning procedures) with the aim of (a) speeding-up the planning procedures for industrial projects in the new *Länder* and (b) a

quicker provision of housing land throughout Germany;

- the simplification of procedures involved in the preparation of local land use plans (F-plans and B-plans) for commercial, industrial and housing projects in the new *Länder*. In the old *Länder* the simplified procedures only apply to housing projects.

Source

BMBau (1994), *Raumordnungsbericht 1993*, Bonn, BMBau, pp. 3 and 4.

Plan led/development led

A114. The German planning system can be viewed as a mixture of plan led and development led systems. The permissibility of development is regulated mainly by Sections 30, 34 and 35 of the BauGB (federal building code), which essentially divide the whole of Germany into three zones:

- Areas with a B-plan adopted by the *Gemeinde*. Here, it is permitted to build (i) if the proposed project complies with the content of the plan and (ii) where local infrastructure is available (Section 30 BauGB).
- Existing built-up areas without a B-plan. Here, it is permitted to build if the proposed project 'fits in with' the land use and type of buildings in the surrounding area. By means of a local

statute, the *Gemeinden* can define the areas where this rule applies (Section 34 BauGB).

- The *Außenbereich* (surrounding undeveloped area) without a B-plan. As a rule, building is not permitted in these areas unless (i) the proposed project 'belongs' to the *Außenbereich* (for example agricultural buildings) and (ii) the provision of local infrastructure is available (Section 35 BauGB).

A115. In each of the three zones, a *Baugenehmigung* (building permission) must be obtained. Table A1 shows the distribution of building permissions in the old *Länder* in 1991, according to the three zones. It shows the importance of the B-plan for the construction of new buildings for the housing, office and industrial sectors. It also shows that nearly one-third of all buildings permitted were situated in 'built-up areas' without a B-plan. (Similar statistics for the new *Länder* are not yet available.)

A116. Recent amendments to the BauGB in 1993 introduced a new plan throughout Germany, called the *Vorhaben- und Erschließungsplan* (VuE-Plan) (project and infrastructure plan). The purpose of the VuE-Plan is to place the initiative for creating building rights in the hands of the investor, while at the same time leaving full competence for planning matters with the *Gemeinde*.

A117. The VuE-Plan has the legal function of a B-plan, but it is prepared by a division of re-

Table A1: Building permissions granted in 1991 according to the location of the building area as defined under the BauGB (federal building code)

	Total number of buildings	B-Plan S. 30 BauGB %	Built-up areas S. 34 BauGB %	Surrounding undeveloped areas-S. 35 BauGB %
Housing	107 682	69	28	3
Offices	2 462	65	31	4
Industry	13 132	60	31	9
Agriculture	4 794	7	26	67
Other	2 538	47	39	14
Total	130 608	65	29	6

Notes

Comprises older-Länder only (excluding Bayern).

Based on the construction of new buildings.

Other category includes, for example, institutions.

Source: *Statistisches Jahrbuch* 1993, page 163, Table 10.2.

sponsibilities between the investor/landowner and the *Gemeinde*. The investor draws-up the plan for the building project and the local infrastructure, which has been coordinated in advance with the *Gemeinde*. The *Gemeinde* designates the area where the proposal is to be implemented, by means of adopting a *Satzung* (local statute). The details of the implementation of the project are regulated in a legal contract between the investor and the *Gemeinde*.

A118. The intention of the combined VuE-Plan and *Satzung* is to give consent to favourable projects which are not already permissible:

- under a regular B-plan;
- by means of the regulations under the BauGB concerning development in the surrounding undeveloped area or in built-up areas.

As such the VuE-Plan is capable of facilitating the much speedier implementation of already formulated, concrete development projects without any sacrifice to the quality of urban development.

Political priorities

A119. The *Ministerialkonferenz für Raumordnung* (MKRO) (standing conference of *Bund* and *Länder* ministers for spatial planning) agreed the advisory *Raumordnungspolitischen Orientierungsrahmen* (guidelines for regional (spatial) planning) in November 1992. The guidelines present perspectives and strategies for the spatial development of the Federal Republic of Germany within the European dimension. In March 1995, the MKRO adopted the *Raumordnungspolitischen Handlungsrahmen* (operational framework for spatial planning), which update and supplement the guidelines.

A120. The six main issues for positive spatial development in the Federal Republic of Germany are:

- equivalent living conditions — this is a long and continuous process which is not to be confused with similar spatial conditions or similarity;
- decentralised spatial and settlement structure — providing a relatively balanced structure of centres;
- counteracting overloading in the main metropolitan areas — including the use of the spa-

tial development concept of 'decentralised concentration';

- optimising the spatial use of land and improving the integration of settlement and transportation;
- strengthening individual initiative and enhancing regional potential. The *Bund* can help the regions by creating the framework economic conditions and providing improvements in infrastructure;
- improving the conditions of regional (development) locations and strengthening their competitive ability. This involves the stabilisation and development of the regions in the new *Länder* and the protection and extension of the competitive locations in the old *Länder*.

Sources

BMBau (1994), *Raumordnungsbericht 1993*, Bonn, BMBau, pp. 4-6.

BMBau (1993), *Raumordnungspolitischen Orientierungsrahmen*, Bonn, BMBau.

BMBau (1995), *Raumordnungspolitischen Handlungsrahmen*, Bonn, BMBau.

Political system, administrative system, financial system and public participation

A121. The structure of the German political and administrative system is founded on three fundamental principles:

- federalisation based on subsidiarity;
- the integration of sectoral policies (based on strong territorial responsibilities); and
- a system of inter-regional financial compensation.

Political system

A122. Each level of government has its own elected assembly responsible for legislation on their territorial responsibilities, within the principle of subsidiarity.

A123. The *Bundestag* (federal parliament) is the supreme legislator of the Federal Republic of

Germany, responsible for the approval of all *Bund* legislation.

A124. The elected assemblies of the 13 'area' *Länder* are the *Landtag* or *Landesparlament*; they are individually responsible for the approval of *Länder* legislation. The parliament in the three 'city States' is called the *Bürgerschaft* (Bremen and Hamburg) or the *Abgeordnetenhaus* (Berlin).

A125. At local government level, the elected assemblies are the *Kreistag* (county council), the *Stadtrat* (town or city council) and the *Gemeinderat* (municipal council). These councils are responsible for passing *Satzungen* (local statutes) for their territory, of which a *Bebauungsplan* (B-plan) is an example.

Administrative system

A126. The *Bund* and the *Länder* are both widely active in the same fields of responsibility, but with different functions. The division of responsibilities is controlled by the *Grundgesetz* (constitution — see Section A: Constitution, legislation and judiciary).

A127. The *Bundesministerien* (federal ministries) occupy the highest administrative level. The *Bund* has lower administrative authorities in only a small number of fields (for example defence). The civil servants of the *Bundesministerien* are mainly involved in the preparation of federal-wide legislation and the supervision and coordination of its implementation by the *Länder*.

A128. The *Grundgesetz* gives the *Länder* the responsibility for exercising executive powers in most fields. The *Länder* administer the *Bund* laws either 'as their own affairs' or as agents of the *Bund*. Thus, the tasks of nearly all the *Bund* ministries are also found in the *Länder* ministries. The organisation of administration within the *Länder* is based on three different models:

The larger 'area' *Länder* have three tiers of administration:

- the *Landesregierung* (State government), comprising the *Ministerpräsident* (prime minister) and the *Landesminister* (State ministers) form the highest tier;
- the *Länder* are sub-divided into *Regierungsbezirke* (district administrations), headed by a

senior chief executive, the *Regierungspräsident*, who is appointed by the *Ministerpräsident* (of the *Land*). The *Regierungspräsident* carries out all executive functions for the district, coordinating *Bund*, *Land*, district and local government policies;

- the lower tier of the *Länder* administration is integrated into the administrations of the *Landkreise* (counties) and the *kreisfreie Städte* (county-free towns), in the person of a chief executive of these authorities (see below).

The smaller 'area' *Länder* (Brandenburg, Mecklenburg-Vorpommern, Saarland, Schleswig-Holstein and Thüringen) have a two-tier administration. These *Länder* do not have *Regierungsbezirke*. Thus, their administrations comprise the *Landesregierung* (as the higher tier) and the lower tier which is integrated into the *Landkreise* and *kreisfreie Städte*.

The 'city States' of Berlin, Bremen and Hamburg are governed by a *Senat* (senate council), comprising senators (who head each department) appointed by the *Bürgermeister*, who is the mayor and chief political/administrative officer. The *Bürgermeister* is elected by the city State parliament. For administrative purposes, the cities of Berlin and Hamburg are divided into *Bezirke* (districts). Each of these districts has an assembly responsible for matters delegated from and supervised by the *Senat*. Bremen is divided into *Ortsämter*, which are local branch offices of the *Senat* administration, each with an advisory council of local representatives.

A129. All local government authorities have an elected council, i.e. the *Kreistag*, *Stadtrat* or *Gemeinderat*, and a separate executive administration.

- In the *Landkreise* the chief of administration is the *Landrat*, who is elected either by the *Kreistag* or directly by the inhabitants. He combines the roles of head of the council, chief executive for the *Landkreis* and local chief executive for the *Land* (fulfilling the lower tier tasks of the State administration).
- In the *kreisfreie Städte* and the *kreisangehörige Gemeinden* the mayor (called the *Bürgermeister* in a smaller municipality or the *Oberbürgermeister* in a larger town/city) is directly elected by the inhabitants. The mayor is mostly head of the elected council and chief

executive of the municipality (and also the local chief executive on behalf of the *Land* in the *kreisfreie Städte*). In some *Länder* the local councils elect their own president alongside the directly elected mayor.

Financial system

A130. The *Bund*, *Länder* and *Gemeinden* have their own incomes and taxes, but they also receive a great part of their income from common taxes, which must be divided between them. This system is very complicated and organised as follows:

- The *Bund* and *Länder* share the most important taxes, i.e. income tax, corporation tax and VAT. The constitution obliges the *Bund* and the *Länder* to provide the municipalities with a portion of the tax yield.
- Between the richer and poorer *Länder* there is a system of financial compensation, the so-called *Länder-Finanzausgleich*.
- Between the richer and poorer municipalities there is also a system of financial compensation, the so-called *Gemeinde-Finanzausgleich*.

A131. The system of financial compensation between the *Bund* and *Länder* and between the *Länder* themselves is the result of a political bargaining process. The system must be approved by the *Bundestag* and the *Bundesrat*. The system of financial compensation between the municipalities is governed by the *Land* concerned.

A132. The provision of direct financial aid or subsidies from the *Bund* to the *Gemeinden* is restricted by the Constitution. However, the Constitution lists a specific number of tasks of regional significance for which the *Bund* and *Länder* have joint responsibility. These are referred to as the *Gemeinschaftsaufgaben* (joint tasks) for:

- the construction and extension of higher education facilities;
- the improvement of the regional economic structure;
- the improvement of agricultural structure; and
- coastal protection.

A133. Furthermore, the Constitution allows the *Bund* to provide financial aid for specific capital

investment projects at the local level (with the aid channelled through and administered by the *Länder*) including the funding of:

- local transport projects;
- local housing programmes;
- local urban renewal projects; and
- hospital construction.

Public participation

A134. In Germany the procedures for public participation in the preparation of local plans are contained in the BauGB (federal building code). The same level of participation is foreseen for both the F-plan and the B-plan, this involves two phases of participation. The first occurs at the beginning of the planning process, where the public are to be informed and to be given opportunity to discuss the aims of the plan. The second phase occurs when the draft plan is displayed for a period of one month. The public may submit representations and objections, which must be considered by the *Gemeinderat/Stadtrat* (municipal council).

A135. However, changes to an F-plan or B-plan which do not alter the basic principles of the plan, do not need to provide for public participation. Recent amendments to the BauGB also allow for shorter public participation procedures.

A136. The designation of areas as 'built-up areas' and the procedure for a *Baugenehmigung* (building permission) in 'built-up areas' (see Section C: Other permits) does not allow for public participation.

A137. However, persons whose legal rights are likely to be injured by a decision of a public authority (including the adoption of a B-plan or the issue of a *Baugenehmigung*) can appeal the decision to the courts (see Section A: Constitution, legislation and judiciary).

A138. The preparation of plans and programmes at the *Länder* or regional levels is not legally required to provide for public participation. Nevertheless a special advisory board or council, called a *Planungsbeirat*, participates in plan preparation in all cases. This board includes representatives from the local authorities, industry and commerce, the *Naturschutzverbände* (nature conser-

vation associations) and usually the citizens groups in the area. The laws governing certain areas of sector planning require public hearings for planned major infrastructure projects (such as motorways, nuclear power plants, etc.).

A139. Public participation is a major issue and component of the spatial planning system in Germany. This is mainly a result of:

- a large number of highly motivated and resourceful *Bürgerinitiativen* (citizen action groups) and other environmental pressure groups, who not only respond to the plan-making process, but who also prepare their own plans for local areas and issues;
- the growing involvement of political parties in the participation process, especially of the 'Greens' and other 'alternative' elected representatives at the local level;
- a high awareness of environmental issues among the population.

Source

Federal Ministry of Regional Planning, Building and Urban Development (1993), *Law and practice of urban development in the Federal Republic of Germany*, Bonn, BMBau.

Population and statistics

A140. In December 1992 the population of the Federal Republic of Germany was 81 million, made up of 63.1 million (78 %) in the old *Länder* and 17.9 million (22 %) in the new *Länder*. Tables A2, A3 and A4 illustrate the density of population in the *Länder*, the ranges of population according to government structure and the population sizes of the German *Gemeinden* respectively.

A141. Between 1990-92 the population of the old *Länder* increased by 2.6 million (+ 4 %), while the population in the new *Länder* fell by 0.7 million (- 4 %). In principle, the natural population in Germany is in decline, so the increases in the old *Länder* are made up of immigration from outside Germany and migration from the new *Länder*.

Table A2: Population density in the Länder of the Federal Republic of Germany

Land (State)	Population 31.12.91 ('000s)	Area ('000s km ²)	Persons per km ²
Baden-Württemberg	10 002	35 751	280
Bayern	11 596	70 554	164
Berlin	3 446	889	3 876
Brandenburg	2 543	29 053	88
Bremen	684	404	1 691
Hamburg	1 669	755	2 209
Hessen	5 837	21 114	276
Mecklenburg-Vorpommern	1 892	23 598	80
Niedersachsen	7 474	47 364	158
Nordrhein-Westfalen	17 510	34 071	514
Rheinland-Pfalz	3 821	19 846	193
Saarland	1 077	2 570	419
Sachsen	4 679	18 338	225
Sachsen-Anhalt	2 823	20 443	138
Schleswig-Holstein	2 649	15 731	168
Thüringen	2 572	16 251	158
Bund total	80 275	356 733	255

Source: Statistisches Bundesamt, *Statistisches Jahrbuch 1993*, pp. 26 and 27, Table 2.2.

Table A3: Population and government structure in the Federal Republic of Germany

Government level	Population
1 Bund (Federation)	(as at 31.12.1991): 80 274 600
16 Länder (States)	Bremen: 683 700 Nordrhein-Westfalen: 17 509 900
32 Regierungsbezirke (RB) (district administrations)	RB Trier: 489 100 RB Düsseldorf: 5 253 200
324 Landkreise (counties)	average 100 000-200 000
110 kreisfreie Städte (county free towns)	range 60 000-500 000 +
15 930 + kreisangehörige Gemeinden (municipalities belonging to a county)	range ± 100-60 000

Source: Statistisches Jahrbuch 1993.

Table A4: The size of German Gemeinden (municipalities) (kreisfreie Städte and kreisangehörige Gemeinden)

Population (31.12.1991)	Number of municipalities
greater than 500 000	13
200 000-500 000	25
100 000-200 000	46
50 000-100 000	102
20 000-50 000	454
5 000-10 000	1 956
1 000-5 000	4 862
1-1 000	8 368
Total	16 096

Source: Statistisches Jahrbuch 1993.

A142. Population forecasts published by the BfLR (see below) for the period 1991-2010 provide for an increase in the population to 85 million, based on immigration of eight million and a decline in the natural population of 2.6 million. Internal migration from the new *Länder* to the old *Länder* during this period is expected to amount to 300 000. The main characteristic of the forecast population in 2010 is a rapidly ageing population.

A143. The forecast population changes are expected to have very different tendencies in the various regions. The surroundings of Berlin and the metropolitan cities in south and west Germany are expected to increase by circa 10 %. On the other hand, most of the regions in the new *Länder* will lose population, especially the less densely-populated, rural areas of Brandenburg and Mecklenburg-Vorpommern.

Sources

Statistisches Bundesamt, *Statistisches Jahrbuch 1993* (published annually in August/September), Bonn.

Bundesforschungsanstalt für Landeskunde und Raumordnung (BfLR) (1995), *Raumordnungsprognose 2010/Teilbereich Regionale Bevölkerungsprognose*, Bonn, BfLR.

Sectoral policy

A144. The *Bund* is singly responsible for the framework policy, organisation and content of spatial planning covering the whole of Germany. In addition, the *Bund* coordinates the spatial effects of its sector policies. Figure A4 illustrates the main areas of sector planning in the Federal Republic of Germany. All spatial planning policies and statements must be agreed between the *Bund* and the *Länder*. This occurs through the *Ministerkonferenz für Raumordnung* (MKRO) (standing conference of *Bund* and *Länder* ministers for spatial planning).

A145. *Fachplanung* (sector planning) is not always subordinate to *Raumordnung* and *Landesplanung* (federal and State spatial planning), but all sector authorities must take the aims of *Raumordnung* into consideration in preparing their own *Fachpläne* (sector plans). Individual in-

Figure A4: Sector planning in the Federal Republic of Germany

Sector planning	Legislation	Authority/Agency
Bundesfernstraßen (federal motorways and trunk roads)	Bundesfernstraßengesetz (federal trunk roads act) Fernstraßenausbaugesetz (Act for the extension of trunk roads)	Länder on behalf on the Bund
Landesstraßen (State trunk roads)	Landesstraßengesetze (State roads acts)	Länder
Kreisstraßen (county roads)	Landesstraßengesetze (State roads acts)	Landkreise (counties)
Schienenwege der Eisenbahn des Bundes (Federal railways)	Bundesschienenwegeausbaugesetz (Act for the extension of the Federal railways) Allgemeines Eisenbahngesetz (General railways act)	Bundesministerium für Verkehr (Federal ministry for transport) Eisenbahn-Bundesamt (Federal railways agency)
Schienenwege der nichtbundeseigenen Eisenbahnen (non-federal railways)	Allgemeines Eisenbahngesetz (General railways act)	Länder
Bundeswasserstraßen (Federal inland waterways)	Bundeswasserstraßengesetz (Federal inland waterways act)	Bundesministerium für Verkehr (Federal ministry for transport)
Energy supply	Energieversorgungsgesetz (Energy supply act)	Energy supply companies
Waste disposal	Abfallbeseitigungsgesetz (Waste disposal acts)	Länder/Landkreise/kreisfreie Städte
Landscape planning	Naturschutzgesetze (Nature protection acts)	Länder and regional planning agencies
Pollution control, clean air, noise reduction	Immissionsschutzgesetze (Control of pollution acts)	Länder

Source: Adapted from Fürst, D. Güldenber, E. and Müller, B. (1994), *Handbuch für Raumplanung*.

Infrastructure projects by sector authorities must also undergo both:

- a *Raumordnungsverfahren* (spatial planning procedure), which includes an assessment of the project's compatibility with the aims and objectives of spatial planning; and
- a special approval procedure under the *Planfeststellungsverfahren* (statutory plan approval procedure), which is a multi-stage approval procedure for the proposed project (see Section D: Major infrastructure), that includes participation by the public and all authorities — the *Träger öffentliche Belange* (public agencies — see Section B: Other organisations).

A146. All sector authorities affected by supra-local spatial planning and local land use planning are informed of and participate in the preparation of the plans, under rights of participation and under the *Gegenstromprinzip* (counter-current principle) — a process of reciprocal influence by the *Länder* authorities and local government authorities on each other's spatial planning proposals.

Trends

Central — local power

A147. Germany has a strong federal tradition, which led to the recreation of the former *Länder* in the east of Germany following reunification. The position of the *Gemeinden* (municipalities) is also strong and constitutionally protected. Modern administration and the availability of technology means that the need for cooperation between the three levels of authority — *Bund*, *Länder* and the *Gemeinden*, is high. Nevertheless, Germany remains a federal and decentralised country.

Flexibility/certainty

A148. Under the BauGB the area of all *Gemeinden* is effectively divided into three zones relating to the permissibility of building as follows: (i) areas with a B-plan, (ii) built-up areas without a B-plan and (iii) surrounding undeveloped areas without a B-plan, being rural areas and other areas of 'white land'.

A149. Within areas covered by a B-plan there is effectively total control of building, which provides certainty for all parties affected. However, B-plans are not prepared for all areas likely to be built upon, since B-plans are often not prepared for existing built-up areas or surrounding undeveloped areas, unless of course an envisaged major development project requires that a B-plan be prepared. In areas without a B-plan — built-up areas and surrounding undeveloped areas there is a certain amount of flexibility, which allows proposals to be permitted which are in the public or local interest.

A150. Recent amendments to the BauGB (federal building code) and the LBOs (State building regulations) have introduced more flexibility into the planning system:

- The regulations of B-plans have generally been relaxed to allow the attic space in existing residential buildings and apartment blocks to be converted for residential use.
- Public-private partnership was promoted by the introduction of the urban development contract into the BAUGE.
- The introduction of the *Vorhaben- und Erschließungsplan* (VuE-Plan) (project and infrastructure plan) gives a developer or investor the opportunity to prepare a binding plan for a proposed development project and its associated infrastructure and to enter a legal contract with the *Gemeinde* for the construction of the building project and the infrastructure according to the plan. Heretofore, only the *Gemeinde* could prepare a B-plan and provide the infrastructure required.
- In most of the *Länder* the construction of single family houses and smaller housing units within an area covered by a B-plan, does not require a *Baugenehmigung* (building permission). In these cases the authorities need only be notified of the proposal and provided with certification from an architect that the proposed house complies with the B-plan and the LBO.
- The relaxation of control (under Section 35 BauGB) to allow for housing and small-scale commercial and industrial operations in specially designated surrounding undeveloped areas, which (i) are not mainly agricultural in

character and (ii) already have a significant number of residential buildings present.

A151. In 1997 the BauGB was reviewed and revised because the special regulations for the new *Länder* expired on 31 December 1997. This presented an opportunity to introduce the special provisions operating in the new *Länder* across the whole country (as was last done with the nationwide introduction of the VuE-Plan in 1993).

A152. In general, the changes are aimed at speeding up the preparation and adoption procedures of local land use plans and introducing more flexibility to the local plans, without reducing the quality of planning and the legal security for developers and citizens. The *Bundesministerium für Raumordnung, Bauwesen und Städtebau* (Federal Ministry of Regional (Spatial) Planning, Building and Urban Development) operated a broad range of research to prepare the BauGB revision.

Government structure

A153. A reform of local administration took place in the old *Länder* between 1966 and 1975. Before 1966 there were some 24 000 *Gemeinden* (municipalities), which were reduced to about 8 500 by 1975. The number of *Landkreise* (counties) was also reduced from over 400 to 237. This process of administrative reform has also taken place in the new *Länder* since reunification in 1990. The number of *Landkreise* has been reduced from 189 to 87. The reform of the *Gemeinden* has not been completed. In general, the smaller *Gemeinden* are to be kept and formed into joint administrative associations.

A154. Reorganisation at the *Länder* level is provided for in the *Grundgesetz*. Negotiations on the fusion of the *Land* of Brandenburg and the *Land* of Berlin had been completed by the administrations of the two *Länder* and were approved by the elected representatives. But the referendum on the fusion, which took place in May 1996, failed the majority of the voters in the *Land* of Brandenburg. A general reorganisation of the other *Länder* throughout Germany is highly unlikely.

Policy

A155. One can identify a number of broad policy issues that dominate current thinking on spatial planning in Germany and in German discus-

sions on spatial development in Europe. These include:

Polycentral spatial and settlement structures

A156. The reasonably well balanced polycentral spatial and settlement structures (with a large number of higher order centres throughout Germany and a hierarchical and relatively deconcentrated network of central places at regional level) which exists in the old *Länder* have proved widely favourable, even in terms of growing competition within Europe. In the new *Länder*, priority must be given to ensuring an efficient settlement structure by strengthening and developing the network of central places.

A157. The spatial distribution of a hierarchy of urban centres throughout the old *Länder* has proven that the principle of polycentral structures very much meets the population's accommodation requirements and business's needs for commercial and industrial sites. In the larger urban agglomerations, polycentral spatial and settlement structures can play a major role in restricting urban sprawl and thus help to prevent the destruction of the region's remaining natural, landscape and tourism resources.

Urban networks

A158. The subject of extending and developing urban networks has been gaining importance. Agglomerations benefit from mutual economic and infrastructural effects brought about by exchanging services and specialising in functions. The German concept of urban networks is that they are to be divided by green-belts and structured in a hierarchy of central places. The *Raumordnungspolitischer Orientierungsrahmen* (guidelines for regional (spatial) planning) adopted by the MKRO in 1992 identified that the creation of urban networks is of great importance for the development of the spatial structure in the new *Länder*.

Overburdened city regions

A159. The larger city regions in Germany are regional engines of economic growth and as such have a major influence on the form of spatial development throughout the country. However, their

efficiency is being eroded by major problems including:

- traffic congestion as a result of increasing passenger car traffic;
- a reduction in environmental quality (air pollution, noise, etc.);
- housing shortages; and
- a lack of building sites.

A160. The city regions particularly affected are: Berlin, Hamburg, the Ruhr, Düsseldorf/Köln, greater Frankfurt, greater Stuttgart and greater München. A number of coordinated policy measures are necessary to safeguard the efficiency of these areas:

- improving local public transport by integrated regional transport systems;
- close cooperation between central cities and surrounding municipalities especially in: the zoning of industrial sites, land for housing, protecting natural resources, the supply of goods and services and waste disposal;
- improving the spatial relationship between housing and employment;
- developing new towns and improving the spatial distribution of functions;
- consolidating sub-regional planning and improving cooperation between the *Gemeinden*.

Berlin as capital city

A161. Berlin is by far the largest city in Germany with 3.5 million inhabitants. In June 1991, the *Bundestag* (federal parliament) voted to move its seat and the majority of main federal ministries to Berlin. This will advance Berlin's evolution towards a European metropolis. However, at the moment Berlin is confronted with the challenges presented by the need to bring together the formerly divided east and west parts of the city, as well as by the city's location within the relatively sparsely populated *Land* Brandenburg.

A162. The main spatial policy for the Berlin region is:

- the integration of the tightly developed area of

Berlin into the proven polycentral system of urban structure in Germany; and

- the stabilisation and development of the settlement structure in the *Land* of Brandenburg.

This policy shall be implemented according to the model of decentralised concentration, involving a regional hierarchy of development centres surrounding the metropolis, as has been agreed by the *Länder* of Berlin and Brandenburg.

Housing

A163. In the mid-1980s it was thought that demand for housing would decline due to a stagnating population and a very low birth rate. Accordingly the *Bund* withdrew from the promotion of social housing. However, events since 1989 have brought about changed circumstances, which include: an increase in the number of households, especially in the number of single-person households, an increase in incomes resulting in demand for larger and better quality housing, and high levels of immigration and internal migration.

A164. There is now a shortage of housing for low and middle income groups in the main urban centres. The enactment of the *Wohnungsbauförderungsgesetz* (federal housing promotion act) 1994 provides instruments for the promotion of new housing construction, which are aimed at the reduction of the current housing shortage. A related issue is the extent to which the provision of building land on 'greenfield sites' should burden the natural environment.

Transport

A165. Continually expanding private motor car and goods haulage traffic is resulting in ever greater burdens on the road network and the quality of environment, especially in densely built-up areas. Policies to relieve these problems are based on the following:

- improving the inter-relationship of housing and employment locations;
- priority for local public transport in densely populated urban areas;
- the transfer of inter-regional goods haulage

and passenger traffic from road to rail and inland waterways;

- extending and coordinating the European high-speed network;
- providing new and improved north-south and west-east traffic routes, particularly for rail traffic;
- the removal of bottlenecks in the transport system.

Environmental protection

A166. Sustainably protecting environmental resources is becoming an ever-more important task of spatial planning. It is now a requirement that B-plans are subject to an environmental impact assessment procedure, which is undertaken as part of the procedures for the preparation of the plans.

Conversion of former military facilities

A167. Following the withdrawal of the former Warsaw Pact and of part of the NATO forces, a large number of former military facilities have and are being made available for civilian use throughout Germany. Many of the sites formerly used for training purposes or airfields cover vast areas, particularly in the new *Länder*. All of the sites being made available represent an important resource for regional development. However, in most cases the sites require extensive rehabilitation, redevelopment and in some cases the removal of dangerous wastes and the subsequent reclamation of contaminated land.

A168. The conversion of former military sites requires a commitment similar to that involved in the restructuring of traditional industrial regions. In some cases the existing facilities can be turned to new civilian applications (for example, airports). Other sites close to built-up areas can be redeveloped to provide for industrial, housing or recreational uses (for example, sites located in or near Berlin).

A169. Although they have served military uses, many of the sites in question are often of a high ecological quality. This, in common with their often vast size, requires that these sites should be exploited as an important component in the inter-

regional network of open spaces. The former military sites of lesser ecological importance are to be developed for industrial and housing purposes, according to local and regional requirements.

Cross-border cooperation

A170. Cross-border cooperation commenced in the 1970s with the establishment of bilateral spatial planning commissions with the Netherlands, Belgium, Switzerland and Austria. At the same time, German-French-Luxembourg and German-French-Swiss governmental commissions were formed. Cooperation across the German-Denmark border takes place at regional level.

A171. The *Deutsch-Niederländischen Raumordnungskommission* (the German-Dutch Spatial Planning Commission) has produced the most intensive cooperation to date, resulting in mandatory cross-border cooperation between local authorities on both sides of the border, which has been agreed by the national governments since 1990. A list of cross-border activities between Germany and other countries in the EU is pro-

vided in Figure A5. A case study on the preparation of a cross-border spatial development perspective for the Euregio Rhein-Maas-Nord is provided in Case studies, Volume 1: Community policies.

A172. Since German reunification, progress has also been made in agreeing cross-border cooperative measures with Germany's eastern neighbours. In 1992 the German-Polish Spatial Planning Commission was established. A similar commission is currently being established with the Czech Republic. The BMBau is also involved in cooperative spatial planning projects with the east European Baltic States (Estonia, Latvia and Lithuania).

Sources and further information

BMBau (1994), *Raumordnungsbericht 1993*, Bonn, BMBau.

BMBau (1993), *Raumordnungspolitischer Orientierungsrahmen*, Bonn, BMBau.

BMBau (1995), *Raumordnungspolitischer Handlungsrahmen*, Bonn, BMBau.

Figure A5: Cross-border activities between Germany and other EU Member States

Description	Members	Aims and tasks	Legal basis/finances
Joint programme for the German-Danish Border Region	Germany: Land Schleswig-Holstein Denmark: Sonderjyllands Amtsråd	The planning and realisation of cross-border infrastructure and environmental measures	Financed by the members with promotion by the EU
German-Austrian spatial planning commission	Germany: BMBau, Länder of Baden-Württemberg and Bayern Austria: Bundeskanzleramt, BM for Foreign Affairs, BM for Health and Environment. Länder of Vorarlberg, Tirol, Salzburg, Oberösterreich	Preparation of general principles for cross-border spatial planning and sector planning. The making of recommendations thereon	Agreement of 11.12.73
Alps convention	Germany, France, Italy, Slovenia, Lichtenstein, Austria, Switzerland, Monaco and the EU	Cooperation on Alpine issues. Environmental protection	Agreement of the 7.11.91
ARGE-ALPEN-ADRIA (East Alps Association)	Germany, Austria, Italy, Hungary, Croatia, Slovenia and Switzerland	Information and experience exchanges	Joint Declaration of Venice of the 20.11.78 Financed by the members
ARGE ALP	Germany, Austria, Italy and Switzerland	Information and experience exchanges	Decision of 12.10.72 Financed by the members
International Bodensee conference	Germany: Bayern, Baden-Württemberg Austria: Vorarlberg Switzerland: Appenzell Außer-Rhoden, Appenzell Inner-Rhoden, Schaffhausen, St. Gallen, Thurgau	The solution of cross-border problems on all matters	Formed 14.1.72 Institutionalised by the Conference of Government Leaders of the 20.12.78 in Bregenz Protocol of 25.1.79
Euregio Inn/Salzach	Germany: Bayern - Landkreise Altötting, Mühldorf, Passau, Rottal-Inn Traunstein (northern part) Austria: Bezirke Braunau, Greiskirchen, Ried Schärding	Cross-border cooperation on transport, tourism, transfers of technology and environmental protection	24.2.94 formation of the Bavarian Agency; 14.5.94 formation of the Austrian Agency
German-French-Swiss Government Commission (AG Raumordnung — working association for spatial planning)	Germany: Länder of Baden-Württemberg, Rheinland-Pfalz, regions of Middle and South Oberrhein, part of the region of Südpfalz and the Landkreis of Lörrach Switzerland: Cantons of Basel-Stadt and Basel-Land France: Region Alsace	The examination and solution of issues in the border areas, in particular in the arena of spatial planning	Agreement of the Governments of Germany, France and Switzerland of the 22.10.1975
German-French-Luxembourg Government Commission and its Regional Commission Saar-Lor-Lux	Germany, including Länder of Saarland/Rheinland-Pfalz France including Region Lorraine. The Government of Luxembourg	Eight working groups have been formed, of which one is for spatial planning Cooperation on cross-border planning	Agreement between the Governments of Germany, France and Luxembourg of the 16.10.1980
Inter-Regional Parliamentary Council (IPR)	Germany: Länder of Rheinland-Pfalz and Saarland France: Region Lorraine Government of Luxembourg	The promotion of cooperation of the five large regions in the German-French-Luxembourg border area	Convention of the 17.2.86
German-Luxembourg Nature Park Commission	Germany: Land Rheinland-Pfalz Luxembourg: Government of Luxembourg	Protection and improvement of the Naturpark	Treaty on the Naturpark of the 17.4.64

German-Belgian Spatial Planning Commission	German Government and Länder of Rheinland-Pfalz, Nordrhein-Westfalen Belgian Government and the Province of Lüttich	Cross-border cooperation on spatial planning	Agreement between the Governments on spatial planning cooperation of the 3.2.71
Advisory Commission on German-Belgian Nature Parks	Germany: Länder of Rheinland-Pfalz and Nordrhein-Westfalen Belgium: Walloon Region	Cooperation on measures for the protection and improvement of the landscape	Agreement for the establishment of a Naturpark of the 3.2.71
Euregio Gronau/Enschede	One German and two Dutch communal associations of local authorities with a total of 104 municipalities and counties	Promotion of cross-border cooperation in the region	Cooperation under private law
Euregio Rhein-Waal	32 German and Dutch municipalities and other local authorities	Promotion and coordination of cross-border cooperation of the member municipalities	A Zweckverband under German law Agreement of the German and Dutch Governments of the 23.5.91
Euregio Rhein-Maas-Nord	Municipalities, counties, other local authorities and local chambers of commerce on both sides of the border; with some 84 representatives in the Regio-Rat (council)	Coordination and promotion of the development of the area and the removal of barriers to cooperation. (See also Part 2; Section G: Cross-border Cooperation: Euregio-Plan-cross-border spatial development perspective for the Euregio Rhein-Maas-nord).	Agreement to the formation of a voluntary working association
Euregio Maas-Rhein	Germany: Bezirksregierung Cologne Belgium: Provinces of Liege and Belgian Limburg Holland: Province of Dutch Limburg	Promotion of cross-border cooperation	Agreement under Dutch private law
German-Dutch Spatial Planning Commission	German Government and the Länder of Niedersachsen and Nordrhein-Westfalen Dutch Government	Cooperation on spatial planning Including recommendations for the preparation of a joint cross-border regional plan	Agreement between the German and Dutch Governments of the 30/3/76
Sub-commission North and South Initiative for cross-border municipal and regional cooperation MHAL — (Maastricht/Heerlen-Hasselt/Genf-Aachen/Liege)	In which local authorities are also represented Germany: Land Nordrhein-Westfalen Belgium: Regions of Flanders and Walloon Holland: Province of Dutch Limburg	The draft of a joint spatial development perspective	Ministerial Declarations from December 1989 and January 1990
Inter-regional cooperation Nordrhein-Westfalen and Wallonia	Germany: Land Nordrhein-Westfalen Belgium: Walloon Region	Exchanges and cooperation in the areas of economic development, environmental protection and transport policy	Agreement between the Land/Region of the 5.11.90
-HET KAN	Germany: Regierungspräsident and Bezirksplanungsrat of Düsseldorf; Kreis Kleve and the Gemeinden of Kleve and Emmerich Holland: Province of Geldern, Dutch municipalities and the towns of Arnheim and Nijmegen	Structural development for the area of Arnheim/Nijmegen and the German lower Rhine area	
Städtedreieck (city triangle)	Germany: the cities of Münster and Osnabrück Holland: Cities of Enschede and Hengelo	Promotion of cross-border cooperation	

Source: Hessisches Ministerium für Landesentwicklung, Wohnen, Landwirtschaft, Forsten und Naturschutz, (Abteilung VII 33), 'Grenzüberschreitende staatliche und regionale Zusammenarbeit mit dem benachbarten Ausland auf dem Gebiet von Raumordnung, Natur und Umweltschutz', Entwurf 22 September 1994, pp. 1-6.

Further information on German cross-border, spatial planning cooperation is available in the following publications:

'Akademie für Raumforschung und Landesplanung, Grenzübergreifende Raumplanung, Erfahrung und Perspektiven der Zusammenarbeit mit der Nachbarstaaten Deutschlands', Hannover, 1992, (241 pp).

B. Making and reviewing plans and policies

Overview

B1. All three levels of government in the Federal Republic of Germany:

- the *Bund* (federation),
- the *Länder* (States), and
- local government, comprising the *Gemeinden* (municipalities) and, in situations where adjoining *Gemeinden* are very small, the communal *Planungsverbände* (municipal planning associations), make their own plans and policies. These policy instruments are undertaken within the context of a system of checks and balances. At the same time, the policy institutions influence each other's policy instruments under a reciprocal arrangement known as the *Gegenstromprinzip* (the counter-current principle).

Policy institutions

***Bund* (federal/national) policy institutions**

B2. The main institutions of the *Bund* are the legislature, comprising the *Bundestag* (federal parliament) and the *Bundesrat* (Federal Council), and the federal administration, which is made up of the *Bundesministerien* (federal ministries). The principal policy institutions at the *Bund* level are the *Bundesministerien*, which are supported in their role by subordinate federal research institutes serving each ministry. In addition, there are federal institutions established to advise on and coordinate spatial planning policies.

The Bundesministerien (federal ministries)

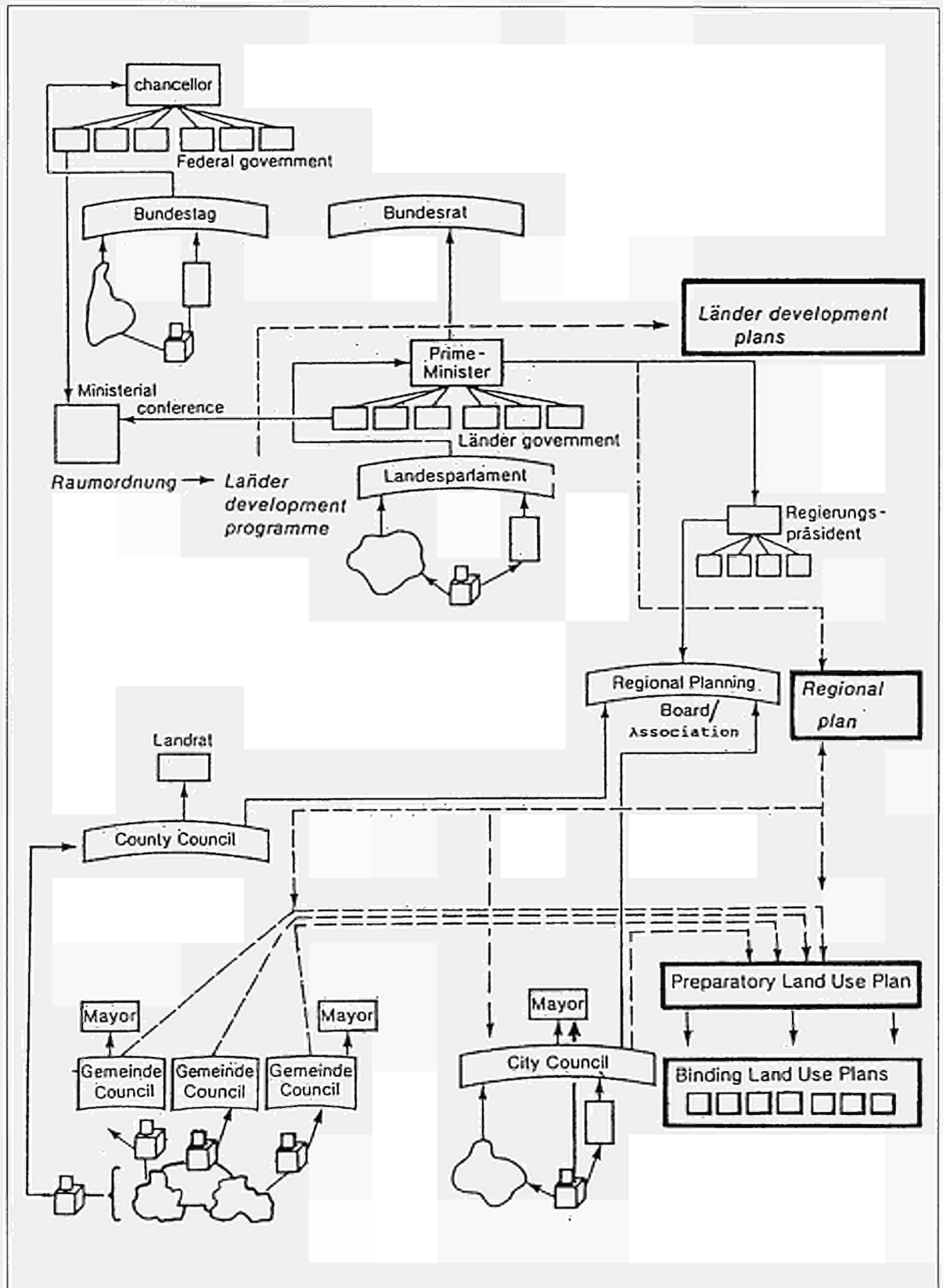
B3. The *Bundesministerien* are headed by a *Bundesminister* (federal minister) and staffed by permanent civil servants. In general, the *Bundesministerien* do not have regional or local offices. Furthermore, they do not directly implement many of their tasks themselves, but establish the 'framework' legislation and policy guidelines for implementation by the *Länder* and local government. Thus, for example, the *Bundesstraßen* (federal trunk roads) are not built or maintained by the *Bund*, but by the *Länder* on behalf of the *Bund*.

B4. Thus, the everyday activities of the *Bundesministerien* involves supervising, coordinating and advising the *Länder* and local authorities. The *Bundesministerien* are financed from the *Bund* budget, based on the receipts of general taxation.

B5. The responsibility for spatial planning at *Bund* level rests with the *Bundesministerium für Raumordnung, Bauwesen und Städtebau* (Federal Ministry of Spatial Planning, Building and Urban Development) or BMBau for short. Its principal tasks are:

- the preparation and supervision of the 'framework' legislation on supra-local spatial planning — the *Raumordnungsgesetz* (ROG);
- the preparation, revision and supervision of the *Baugesetzbuch* (BauGB) (federal building code), which contains the detailed law relating to local land use planning, the permissibility of development and measures for urban development;

Figure B1: The spatial planning policy institutions in the Federal Republic of Germany



Source: Adapted from Estermann, 1980 as illustrated in Hooper, A., 'Federal Republic of Germany'; in Department of the Environment (Ed.), (1989) *Planning control in western Europe*. London, HMSO, p. 265.

- the allocation and coordination of federal financial aid for local housing programmes, urban development and urban renewal;
- spatially coordinating the sector planning policies undertaken by the other *Bundesministerien* and coordinating the spatial planning policies of the *Länder* within the framework of national aims contained in the ROG.

B6. The other main *Bundesministerien* whose tasks have an impact on spatial planning are as follows:

- The *Bundesministerium für Wirtschaft* (BMWi) (Federal Ministry of Economics), which prepares federal economic policy and provides financial aid for the *Bund/Länder* joint task for the 'improvement of regional economic structure' (see Section D: Regional economic development and Section F: Economic development policy).
- The *Bundesministerium für Verkehr* (BMV) (Federal Ministry of Transport), which is responsible for:
 - legislation on transportation, federal trunk roads, road traffic, railways, waterways and air transport;
 - the preparation of the *Bundesverkehrswegeplan* (federal transport infrastructure plan);
 - the planning of the investments to be made in the federal transportation routes which are set out in the requisites plans (*Bedarfsplänen*) for the federal trunk roads and the federal railways, which are prepared by BMV and adopted by the *Bundesministerium* (federal cabinet) or the *Bundestag*;
 - supervision of the implementation of federal transport legislation by the *Länder*;
 - federal assistance for local transport projects under the *Gemeindeverkehrsfinanzierungsgesetz* (GVFG) (federal act for the financing of municipal transport);
 - the allocation of federal funding for investment in federal railways, which are listed in the requisites plan prepared under the *Bundesschienenwegeausbaugesetz* (act for the extension of the federal railways); and
 - the financing and extension of the federal trunk road network.

- The *Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit* (BMU) (Federal Ministry of the Environment, Nature Conservation and Nuclear Safety), whose main tasks are the preparation and supervision of the legislation on:
 - pollution control — the *Bundes-Immissionschutzgesetz* (BlmSchG);
 - nature protection — the *Bundesnaturschutzgesetz* (BNatSchG);
 - the protection of water resources and forests;
 - waste disposal and nuclear safety.

The BMU is also the *Bundesministerium* responsible for coastal protection.

- The *Bundesministerium für Ernährung, Landwirtschaft und Forsten* — (BML) (Federal Ministry of Food, Agriculture and Forestry), whose responsibilities include:
 - agricultural policy;
 - federal aid for the improvement of agricultural structure;
 - federal policy and funding for the renewal of villages.

B7. In addition to the *Bundesministerien* there are also a number of federal agencies, which are responsible for particular affairs throughout Germany. They are essentially independent, non-political, advisory, policy and research institutes. They are funded and supervised by the relevant *Bundesministerium*. The most significant of these agencies in term of spatial planning are:

- The *Bundesamt für Bauwesen und Raumordnung* (BBR) (Federal Office for Building and Spatial Planning) reports on spatial developments in the Federal Republic of Germany, it undertakes spatial planning research, coordinates the research programmes and model planning and urban renewal programmes of the BMBau and advises the *Bundesminister für Raumordnung, Bauwesen und Städtebau*.
- The *Umweltbundesamt* (UBA) (Federal Environmental Agency) is the federal scientific research agency responsible for research and advice to the BMU in relation to environmental issues, including pollution control, waste disposal, water management air quality, climate protection and environmental impact assessment. The UBA is also responsible for the

maintenance of the federal environmental planning information system (Umplis), the measurement of air emissions (in Germany and within the EU under the Corinair programme) and the provision of information to the public on environmental issues.

- The *Bundesamt für Naturschutz* (BfN) (Federal Nature Conservation Agency), which is responsible for research and advice to the BMU in relation to nature conservation. The BfN also coordinates *Bund* and *Länder* policies on nature conservation and advises local government and the *Naturschutzverbände* (nature conservation associations).

The Ministerkonferenz für Raumordnung (MKRO)

B8. The *Ministerkonferenz für Raumordnung* (MKRO) (standing conference of *Bund* and *Länder* ministers for spatial planning) is a standing conference of all the *Bund* and *Länder* ministers responsible for spatial planning. All statements of supra-local spatial planning policy, objectives and principles are agreed between the *Bund* and the *Länder* via the MKRO. It makes the principal spatial planning decisions in relation to, for example, the development of central places and the preferred structure of settlement in Germany or the integration of spatial and environmental policies, which are contained in the *Raumordnungspolitischer Orientierungsrahmen* (guidelines for spatial planning), adopted by the MKRO in 1992, and the supplement to this document, the *Raumordnungspolitischer Handlungsrahmen* (operational framework for spatial planning), adopted by the MKRO in 1995. It also coordinates the regulations governing the formal content of spatial planning instruments, though not the actual instruments themselves.

The Beirat für Raumordnung

B9. The *Beirat für Raumordnung* (spatial planning advisory council) is a statutory advisory council set-up under the ROG to advise the *Bundesminister für Raumordnung, Bauwesen und Städtebau*. The advisory council is made up of representatives and experts from the fields of supra-local spatial planning, urban development, science, economic development, agriculture, nature protection, sport, employers and employees organisations and from local government organisations. The advisory council meets regularly and provides the *Bundesminister* with recommenda-

tions on matters relating to the guiding principles of spatial planning at *Bund* level.

Länder (State/regional) policy institutions

B10. Since the *Bund* only has its own executive authorities in a number of special subject areas regulated by the constitution, the German administrative system only becomes visible at the *Länder* (States) level. There are 16 *Länder*, of which 13 are 'area' *Länder*, the remaining three being the 'city States' of Berlin, Bremen and Hamburg.

B11. Most of the 'area' *Länder* have three levels of authority:

- the *Landesministerien* (State ministries). This higher level also includes higher *Land* authorities, which are subordinate to the ministries, but operate on a land-wide basis; such as the *Landesdenkmalamt* (State monuments office);
- the *Bezirksregierungen* (district administrations) for districts within the *Länder*. These are administrative authorities headed by a chief executive;
- the *Landesunterbehörde* (lower State authorities) integrated into the *Landkreise* (counties) and *kreisfreie Städte* (county-free towns) in the person of a chief executive.

In fact, eight of the largest 'area' *Länder* have this three-tier system of administration, while the remaining five 'area' *Länder* have a two-tier system, without the intermediate level of *Bezirksregierungen*.

The Landesministerien (State ministries)

B12. The *Landesministerien* are generally formed anew following the elections to the *Landtag* (State Parliament) every four or five years. It is often the case that responsibilities for particular matters are transferred from one ministry to another or that new ministries are formed following the elections. The *Landesministerien* are headed by a *Landesminister* (State minister), appointed by the *Ministerpräsident* (State prime minister), and are staffed by permanent civil servants. The *Länder* governments and authorities are financed from general taxes.

B13. Spatial planning at the *Land* level can be called either *Landesplanung* (State planning), *Landesraumordnung* (State spatial planning) or *Landesentwicklung* (State comprehensive devel-

opment (planning)), depending on the *Land* concerned. In terms of organisation, there are basically three models for the *Landesministerium* responsible for State spatial planning:

- spatial planning is allocated to the ministry of the *Ministerpräsident* (State prime minister). This ministry is the executive office supervising all sectoral areas and other *Landesministerien*;
- spatial planning is allocated to a *Landesministerium*, which has related responsibilities. This can be the *Umweltministerium* (State Ministry of the Environment), the *Wirtschaftsministerium* (State Ministry of Economics) or the *Innenministerium* (State Ministry of the Interior); or
- spatial planning is allocated to a specific *Landesministerium* established for this purpose.

The *Landesministerien* responsible for spatial planning in each of the *Länder* are listed in Appendix 3.

B14. The *Länder* have extensive legislative responsibilities and the responsibility for the administration of most matters where the legislative power lies with the *Bund*. In relation to spatial planning the *Länder* are responsible for the implementation, administration and supervision of the following tasks, which may be allocated to different *Landesministerien* in the various *Länder*:

B15. *Landesplanung/Landesraumordnung* (State spatial planning) or *Landesentwicklung* (State comprehensive development) including:

- the preparation, administration and supervision of the *Landesplanungsgesetz* (LPIG) (State planning act), under the framework of the ROG;
- the preparation of the plans and programmes for *Landesplanung*;
- organisation, supervision and coordination of regional planning and the supervision and coordination of local land use planning.

B16. *Stadtentwicklung* (urban development), *Stadterneuerung* (urban renewal) and *Bauwesen* (building) including:

- the implementation, supervision and administration of the provisions of the BauGB (federal

building code), in relation to building, urban development and urban renewal;

- the supervision of the *Landesentwicklungsgesellschaften* (State development companies);
- the preparation, supervision and administration of the *Landesbauordnung* (LBO) (State building regulations);
- the provision of funding for urban development and urban renewal.

B17. *Flurbereinigung* (reorganisation of agricultural land) and *Dorferneuerung* (village renewal).

These spatial planning activities are generally the responsibility of the *Landesministerium für Landwirtschaft* (State Ministry of Agriculture) and they include:

- consultation and participation in the preparation of *Landesplanung*, regional plans and local land use plans which affect the structure of agricultural land and village renewal;
- the preparation of *Fachpläne* (sector plans) for the reorganisation of agricultural land;
- consultation in the approval process for development projects, which involve the reorganisation of agricultural land;
- the preparation of policy and the provision of funding for village renewal.

B18. *Umwelt* (environment), *Naturschutz* (nature conservation) and *Immissionsschutz* (prevention of pollution) including:

- the implementation and administration of the BImSchG (federal control of pollution act). Among other things, this involves the supervision of the *Gewerbeaufsichtsamt* (factory inspectorate) which is the permission authority for applications for projects under the BImSchG legislation (see Section C: Other permits);
- the preparation, implementation, administration and supervision of legislation in relation to, for example: nature conservation, water resources management, waste management; and
- the preparation of *Fachpläne* in relation to these areas of responsibility.

B19. *Denkmalschutz* (preservation of monuments).

Generally, the *Landesministerien für Kultur* (State Ministry of Culture) have responsibility for the preservation of monuments. Their main tasks include:

- the preparation and supervision of the *Landesdenkmalschutzgesetz* (State preservation of monuments act);
- the preparation of *Fachpläne* for the preservation of monuments.

B20. In most of the *Länder* there is a separate authority responsible for implementing the legislation on the preservation of monuments. This is the *Landesdenkmalamt* (State monuments office), which is established under the respective *Landesdenkmalschutzgesetz*. It is subordinate to the *Landesministerium* responsible for *Denkmalschutz* and its main responsibilities include:

- the implementation of the *Landesdenkmalschutzgesetz*;
- the supervision of the cultural monuments situated in the State and to provide advice on the monuments to local government;
- the preparation and updating of a *Denkmalliste* (monuments list) or *Denkmalsbuch* (monuments book);
- to participate as a *Träger öffentlicher Belange* (public agency) in the procedures for the preparation of plans, including local land use plans;
- to provide advice to monument owners and to undertake the supervision of restoration measures; and
- to provide financial grants for the carrying out of preservation measures.

B21. *Verkehr* (transport) and *Straßenbau* (road construction), which include the following spatial planning responsibilities:

- the preparation, implementation and supervision of land legislation for transportation (road, rail, waterways and air), under the federal 'framework' legislation;

- the planning, construction, maintenance and management of the *Landstraßen* (State roads) and of *Bundesfernstraßen* (federal trunk roads) on behalf of the *Bund*;
- transport planning and policy, including public local transport and local railways, air transport and inland waterways;
- the preparation of *Fachpläne* for transportation.

The *Bezirksregierungen* (district administrations)

B22. The *Bezirksregierungen*, also called *Regierungspräsidien*, are middle-level administrative authorities for the administrative districts within the larger *Länder*. Each has a *Regierungspräsident* (district chief executive) appointed by the *Ministerpräsident* of the *Land*. The *Regierungspräsident* oversees the various district departments, which have sectoral responsibilities within the *Bezirk* (district). The departments coordinate and supervise the implementation of *Bund* and *Land* legislation and regulations for the district, including the coordination of *Bund*, *Land* and local government spatial policies and the supervision of the implementation of local land use planning by the *Gemeinden*. In Nordrhein-Westfalen, for example, the *Regierungspräsident* is responsible for *Regionalplanung* (regional planning) and the preparation of the *Regionalplan* (regional plan) for the *Bezirk*.

The *Regionaler Planungsverband* (regional planning associations)/*Regionalverband* (regional associations)

B23. The organisation of regional planning in a number of the larger *Länder* involves the sub-division of the *Land* into planning regions, for example in Baden-Württemberg and Brandenburg. In each of these regions a regional planning association, called either a *Regionaler Planungsverband* or a *Regionalverband*, is established under the *Landesplanungsgesetz* (LPIG) (State planning act). These associations comprise representatives of the local authorities within the region and serve as a forum for coordination and cooperation between these authorities. They are responsible for the preparation of *Regionalpläne* (regional plans) for the region, subject to the supervision

and approval of either the *Landesministerium* responsible for spatial planning (in Brandenburg) or the *Regierungspräsident* of the *Bezirk* (for example in Bayern and Hessen).

Kommunal (communal/local) policy institutions

B24. There are three types of local government authority in Germany: The *Landkreise* (counties), the *kreisfreie Städte* (county-free towns and cities) and the *kreisangehörige Gemeinden* (municipalities belonging to a county). Each are self-governing authorities with their own elected council, financial resources and rights to make local statutes (see Section A: Political system, etc.).

The *Landkreis* (county)

B25. The *Landkreis* is both a local authority and a lower-authority of the *Land* (State). It has its own elected council called the *Kreistag* (county council) and a *Landrat* (chief executive) elected by the council or directly by the public. The *Landrat* performs both *Landkreis* and *Land* duties and oversees the departments of the *Landkreis* administration. As part of its functions as a lower authority of the *Land*, the *Landkreis* is the local *Baugenehmigungsbehörde* (building permission authority), responsible for issuing the *Baugenehmigungen* (building permissions) for all development within the *Landkreis*.

B26. Other functions of the *Landkreis* include:

- those which cannot be performed by the *kreisangehörige Gemeinden* on their own, for example: public transport, hospital and school provision and maintenance;
- road construction and maintenance, waste management;
- coordination of policy within the *kreisangehörige Gemeinden* and cooperation with the *Regierungsbezirk* or *Landesministerien*.

B27. A typical *Landkreis* has between 100 000 and 200 000 inhabitants and an average area of 1 000 square miles. The *Landkreis* is funded by contributions of its members (the *kreisangehörigen Gemeinden*), charges for services, a proportion of general taxes and contributions from the *Land*.

The *kreisfreie Stadt* (county-free town)

B28. *Kreisfreie Städte* are larger towns and cities with a population of at least 60 000 (and usually more than 100 000), which because of their independent rights and power are not subsidiary to a *Landkreis* (county). The *kreisfreie Städte* carry out all the responsibilities which, elsewhere, are divided between the *Landkreise* and the *kreisangehörige Gemeinden*. This includes the issuing of *Baugenehmigungen* (building permissions) and the preparation of local land use plans — the *Flächennutzungsplan* (F-plan) (preparatory land use plan) and the *Bebauungspläne* (B-plans) (binding land use plans).

B29. The elected council of the *kreisfreie Stadt* is the *Stadtrat* (town council), which adopts the local land use plans. The town is administered by the mayor as chief executive, directly elected by the public. This chief executive carries out the administrative duties of both the town and the *Land*, oversees the departments of the administration and in the south of Germany is also the president of the town council.

The *kreisangehörige Gemeinde* (municipalities belonging to a county)

B30. The *kreisangehörige Gemeinden* (municipalities belonging to a county) are the local government authorities at the lowest level of the government system. Together with the *kreisfreie Städte* they are referred to as *Gemeinden* (municipalities). The *Gemeinden* are responsible for:

- local administration and finance;
- building and local land use planning, including the preparation of the F-plan and B-plans;
- the provision and management of schools and cultural, recreation and leisure facilities;
- social and health policy; and
- local transport.

B31. Where the *kreisangehörige Gemeinden* are too small their tasks can be carried out by the *Landkreis* or they can be grouped together into a *Verwaltungsverband* (administrative association), which supports the implementation of their responsibilities.

B32. The *Gemeinderat* is the elected council of the *kreisangehörige Gemeinden* and is responsible for adopting the F-plan and for making

Satzungen (local statutes), of which a B-plan is an example. There is also a separate executive headed by a chief executive, called the *Bürgermeister* (mayor) and elected by the public.

B33. The financial resources of the *Gemeinden* come from a number of sources:

- taxes, including the local business tax, *Land* property tax and the retention of a proportion of income tax collected (together 30 to 40 % of total revenue);
- charges for water, services and other charges (20 to 30 % of total revenue); and
- contributions from the *Land* (30 to 50 % of total revenue).

These proportions are only a broad estimate, many *Gemeinde* (particularly in the new *Länder*) require higher levels of contributions from the *Land* and from the *Bund* (via the *Land*).

Kommunale Planungsverbände (communal planning associations)

B34. Because of the extent of the area of influence of some cities, the *kreisfreie Städte* and their surrounding *kreisangehörige Gemeinden* are formed into a *Kommunal Planungsverband* (communal planning association), which:

- comprises representatives of the member *Gemeinden* (municipalities);
- prepares a combined F-plan covering the entire area of the *Planungsverband*. The F-plan must take account of the provisions of the *Regionalplan* for the area;
- coordinates land use planning between the member *Gemeinden*; and
- are financed by contributions from the member *Gemeinden* and the *Land*.

B35. A foremost example is the *Umlandverband Frankfurt-am-Main*, which comprises the *kreisfreie Stadt Frankfurt-am-Main* and 39 surrounding *Gemeinden*.

Other organisations

The *Träger öffentlicher Belange* (TöB) (public agencies)

B36. The *Träger öffentlicher Belange* are 'public (interest) agencies', which must be informed and participate in plan preparation procedures, from *Land* level plans down to a local B-plan. The following are the types of agency:

- the authorities of the *Land* (*Landesbehörden, Landesdenkmalamt, Bezirksregierung, etc.*);
- the local government authorities (*Landkreise and Gemeinden*);
- the regional planning associations (e.g. *Regionale Planungsverbände*);
- the *Eisenbahn Bundesamt* (federal railways (track) agency);
- the *Deutsche Bahn AG* (federal railway (operating) company);
- the *Deutsche Post AG* and *Telekom* (post and telecommunications companies);
- the local public transport companies;
- the electricity and gas supply companies;
- the *Bundeswehrverwaltung* (Federal Defence administration);
- the State/local *Industrie- und Handelskammer* (chambers of commerce);
- the officially recognised State/local *Naturschutzverbände* (nature conservation associations) and other officially recognised State or local groups including *Bürgerinitiativen* (citizen action groups) and associations for environmental protection can be included, though they are not TöB in the formal sense under the law.

The *Bundesvereinigung der Kommunalen Spitzenverbände* (Federal Association of Local Government Organisations)

B37. This is the umbrella organisation for German local government organisations. Its main

tasks are to promote local government, to advance the exchanges of experience among its members and to represent the combined interests of local government in federal matters. Its member organisations include:

- the *Deutscher Städtetag* (council of German city authorities);
- the *Deutscher Landkreistag* (council of German county authorities); and
- the *Deutscher Städte- und Gemeindebund* (confederation of German municipal authorities).

B38. A short list of some other relevant organisations is included in Appendix 3. A detailed list of organisations can be found in:

Die Bundesrepublik Deutschland — Teilausgabe Bund — Staatshandbuch (1993), Köln, Heymann Verlag
Taschenbuch des Öffentlichen Lebens — Deutschland (yearly), Bonn, Festland Verlag.

Policy instruments

Bund (federal/national) policy instruments

B39. The spatial planning policy instruments at *Bund* level comprise the following:

- the *Raumordnungsgesetz* (ROG) (federal spatial planning act);
- the *Raumordnungspolitischer Orientierungsrahmen* and subsequent *Raumordnungspolitischer Handlungsrahmen* (guidelines and operational framework for spatial planning);
- the *Raumordnungsbericht* (federal spatial planning report);
- the Federal *Fachpläne* (sector plans) and *Fachgesetze* (sector acts); and
- the *Baugesetzbuch* (BauGB) (federal building code) and associated ordinances.

The *Raumordnungsgesetz* (ROG) (federal spatial planning act)

B40. The *Raumordnungsgesetz* (ROG) was first enacted in 1965 and last amended in 1997. It is

the federal 'framework' legislation for supra-local spatial planning in Germany, which is carried out by the *Länder*. The ROG defines (i) the broad aims and guiding principles of spatial planning and (ii) the organisational rules and procedures for the carrying out of spatial planning by the *Länder*.

B41. The guiding principles laid down in the ROG, which must be taken into account in the preparation of spatial planning by the *Länder*, include:

- the development of the structure of the Federal Republic so as to create equivalent living conditions throughout the country;
- the spatial interdependence of the (formerly separated) new *Länder* and old *Länder* is to be taken into account and improved;
- spatial planning shall promote the spatial conditions for the coming-together of Europe;
- the *Gegenstromprinzip* (counter-current principle), whereby each level of planning must take account of higher level plans; at the same time each lower planning level must be allowed to participate in the preparation of the plans at the higher level.

B42. The ROG also lays down the organisational and procedural framework under which spatial planning is to take place, including:

- the sole competence of the *Bund* to decide the framework, content and organisation of spatial planning for the entire federal area;
- the establishment of the *Raumordnungsbeirat* (spatial planning advisory council) to advise the *Bundesminister für Raumordnung, Bauwesen und Städtebau* on spatial planning matters;
- the preparation of a regular report on spatial planning in Germany, the *Raumordnungsbericht* (federal spatial planning report — undertaken by BMBau);
- the *Raumordnungsverfahren* (spatial planning procedure), under which spatially important public and private development projects (for example airports, waste disposal facilities, major shopping centres, golf courses, etc.) are examined to see if they conform with the requirements of the ROG and the *Länder* spatial plans and programmes.

The *Raumordnungspolitische Orientierungsrahmen* (guidelines for spatial planning) and the *Raumordnungspolitische Handlungsrahmen* (operational framework for spatial planning)

B43. In 1992 the *Ministerkonferenz für Raumordnung* (MKRO) (standing conference of ministers for spatial planning) adopted the advisory *Raumordnungspolitische Orientierungsrahmen* (guidelines for spatial planning). These guidelines were published in February 1993 and replaced the former *Bundesraumordnungsprogramm* (federal spatial planning programme), a broad spatial development programme for Germany, last prepared by the *Bund* in 1975. In March 1995 the MKRO adopted the *Raumordnungspolitische Handlungsrahmen* (operational framework for spatial planning), which updates and supplements the *Orientierungsrahmen*.

B44. The *Raumordnungspolitische Orientierungsrahmen* and *Handlungsrahmen* provide a general outline for spatial development in Germany, based on the principles contained in the ROG, and are addressed to decision-makers at the *Bund*, *Länder* and *Gemeinde* levels. The guidelines characterise the future spatial structure in terms of general principles for:

- settlement structures, for example the development of polycentral urban structures and city networks;
- the environment and land use, for example polycentral spatial development imposes less of a burden on the environment;
- transport planning, including inter-regional traffic management and trans-European transport routes;
- Europe, including principles for European spatial planning;
- planning and development, including regions in need of development and regions in need of containment and development control.

The *Raumordnungsbericht* (federal spatial planning report)

B45. The regular preparation of the *Raumordnungsbericht* (federal spatial planning report) is a statutory requirement of the ROG and it is pub-

lished at regular intervals (usually every four years) by the BMBau. As a result of German reunification and European integration three reports have been published since 1990. The *Raumordnungsbericht 1993* is the latest and most comprehensive. It contains the statistical background, problems, trends, interactions and policies of all subject areas with an impact on spatial planning, including financial policy, economics, employment, agriculture and forestry, city and village development, housing, transport and communications, energy supply, water supply, waste disposal, research and technology, education, environmental protection, nature conservation, reclamation of contaminated land and European spatial planning.

B46. The *Raumordnungsbericht 1993* also:

- includes all recommendations of the *Raumordnungsbeirat* and the decisions of the MKRO presented to the *Bund*;
- reports on the most important economic and development trends and problems in Germany and provides examples of the spatial planning measures to tackle these trends and problems;
- points to potential future problems effecting spatial planning and development;
- includes all spatial planning policies and changes in legislation relating to spatial planning issues;
- provides an extensive information base for political decision-making.

Bund Fachpläne and *Fachgesetze* (federal sector plans and acts)

B47. At the *Bund* level, *Fachpläne* (sector plans) are prepared by the *Bundesministerien* and adopted by the *Bundestag*, in accordance with their responsibilities under the *Grundgesetz* (constitution). The Constitution entrusts the preparation of sector plans in many areas to the *Bund*, including federal trunk roads, federal railways, federal inland waterways, facilities for air-transport and defence. The sector plans are bound by their respective legislation and are to be coordinated between the *Bund* and the *Länder*. They are also to comply with spatial planning at the *Bund* and *Länder* levels. Local land use planning must be adapted to the higher level sector plans.

B48. The most important sector plan in relation to spatial planning is the *Bundesverkehrswegeplan* (BVWP) (federal transport infrastructure plan) 1992. The BVWP 1992 is a declaration of the intentional investment policy of the *Bundesregierung* (federal government) for the period 1991-2012, which provides the framework in terms of timescale and content for federal investment in federal trunk roads, federal railways and the federal inland waterways.

B49. Where individual projects under the BVWP 1992 are legally established as investment measures, via their adoption by means of a *Bedarfsplan* (federal investment requisite plan), they are binding on the individual *Länder*, on *Landesplanung* (State spatial planning) and on *Regionalplanung* (regional planning). This means that the *Länder* must take account of these projects in their plans and programmes, although neither the future routes of the projects nor their exact geographic location have been laid down.

B50. The *Bund* sector plans cover the entire country and are continuously under review. Most of the plans arise from sectoral legislation, of which the following are of most interest to spatial planning:

- *Bundesfernstraßengesetz* (federal trunk roads act);
- *Telegraphenwegesgesetz* (federal telecommunications act);
- *Bundeswasserstraßengesetz* (federal inland waterways act);
- *Bundesabfallgesetz* (federal waste management act); and
- *Bundes-Immissionsschutzgesetz* (federal control of pollution act).

The *Baugesetzbuch* (BauGB) (federal building code)

B51. The *Baugesetzbuch* (BauGB) was introduced in 1986 and most recently amended in 1997. It is the most important act in relation to local land use planning. It combines the former *Bundesbaugesetz* (federal building act) 1960 and the *Städtebauförderungsgesetz* (promotion of urban development act) 1971. The main contents of the BauGB (of interest here) include:

- the regulations covering the contents and procedures for the preparation of the local land use plans, the F-plan and the B-plan by the *Gemeinden*; and
- the rules for the assessment of whether a development proposal is permissible or not.

Federal ordinances supplement the BauGB. The most important of these are the *Baunutzungsverordnung* (BauNVO) (federal land use ordinance) and the *Wertvermittlungsverordnung* (federal valuation ordinance).

Länder (State/regional) policy instruments

B52. The *Länder* are the authorities constitutionally responsible for the implementation of spatial planning, which is carried out by the *Landesministerium für Landesplanung* (or *Landesraumordnung* or *Landesentwicklung* — the State Ministry of Spatial Planning or Development).

B53. The legal basis for spatial planning at the *Länder* level is provided in the following legislation:

- the ROG, which is the *Bund* framework legislation for spatial planning; and
- the *Landesplanungsgesetze* (LPIG) or *Landesraumordnungsgesetze* (LROG) (State planning acts), as the detailed legislation, enacted for each of the *Länder* by their *Landtag* (State parliament). The individual spatial planning acts of the *Länder* are listed in Appendix 4.

B54. Under the framework provided in the ROG, each of the LPIG/LROG provide for spatial planning:

- at the *Land* level, involving *Landesentwicklungspläne* (LEP) or *Landesentwicklungsprogramme* (LEPro) (State development plans or programmes), which in some of the *Länder* are also called *Landesraumordnungspläne* or *Landesraumordnungsprogramme*. These plans and programmes are all essentially the same type of instrument, though their procedure, their layout and content can differ between the *Länder*;
- at regional level, for the preparation of *Regionalpläne* (regional plans) for planning regions within the *Länder*.

B55. The LPIG/LROG also contain the regulations and procedures governing the *Raumordnungsverfahren* (spatial planning procedure), which is required by the ROG. This procedure is used to examine whether all significant development projects comply with the principles and objectives of spatial planning at *Land* level (the LEP/LEPro). An *Umweltverträglichkeitsprüfung* (UVP) (environmental impact assessment) of such projects may be undertaken as part of the spatial planning procedure.

The *Landesentwicklungsplan* or *Landesentwicklungsprogramm* (LEP/LEPro) (State development plan or programme)

B56. The LEP or LEPro are the most important comprehensive spatial planning instruments at *Land* level. They are prepared by the *Landesministerium* responsible for spatial planning. Usually, the *Landtag* (State Parliament) adopts only a general programme for State development. In some *Länder* the LEP or LEPro is adopted by legal ordinance of the *Landesregierung* (State government). The LEP/LEPros include comprehensive, State-wide, spatial planning objectives and also function as documents for the coordination of all policies and decisions with a spatial impact in the *Land*.

B57. The preparation of an LEP or LEPro involves the participation of the other *Landesministerien*, the local government authorities, the other *Träger öffentlicher Belange* (public agencies) and the authorities or agencies responsible for regional planning. In some of the *Länder* these authorities and agencies are represented on a planning conference or board, which is formed to supervise or to advise the preparation of the LEP/LEPro.

B58. The LEP/LEPros comprise concrete spatial and sectoral objectives presented at a scale of 1:500,000 (sometimes smaller) and covering the entire territory of the *Land*. Usually they do not provide a definite timescale. The State planning acts govern the binding nature of the LEP/LEPros on other public authorities.

B59. Sector LEP/LEPros can be prepared for individual sectoral themes, such as for recreation, waste disposal, transportation, nature conservation, landscape planning, settlement, etc. They are coordinated by the *Land* government.

B60. The LEP/LEPros are illustrated in a diagrammatic manner (see Figure B2) and supported by an explanatory text (which is usually non-binding). The level of detail and style of presentation differ between the *Länder*. However, all contain (i) spatial policy principles, which are statements of policy direction and (ii) spatial and sector objectives, which are precisely defined in relation to spatial aspects and content. These objectives are based on three inter-related elements:

- (1) The system of central places; a hierarchical model for the supply of the population with public and private services and employment. Comprising higher order, middle order and lower order centres in its basic form.
- (2) Axes; as transport, communication and supply routes and also of networks of settlements.
- (3) Areas of use; in terms of built-up areas and undeveloped open spaces. The elements of (1) and (2) above provide for the functions of built-up areas. The undeveloped open spaces have the functions of natural countryside, agriculture and forestry, recreation, protection and supply of water and resources and climatic balance.

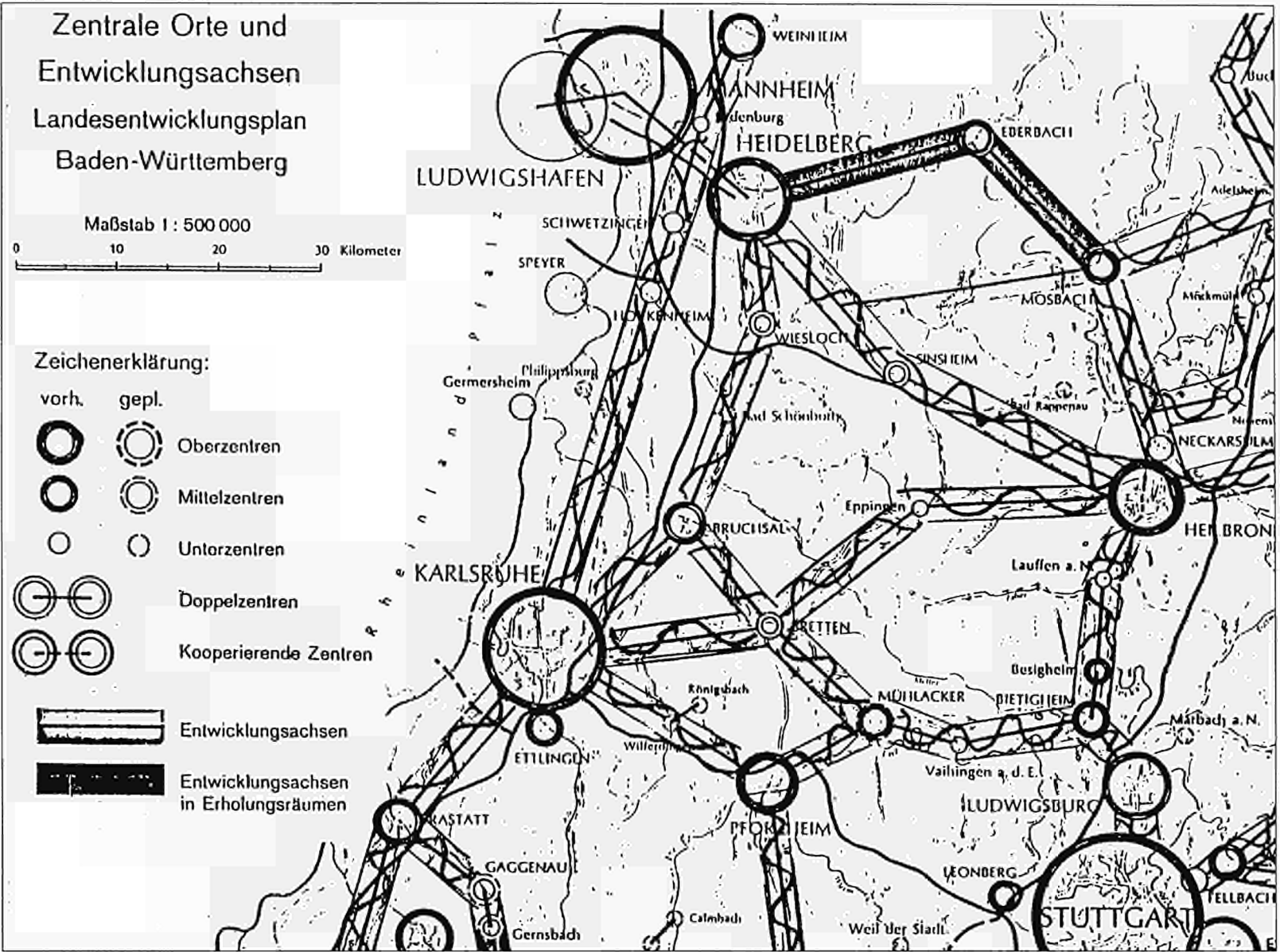
B61. The objective of 'spatial balance' (the provision of equivalent living conditions under the ROG) is flexibly interpreted. The LEP/LEPros are increasingly orientated towards the promotion of the indigenous development potential of individual areas within the *Land*. It is the task of regional planning to transfer these objectives into more definite forms.

B62. The review of the LEP/LEPros is generally by means of a *Landesraumordnungsbericht* (State spatial planning report), which provides the analytical base for spatial planning in the *Land*. These reports are usually prepared every four years or on request by the government or parliament of the *Land*.

The *Regionalplan* (regional plan)

B63. The *Regionalplan* (regional plan) is also called *Regionaler Raumordnungsplan* or *Gebietsentwicklungsplan* in some *Länder*. It is a supra-local plan which groups all sectors of spatial planning together for a single region. It is prepared by the authorities or agencies who are

Figure B2: Extract from the Landesentwicklungsplan (LEP) (State development plan) for Baden-Württemberg (illustrating the system of Zentrale Orte (central places) and Entwicklungsachsen (development axes))



Source: Landesentwicklungsplan Baden-Württemberg.

given responsibility for regional planning under the LPIG/LROG (State planning acts) of each *Land* (see Appendix 4).

B64. In most *Länder* the authority responsible for the preparation of the *Regionalplan* is either a department within the *Bezirksregierungen* (district administrations) or a *Regionaler Planungsverband* (regional planning association), made up of representatives of the *Landkreise* (counties) and *Gemeinden* (municipalities) in the region. In the smaller *Länder*, the *Regionalplan* is prepared either by the *Landesministerium* (State ministry) for spatial planning or by the *Landkreis* (county).

B65. The *Regionalplan* must be approved by the next higher State authority (mostly the respective State ministry) and after approval it is usually adopted as a legal ordinance. The *Regionalplan* is usually part advisory and part mandatory. All regional plans include specific statements and objectives which are binding on all public authorities, agencies and the *Gemeinden* in particular.

B66. In all cases, the local government authorities are closely involved in the preparation of the *Regionalplan*, in accordance with the *Gegenstromprinzip* (counter-current principle). The preparation of a *Regionalplan* must take into account:

- the objectives of the *Land* for spatial development (the objectives of the LEP/LEPro) and
- the guiding principles of the ROG.

These are then evolved into more definite forms relating to the specific conditions of the region and transferred into a regional development concept.

B67. The *Regionalplan* contains a written (descriptive) document and a diagrammatic presentation, together with an explanatory text providing the reasons for the plan. The written document includes:

- the objectives for the overall development of the region;
- statistical analysis and scenarios;
- spatial objectives: for spatial and settlement structures, land uses, infrastructure locations and routes, etc.;
- sectoral objectives and planning policies for the social and cultural sector, the economy,

transport, nature conservation and the environment.

B68. The diagrammatic presentation (plan) of a *Regionalplan* should illustrate the following:

- Spatial planning and settlement structure, comprising:
 - the classification of areas into densely built-up areas, *Ordnungsräume* (lit. development control areas, i.e. the suburban and commuter belt), rural areas and structurally weak areas;
 - axes and the system of central places. These are developed into a concept of settlement structure and employment locations, agreed with the *Gemeinden* (municipalities), which will then form the framework for the preparation of the local land use plans (F-plan and B-plans) of the *Gemeinden*.
- The designation of spatial uses between:
 - undeveloped open areas: for agriculture, forestry, recreation, water resources, natural resources, etc. These areas will include 'priority areas' which must be protected and 'precautionary areas' which can be more closely defined or modified in the local land use plans of the *Gemeinden*;
 - existing and future regionally important settlement areas.
- The designation of infrastructural locations and routes, the most important of which are:
 - locations for facilities for transport (e.g. airports), waste disposal and energy supply;
 - routes for transport infrastructure (e.g. roads), energy supply lines and water and gas pipelines.

B69. Most of the objectives are represented by symbols on the plan diagram. The scales of the diagrams used range from 1:50 000 to 1:100 000, and can be made up of a single map or a number of maps for individual sectoral issues. The *Regionalplan* is not a static plan. It is to be reviewed according to changing conditions and in some *Länder* within prescribed periods.

B70. The *Regionalplan* Südlicher Oberrhein 1995 (see Figures B3 and B4 at the end of the publication) prepared by the *Regionalverband* Südlicher Oberrhein (regional association for the South Upper-Rhine), came into force on the 11 August 1995 for the region Südlicher Oberrhein

in the *Land* of Baden-Württemberg; the region adjoins the border with France. The largest town in the region is Freiburg am Schwarzwald (223 000 inhabitants), while the population of the whole region is nearly one million. The *Regionalplan* comprises a document, containing the written description of the objectives and reasons, and three maps:

- the *Strukturkarte* (structure plan), at scale 1:200 000, comprising the system of central places, the development axes, settlement areas and the locations for industrial and commercial development;
- the *Raumnutzungskarte* (spatial uses plan), at scale 1:100 000 (see Figure B3 and B4), containing among other things the regional open spaces, the priority areas for important biotopes and for mineral extraction, the regionally important road network, etc.;
- the *Karte Naturräumliche Gliederung* (nature spatial structure plan), at scale 1:300 000, which provides a representation of the natural structure of the area into forest and mountains, flatlands and river landscapes.

The *Regionalplan* is to serve as the planning basis for the *Gemeinden* (municipalities) of the region up to the year 2010.

The *Raumordnungsverfahren* (spatial planning procedure)

B71. The *Raumordnungsverfahren* is an internal coordination procedure for public authorities. It serves as an instrument to examine large-scale public and private development proposals, such as for the location for a new airport, a new holiday village or a new waste disposal facility, and to see whether they:

- comply with the principles and aims of the ROG and of *Landesplanung* (State spatial planning) and
- fit in with the requirements of other plans (such as regional plans).

B72. In addition, an *Umweltverträglichkeitsprüfung* (UVP) (environmental impact assessment) may be included as part of the *Raumordnungsverfahren*. Where large development proposals are involved, which by law require the

undertaking of a *UVP*, the assessment is to be integrated into the various planning stages.

B73. One of the main objectives of the procedure is to compare the advantages and disadvantages of alternative locations for the proposed development. The result of the spatial planning procedure is not legally binding. But the result must be taken into account by all public authorities in relation to the preparation of plans, the issuing of permission and the making of other decisions. Therefore, the spatial planning procedure does have binding effects, at the very least since it forms the basis for the final decision on the suitability of a location for a proposal of regional importance.

Gemeinde (municipal/local) policy instruments

B74. The main spatial planning policy instruments at local government level are:

- the *Flächennutzungsplan* (F-plan) (preparatory land use plan); and
- the *Bebauungsplan* (B-plan) (binding land use plan).

B75. The F-plan and the B-plan are the most important plans for local land use planning in Germany. The *Baugesetzbuch* (BauGB) (federal building code) 1986 as last amended in 1997, contains the legal provisions regulating the contents of these plans and the procedures for their preparation. The *Baunutzungsverordnung* (BaunVO) (federal land use ordinance) provides the classes of land and building uses and the measures for density control to be included in the plans, as appropriate.

The *Flächennutzungsplan* (F-plan) (preparatory land use plan)

Status

B76. The F-plan must be prepared by the *Gemeinde*, which is generally:

- a *kreisfreie Stadt* (county-free town) or
- a *kreisangehörige Gemeinde* (municipality belonging to a county) or in certain municipalities:
- a *Kommunale Planungsverband* (communal planning association) of a *kreisfreie Stadt* and surrounding *Gemeinden* or an association of smaller municipalities.

B77. The F-plan is adopted by the elected council of the *Gemeinde* and must be approved by the higher State authority (on its compliance with the law and procedures). The parliament of a 'city State' adopts its F-plan without the need for further approval (since it is the higher State authority).

B78. The graphic diagram (the plan or plans) and the written statement of an F-plan are binding on all public authorities and agencies (but not on private individuals or companies). The explanatory documents of the F-plan are for interpretation purposes only.

Geographic coverage

B79. Generally, the F-plan must be prepared for the entire administrative area of the *Gemeinde*. The *Gemeinden* in the new *Länder* were allowed to prepare an initial F-plan which covers only a part of their administrative area.

Duration

B80. There is no fixed duration for an F-plan, but a period of 10 to 15 years is general. The plan is amended as conditions require, this can occur when a new B-plan is to be prepared which requires changes in the F-plan.

B81. The preparation of an F-plan often involves long periods of preliminary discussions with other authorities and the public. There is no fixed timescale, but it may take up to five or six years, especially in the major cities.

Objectives

B82. The F-plan is required to illustrate, in basic form, the expected land uses for the entire area of a *Gemeinde*, according to the intended urban development which is to provide for local demand. The following information should be shown 'to the necessary extent':

- areas zoned for development, according to general land use types (e.g. general residential areas) and may include specific land use areas (e.g. residential only areas). The general and specific land use areas are regulated in detail by the BauNVO (federal land use ordinance);
- the level of development, according to controls for site coverage, floorspace index and

building height (regulated in detail by the BauNVO);

- public and private community, infrastructure and service facilities;
- the main transport and communication facilities;
- open spaces (green areas) and areas of water;
- areas for minerals and mining;
- agricultural and forestry areas and areas for environmental and landscape protection;
- other requirements, including protected monuments, areas which require protection against flooding, contaminated lands, etc.

B83. The F-plan is therefore essentially a zoning plan (see Figures B5 and B6 at the end of the publication). The scale of the plan depends on the size of the *Gemeinde* and can vary from 1:5 000 in a small town to 1:25 000 in Berlin. In general, individual properties are not designated and facilities are marked on the plan by symbols.

Use

B84. The F-plan is intended for use in planning, policy making and development decisions by all public authorities, especially the *Gemeinde* which prepared the plan. In particular, the preparation of a B-plan must be developed out of the F-plan (BauGB Section 8 (2)).

Policy production, linkages

B85. The procedures for preparing an F-plan are similar to those for preparing a B-plan (see Figure B7).

B86. The F-plan must adhere to the mandatory aims of the *Regionalplan* (regional plan) for the area and must be coordinated with the F-plans of neighbouring *Gemeinden*.

B87. Because the F-plan is not binding on private individuals or property owners, there can be no objection to it by the public once the correct procedures for its preparation have been followed.

B88. The *Flächennutzungsplan* Berlin 1994, which is the F-plan for the city of Berlin, comprises a plan to an original scale of 1:100 000

(see extract in Figures B5 and B6), with a supplementary written description and a detailed explanatory document. The F-plan 94 shows which parts of the city are to be used for housing, industry or other urban uses and which parts are to be retained as open spaces. The F-plan 94 includes concepts for the following sectoral areas (the description of which are supported in part by separate explanatory plans):

- housing;
- locations of employment;
- open space;
- the structure of centres in the city;
- public facilities;
- supply and disposal (e.g. water supply and sewerage);
- transport (road network, airports, inland waterways, etc.).

The F-plan 94 covers the whole area of Berlin (of approximately 875 km² and with a population of

3.5 million). It was prepared in less than four years, from the decision to prepare the plan on 2 March 1991 to its official publication on 1 July 1994.

The *Bebauungsplan* (B-plan) (binding land use plan)

Status

B89. The B-plan forms the second level of the local land use plan hierarchy and provides the basis for the detailed and legally binding control of building development. It can be applied to virgin land to open it up for first-time development, or equally it can be prepared to cover areas already developed or to be redeveloped, where this is considered to be necessary in the interest of planned urban development.

B90. The preparation of a B-plan must be developed out of the F-plan. The provisions of a B-plan are legally binding on all public authorities and agencies and on all private individuals and companies.

Figure B7: The main steps in the preparation of a *Flächennutzungsplan* (F-plan) or a *Bebauungsplan* (B-plan)

1. Preparatory phase

The preparation of draft ideas and consultations with higher administrative authorities. The *Aufstellungsbeschluss* (decision to prepare a plan) is passed by resolution of the elected council of the *Gemeinde*.

2. First phase of public participation

This should take place as soon as possible after the decision to prepare a plan has been made. It involves informing the public in general and people directly affected in particular. It includes opportunities for public comment and discussion. The *Träger öffentliche Belange* (*TöB*) (public agencies) and the neighbouring *Gemeinden* are informed and participate at the same time.

3. Preparation of the draft plan and consideration phase

(a) The assessment of whether the draft plan complies with the *Regionalplan* and the *LEP/LEPro* (via the *Raumordnungsverfahren* (spatial planning procedure));

(b) The assessment of the environmental impact of the proposals of the draft plan;

(c) the *Abwägung* (weighing up or consideration) and balancing of public and private interests, taking into account all comments put forward by the public and the *TöB* (public agencies).

The decisions on the results of the consideration process and on the public display of the draft plan are made by the elected council.

4. Second phase of public participation

The draft plan is displayed in public for one month. This is announced by public notices in the local newspapers and the public are invited to make written or verbal comments. At the end of the display period all comments are considered and if new issues arise, which are to be included in the plan, the draft plan returns to the consideration process (step 3).

5. The adoption and approval stage

The plan is passed by the elected council. For an *F-plan* this is by ordinary resolution; for a *B-plan* this is by means of a *Satzung* (local statute).

All F-plans have to be approved by the next higher State authority, which checks that the plan contains no procedural or legal mistakes.

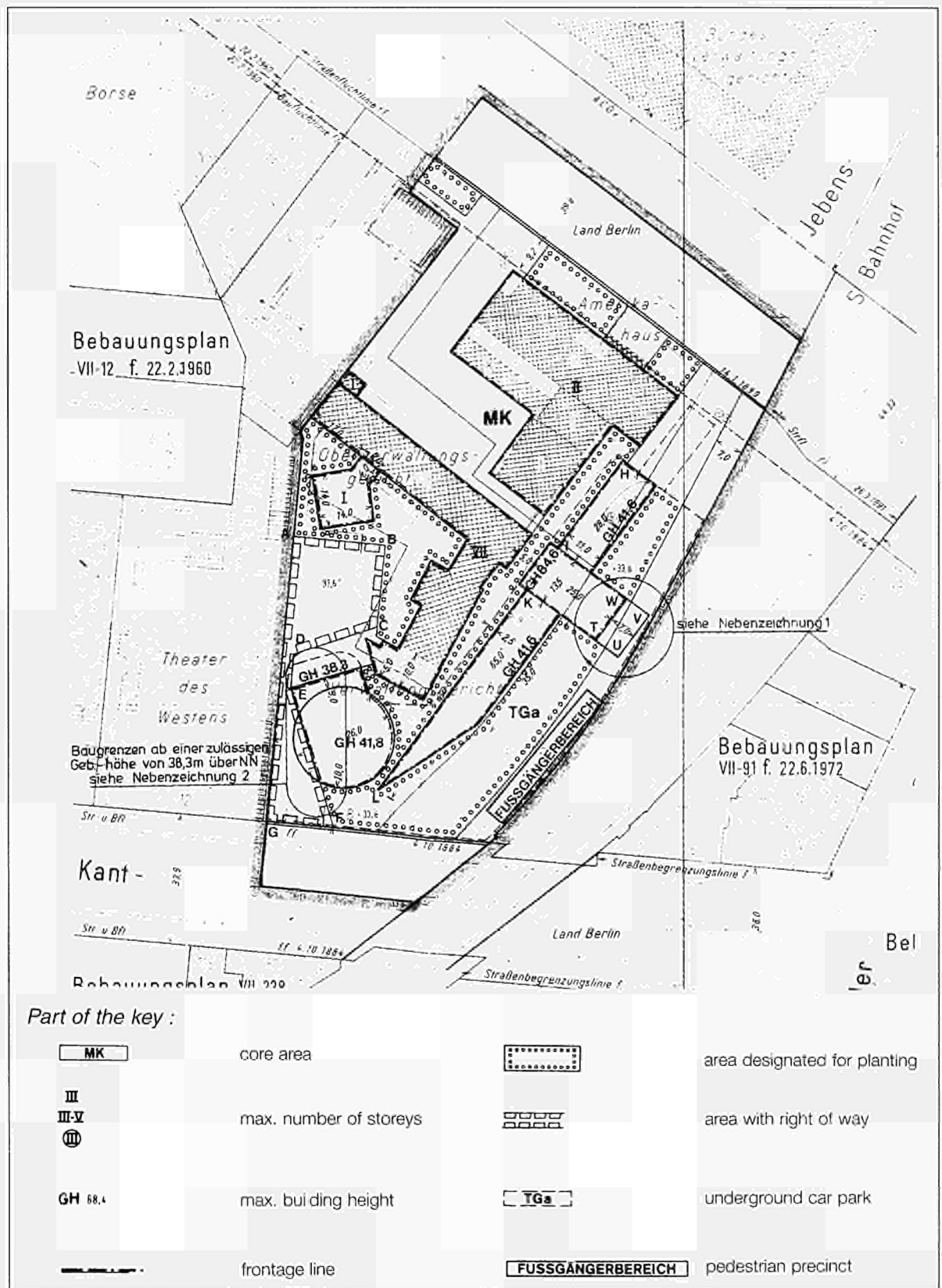
A B-plan which is not developed from an F-plan needs approval by the next higher State authority, which must make any objection within three months.

This includes a B-plan which is prepared before the F-plan (which is known as an 'advanced B-plan'), which must be approved by the higher authority.

6. Coming into force

The *Gemeinde* publicly announces the approval or the end of the notification procedure. The plan then comes into force.

Figure B8: Extract from a draft *Bebauungsplan* (B-plan) (binding land use plan) within Berlin-Charlottenburg



Source: Senatsverwaltung für Bau- und Wohnungswesen Berlin.

B91. The B-plan is adopted as a *Satzung* (local statute) by the elected council and need only be approved by the next higher State authority if it is not developed from an F-plan. This higher authority has three months in which to raise legal objections before the B-plan can be published and thereby come into force.

B92. In urgent cases (especially in the new *Länder*) a B-plan can be prepared before the F-plan has been adopted and approved. This is referred to as a '*vorzeitiger B-plan*' (preliminary B-plan). In such cases, the preliminary B-plan must be approved by the next higher State authority.

Geographic coverage

B93. B-plans are to be prepared where the *Gemeinde* expects or intends building development to take place, according to the need to provide legally-binding provisions for the development. Thus, B-plans are generally not prepared for the whole area of a *Gemeinde*, but only for a specific small areas (sites or groups of sites) where building development is to take place. These are usually 'greenfield sites' or large sites within existing built-up areas.

Duration

B94. There is no fixed duration for a B-plan. A B-plan expires only when it is replaced by a new or amended B-plan. In theory a B-plan can be prepared within one year, though the average timescale is three years. The preparation procedures are usually preceded by a period of informal consultations.

Objectives

B95. In order to be used as a legal basis for the issue of a *Baugenehmigung* (building permission) a B-plan must include legally binding provisions covering all the following:

- the type and extent of land use; comprising the specific land use areas and scale of development (as specified in detail in the Bau-NVO);
- the areas of land to be covered with building;
- the areas required for local traffic purposes.

B96. A B-plan which includes these minimum contents is then called a '*qualifizierter B-plan*'

(qualified B-plan), that is, qualified to be used as the basis for the issue of a *Baugenehmigung*.

B97. Other types of B-plan containing fewer designations than a *qualifizierter B-plan* are prepared and can on occasion be more expedient. Such a plan is referred to as a '*nicht qualifizierter B-plan*' (non-qualified B-plan). Building proposals cannot be in conflict with these 'non-qualified B-plans', which are backed-up by the rules of the BauGB for built-up areas or undeveloped surrounding areas (Sections 34 and 35 BauGB — see Section C: Other permits).

B98. The B-plan has to show any areas required for protection from natural elements (e.g. flooding) and show/designate any contaminated land, areas with mining below and buildings and groups of buildings to be preserved. It shall also define the boundary of the plan area.

B99. The B-plan may also include legally-binding provisions in relation to:

- the minimum dimensions of building plots, alignments, etc.;
- the maximum number of dwellings in residential buildings;
- spaces for public thoroughfares (including pedestrian areas, car parking, etc.);
- reserved sites for special housing purposes and other special uses;
- planting and landscaping including measures to compensate for the destruction of nature and landscape which are to be expected on the basis of the plan;
- other requirements as listed in the contents of an F-plan above.

Most B-plans include all of the above contents and regulate development in a very detailed manner.

B100. A B-plan comprises a plan (see Figure B8) and a written statement, both of which are legally binding. It must also include a (non-binding) explanatory statement setting out the aims, purposes and most significant aspects of the plan.

Use

B101. A 'qualified' B-plan is used for the control of development within the area covered by the

plan. It forms the legal basis for the assessment of an application for a *Baugenehmigung* (building permission) for building development in the area (under Section 30 BauGB).

Policy production

B102. The procedures for the preparation and adoption of the F-plan and B-plan contain the main steps illustrated in Figure B7. Any amendments to the plan or the annulment of the plan follow the same procedures (but see also Section C: Departures from plan/changes to plan).

B103. Amendments to the BauGB in 1997 introduced simplified procedures for the preparation or amendment of B-plans in certain instances. The repeated public display of a new or amended B-plan and the associated public participation can be restricted to a total period of two weeks. Furthermore, all B-plans which are developed from an F-plan no longer need to be notified or be approved by the higher authority.

Monitoring

B104. The conformity of development with the B-plan is controlled by the grant of a *Baugenehmigung* (building permission) and is continuously monitored by the *Baugenehmigungsbehörde* (building permission authority).

Illustration of a B-plan

B105. The *B-plan-Entwurf* 'Intercity-Hotel' (draft binding land use plan for the Intercity Hotel — see Figure B8) in Berlin-Charlottenburg, illustrates the planned redevelopment of a former car park site situated adjacent to the railway station at Berlin Zoologischer Garten. In accordance with the existing situation, the area is to be designated a *Kerngebiet* (MK) (core area), thereby legally permitting the proposed hotel. The spatial location of the proposed building is accurately defined by drawing-in the body of the building to within one metre in this draft B-plan. The scale of the building is provided by the designation of the *Gebäudehöhe* (GH) (building height) in metres. A *Tiefgarage* (TGa) (underground car park) is also envisaged. The plan is controversial, because the proposed building is located very close to the existing adjoining building, which is used by the courts. Overall, the plan is a *qualifizierter B-plan* (qualified B-plan), since it contains the type and extent of building use, the areas of land to be covered with buildings and the areas for local traffic purposes (streets). (Note: an example of a

B-plan in a rural area is provided in Figure C3 and described in paragraph C147).

Informal plans

B106. In addition to the formal land use plans provided for under the BauGB, a variety of other types of non-binding land use plans are to be found in German town planning practice. The names given to these informal plans vary from city to city. The names of the plans depend on the tasks which they are required to perform and, thus, they may be called one of the following:

- *städtebaulicher Entwicklungsplan* (urban development plan), which contains proposals for the entire municipal territory;
- *städtebaulicher Rahmenplan* (framework development plan), which is prepared for a section of a city or part of a district and contains proposals which are to be transformed at a later stage into the more detailed and legally-binding B-plan. Framework development plans are widely used in urban renewal, urban redevelopment and urban conservation planning;
- *städtebaulicher Entwurf* (draft urban plan), which contains the preliminary stages in drawing-up of B-plans.

B107. These plans have become known as informal plans. They tend to be prepared in advance of the formal plans for which they provide the content in substantive terms. The preparation of informal plans generally follow similar procedures as for the formal land use plans (the F-plan and the B-plan), including the procedures for public participation. These plans may also be formally adopted by the *Gemeinderat* (municipal council), which makes them binding on the *Gemeinde* and other public authorities (but not on the general public).

B108. The informal plans do not create legal rights to building or to the issue of a building permission. However, in a number of situations, such as in the case of urban renewal or redevelopment, the informal plans which are adopted by the *Gemeinde* can be used to help in the decision-making process, for example in decisions on infrastructure provision or in the assessment of applications for a *Baugenehmigung* (building permission).

Development rights

B109. In the Federal Republic of Germany the permissibility of development and the preparation of a B-plan combine in an interactive manner to provide a system of development rights. Where a development proposal conforms to all the provisions of a 'qualified' B-plan, a right to development exists. In areas not covered by a 'qualified' B-plan the BauGB provides detailed rules for the permissibility or right of development. However, the actual right to implement the development in nearly all cases is only obtained by the grant of a *Baugenehmigung* (building permission). Because the system of development rights is an integral part of the permission system, it is incorporated into Section C: Main permit and other permits.

Sources and further information

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C. Regulations and permits

Summary

C1. The *Baugenehmigung* (building permission) is the main instrument of building control in the Federal Republic of Germany. It is regulated by the *Baugesetzbuch* (BauGB) (federal building code) and the individual *Landesbauordnungen* (LBO) (State building regulations) of the *Länder*.

C2. In Germany, a *Baugenehmigung* is required for basically all larger new buildings, extensions, alterations to buildings and changes in the use of buildings. The issue of the *Baugenehmigung* provides the approval of the building proposal under both planning legislation and the building regulations.

C3. The BauGB provides the rules for the assessment of whether a particular development is permissible or not according to its location in:

- areas covered by a *Behauungsplan* (B-plan) (binding land use plan) (Section 30 BauGB);
- existing built-up areas where there is no B-plan (Section 34 BauGB); or
- the *Außenbereich* (surrounding undeveloped areas) where there is no B-plan (Section 35 BauGB).

C4. Approximately 60 % of all *Baugenehmigungen* (building permissions) are issued for buildings situated in areas covered by a B-plan. Therefore, a *Baugenehmigung* for building proposals in these areas is treated fully in this section as the main permit. The application for and issuing of a *Baugenehmigung* in areas without a B-plan will be treated more concisely thereafter.

C5. In many cases, applicants will first make a *Bauvoranfrage* (preliminary application) to check if the proposed development is permissible in principle, according to planning legislation. The resulting *Vorbescheid* (preliminary decision) is not a permit, but it is an important part of the permission process and worth a short explanation in this section.

C6. A proposal can be made by a developer/landowner for the preparation of a plan for an area where development would otherwise not be able to be permitted. This plan, called the *Vorhaben- und Erschließungsplan* (VuE-Plan) (project and infrastructure plan) will be briefly explained as will:

- the *Teilungsgenehmigung* (permission to subdivide plots);
- the need for permission to create owner-apartments in tourism areas; and
- the special approval procedures for projects regulated by the *Bundes-Immissionschutzgesetz* (BImSchG) (federal control of pollution act).

Main permit

The *Baugenehmigung* (building permission) for development within an area covered by a B-plan under Section 30 BauGB (federal building code)

Status

C7. Section 30 of the BauGB regulates the permissibility (in principle) of development within an

area covered by a B-plan. The plan must be a *qualifizierter B-plan*, that is one which contains binding provisions covering all of the following:

- the type and extent of land use, comprising the specific land use areas and scale of development;
- the areas of land to be covered with building; and
- the areas required for local traffic purposes.

C8. The B-plan also designates all monuments, conservation areas and structures to be protected. It is prepared by the *Gemeinde* (municipality, being either a *kreisfreie Stadt* or *kreisangehörige Gemeinde*) for an area where building development is expected to take place.

C9. The *Baunutzungsverordnung* (BauNVO) (federal land use ordinance) contains detailed and uniform rules for land use and general rules for the density of development permitted within each category of land use. These apply uniformly across the country.

C10. The authority responsible for issuing a *Baugenehmigung* is called the *Baugenehmigungsbehörde* (building permission authority) and is either:

- the *kreisfreie Stadt* (county-free town) or
- the *Landkreis* (county — for the areas of the *kreisangehörige Gemeinden* within it).

C11. The LBO provides the procedure involved in the issuing of a *Baugenehmigung* and the detailed technical building regulations for the construction of buildings. The LBOs are made by each *Land* (State) and though there are some differences, they are basically similar.

C12. The procedure for a *Baugenehmigung* brings together all the various regulatory provisions in one administrative act, the *Baugenehmigung*, the issue of which establishes that the permitted development fully complies with all relevant laws and regulations.

C13. The definition of development includes all projects which involve the construction, alteration or change of use of structures (but not land) (Section 29 BauGB). In addition, the LBOs specify building and other activities which require per-

mission from the *Baugenehmigungsbehörde*. Broadly these are:

- all building construction and alterations to structures;
- demolition;
- agricultural buildings;
- mineral extraction, waste disposal and excavation sites;
- changes of use;
- car parking, caravan and campsites and storage areas;
- advertising and scaffolding;
- infrastructure (roads, etc.).

Geographic coverage

C14. The provisions of a B-plan apply only to the area covered by the plan. The regulations of the BauGB and the BauNVO apply uniformly throughout Germany. The regulations of the LBO apply throughout the *Land* (State).

Scope

C15. What is granted is the right to construct, alter or change the use of physical structures. These are defined as structures connected to the ground and constructed of building products. They also include other activities (storage areas, campsites, etc.) listed in the LBO.

C16. The *Baugenehmigung* is issued for the location of the development on/within a site (e.g. within a building). A change of location of the development requires a new application.

Duration

C17. The provisions of a B-plan apply until the plan has been amended, supplemented or replaced by a new B-plan. The regulations of the BauGB, BauNVO and the LBO remain in force until they are amended. A *Baugenehmigung*, once issued, ceases to be valid if work on the implementation of the development fails to commence within three years, or if construction work is interrupted for a period of one year. Applications may be made in writing to the *Baugenehmigungsbehörde* for extensions, each of up to one year, of the validity period.

Obligations/duties

C18. The implementation of the development must be carried out as specified in the plans permitted, subject to any conditions attached to the *Baugenehmigung* (see also Duration above).

Betterment/taxes

C19. If the site is being built on for the first time (e.g. a 'greenfield' site), the site owner is required to pay 90 % of the costs incurred by the *Gemeinde* in the provision of local infrastructure (roads and other measures specified in a list in Section 127 BauGB). In addition, the owner has to pay the costs of measures to compensate for any destruction of nature and landscape caused by his buildings (See Section 135a-c BAUGB). The measures for compensation must be regulated by or in the context of the respective B-plan (See Section Ia Paragraph 3 BAUGB).

Application for a *Baugenehmigung* (building permission)

Content

C20. An application for a *Baugenehmigung*, called a *Bauantrag* (building application), must be made in writing. Applications are usually made on a standard application form available from the *Baugenehmigungsbehörde*.

C21. Applications must be accompanied by the 'necessary documentation to enable the application to be considered'. Generally, this includes a description of the proposal, detailed plans showing the type of development, its scale (including floorspace calculations), its exact location (site map) and other plans and documentation as necessary.

C22. The submitted application has to be signed by both the applicant and a qualified professional architect or civil engineer. Four copies of the plans and documentation need to be submitted, all signed by the architect or engineer (and any other experts involved in their preparation).

C23. In the case of detached single family houses, single storey commercial buildings (up to 250 m²), domestic garages and other small domestic facilities, the signature of an architect or engineer is not necessary.

C24. In addition, an *Umweltverträglichkeitsprüfung* (UVP) (environmental impact assessment) is necessary for a special group of development projects which are listed in the *UVP Gesetz* (federal EIA act). In general these projects are regulated by an approval procedure under the *BImSchG* (federal control of pollution act — see: Other permits). Where a UVP is prepared it must be made available for inspection by the public for a period of one month.

Process

C25. Preliminary discussions with the *Baugenehmigungsbehörde* (building permission authority) and with the *kreisangehörige Gemeinde* where relevant, should be undertaken before an application is made. It is also advisable to first make a *Bauvoranfrage* (preliminary application; see Other permits), to check in principle whether it is possible to undertake the development proposed. Once a positive decision is received, an official application for a *Baugenehmigung*, with full details, can be made.

C26. Applications for a *Baugenehmigung* (and for a *Bauvoranfrage*) are submitted to the *Baugenehmigungsbehörde* in whose area the proposed development is located. This authority is a department in the administration of the *Landkreis* (county) or the *kreisfreie Stadt* (county-free town).

C27. The application is checked for content and entered in a register. The authority may reject applications where the supporting documentation is either incomplete or contains major flaws. Site or other notices advertising the application are not required.

Costs

C28. The main costs in making the application are the professional fees of the architect or engineer. These are based on a fixed fee scale according to the construction cost and complexity of the development. The fees range from 8 to 15 % of the construction cost plus VAT.

C29. An application fee is charged according to the fee scales of the *Baugenehmigungsbehörde*. The fees are generally based on the estimated construction cost of the building(s) according to its gross external floor area.

Process

C30. Section 30 BauGB provides that a development is permissible where it complies with the binding contents of a B-plan and the provision of local infrastructure has been secured. The *Baugenehmigung* is to be granted unless the development is in contravention of regulations under public law (including the B-plan).

C31. Most applications are decided upon by civil servants from the *Baugenehmigungsbehörde*. Since B-plans are legally binding on the authority and usually very detailed, this is a straightforward process. Applications of strategic importance (e.g. involving dispensations from the binding provisions of the B-plan) are referred to a subcommittee of the authority's elected council, headed by the chief executive.

C32. Following this the proposed development is examined for compliance with the LBO (State building regulations) and any other relevant regulations. Thus the application may:

- comply fully with the B-plan and the LBO (and all other public laws), in which case a *Baugenehmigung* must be granted;
- not comply fully with the B-plan, but exceptions or dispensations are allowed (see Section C: Departure from plan) and/or not comply fully with the LBO, in which case exceptions and dispensations may be allowed. Conditions may also be attached;
- not comply with the B-plan to the extent that the B-plan must, can and will be amended by the *Gemeinde* (see Section C: Changes to plan). A new application may need to be submitted following the amendment; or
- not comply with the B-plan, the LBO or other public laws to the extent that the application must be refused.

C33. The actual grant or refusal of a *Baugenehmigung* must be made in writing and is issued by the chief executive of the *Landkreis* (county) or *kreisfreie Stadt* (county-free town).

C34. Building operations may only commence when the written *Baugenehmigung* has been received. All documentation and plans must be kept available at the building site once building

commences. A notice with the owners name and address must be erected on the site for the duration of construction.

C35. In most of the *Länder* the construction of simple family homes and smaller housing units within an area covered by a B-plan does not require a *Baugenehmigung*. In these cases the authorities need only be notified of the proposal. Owner and architect must certify that the project complies with the B-plan and the LBO.

Duration

C36. Some *Länder* provide for a for a two or three month time-limit for decisions to be made, but these can easily be extended.

C37. In general, there is no specific time limit for a decision on commercial, industrial and other non-residential applications. However, should nothing happen within three months the applicant may start legal action in the *Verwaltungsgericht* (local administrative court). Such an *Untätigkeitsklage* (legal action against administrative inaction) is possible in all cases (and not just under building law) where an administration does not react to an application made by a member of the public.

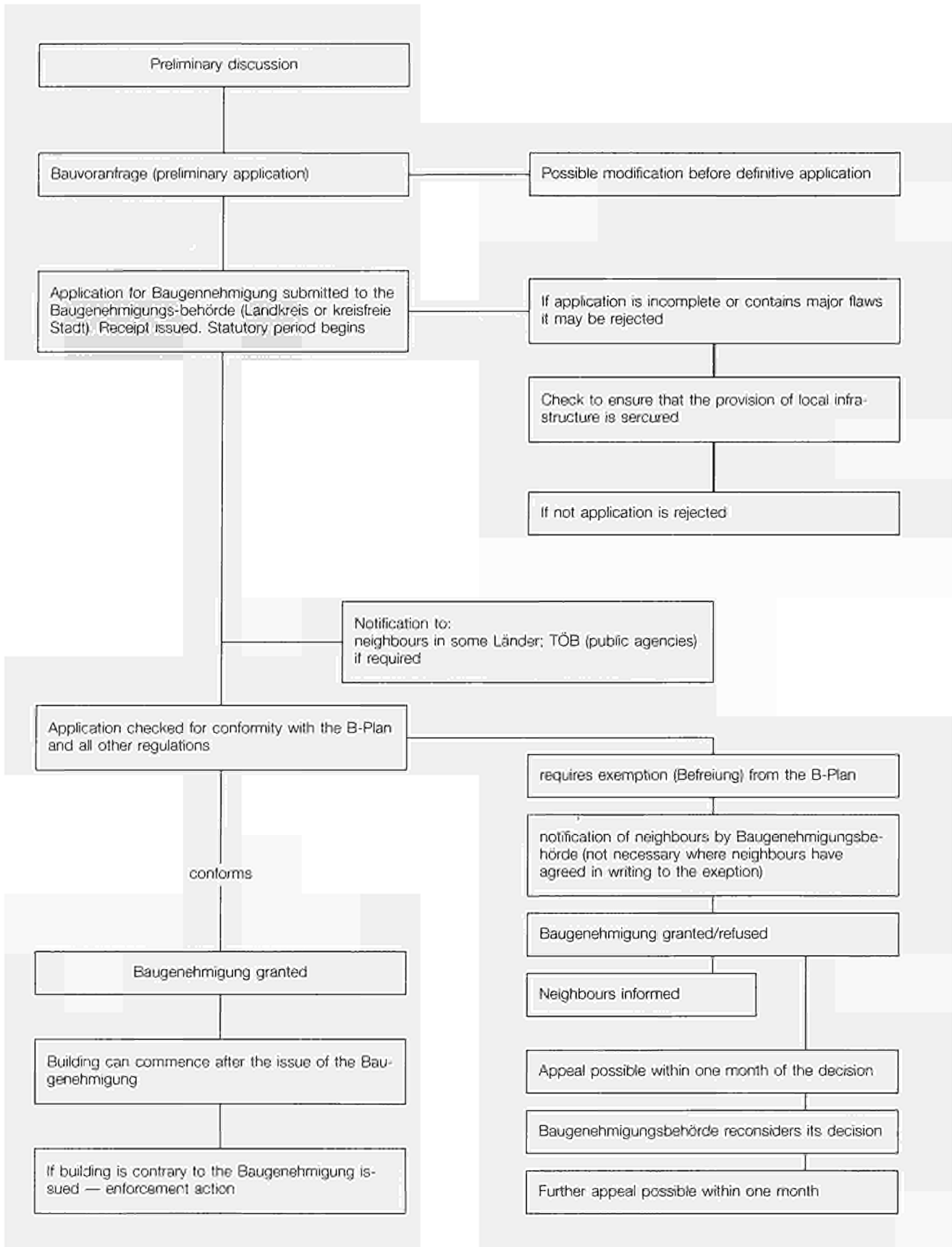
Consultation

C38. Prior consultation between the applicant and the *Baugenehmigungsbehörde* is referred to in the application process above. If the *Baugenehmigungsbehörde* is a *Landkreis* (county), it notifies the relevant *kreisangehörige Gemeinde* (municipality belonging to a county) of the application. The approval of the *kreisangehörige Gemeinde* is not required since the B-plan prepared and adopted by it forms the basis of the decision. However, where changes to the B-plan are required, these can only be implemented by the *Gemeinde* (see Section C: Changes to plan).

C39. The TöB (public agencies) are notified where necessary. Since the TöB have also participated in the preparation of the B-plan, notification generally takes place only where dispensations from the provisions of the plan are being considered.

C40. As a general rule in some *Länder* neighbours are informed of an application for a *Baugenehmigung*. In others, they are only informed where the proposed development requires a dis-

Figure C1: Procedure for applying for and processing a *Baugenehmigung* (building permission)



dispensation from provisions of the B-plan. In cases where the neighbours have given written consent to the dispensation(s) or signed the site/building plans, notification is not necessary.

C41. The refusal of a neighbour to give consent to the proposal or dispensation or an objection by a neighbour does not prevent the issuing of a *Baugenehmigung* (but may enable the neighbour to take legal action). The neighbour must be informed in writing of the decision.

Automatic approval

C42. There are no circumstances for an automatic approval (but see Paragraph C35 above).

Compensation

C43. Compensation is not paid to an applicant for the lawful refusal of a *Baugenehmigung*. Neighbours who are adversely affected by a decision may receive compensation, but only where legal action undertaken by the neighbour comes too late to halt construction and the issue of the *Baugenehmigung* was illegal. This is quite uncommon.

Conditions relating to the *Baugenehmigung* (building permission)

C44. Conditions may be attached to a *Baugenehmigung* in relation to matters concerning building regulations, under the LBO of the *Länder*. Such conditions can only be attached where they are materially justified. A condition may be attached whereby the *Baugenehmigung* is granted for a limited period of time, such as for temporary structures or uses, or where exceptions to the plan are permitted.

C45. Conditions cannot be attached to force compliance with a B-plan. Either the development applied for complies fully with the B-plan or an exception or dispensation can be allowed (see Section C: Departure from plan). Otherwise the application must be refused.

Rights of appeal

Status

C46. In Germany the 'appeal' process against a *Baugenehmigung* decision generally involves an

appeal and legal action as a continuous process involving:

- an internal re-examination of the legality of the decision by the *Baugenehmigungsbehörde* (building permission authority), which if it decides not to change its decision, is then passed immediately the next higher administrative authority in the *Land* (State) and
- where this appeal is refused by the higher authority, the appellant will, within one month, commence a legal action to the *Verwaltungsgericht* (local administrative court).

C47. An appeal and subsequent legal action against a *Baugenehmigung* decision can be made by the applicant or by a third-party. The grant or refusal of a *Baugenehmigung* is an administrative act. Thus, the procedures for making an appeal are contained in the law of administration. This is governed by (i) the *Grundgesetz* (constitution), which provides the constitutional right to contest administrative decisions in the courts, and (ii) the regulations governing administrative courts (the *Verwaltungsgerichtsordnung*).

Conditions/grounds of appeal and legal action

C48. An applicant who is refused a *Baugenehmigung* or who wishes to dispute the conditions attached to the grant of a *Baugenehmigung* can make an appeal and take legal action. The grounds of appeal and legal action must be based on public law, including the BauGB, BauNVO, LBO, the provisions of a B-plan, etc. Furthermore, the decision being appealed against must be shown to have been illegal and to have injured the legal rights of the applicant.

C49. An appeal and legal action by a third-party must show the *Baugenehmigung* decision to have been illegal and that the third-party's rights have been injured by the decision.

C50. Appeals and subsequent legal actions by applicants against refusals of the issue of a *Baugenehmigung* are relatively common in Germany. Appeals by neighbours against the grant of a *Baugenehmigung* occur in approximately one to five per cent of all cases.

C51. Under the German legal system the granting or refusal of a *Baugenehmigung* are strictly bound to the respective paragraph of the law, the higher State authority has no discretion in this matter. The courts have full competence to de-

cide the matter for themselves following a complete review of all the issues involved. Thus, the taking of a legal action provides a chance that a new decision will be made, though on average only 10 % of legal actions are successful. Nevertheless, the administrative appeal is seen as only a preliminary stage in the taking of a legal action and, therefore, has relatively minor importance.

Hearing process

C52. Within one month of the notification of the *Baugenehmigung* decision, a *Widerspruchsverfahren* (appeal procedure) must be made to the *Baugenehmigungsbehörde* that made the decision. The authority must re-examine the legality of its decision. If the appeal procedure is not commenced within one month, the decision becomes permanent and may not be appealed against.

C53. If the authority decides not to change its original decision, it must pass on the documents on the case to the next higher State authority, for its decision. This higher authority is either the *Regierungsbezirk* (district administration) or the *Landesministerium* (State ministry). The appeal is usually dealt with by means of written submissions.

C54. Where the appeal is refused by the higher authority, it is usual that legal action is commenced. This involves lodging an action within one month (of notification of the higher authority's refusal) with the *Verwaltungsgericht* (local administrative court), in whose area the proposed development is located.

C55. The local administrative court will examine all the grounds and documents relevant to the dispute (including the legality of the B-plan). This involves a formal hearing, but does not require the attendance of a lawyer.

C56. The decision of the local administrative court can be appealed to the *Oberverwaltungsgericht* (higher administrative court). This is usual where the case has not been settled by comparison (i.e. legal precedence). The higher administrative court will completely re-examine the case anew if the appeal is admissible.

C57. Further appeal to the *Bundesverwaltungsgericht* (federal administrative court) is only possible when it is allowed in the decision of the higher administrative court. This occurs only in

cases which have federal-wide importance (less than 10 % of all legal actions).

Other permits

The *Baugenehmigung* (building permission) within built-up areas without a B-plan, under Section 34 of the BauGB (federal building code)

Status

C58. Section 34 of the BauGB (federal building code) regulates the permissibility of development projects 'innerhalb von im Zusammenhang bebauten Ortsteilen' (within built-up areas), which are not covered by a *qualifizierter B-plan* (qualified B-plan). Section 34 BauGB is uniformly applicable throughout Germany.

C59. A *Gemeinde* (municipality) may designate by *Satzung* (local statute) the boundaries of built-up areas. In so doing it may include areas outside of the actual built-up area which are:

- zoned for building land uses in the F-plan;
- areas adjacent to and influenced by existing built up areas;
- individual sites adjoining the above areas, in order to 'round-off' these areas.

C60. The procedures to include these areas are widely used and take less time than the preparation of a B-plan, in particular since there is no legal requirement for public participation.

Scope

C61. Section 34 BauGB governs only the right to develop. The grant of a *Baugenehmigung* permits the implementation of the proposed development. Section 34 BauGB provides that development is permissible within built-up areas, which are not covered by a 'qualified' B-plan, if the development fits-in with (or blends in with) the characteristic features of its immediate surroundings in terms of:

- the type and scale of use of development (the type of use is specified in the BauNVO (federal land use ordinance));

- the type of building; and
- the extent of the site covered by buildings.

C62. The provision of local infrastructure (roads, footpaths, etc.) must also be available (which is likely in existing built-up areas).

Application

C63. The content, process and costs of an application for a *Baugenehmigung* under Section 34 BauGB are the same as for the main permit: the applicant should first discuss and consult with the *Gemeinde* before making an application for development in a *kreisangehörige Gemeinde* (see Process below).

Process

C64. The processing of the application is similar to that for the main permit, with the following exceptions:

- if the proposed development is located within the area of a *kreisangehörige Gemeinde* (municipality belonging to a county), the *Baugenehmigungsbehörde* (building permission authority, which is the *Landkreis* (county)) must inform the *Gemeinde* of the application and may not grant the *Baugenehmigung* without the agreement of the *Gemeinde*. The agreement can only be refused on the grounds of Section 34 BauGB (see Scope) and any refusal must be made within two months;
- notification of neighbours is more usual;
- exceptions to the type of land use permitted (under the BauNVO) may be allowed where this is in the public interest (housing development in an area of housing need is considered to be in the public interest);
- there is no provision for other exceptions or dispensations;
- where an application does not comply with the provisions of Section 34 BauGB (allowing for exceptions of use in the public interest) it must be refused.

Conditions: as for main permit.

Rights of appeal: As for main permit.

The *Baugenehmigung* (building permission) in the surrounding undeveloped areas under Section 35 of the BauGB (federal building code)

Status

C65. Section 35 of the BauGB regulates the permissibility of development projects in the *Außenbereich* (surrounding undeveloped areas or rural areas), which do not have a *qualifizierter B-plan* (qualified B-plan). Section 35 BauGB is uniformly applicable throughout the country.

C66. The *Gemeinde* (municipality) may designate by *Satzung* (local statute) parts of the surrounding undeveloped area for the purposes of providing housing and small-scale trade, commercial and industrial operations in exceptional cases. The areas designated cannot be mainly agricultural in character and must have a significant number of residential buildings already present.

Scope

C67. Section 35 BauGB governs only the right to develop. The grant of a *Baugenehmigung* permits the implementation of the development. Section 35 BauGB provides that only development which fulfils all of the following conditions can be permitted in these areas:

- it must be of a privileged type (see below);
- it must not conflict with the public interest; and
- the ample provision of local infrastructure can be secured.

C68. An inclusive list of the privileged types of development is contained in Section 35 (1) BauGB (as last amended in 1997). These include (in a general summarised form):

- development serving agricultural activities including housing for farmers;
- development for the provision of public utilities (electricity, gas, telecommunications, heating, water, sewerage or waste disposal);
- development serving a commercial or industrial operation bound to the area;
- development for uses or buildings which because of their special functions or harmful

effects have to be carried out in the area, including developments for the purpose of research, development or use of nuclear power or for the treatment of nuclear waste.

- development for research on or the use of wind- or water-energy.

C69. Other developments may be permitted in exceptional cases where their operation and use do not conflict with the public interest. A conflict with the public interest exists where the proposed development:

- contravenes the provisions of the F-plan (preparatory land use plan) or of a landscape plan;
- would create pollution;
- would require uneconomic expenditure on the provision of local infrastructure;
- would endanger water supply and distribution or conflict with the interests of nature conservation; or
- would lead to scattered residential development.

C70. No conflict with public interest is considered to exist for the rebuilding of permitted housing, change of use to a previous use (without altering the building) or alterations to and changes of use of cultural buildings.

Application

C71. The content, process and costs are the same as for an application under Section 30 BauGB (see Main permit).

Process

C72. The processing of the application is similar to that for the main permit, with the following exceptions:

- if the proposed development is located within the area of a *kreisangehörige Gemeinde* (municipality belonging to a county), the *Baugenehmigungsbehörde* (building permission authority which is the *Landkreis* (county)) must inform the *Gemeinde* of the application and may not grant the *Baugenehmigung* without the consent of the *Gemeinde*. Consent can only be refused on the grounds of Section 35 BauGB (see Scope) and must be refused within two months;

- notification of neighbours is more usual;
- developments must comply with the objectives of the *Regionalplan* (regional plan) and the *Länder* spatial plans and programmes (LEP/LEPro) for the area (where this is required by the legislation of the *Land* (State));
- the approval of the higher State authority (*Bezirksregierung* (district administration) or *Landesministerium* (State ministry)) is needed for non-privileged development, if an ordinance of the respective *Land* so requires;
- there is no provision for exceptions or dispensations;
- where an application does not comply with the provisions of Section 35 BauGB it must be refused.

Conditions: as for the main permit.

Rights of appeal: as for the main permit.

The *Bauvoranfrage* (preliminary application)

Status

C73. Before undertaking the time and cost of preparing a fully documented application for a *Baugenehmigung* (building permission), it may be advisable to first find out whether a development proposal on a particular site is permissible under planning law (but not under the LBO (State building regulations)). This is done by submitting a formal *Bauvoranfrage* (preliminary application).

C74. The written reply or *Vorbescheid* (preliminary decision) is concerned with whether the proposal is permissible under Sections 30, 34 or 35 of the BauGB (development within an area covered by a B-plan, or within built-up areas or surrounding undeveloped areas without a B-plan; see main permit and other permits above).

C75. The BauGB regulates the type of development which is permissible in principle. The BauNVO regulates the use types and density of development permissible. The LBO regulates the procedure for making the *Bauvoranfrage*.

Scope

C76. The decision (*Vorbescheid*) on a *Bauvoranfrage* is issued for the location of the proposed development; it provides a right to development. It is not a grant of permission and in all cases a

Baugenehmigung must be subsequently obtained.

Application

C77. As for the main permit. Sufficient documentation must be submitted to enable the application to be considered, in particular, on the type of development, its scale and location (including a site plan). The *Bauvoranfrage* may also include specific questions in writing which an applicant has in relation to a proposal.

C78. An application fee is charged, which is set by each *Land*. The fee is lower than that for a *Baugenehmigung*.

Process

C79. A *Bauvoranfrage* is normally assessed only according to the provisions of the BauGB and the BauNVO (where relevant). There is no time limit for the issuing of a *Vorbescheid* (preliminary decision). The *Vorbescheid* is valid for three years. Applications may be made in writing for this term to be extended for up to one year.

Conditions: not applicable.

Rights of appeal: as for the main permit.

The Vorhaben- und Erschließungsplan (VuE-Plan) (project and infrastructure plan)

Status

C80. The amendment of the BauGB by the *Bau- und Raumordnungsgesetz* from 18.8.1997 integrated the *Vorhaben- und Erschließungsplan* (VuE-Plan) (project and infrastructure plan) into the BauGB (see Section 12). The VuE-plan, now also called the *vorhabenbezogener B-plan* (B-plan referring to a project) is now subsumed as a special form of a B-plan. In general it follows the rules on the B-plan, with the following exceptions.

Scope

C81. The adoption of a VuE-Plan provides the right to develop the project, a *Baugenehmigung* must be obtained to implement construction.

Application/process

C82. The proposal for a VuE-Plan is made by a party willing to undertake a development project to the *Gemeinde*; that is to the *kreisfreie Stadt* or the *kreisangehörige Gemeinde*, in which the project is to take place. Detailed discussions should be undertaken with the *Gemeinde* before making any proposal.

C83. The proposal must include a project plan and an infrastructure plan of detail similar to a B-plan (see Section B: *Gemeinde* policy instruments), so that it can be adopted as a *Satzung* (local statute) in the same way as the B-plan. The proposal must include a guarantee to implement the project and the local infrastructure required to serve the project. This guarantee must be contained in a *städtebauliche Vertrag* (urban development contract), which is made between the developer and the *Gemeinde*. This contract is a binding precondition to the VuE-Plan.

C84. The costs of making the proposal (preparation of plans, etc.) are borne by the applicant. There is no application fee.

Process

C85. Once the proposal has been made the *Gemeinde* must decide, having considered the proposal, whether to commence the procedure to adopt a *Satzung* to provide for the project. The decision of the *Gemeinde* is by resolution of the elected council.

C86. The procedures involved are the same as those for the preparation of a B-plan. The proposal is adopted by the elected council as a *Satzung*, with the VuE-Plan attached. At the same time, the investor and the *Gemeinde* complete a legal contract — the *städtebauliche Vertrag* (urban development contract). This contract includes the guarantee by the applicant to implement the project and local infrastructure within a minimum timescale, at the applicant's own expense.

C87. If the project is not implemented the *Gemeinde* may repeal the *Satzung* providing for the project without compensation.

C88. Originally the VuE-Plan was an instrument used to speed up development in the new *Länder* following German reunification. Since 1993 it can be used throughout the whole of Germany,

though it is still more widely used in the new *Länder*. Nationally and on average, one VuE-Plan is prepared for every 10 B-plans. The VuE-Plan is an ideal instrument for one developer who wishes to construct one project (e.g. a housing scheme, a supermarket or an industrial estate), but is not very suitable for mixed use developments, which can only be properly regulated by means of a normal B-plan.

Rights of appeal

C89. There is the right of appeal against the refusal of the *Gemeinde* to consider the proposal. But there is no appeal against the decision of the elected council not to adopt a proposal.

The *Teilungsgenehmigung* (permission to subdivide plots)

Status and scope

C90. The need for permission to subdivide plots was reduced in 1998. Up to then, permission for subdivision had been required in the following areas:

- within the area covered by a B-plan;
- within built-up areas;
- in the *Außenbereich* (undeveloped surrounding areas), which are intended for the purpose of building or for long-term use as allotments;
- within a formally designated *Sanierungsgebiet* (redevelopment area) or *städtebauliche Entwicklungsbereich* (urban development zone);
- within an area covered by a *Veränderungssperre* (development freeze).

C91. Since 1998 permission to subdivide plots by federal law is required only in designated *Sanierungsgebieten* (redevelopment areas) and *städtebaulichen Entwicklungsbereichen* (urban development zones). In areas covered by a B-plan the permission is only required if the local authority has decided this by a special local statute. In all other cases and all other areas permission to subdivide plots is not necessary, except as the *Landesbauordnung* (State building regulations) requires.

Application and process

C92. Applications for permissions are made to the *Gemeinde*. In cases of *Sanierungsgebieten* and *städtebaulichen Entwicklungsbereichen* the

subdivision is to be refused if it would interfere with the aims of the measure. Within the area covered by a B-plan the subdivision is to be refused when it would result in plots which are not capable of being built on, in relation to the regulations of the B-plan.

C93. Some of the *Landesbauordnungen* (State building regulations) content also makes rulings about the requirement of permission to subdivide plots. Applications for these permissions are made to the *Baugenehmigungsbehörde* (building permission authority). The subdivision is to be refused if the results would contradict technical building regulations, for instance concerning fire safety.

Conditions: not applicable.

Rights of appeal: as for the main permit.

Permission for the *Begründung oder Teilung von Wohnungseigentum oder Teileigentum im Gebieten mit Fremdenverkehrsfunktionen* and in *Milieuschutzgebieten* (the establishment or subdivision of ownership of residential apartments or of property in part ownership in areas with functions as centres of tourism and in environmental protection areas).

Status and scope

C94. The requirement for permission to be obtained for 'the establishment or subdivision of ownership of residential apartments or of property in part ownership in areas with functions as centres of tourism' is regulated by Section 22 BauGB. This requirement may only be introduced in a *Gemeinde* or parts thereof which are designated as having *Fremdenverkehrsfunktionen* (functions as centres of tourism).

C95. The purpose of the designation and the requirement of permission is to prevent the conversion of apartments, hotels and guest houses into apartments for ownership. This is to prevent a reduction in the accommodation (bed capacity) available for tourists, since the owners of these ownership-apartments, which serve mainly as second holiday homes, only occupy them for short periods of time and generally do not rent them out to tourists (for further information see Case studies Volume 3: Environment and heritage: coastal planning: The protection of tourism functions in the town of Westerland on the Island of Sylt).

C96. A designated *Gemeinde*, may determine in a B-plan or other local statute that permission is required for the creation or subdivision of ownership of residential apartments or of property in part-ownership. Permission may be refused where the creation or division of rights would have a negative effect on tourism and consequently on planned urban development. Where a property is made uneconomic because of a refusal of permission, the owner may demand that the *Gemeinde* take it over.

Conditions: not applicable.

Rights of appeal: as for the main permit.

C97. By amendments to Section 172 paragraph 1 and 4 BauGB in 1997 the *Landesregierungen* (State governments) are allowed to introduce the requirement of permission to subdivide existing houses in part ownership apartments within the area of local *Milieuschutzsatsungen* (environmental protection areas — see F376).

Application and process

C98. Application for permission is made to the *Gemeinde* (local authority). It can be refused if the subdivision causes the danger for the local population to be displaced. The permission must be granted if the applicant agrees to sell the apartments only to the tenants within the first seven years after the subdivision.

Permits under the *Bundes-Immissionsschutzgesetz* (BlmSchG) (federal control of pollution act)

Status and scope

C99. The *Bundes-Immissionsschutzgesetz* (BlmSchG) 1990 is the federal act for the control of pollution throughout Germany. The installation, erection and use of specified facilities (e.g. factories), which are potentially polluting require a special permission under the federal act, called a '*BlmSchG-Genehmigung*' (BlmSchG-permission). A full list of facilities which require a *BlmSchG-Genehmigung* are listed in the 5th *BlmSchG-Verordnung* (fifth federal control of pollution ordinance).

Application

C100. The application must be made in writing and accompanied by full explanatory plans and documents. Documents which contain business

secrets are to be identified and enclosed separately.

C101. The application is generally made to the *Gewerbeaufsichtsamt* (factory inspectorate), which is a separate authority of the *Land* (State). In many *Länder* it has regional or district offices. The assessment of an application for a *BlmSchG-Genehmigung* combines the procedures for the control of pollution, building permission and building regulations approval in one procedure. No further application for a *Baugenehmigung* is required, but the local *Baugenehmigungsbehörde* (building permission authority) must be informed of the project.

C102. An *Umweltverträglichkeitsprüfung* (UVP) (environmental impact assessment (EIA)) may be included as part of the project assessment process. The scope of EIA in Germany is broadly consistent with that established by Directive 85/337/EEC as amended by Directive 97/11/EC. Where appropriate the applicant must include the EIA with the application.

C103. A fee is payable on the issue of a *BlmSchG-Genehmigung*. The fee is based on the value of the facility permitted.

Process

C104. There is a normal procedure and a simplified procedure.

C105. In the normal procedure, public participation takes place. The *Gewerbeaufsichtsamt* must advertise the proposed development and publicly display the application (without any confidential documents) for a period of two months.

C106. In all cases the local *Baugenehmigungsbehörde* must be informed of the proposed project. If there is no B-plan covering the site of the project, the approval of the *Gemeinde* (municipality) is necessary for the grant of permission. If a B-plan covers the site, the proposal must comply with the B-plan and if it does not, any dispensations from the provisions of the B-plan must be approved by the *Gemeinde*.

C107. Objectors must be given the opportunity to discuss the proposal with the *Gewerbeaufsichtsamt* and must be informed of the decision on the application. Where there are more than 300 objectors a public notice of the decision can be issued, either in a local newspaper or on the noticeboard of the *Gemeinde*.

C108. Preliminary decisions (*Vorbescheid*) and partial permissions (on parts of a project) are allowable.

C109. Public participation does not take place in the simplified procedure. This procedure only applies to projects categorised as less harmful. Such projects are specified individually in the *BlmSchG-Verordnungen*. In simplified procedures there are no preliminary decisions or partial permissions.

Rights of appeal

C110. As for the main permit, but the initial appeal is made to the *Gewerbeaufsichtsamt* which made the decision.

Permissions under the *Naturschutzgesetz* (nature protection acts), the *Wassergesetze* (water acts) and the *Denkmalschutzgesetz* (State preservation of monuments acts)

C111. The interests of nature conservation must be examined in all the permit procedures above. Particularly in the case of building permission in surrounding undeveloped areas, under Section 35 of the BauGB, measures to compensate the destruction of nature and the landscape must be financed by the applicant (See Section 8 of the BNatSchG-Federal Nature protection act). There are no requirements for special permission unless specific natural resources are specially protected. This is the case for:

- forests, which may not be cleared without special permission;
- individual trees, where a *Baumschutzsatzung* (tree preservation statute) is in force one may not fell trees of a particular size and thickness without special permission. Most large towns and cities have such statutes;
- waters (rivers and lakes), nothing may be piped into surface waters without permission and no water may be taken without permission. This is regulated by the *Wasserhaushaltsgesetz* (federal water act) and the relevant *Landes-Wassergesetze* (State water acts).

C112. The *Landesdenkmalschutzgesetz* (State preservation of monuments acts) provide the legal basis for the protection of monuments. These acts require that a permit is required for:

- the demolition or alteration of historic buildings;
- the removal or alteration of parts of historic buildings; and

- the construction, alteration or demolition of new buildings adjoining or in the surroundings of monuments.

C113. An application for permission is made to the *Landesdenkmalamt* (State monuments office). The protection of historic buildings and other structures is also considered in the procedures for a *Baugenehmigung* (building permission — see main permit above).

For details in relation to other permits and licences, such as for the storage of hazardous substances, refer to: Department of the Environment (ed.) (1994) *Integrated planning and the granting of permits in the EC*, London, HMSO.

Exceptions

C114. Only minor building works and structures are exempt from the need to obtain a *Baugenehmigung* (building permission). These are listed in the *Landesbauordnungen* (LBOs) (State building regulations) of the individual *Länder*. In general terms, exempted structures normally include:

- boundary walls and fencing (up to a maximum height);
- building site facilities;
- monuments up to 3m high and gravestones;
- temporary structures for events;
- maintenance work;
- windowless garden sheds.

C115. Most *Länder* have recently introduced a notification-only procedure for the construction of single-family dwelling houses and other smaller housing proposals within an area covered by a B-plan. There is no need to apply for a *Baugenehmigung*, one must only report the proposal to the *Baugenehmigungsbehörde* (building permission authority). The owner and architect carry the responsibility for compliance with the LBO. A period of at least one week must be allowed before construction can commence.

C116. Exceptions from the requirements of the LBO (State building regulations) may be permitted where these would be:

- in the public interest;
- in the interest of the preservation and continued use of buildings of historic importance; or
- in relation to the modernisation of flats and the creation of additional space by conversions.

C117. Exemptions from individual provisions of the LBO may be allowed where such an exemption would be in the public interest and where (generally) the technical requirements can be provided by another requirement of the LBO. An exemption from a provision of the LBO must be applied for in writing to the local *Baugenehmigungsbehörde*.

Departure from plan/changes to plan

Departure from plan

Title

C118. A *Befreiung* (dispensation) from the provisions of a B-plan (binding land use plan) may be permitted in certain circumstances.

Content

C119. A dispensation provides an exemption from the binding provisions of a B-plan in individual cases; for example in relation to building height or increased density.

Process

C120. The granting of a dispensation is at the discretion of the *Baugenehmigungsbehörde* and may be granted where:

- it is in the public interest;
- it is justifiable in the interests of urban development and the basic intention of the B-plan is not affected; or
- implementation of the B-plan would result in evidently unintended hardship and having considered neighbours' interests, the dispensation does not contravene the public good.

C121. General dispensation (i.e. not limited to individual cases) is provided under the BauGB for the conversion of attic areas in residential buildings and apartment blocks into dwellings. The provision of attic dwellings in areas of housing need is considered to be in the public interest.

C122. A written request for a dispensation should be submitted with the application for a *Baugenehmigung*. In all dispensation cases, the neighbours affected are notified by the *Baugenehmigungsbehörde*; unless they have already agreed to the dispensation in writing (or signed the plans of the proposal). Neighbours who are affected and who wish to object have two weeks in which to lodge their objections.

C123. The dispensation is considered as part of the assessment process for the *Baugenehmigung*. If the exemption is allowed, a copy of the decision is sent to any neighbour who objected.

C124. The granting of minor dispensations occurs quite often and some research has indicated that up to half of all *Baugenehmigungen* (building permissions) include (mostly small) dispensations.

Costs

C125. A special fee is payable by the applicant, based on the charges set by the individual *Länder*.

Note: an *Ausnahme* (exception) to the provisions of a B-plan can be allowed where the exception is explicitly provided for in the plan, for example, where the plan provides that petrol stations are allowed in residential areas in exceptional cases. Such exceptions must be included in the B-plan or else they cannot be allowed. Therefore an *Ausnahme* is not a departure from the plan.

Changes to plan

C126. In general, changes, amendments or supplements which affect the basic intention of a B-plan must undergo the full procedures for the preparation of a B-plan (see Section B: *Gemeinde* Policy instruments: *Bebauungsplan*).

C127. However, a simplified amendment procedure known as '*Vereinfachte Änderung oder Ergänzung*' (simplified alteration or supplement) can be used where the basic intention of the plan is not affected.

C128. The simplified procedure allows the shortening of public participation and the cutting of public agency involvement.

C129. The making of changes to a B-plan is the responsibility of the elected council of the *Gemeinde*. Any proposed development requiring such changes must be discussed with the officials and elected representatives of the *Gemeinde*. There are no additional costs or fees involved.

Enforcement procedures

C130. The two main enforcement procedures against illegal development are:

- the *Baueinstellung* (suspension of construction) and
- the *Beseitigung baulicher Anlagen* (removal of structures).

These are governed by the LBOs (State building regulations). The enforcement procedures are implemented by the *Bauaufsichtsamt* (building control department) of the *Baugenehmigungsbehörde* (building permission authority), which is either within the *Landkreise* (counties) or the *kreisfreie Städte* (towns/cities).

***Baueinstellung* (suspension of construction)**

C131. An order for the suspension of construction can be made where:

- construction has commenced on a development requiring a *Baugenehmigung* (building permission) for which no permission has been granted;
- the development is not being built in accordance with the *Baugenehmigung* as granted; or
- unauthorised building products are being used in the construction (i.e. products not authorised under the EU Building Products Guidelines).

Construction may resume once the regulations have been complied with.

***Beseitigung baulicher Anlagen* (removal of structures)**

C132. Where a structure has been erected or altered illegally, the *Baugenehmigungsbehörde* (building permission authority) is entitled to order its partial or complete removal; but only if no other means is available to enable the structure comply with the law. This also applies to the illegal creation of uses.

C133. A difference is made between structures (and uses) which are 'formally illegal' and those that are 'materially illegal'. A formally illegal structure is one for which no *Baugenehmigung* (building permission) has been obtained, but which can be permitted. Here, compliance with the law will be sought by the authorities. The owner or person responsible will also be liable to a fine.

C134. An order for the demolition or partial demolition of a structure can only be made when the structure is 'materially illegal'. That is when it contravenes public law and could not be permitted even if an application were made for permission.

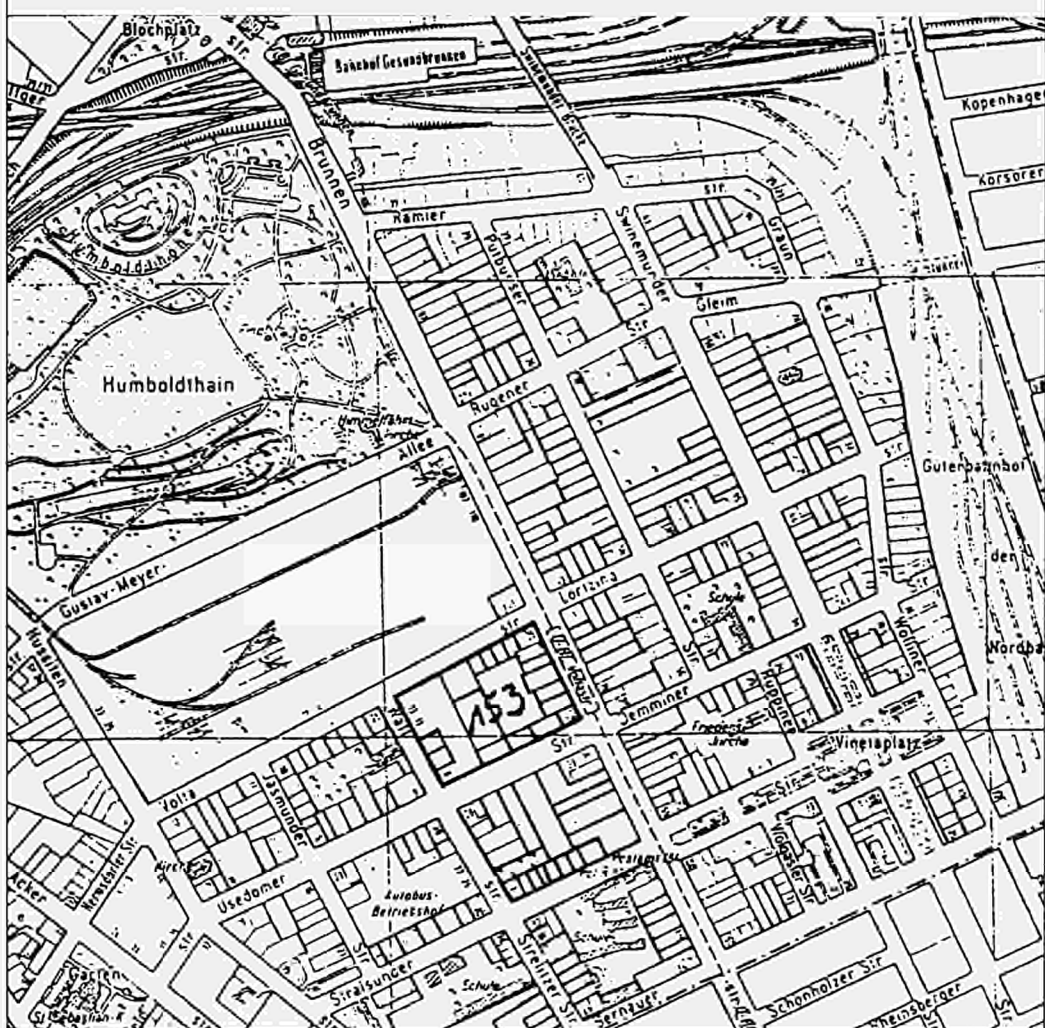
C135. The implementation of enforcement is by means of three instruments:

- A money fine. The threat of a fine can encourage the owner to undertake compliance/demolition. Where this is not done the fine must be paid. Fines can be imposed and collected more than once for the same offence.
- The authorisation of a contractor to carry out the enforcement action (*Ersatzvornahme*) and the recovery of the costs of the action from the owner.
- The *Baugenehmigungsbehörde* can carry out the enforcement action itself. It may only do so to remove a danger to the public.

C136. All enforcement instruments must first be notified in writing to the owner (or person responsible). The owner may protest against the use of enforcement to the local authority, to the higher State authority and to the courts (under the same procedure as for an appeal and court action for the main permit).

C137. In general, enforcement procedures are not used very often. This is largely due to the clear definition of development rights contained

Figure C2: Commercial development proposal securing a commercial area in an inner-city mixed use area block location map and photograph



in the B-plans and in the provisions of the BauGB. Where the existence of a right to develop is unclear, the *Bauvoranfrage* (preliminary application) provides an inexpensive and quick answer (see other permits above).

Area of regulation

C138. The regulation of development applies to the entire territory of the Federal Republic of Germany, with the exception of the Freihafen Hamburg (the free-port of Hamburg). In this area, only building law (and not planning law), the BImSchG (federal control of pollution act) and the *Hamburgische Bauordnung* (HBauO) (Hamburg building regulations) are applicable.

Unauthorised use and development

C139. The degree of supervision of development by the local authorities in towns and cities is very high. At most, smaller structures or extensions may escape detection. In rural areas, illegal structures are encountered a bit more frequently. But here too one can expect the local authorities to intervene and even order demolition. In general, the inclination to build without permission is comparatively low throughout Germany.

Regulation and development illustrations

Commercial development proposal: securing a commercial area in an inner-city mixed use area in Berlin

C140. Figure C2 shows the location of Block 153 in the district of Wedding in Berlin and a photograph of the block interior. The unusual feature of this block is that it contains business uses, residential uses and an electricity transformer station. The planning problem to be tackled involved making provision for the mixture of uses, while at the same time reorganising them so that they could continue in use without disturbing each other. A *Bebauungsplan* (B-plan) (binding land use plan) was prepared for this purpose.

C141. The B-plan provided for a sub-division of the block into three parts. The eastern part was

designated a *Kerngebiet* (core area), in which residential use is permitted on upper floors. The ground floor areas were to be used for retail uses. The northern part of the block was reserved for the electricity transformer station. The western part was designated a *Gewerbegebiet* (commercial area).

C142. The necessary distances between the various uses was to be created by the demolition of buildings in the interior of the block (Figure C2). At the time the block was part of a *Sanierungsgebiet* (redevelopment area) and the demolition of these buildings could be financed by public funds.

C143. The B-plan included the following binding provisions for the protection of the uses from each other:

- Windows were not permitted in the elevations of commercial buildings which faced other buildings for residential use (on the upper floors).
- A five metre wide strip of land was designated between the core area and the commercial area. This area was to be planted with trees.

Housing development proposal: the changing function of a village — Housing and holiday homes replacing agricultural use in a village in Bayern (Bavaria)

C144. The village is located in Bavaria in the vicinity of the Chiemsee (Chiem lake), about 80 km from Munich (Figure C3). Because of its proximity to Salzburg, to the Chiemsee and to the Bavarian and Austrian Alps, this area is one of the most attractive tourist destinations in Germany.

C145. The development of the village has changed significantly during the last 30 years. Until 1960, Moosen was a scattered rural settlement. Since then it has developed into a residential community. Agriculture has declined, under the impact of EU agricultural policy. However, the built-up areas of the village have increased as a result of the selective preparation of B-plans for housing.

C146. One of these B-plans is the *Bebauungsplan* No 13. It provides for the construction of nine new single and two-storey family-houses. The local infrastructure for these houses was to

be provided across land in the property owner's possession. The costs of providing the infrastructure had to be paid by the property owner.

C147. The procedure for the preparation of B-plan No 13 involved the following (typical) stages: Decision of the *Gemeinderat* (municipal council) for the preparation of a B-plan. Public exhibition of the revised draft B-plan. Decision to adopt the B-plan by means of a local statute passed by the *Gemeinderat*. Submission of the B-plan to the *Landratsamt* (office of the chief executive of the county) for its legal examination. Objection of the *Landratsamt* on the grounds of legal defects. Decision of the *Gemeinderat* on the required changes. The landowners affected by the plan are informed as are the public agencies. Second submission of the plan to the *Landratsamt*. Publication and coming into force of the B-plan. The total duration of the plan preparation procedure lasted 18 months. Details of the contents of the B-plan (reduced in copying) are shown in Figure C3. The B-plan is now the basis for the issuing of *Baugenehmigungen* for housing within the area of the plan. A *Baugenehmigung* has to be granted by the authorities, without discretion, for any building proposal which conforms with the contents of the B-plan.

Proposal for the construction of a sugar factory in Niedersachsen (Lower Saxony)

C148. The construction of a sugar factory was proposed for a site in a town in Lower Saxony (see proposed site layout plan Figure C4). The site was located near to residential buildings and, thus, the permissibility of the factory was dependent on the levels and type of its emissions (odour, noise, heat). Because of the levels of emissions involved, the proposed factory required an *Umweltverträglichkeitsprüfung* (environmental impact assessment (EIA)) under the EC EIA directive.

C149. Under German law, the implementation of an EIA for specific projects can take place under the procedures for the preparation of a B-plan. Therefore, the municipal council decided to prepare a B-plan for the proposed project, in which the proposed site for the factory would be designated as an *Industriegebiet* (industrial area). The factory investor had to await the outcome of the planning process.

C150. Reports were made by experts in order to establish the levels and types of emissions from

the proposed factory. These reports indicated that the nearby residential buildings would be subject to noise emissions in the range of 54-63 dB during daytime and 50-60 dB at night. However, under the *Bundslärmschutzverordnung* (federal noise abatement ordinance), residential areas may only be subject to maximum noise emissions of 55 dB (day) and 45 dB (night). Thus, the sugar factory could not be permitted on the proposed site. The investor took the factory proposal to another place.

The appeal of a neighbour against the issue of a *Baugenehmigung* (building permission) in a built-up area

C151. In a small tourist resort on the North Sea coast (off Schleswig-Holstein) a proposal was made to replace an old building in the inner area, comprising one shop and three flats, with a new building comprising seven shops and 15 flats. Following a long period of discussion and negotiation, the *Baugenehmigung* was granted under Section 34 of the BauGB (see Other permits above). The neighbours, fearing adverse affects because of the increased intensity of uses in the project, appealed against the issue of the *Baugenehmigung*. This resulted in the following progression of events:

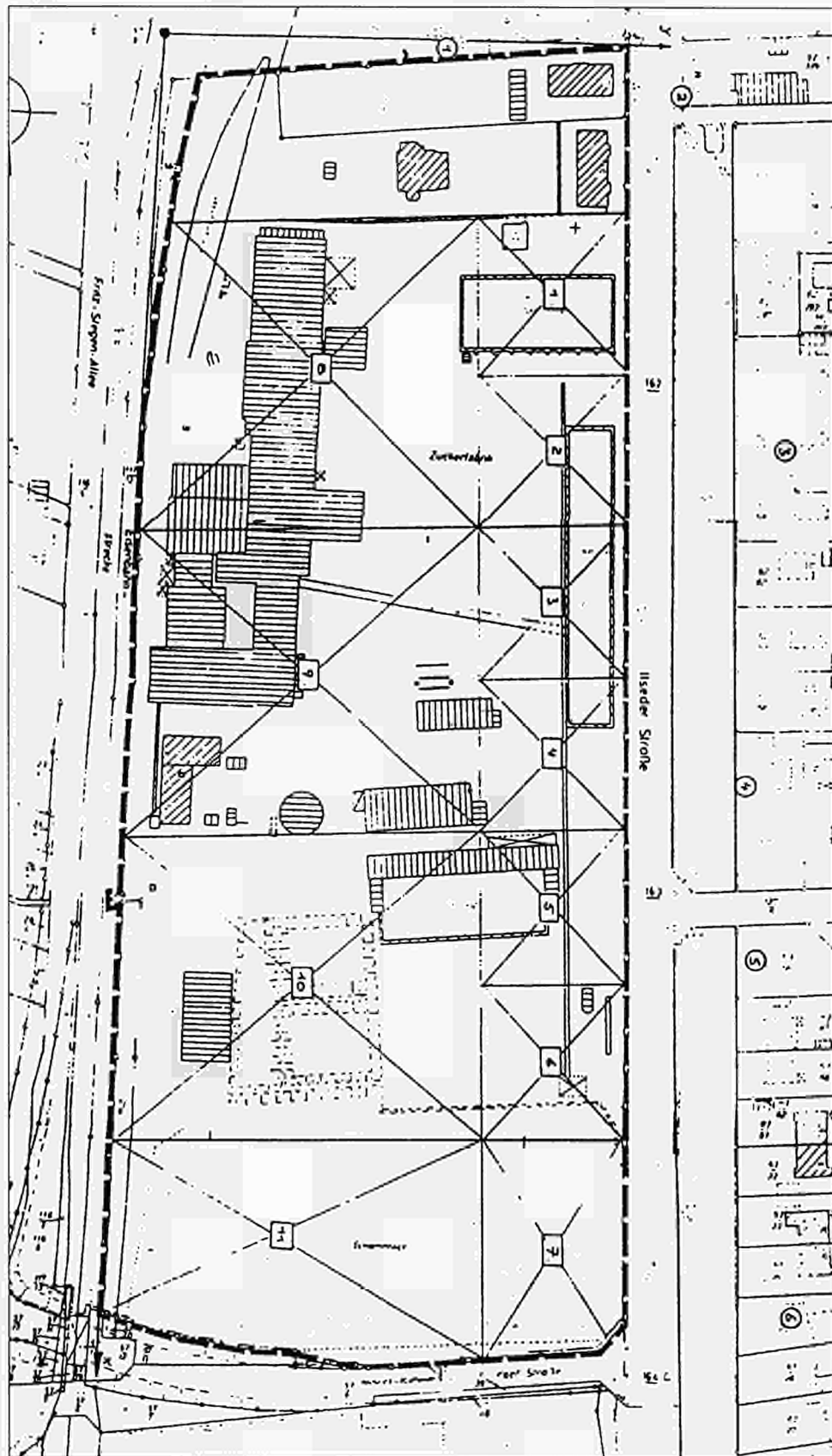
C152. 15 August 1987 the issue of the *Baugenehmigung* (building permission).

- 2 September 1987 commencement of building;
- 10 September 1987 appeal by a neighbour to the *Baugenehmigungsbehörde* (building permission authority). The result is that the permission is suspended, and

C153. the preliminary legal procedure starts:

- 15 September 1987 application by the builder to the *Verwaltungsgericht* (local administrative court) to order the end of the suspension of the permission (request for an interim ruling);
- 15 October 1987 the local court orders the end of the suspension of permission. Building work recommences;
- 20 October 1987 complaint by the neighbour against the order of the local court to the *Oberverwaltungsgericht* (higher administrative court). The higher court suspends permission. Building work stops.

Figure C4: Proposed sugar factory — Site layout



C154. Meanwhile the main legal procedure continues:

- 7 November 1987 the neighbours appeal is dismissed by the higher administrative authority (i.e. not the court);
- 3 December 1987 the neighbour appeals to the local administrative court;
- 17 October 1988 decision of the local court: the case is dismissed;
- 10 November 1988 the neighbour appeals against the decision of the local court to the higher administrative court;
- 15 January 1990 decision of the higher administrative court: that (a) the permission is illegal and cancelled and that (b) a revision of the (courts) decision is not allowed;
- 10 February 1990 complaint by the builder against the decision part (b) to the *Bundesverwaltungsgericht* (federal administrative court) with the request to allow the revision;
- 28 November 1990 the federal court allows the revision. However, the revision does not take place since the builder has gone bankrupt.

Note: Each of the four regulation and development illustrations described above are based on

actual cases, though they have been modified to provide typical examples for the purpose of this compendium and thus may diverge slightly from the actual cases.

Sources and further information for Section C

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D. Agencies and mechanisms for development and conservation

Summary

D1. In Germany the public sector has a considerable influence on development undertaken by the private sector. In the first place, it provides the framework of policies and plans under which it directs, coordinates and controls private sector development. Secondly, the public sector is largely responsible for the provision of major infrastructure (federal trunk roads, State roads, airports, etc.) and of community facilities and amenities. In other areas, such as electricity supply, private sector companies operate under the control of the sector legislation of the *Bund* and *Länder*.

D2. There are various mechanisms for regional economic development, which are jointly financed by the *Bund* (federation) and the *Länder* (States) for designated areas. The administration of the mechanisms and funding is undertaken by the *Länder*, on the basis of projects nominated by the *Gemeinden* (municipalities). Funding available from the EU is also administered by the *Länder*.

D3. The mechanisms for urban regeneration are undertaken by the *Gemeinden* or special agencies set up by the *Gemeinden* for this purpose. These mechanisms incorporate extensive controls on development, provided under the *Baugesetzbuch* (BauGB) (federal building code). The BauGB also provides the *Gemeinden* with a range of mechanisms to support urban development, to protect the plan preparation process from unplanned development and to implement the local land use plans. With the help of these mechanisms the *Gemeinden* can almost com-

pletely control the release of land for development.

D4. As a result of the control of the development process by the *Gemeinden*, public-private cooperation (if not partnership) is essential for the initiation of most larger development projects or schemes. Furthermore, recent changes in legislation enable wider partnership in the plan-making and development process.

D5. Conservation and the protection of the environment is mainly a responsibility of the *Länder*, either entirely (e.g. the preservation of monuments) or under framework legislation provided by the *Bund*. Special funding measures have been provided by the *Bund* for the preservation of historic urban centres in the new *Länder*.

Development

Regional economic development

D6. According to the *Grundgesetz* (constitution) the *Länder* are responsible for regional economic policy. However, in 1969 federal legislation established *Gemeinschaftsaufgaben* (joint-tasks) to be undertaken and financed jointly by the *Bund* and the *Länder* (see Section A: Administrative system, etc.). One of these tasks is for the '*Verbesserung der regionalen Wirtschaftsstruktur*' (the improvement of regional economic structure), which provides a framework for a common and coordinated approach to regional economic development throughout the Federal Republic of Germany.

D7. A committee made up of representatives of the *Bund* and *Länder* and headed by the *Bundesminister für Wirtschaft* (federal minister for the economy) prepares an annual programme for regional economic development. This includes the designation of the *Wirtschaftsförderungsgebiete* (economic promotion areas — see Figure D1 and the package of financial measures to be made available.

D8. Within this framework, the *Gemeinden* and *Länder* select development projects to be assisted. The *Länder* administer the distribution of financial subsidies for the projects to be implemented by the *Gemeinden* and the private sector. All regional development projects are implemented within the context established by *Landesplanung* (the LEP/LEPro — State development plan or programme) and the *Regionalpläne* (regional plans).

D9. A revision of the 'economic promotion areas' in 1994 placed the focus for regional economic development on the new *Länder* (Figure D1). Projects to improve structural adaptation in traditional industrial (coal, steel, shipbuilding, etc.) regions in the old *Länder* continue to be assisted.

D10. The assistance comprises subsidies including:

- credits for setting up new business (up to 23 % and up to 35 % in high unemployment areas in the new *Länder*);
- credits for the expansion or rationalisation of existing business, new technology, environmental protection investment and energy efficiency;
- tax benefits in the form of investment bonuses and special discounting measures on investment.

D11. These regional economic structure subsidies play a central role in the promotion of private investment, especially in the new *Länder*, which receive more than 90 % of the subsidies available. Approximately 11 % of total economic development funding comes from the Structural Funds of the EU.

D12. A second major source of funds for the new *Länder* will be available under the *Aufbau-Ost* 10-year economic development programme, commencing in 1995 (and replacing the former *Aufschwung-Ost* programme). This programme

provides joint financial assistance from the *Bund* and *Länder* for:

- the improvement of economic infrastructure;
- the promotion of housing construction;
- the promotion of urban development;
- the expansion of employment and training facilities;
- the promotion of community investment and social facilities; and
- the promotion of science, research and development.

D13. Additional funding can be obtained by the *Länder* directly from the EU. The designation of the new *Länder* as EU Objective 1 regions from the beginning of 1994, enables the new *Länder* to qualify for increased funding under the EU Structural Funds. In the old *Länder*, EU funding is provided for economic development in regions affected by structural change, the EU Objective 2 regions (see Figure D1).

D14. Most *Länder* have established a semi-public development agency, the *Landesentwicklungsgesellschaft* (LEG) (State development company). Although each LEG is State-owned, they operate relatively independently and on a normal commercial basis throughout the respective *Land*. The LEGs operate as developers by:

- acquiring land;
- planning and providing infrastructure;
- planning and constructing development schemes for housing, industry, commerce, culture and recreation;
- managing the completed developments; or
- selling the developed land or completed buildings on to investors.

D15. The LEGs are major actors in urban redevelopment and renewal, where they work in close cooperation with the local authorities. In many cases, sites owned or acquired by the *Land* are transferred to the LEG for redevelopment. The LEGs may also manage a special State fund (called *Grundstücksfonds*) for the acquisition, reclamation and redevelopment of contaminated

industrial sites which cannot be economically reclaimed and redeveloped by the private sector.

Sources and further information

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Local economic development

D16. The promotion of economic development is also pursued by each *Gemeinde* (municipality), often in cooperation with the local *Industrie- und Handelskammer* (chamber of commerce). Most larger towns and cities have their own *Wirtschaftsförderungsamt* (economic development office). In addition, many larger cities have set up a semi-public economic development and promotion agency or *Wirtschafts-Förderungs-gesellschaft*, which often combines economic development policy with urban renewal and redevelopment (see urban regeneration below).

D17. Of most importance is the fact that the *Gemeinden* almost completely control the development process and the release of building land within their administrative area. This is achieved by the preparation of *B-Pläne* (binding land use plans), the provision of local infrastructure and a range of development mechanisms (referred to in public sector development policies below).

D18. Many *Gemeinden* also use land-banks to supply land for economic development. By first acquiring the land, preparing a B-plan and providing the local infrastructure, the *Gemeinden* can provide a complete development service (often in partnership) to private companies seeking commercial and industrial sites. In addition, the *Gemeinden* may provide sites at a low price to attract new enterprises.

Sources and further information

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Urban regeneration

D19. Urban regeneration is undertaken by the *Gemeinden* (municipalities) or by semi-public *Sanierungsträger* (redevelopment agencies) established by the *Gemeinde* for this purpose.

D20. The BauGB (federal building code) provides the *Gemeinden* with special measures for urban regeneration, the *städtebauliche Sanierungsmaßnahmen* (urban redevelopment measures). These measures were largely used for comprehensive urban redevelopment during the 1970s and early 1980s. Nowadays, the emphasis of their use is towards comprehensive, conservation-orientated programmes of rehabilitation and infill development.

D21. Underlying these measures is the principle that *Sanierung* (urban redevelopment) as an ordered process can only be initiated and implemented by the *Gemeinde*. The purpose of urban redevelopment is to improve urban areas and relieve urban defects (in the housing stock, amenities, public infrastructure, transportation, economic and urban functions of an area, etc.).

D22. The *Gemeinde* arranges for preparatory investigations and public participation in order to establish the need for the implementation of the urban redevelopment measures. When this need has been established, the elected council of the *Gemeinde* formally designates a *Sanierungsgebiet* (redevelopment area).

D23. Once a redevelopment area has been formally designated (under the provisions of the BauGB), all building works, demolition, changes of use, transfers of ownership and the subdivision of land require the approval of the *Gemeinde* (Section 144 BauGB). All persons affected (owners, tenants and other persons) by a redevelopment area participate in the preparation of the 'redevelopment measures' and are encouraged and assisted to implement the physical measures required for redevelopment.

D24. The redevelopment measures are implemented under a B-plan or a *städtebauliche Rahmenplan* (framework development plan), which is similar to, though more flexible than, a B-plan. A *Sozialplan* (social plan) is also drawn up by the *Gemeinde* for the redevelopment area. This consists of a plan for the temporary relocation of persons or businesses affected by the redevelopment and can include financial allowances for

hardship incurred (removal expenses, rent allowances for temporary accommodation, etc.).

D25. Finance for the redevelopment measures (under the BauGB) is provided by an agreed proportion from the *Bund*, the *Land* and the *Gemeinde*. Normally each provides one-third of the costs for measures such as: new streets, traffic calming, the provision and improvement of facilities and amenities. The improvements to private properties are carried out by their owners, who receive the assistance of a range of public subsidies and tax incentives.

D26. The process for the implementation of the redevelopment measures can involve a 'normal procedure' or a 'simplified procedure'. The normal procedure incorporates the levying of a *Ausgleichsbetrag* (betterment charge) to be paid to the *Gemeinde* by all landowners whose land (not buildings) has increased in value as a result of the redevelopment measures financed from public funds. These charges for betterment have proved difficult to calculate and collect and are, therefore, not very widely used by the *Gemeinden*. The simplified procedure does not provide for any betterment charges and is much more widely used in redevelopment.

D27. Urban regeneration can also be implemented without the BauGB redevelopment measures, in which case there is no special restrictions on landowners. The improvements to the public areas and facilities are financed by the *Gemeinde*, with financial assistance from the *Land* and, more recently, the EU (but not the *Bund*). There are similar subsidies for improvements to private properties as described above.

D28. Many *Gemeinden* do not undertake the actual redevelopment or renewal themselves but set up or call in special *Sanierungsträger* (redevelopment agency), which is usually a semi-public, non-profit agency, certified by the *Land* as suitable (it may not be a private building company). These agencies implement the redevelopment on behalf of the *Gemeinde* and are given rights to acquire land and manage public funds for this purpose. Examples of these agencies are *STERN Gesellschaft der behutsamen Stadterneuerung* (STERN careful urban renewal agency) in Berlin and the *Stadterneuerungs- und Stadtentwicklungsgesellschaft STEG* (urban renewal and urban development agency STEG) in Hamburg.

Sources and further information

Baugesetzbuch (federal building code) of the 8.12.1986, as amended by the *Bau- und Raumordnungsgesetz* from 18.8.1997.

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Public sector development policies

D29. There are a number of mechanisms provided in the *Baugesetzbuch* (BauGB) (federal building code) to support urban development, to protect the plan preparation process and to implement the *Bebauungspläne* (*B-Pläne*) (binding land use plans) prepared for this purpose. These are broadly three types of mechanism:

- Active development mechanisms comprising:
 - *Erschließung*, the provision of local infrastructure,
 - *städtebauliche Entwicklungsmaßnahmen*, the urban development measures, and
 - *Bodenordnung*, the reorganisation of landholdings.
- Intervention mechanisms for plan implementation comprising:
 - *gemeindliche Vorkaufsrechte*, the municipal pre-emption rights,
 - *Enteignung*, expropriation or compulsory purchase, and
 - *städtebauliche Gebote*, urban development enforcement orders.
- Reactive mechanisms for plan implementation comprising:
 - *Veränderungssperre*, development freezes, and
 - *Zurückstellung von Baugesuchen*, the postponement of building applications.

The active development mechanisms

Erschließung (local infrastructure provision)

D30. The provision of local infrastructure (roads, footpaths, car parking areas, noise barriers and green areas) is the sole responsibility of the *Gemeinde* (Section 123 BauGB). Landowners cannot legally require a *Gemeinde* to provide local infrastructure, even for an area where the

Gemeinde has adopted a B-plan, but they can offer to do it themselves by contracting. Land that has not been provided with local infrastructure may not be built upon, whether a plan has been prepared or not.

D31. The provision of local infrastructure normally requires the existence of a B-plan. In existing built-up areas (under Section 34 BauGB), the provision of local infrastructure can be implemented without a B-plan if appropriate.

D32. The *Gemeinde* has a right and duty to impose a charge on landowners to recover the costs of local infrastructure. The landowners pay a maximum of 90 % and the *Gemeinde* pay a minimum of 10 %. The *Gemeinde* can vary the level of charges for landowners by adopting a special local statute called the *Erschließungsbeitragssatzung*. Under a special contract, the *Erschließungsvertrag*, the *Gemeinde* can make a legal agreement with a developer, which authorises the developer to provide the local infrastructure; in this case the developer finances the full cost of the infrastructure.

D33. The detailed criteria for the assessment and allocation of local infrastructure charges among the individual landowners in an area are provided in Sections 127-135 of the BauGB or in respective laws of the *Länder* (State).

The *Städtebauliche Entwicklungsmaßnahmen* (urban development measures)

D34. The *Gemeinde* can formally designate *städtebauliche Entwicklungsbereiche* (urban development zones) in order to develop areas of land for housing or industry, or to return derelict land to building uses (Section 165 BauGB). These designated zones are usually greenfield sites or large derelict sites.

D35. The designation of an urban development zone requires the *Gemeinde* to purchase all plots of land which are required for new development in the zone (by compulsory purchase if necessary). The price to be paid for these plots is the present use value (e.g. agricultural value), excluding any hope value based on the expectation of building.

D36. All persons and other public agencies (the *TöB*) affected must be informed and be allowed to participate in the preparation of the urban de-

velopment measures. Landowners who guarantee to implement the required new development may retain their plots, but may be liable for betterment charges.

D37. The *Gemeinde* re-organises the plots purchased to provide plots suitable for the intended development and provide the local infrastructure. All of the plots for building must then be sold by the *Gemeinde*, which receives the betterment resulting from the sale of the plots at the market value for building land.

D38. The construction of buildings is undertaken by the new investors/builders at their own cost. In many cases, both the *Gemeinde* and the new investors/builders receive public subsidies from the *Bund* (via BMBau) to undertake the urban development measures. Tax incentives are also available for the construction of new private buildings.

Bodenordnung (reorganisation of landholdings)

D39. The reorganisation of landholdings to provide plots suitable for building involves two mechanisms:

- *Umlegung* (the reallocation of land — under Sections 45-79 BauGB), and
- *Grenzregelung* (the adjustment of plot boundaries — under Sections 80-84 BauGB).

D40. The purpose of both mechanisms is to change existing, unfavourable boundaries to provide plots which are suitable for building, in terms of their location, shape and size, in order to implement a *Bebauungsplan* (B-plan) (binding land use plan).

D41. *Umlegung* (reallocation) is normally used to provide owners with plots suitable for building and to provide the *Gemeinde* (municipality) with the areas of land for local infrastructure. Reallocation is generally implemented for 'greenfield' areas, although it can also be used for derelict urban areas. The process of reallocation involves a complicated procedure, the main stages of which are illustrated in Figure D2.

D42. *Grenzregelung* (the adjustment of plot boundaries) is used by the *Gemeinde* in an area of a B-plan or in built-up areas (without a B-plan) to readjust the boundaries of neighbouring plots to provide plots suitable for building. Three con-

Figure D2: Main stages of the Umliegung (reallocation) process

1. The elected council of the *Gemeinde* passes a resolution for and designates the area of an *Umliegung*. From the time of publication of the resolution all development and changes of plot ownership in the area are frozen (*Verfügungs- und Veränderungs-sperre*).
 2. All the rights to the plots of land are identified and the plots added together.
 3. The land required for local infrastructure is identified (i.e. from the B-Plan) and removed from the total land area.
 4. The remaining land is then returned to the landowners according to the original proportion of plot ownership — in terms of (i) value or (ii) plot size.
 5. The *Umliegungsplan* (reallocation plan) is drawn up to illustrate the changes made to the plots and their final distribution among owners. Each owner receives a plot suitable for building according to the proportional distribution. Financial compensation may be used to balance the situation where necessary.
 6. Where the reallocation is based on plot value, the *Gemeinde* is entitled to receive a betterment charge from the owners, amounting to the difference between the original plot value and its value following the reallocation and the provision of local infrastructure. Where the reallocation is based on plot size, the *Gemeinde* may retain land (up to a maximum area and including the land for local infrastructure) equal in value to the increase in value caused by the reallocation.
 7. The *Umliegungsplan* is officially published by the *Gemeinde*. An appeal of the *Umliegungsplan* can be made to the courts by any person whose legal rights have been injured.
-

ditions must be fulfilled before the mechanism may be used:

- the adjustment must be in the public interest;
- the plots must otherwise be incapable of being built upon; and
- the loss in value incurred by an owner as a result of the adjustment must be minimal.

The procedure of *Grenzregelung* is similar to that of *Umliegung*, but much simpler; it is therefore referred to as its 'small brother'.

Intervention mechanisms for plan implementation

Gemeindliche Vorkaufsrechte (municipal pre-emption rights)

D43. The exercise of pre-emption rights means that the pre-emptor is entitled to enter into any contract of sale which the landowner makes with another party (e.g. a private developer). The exercise of pre-emption rights exchanges the purchaser of the land. Instead of the original party, the pre-emptor becomes the purchaser, but only according to the conditions agreed between the owner and the original purchaser.

D44. The statutory pre-emption rights of a *Gemeinde* (municipality) relate to specific plots of land only. There are two kinds of pre-emption rights according to:

- the general right of pre-emption (*allgemeines Vorkaufsrecht* — under Section 24 BauGB); and
- the special right of pre-emption (*besonderes Vorkaufsrecht* — under Section 25 BauGB).

D45. The *Gemeinde* can use the normal right of pre-emption for the purchase of plots or rights:

- within the area of a B-plan (binding land use plan), where the plot(s) has been designated in the plan for public use;
- in an *Umliegungsgebiet* (land reallocation area);
- in a *Sanierungsgebiet* (redevelopment area) or a *städtebaulicher Entwicklungsbereich* (urban development zone);
- within the area of an *Erhaltungssatzung* (preservation statute — see Urban conservation below).
- within unbuilt areas, which are designated for housing purposes by F-plan or B-plan.

D46. In practice, pre-emption rights are used to acquire land required for the construction of public facilities and, in particular, for the provision of local infrastructure.

D47. The special right of pre-emption (*Besonderes Vorkaufsrecht*) is implemented by means of the passing of a *Satzung* (local statute) by the *Gemeinde* for the particular purpose. The local statute must designate the area of land which is to be subject to pre-emption. The local statute allows the *Gemeinde* to use its pre-emption right in an area not covered by a B-plan and in order to safeguard planned urban development (where the designation of an urban development zone is being considered).

D48. This means that in areas which are being planned, but for which no plan has actually been prepared, the *Gemeinde* may purchase all plots of land where the owners are intending to sell. The early purchase of land by pre-emption can reduce the need for compulsory purchase of the land at a later date.

D49. Furthermore, the amendment of the BauGB (federal building code) in 1997, introduced provisions which entitle a *Gemeinde* to exercise a pre-emption right in respect of the purchase of undeveloped land, provided that such land has been scheduled in the F-plan (preparatory land use plan), or designated in a B-plan (binding land use plan), for housing development or use as a residential area.

D50. A right of pre-emption may also be exercised where the *Gemeinde* has passed a resolution on the preparation, amendment or alteration of a F-plan and the current state of planning work provides grounds for the assumption that the land will be scheduled for housing development or use as a residential area.

D51. The use of pre-emption by the *Gemeinde* must always be in the public interest. Once the intended aim has been achieved (e.g. local infrastructure has been provided or land for housing has been secured) the *Gemeinde* must resell the land. Thus, pre-emption is not a suitable mechanism for the assembly of long-term land banks by the *Gemeinde*.

Enteignung (compulsory purchase)

D52. *Enteignung* (compulsory purchase or expropriation) is the last instrument available to a *Gemeinde* (or other public authority) when it requires a plot of land (or rights over the land) and the owner will not sell. Because compulsory purchase represents such a major intervention, the conditions and the procedures relating to it are covered in detail in the BauGB (federal building code), together with the issue of compensation. Compulsory purchase is only permitted if the intended land use cannot be achieved by another means, and where the public interest requires its use.

D53. The purposes of compulsory purchase which may be pursued under the BauGB are listed in Section 85 BauGB. In practice the main use is to provide for public facilities, amenities or local infrastructure contained in a B-plan (binding land use plan). Since it is a method of last resort,

compulsory purchase is used relatively seldom by the *Gemeinden*. It has a more widespread use for the provision of major infrastructure projects (airports, motorways, etc.) where the procedures and compensation are governed by special legislation.

The *städtebauliche Gebote* (urban development enforcement orders)

D54. There are five different *städtebauliche Gebote* contained in the BauGB. The orders are used by the *Gemeinde* (municipality) to urge owners to undertake works which are provided for in a B-plan. These orders are:

- the *Baugebot* (building order) under Section 176 BauGB;
- the *Modernisierungsgebot* (modernisation order) under Section 177 BauGB;
- the *Instandsetzungsgebot* (refurbishment order) also regulated by Section 177 BauGB;
- the *Pflanzgebot* (planting order) under Section 178 BauGB; and
- the *Rückbau- und Entsiegelungsgebot* (demolition order) under Section 179 of the BauGB.

D55. The *Baugebot* (building order) can be used in an area covered by a B-plan or in built-up areas to force owners to build on their plots within a certain time. There must be:

- 'important urban development reasons' for the issue of the order, one such reason would be an urgent demand for housing, and
- an economic ability of the owner to build, owners can require that the *Gemeinde* takes possession of the plots if they cannot afford to build themselves.

The *Gemeinde* may also combine the procedure of compulsory purchase with the procedure of the building order.

D56. In general, only the *Pflanzgebot* (planting order) is widely used by the *Gemeinden*. The *Pflanzgebot* is used to require property owners to undertake any planting measures designated in a B-plan for their property. Like all of the *städtebauliche Gebote*, the *Pflanzgebot* is issued only for specific individual cases and not for the general implementation of planting measures contained in a B-plan. The other orders are used

more rarely, but their availability and the threat of their use is often enough to persuade reluctant property owners to do the works required.

Reactive mechanisms for plan intervention

D57. On average it takes up to three years between the decision to prepare a B-plan (binding land use plan) by the *Gemeinde* and the date when the plan actually comes into force.

D58. Thus, there is a risk that during the preparation procedures, changes will occur in the plan area that will not comply with the completed plan. Landowners who have been made aware of the proposals of the plan may try to make incompatible changes before the plan comes into force. However, the *Gemeinde* cannot enforce the provisions of a plan that is not yet legally binding.

D59. The BauGB provides two instruments to help protect the planning process in these situations:

- the *Veränderungssperre* (development freeze); and
- the *Zurückstellung von Baugesuchen* (postponement of building applications).

The Veränderungssperre (development freeze)

D60. Development freezes can be adopted by a *Gemeinde* as a *Satzung* (local statute) as soon as the resolution for the preparation, amendment, adaptation or revocation of a B-plan has been passed. On the introduction of a development freeze, all building proposals in the area covered by it are forbidden. Also forbidden are those proposals which do not normally require permission, but which would lead to a significant alteration (e.g. the clearance of a plot of land covered by trees).

D61. Proposals and changes may only be permitted in exceptional cases, 'where there is no overriding conflicting public interest' (Section 14(3) BauGB). This arises where the proposal conforms with the proposed plan. Building permissions which were already granted prior to the development freeze remain valid.

D62. The development freeze lasts for two years and can be extended once by the *Gemeinde* for a period of one year. A further extension of one

year is only allowable under special circumstances and with the approval of the higher State authority. If the plan preparation procedure is still not completed after four years, the development freeze can be renewed, following approval, but only where there are special and significant reasons for the extension of the plan procedures.

D63. If the development freeze is in force for more than four years, a property owner who may not undertake development as a result of the continuing imposition of the development freeze is entitled to claim compensation for any resulting loss in property value (which occurs after the initial four-year period).

The Zurückstellung von Baugesuchen (postponement of building applications)

D64. Where a *Veränderungssperre* (development freeze) has not yet been adopted but the conditions for it are met, or where it has been adopted and has not yet come into force, the *Gemeinde* can request the *Baugenehmigungsbehörde* (building permission authority) to suspend the making of decisions on the permissibility of building proposals for a period of up to 12 months. The *Baugenehmigungsbehörde* must comply with the request if permitting development would seriously impede the implementation of the proposed land use plan.

D65. The postponement of building applications usually arises where a unfavourable application has been made before the resolutions for the preparation of a B-plan and the introduction of a development freeze have been adopted by the *Gemeinderat* (municipal council).

Sources and further information

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Major infrastructure

D66. Major supra-local infrastructure projects, such as motorways or inter-city railways, are planned at the *Bund* level and have precedence over local land use planning. The projects are planned in the *Fachpläne* (sector plans) prepared by the *Bundesministerien* (federal ministries). For motorways and inter-city railways the current sector plan is the *Bundesverkehrswegeplan* (BVWP) (federal transport infrastructure plan) 1992. This plan is based on the *Bundesfernstraßengesetz* (federal trunk roads act) and the *Allgemeines Eisenbahngesetz* (general railways act).

D67. The *Bundesverkehrswegeplan* provides a graphic indication of the major proposed transport routes, which are listed in the *Fernstraßenausbaugesetz* (act for the extension of federal trunk roads) and the *Schienenwegeausbaugesetz* (act for the extension of the federal railways). These proposed routes must be taken into account in the preparation of the spatial plans and programmes of the *Länder* (the LEP/LEPros). They are subsequently translated into more detail by a second planning stage — the *Linienbestimmung* (designation of the line).

D68. However, neither the sector plans, the LEP/LEPros nor the designation of the line specify the exact route in terms of the geographical detail of the individual areas of land affected. This is done by a single procedure, the *Planfeststellungsverfahren* (statutory plan approval procedure).

D69. The *Planfeststellungsverfahren* is based on the detailed technical plans for the project. It is undertaken for the approval of all major public projects. The procedure is the same in every case and is carried out by the relevant authority of the *Länder*. It involves a multi-stage process which regulates the admissibility of the project. This includes participation by the public and all other public authorities and agencies (the TöB — see Section B: Other organisations). It also includes the environmental impact assessment of the project.

D70. At the end of the *Planfeststellungsverfahren* the building permission and the detailed plan for the project are 'fixed' in a legally binding administrative act. The confirmation of the project and its plan occurs with the official publication of the

'fixed' plan by the relevant authority. The project may then be implemented.

D71. Following German reunification, the *Bund* enacted the *Verkehrswege-Planungs-Beschleunigungsgesetz* (act to speed-up the planning of transport routes). This act allows specific major transport projects to be permitted by means of the adoption of federal legislation for the projects. There is then no need to undertake any other approval procedures for such projects. The act is intended primarily for speeding up the implementation of transportation projects in the new *Länder* and those linking the new and old *Länder* — the *Verkehrsprojekte Deutsche Einheit* (German unity transport projects).

Partnerships

D72. The level of public-private partnership in development in Germany is actually quite high, mainly because of the tight control of development by the *Gemeinden* (municipalities). Public-private partnership (or at least cooperation) is essential for most large-scale private development projects. In the first place, many large industrial, commercial and residential projects require a B-plan (binding land use plan), which is normally prepared in close cooperation between the builder/investor and the *Gemeinde*. Secondly, the *Gemeinde* is responsible for the provision of local infrastructure, a factor which encourages public-private interaction.

D73. The *Gemeinden* control and facilitate building by the private sector. Most *Gemeinden* are active builders only in relation to the provision of public facilities, infrastructure and amenities. In general, the *Gemeinden* are not directly active in housing construction. Rather, the *Bund*, *Länder* and the *Gemeinden* provide financial subsidies to promote the building of housing for sale or rent to low-income groups. In addition, the *Gemeinden* can provide cheap sites from their land banks for low-income housing and industrial development.

D74. Partnership also occurs in designated *städtebauliche Entwicklungsbereiche* (urban development zones — see Public sector development policies). This involves the *Gemeinde* acting as a developer, by planning and providing infrastructure in the zone, before selling the 'developed' plots on to private builders and investors. In practice, the planning and development of these zones does not take place without

partnership between the *Gemeinde* and intended private builders/investors.

D75. In built-up areas, *Gemeinden* are often prepared to use Section 34 BauGB (see Section C: Other permits) to grant permission, in order to avoid lengthy B-plan preparation procedures. In order to encourage favourable development, the *Gemeinden* can also designate specific unbuilt land as part of the 'built-up area', thereby bringing the land under Section 34 BauGB (the relevant details are described in Section C: Other permits).

D76. Amendments to the BauGB in 1997 introduced two new instruments for public-private partnership. These are the:

- the *Vorhaben- und Erschließungsplan* (VuE-Plan) (project and infrastructure plan); and
- the *städtebauliche Vertrag* (urban development contract).

D77. The VuE-Plan is to be applied for and prepared by a developer/investor and adopted by the *Gemeinde*, for projects which otherwise cannot be permitted under the BauGB (see Section C: Other permits). The plan for both the development project and the local infrastructure is prepared by the developer/investor, who guarantees to finance in full the construction of the project and infrastructure and to complete these within an agreed period of time. The details of the agreement are contained in an urban development contract. The adopted VuE-Plan and the urban development contract have together the status of a *Vorhabenbezogener* Bebauungsplan (B-plan as referred to a project).

D78. The urban development contract enables the *Gemeinde* to transfer the preparation and implementation of urban development measures to a third-party — the developer/investor. This includes, in particular:

- the reclamation of land;
- voluntary reallocation of landholdings;
- the elaboration of draft plans.

D79. Duties can be imposed on the developer/investor, in conjunction with the prepa-

ration of B-plan or VuE-Plan, including for example the duty:

- to build on a plot of land within a particular period;
- to provide a specific proportion of plots, houses or apartments for sale or rent to local residents only;
- to reserve a specific proportion of housing for tenants on the housing list of the *Gemeinde*.

D80. Finally, the *Gemeinde* can contractually impose specific costs on the developer/investor, which include:

- planning costs;
- the cost of facilities and structures, which serve the general public, and which were either a precondition or the result of the newly established building area (e.g. a new school or extended sewage treatment plant);
- the cost of measures to balance interference with natural resources and the landscape.

Sources and further information

Dieterich, H., Dransfeld, E. and Voß, W. (1993), *Urban land and property markets in Germany*, London, UCL Press.

Federal Ministry of Regional Planning, Building and Urban Development (1993), *Law and practice of urban development in the Federal Republic of Germany*, Bonn, BMBau.

Tourism development

D81. Tourism development in Germany is a sector of regional economic development (see above) and falls under the 'joint tasks' of the *Bund* and *Länder* for 'improvements to regional economic structure'. Tourism and recreation affect large parts of coasts, lakes, river valleys and mountain areas throughout Germany, including many areas protected for the purposes of nature conservation, landscape conservation and the protection of water resources. Therefore, a balance must be achieved between ecological conservation and development which can offer alternative sources of income for local agricultural and other small businesses.

D82. Tourism development takes place within the framework of *Bund* and *Länder* spatial plan-

ning policy. The main emphasis of tourism development is the:

- modernisation and adaptation of tourist facilities and the reduction of pressures caused by tourism in the old *Länder*; and
- extension and redevelopment of tourism capacity, facilities and associated infrastructure in the new *Länder*.

D83. The *Bund* and *Länder* support tourism development with a range of financial promotion measures under the 'joint tasks' for projects by the *Gemeinden* and the private sector involving:

- the erection, extension, relocation and rationalisation of tourism enterprises;
- improvements to and connections to infrastructure and the provision of public tourism facilities;
- the development of holiday and recreational destinations in rural areas (providing accommodation for up to 15 persons).

D84. Tourism development is also supported by making provision in spatial planning for its development. Within this context, the MKRO (standing conference of *Bund* and *Länder* ministers for spatial planning) made a decision in 1992 which requires that the planning of the large recreation facilities, for example golf courses, marinas and amusement parks, shall include:

- a *Raumordnungsverfahren* (spatial planning procedure based on federal, State and regional planning objectives — see Section B: *Länder* policy instruments); and
- an *Umweltverträglichkeitsprüfung* (environmental impact assessment).

D85. In addition, a number of *Länder* have designated 'special tourism and recreation areas' in their LEP/LEPros (State development plans or programmes) and have set objectives for a natural, environmentally orientated development of tourism. These objectives are made more concrete in the *Länder Fachpläne für Fremdenverkehr und Erholung* (State sector plans for tourism and recreation) and in the *Regionalpläne* (regional plans) for regions within the *Länder*.

D86. Compliance with these objectives and spatial plans is required in order to obtain public funding for tourism development. The funds or

subsidies are administered by the *Länder* (including the funds from the *Bund* and the EU).

Sources and further information

BMBau (1994), *Raumordnungsbericht 1993*, Bonn, BMBau.

Rural development

D87. Agriculture and rural areas require structural adaptation as a result of German reunification, the reform of EU agricultural policy and the recent agreement on GATT. The need for structural reform is greatest in the new *Länder*, where the agricultural cooperatives (known as LPGs) have farm sizes and a scale of operation unknown in the old *Länder*. The cooperatives also organised and financed the provision of infrastructure and of social and cultural facilities in rural villages under the centralised planned economy system. The removal of the cooperatives from these activities and their on-going privatisation is having a major (and mainly negative) impact on the infrastructure, demography, finances and social facilities of these villages.

D88. The mechanisms for structural adaptation of agriculture are undertaken by the *Bund* and the *Länder*, under an agreed programme which is heavily influenced by EU agricultural policy. There are three main elements to the joint *Bund/Länder* programme:

- The withdrawal of land from agricultural production. In 1994 a new five-year programme was agreed between the *Bund* and *Länder*, comprising quasi-obligatory withdrawal of land (15 %) with entitlement to financial balancing payments.
- The promotion of extensive farming (with additional support from the EU and *Länder* for conservation orientated farming under Directive 2078/92/EEC).
- The identification of new-generation agricultural products, to be researched and promoted by a special federal agency '*Nachwachsende Rohstoffe*' established in 1993.

D89. These structural changes are supported by finance from the EU, the *Bund* and the *Länder*, which are channelled through and administered by the *Länder*. At the beginning of 1994 the new

Länder were designated EU Objective 1 regions and are entitled to funding from the EU for:

- accelerated adaptation of the agriculture structure, improved processing and marketing methods and fishery development (EU Agricultural Guarantee Funds); and
- village renewal, improvements in rural infrastructure, water resource development, countryside conservation and the development of rural tourism (EU Regional and Social Funds).

D90. The EU Objective 5b regions in the old *Länder* benefit from funding under the EU Leader programme for projects involving diversification to non-agricultural sectors, rural tourism and countryside conservation. Both the EU Objective 1 and 5b regions, which are also internal or external (national) border regions, are funded by the EU Interreg programme for improvements to local infrastructure, tourism and recreational facilities, agricultural restructuring and for cross-border study and research programmes.

Sources and further information

BMBau (1994), *Raumordnungsbericht* 1993, Bonn, BMBau.

Special agencies

D91. In Germany, special semi-public agencies can be set-up for particular purposes, including those related to spatial planning. Thus the Berliner Olympia-GmbH (Berlin Olympia (promotion) agency) was established by the *Senat* (Berlin's administrative executive) to promote Berlin's unsuccessful bid for the Olympic Games in the year 2000. Other important and more successful examples include:

(Internationale) Bauausstellung Berlin GmbH (IBA Agency Berlin) (Berlin international building exhibition agency) and STERN Gesellschaft der behutsamen Stadterneuerung GmbH (STERN careful urban renewal agency).

D92. Probably one of the most famous Berlin agencies is the *Bauausstellung Berlin GmbH*, the planning agency formed in 1979 to prepare and carry-out the *Internationale Bauausstellung* (IBA) (international building exhibition) in West Berlin during the 1980s. The Agency and the IBA exhibition were established by a law passed by the then West Berlin Parliament. The Agency itself in-

cluded members of the Berlin government, prominent architects, experts and representatives from business and the public.

D93. There is a long tradition of IBA-type exhibitions throughout Germany and Austria, the main feature being not just an exhibition of possible urban projects but the construction of the winning entries. The Berlin Interbau in 1957 is one such example.

D94. The main task of the 1980s IBA Agency was to establish an exhibition of some 100 projects for urban renewal and infill development in Berlin. The projects were the subject of architectural competitions and the IBA exhibition in 1984 presented the winning (and other commended) submissions to the public. However, the main aim of this IBA was not just new urban projects, but experimental and model projects for the careful restoration and sensitive redevelopment of inner areas in Berlin.

D95. The IBA has been considered a great success, providing nearly 3 000 new and restored dwellings by 1987 and still being implemented. It combined a high level of public participation with public-private partnership in urban renewal. A special agency was set up especially for the renewal and restoration projects, the *STERN Gesellschaft der behutsamen Stadterneuerung GmbH* (STERN careful urban renewal agency), which became the model agency for urban renewal in other cities throughout Germany and has more recently spread its own activities to the inner-city areas of east Berlin.

IBA Emscher Park GmbH (IBA Emscher Park agency)

D96. In Nordrhein-Westfalen an Internationale Bauausstellung (IBA) is currently being implemented at Emscher Park, between the cities of Duisberg and Dortmund in the Ruhr area. The Emscher region stretches over 75 km and covers some 880 km², much of which was formerly used for coal mining and heavy industry. The IBA Emscher Park covers more than 300 km² of derelict, vacant or undeveloped land, with six main projects which involve the following:

- ecological renewal of the area;
- economic restructuring and the rehabilitation of contaminated land; and
- the provision of new employment, social and recreational facilities, parkland and housing.

D97. The theme of ecology takes the lead role in all the projects, since effective economic restructuring of the Ruhr area can only occur via an 'ecological offensive'. Ecological concepts are integrated in the design, economic and social requirements necessary for the renewal of this old traditional industrial region. The *IBA Emscher Park* is planned, managed and coordinated by a semi-public agency, *IBA Emscher Park GmbH*, specially set-up for the purpose by the *Land* of Nordrhein-Westfalen. This Agency operates closely with the Nordrhein-Westfalen *Ministerium für Umwelt, Raumordnung und Landwirtschaft* (Ministry of the Environment, Spatial Planning and Agriculture), the other ministries of Nordrhein-Westfalen and with the *Landesentwicklungsgesellschaft* (State development company) — for further information see Case studies Volume 1: Regional policy: The development of an ecological business and housing park on the site of a former coalmine in the Ruhr Area (as part of the *IBA Emscher Park*).

The *Internationaler Gartenausstellungen* — IGAs (international horticultural exhibitions)

D98. The *Internationale Gartenausstellungen* (IGA) (international horticultural exhibitions) and the *Bundesgartenschau* (BGS) (federal horticultural exhibitions) have been taking place in Germany since 1953 and more are being planned for into the early part of the next century. The IGAs and the BGSs use landscape planning as a catalyst for economic growth.

D99. The exhibitions provide a permanent park or parks and festival events. The emphasis is providing green areas on a sustainable basis and linking them to existing parks and to public transport. Private sponsorship plays an important role in the financing of the exhibitions. The designs for the green spaces and exhibition events are based on design competitions.

D100. Cities wishing to hold an exhibition make an application to the *Zentralverband Gartenbau* (ZGV) (German horticultural association) in Bonn. An important function of the ZGV is to award the exhibition festivals to applicant cities and to provide advice on the carrying-out of the exhibition.

Sources and further information

IBA Emscher Park GmbH (1993), *Dimensionen der ökologischen Erneuerung*, Themenheft Nr. 3/1993, Gelsenkirchen, IBA Emscher Park GmbH.

Senate building and housing department (1991), *Urban renewal Berlin — Experiences, examples, prospects*, Senatsverwaltung für Bau- und Wohnungswesen, Berlin.

Sheard, Peter (1993), 'Gardening for growth', *Planning Week*, No 16, October 1993, pp 16-17.

STERN GmbH (1989), *Step by step — Careful urban renewal in Kreuzberg, Berlin*, Berlin, STERN GmbH.

Protection of the environment/conservation

Countryside conservation

D101. The conservation of nature and the countryside is governed by the *Bundesnaturschutzgesetz* (BNatSchG) (federal nature protection act) 1976, as the framework legislation. Its main objectives are:

- the protection of areas from uncontrolled development;
- to promote nature and the countryside; and
- to provide for balancing environmental compensation where a project has an adverse affect on nature.

D102. The (*Landes-*) *Naturschutzgesetze* (State nature protection acts) of the *Länder* translate the federal objectives on nature conservation into more concrete terms. This is done by (i) the designation of protection areas, (ii) landscape planning and (iii) the need for permission under nature protection legislation (see Section C: Other permits).

D103. In areas designated for nature conservation under the *Bund* and *Länder* legislation development is not allowed or strictly restricted. There are essentially five types of designated areas:

- *Naturschutzgebiete* (nature conservation areas). This is the most restrictive area of protection. *Naturschutzgebiete* cover approximately 626 000 ha (or 1.8 % of Germany). Their average size is 130 hectares although two thirds are smaller than 50 hectares.
- *Nationalparke* (national parks). The national parks correspond in many ways to the

Naturschutzgebiete but because of their size they are affected by a number of different uses. There are 10 national parks in Germany, which together comprise 700 000 hectares (2 % of the country). The mud-flats and coastal water areas along the North Sea and the Baltic Sea make up about 80 % of their area.

- *Landschaftsschutzgebiete* (landscape protection areas). This category of protection contains less restrictions on other uses. The *Landschutzgebiete* cover about 8.9 million hectares (25 % of the country).
- *Naturparke* (nature parks). The *Naturparke* are established primarily because of their landscape quality and their suitability for recreation. They cover more than 5.5 million hectares (15.6 % of the country).
- *Biosphärenreservate* (biosphere reserves). This relatively new category provides extensive areal protection for valuable natural and cultural monuments. There are 12 *Biosphärenreservate* in Germany, covering more than 1.16 million hectares (3.3 % of the country). The title 'Biosphere reserve' is granted by the Unesco within the framework of the programme 'Man and biosphere'.

D104. *Landschaftsplanung* (landscape planning) comprises the preparation of a *Landschaftsprogramm* (landscape programme), for the entire area of a *Gemeinde*, and the *Landschaftsplan* (landscape plan), which is prepared at the level of the B-plan. In some *Länder* the *Landschaftsplan* is advisory, in others the plan may contain binding provisions (which may not conflict with the B-plan for the area).

Sources and further information

BMBau (1994), *Raumordnungsbericht 1993*, Bonn, BMBau.

Federal Environment Ministry (1994), *Environmental policy in Germany*, Bonn, BMU.

Umweltbundesamt (1995), *Environmental data Germany 1995*, Berlin, UBA, *Naturschutzgesetze* of the *Länder*.

Environmental conservation

D105. Important habitats, archaeological sites and environmentally sensitive areas are covered

by the 'protected areas' above. The *Landes-Naturschutzgesetze* (State nature protection acts) also provide for the protection of plants, animals and natural resources. *Wasserschutzgebiete* (water protection areas) are designated by the *Länder* for the protection of fresh water and groundwater resources under the framework legislation of the *Wasserhaushaltsgesetz* (federal water act) and the detailed provisions of the *Landeswassergesetze* (State water acts).

D106. The degree of rarity of and threat to animal and plant species is documented in the '*Roten Listen der gefährdeten Tiere und Pflanzen in der Bundesrepublik Deutschland*' (red list of endangered animals and plants in the Federal Republic of Germany), which is published by the *Bund* for the whole of Germany and by the individual *Länder* for their territory. Five per cent of the vertebrates included in the red list for Germany are already extinct. All together 51 % of vertebrates are classified as extinct or endangered.

D107. The *Bundesnaturschutzgesetz* (federal nature protection act) also provides the framework legislation for *Historische Kulturlandschaften* (historic cultural landscapes), including the surroundings of protected cultural, archaeological and building monuments. The actual protective measures are implemented and administered by the individual *Länder*.

Sources and further information

BMBau (1994), *Raumordnungsbericht 1993*, Bonn, BMBau.

Umweltbundesamt (1995), *Environmental data Germany 1995*, Berlin, UBA.

Coastal planning

D108. The coastal areas of the North Sea and the Baltic Sea are normal spatial planning areas, the same as any other in Germany. The unusual characteristics associated with the coast must be considered in the normal way, the same as natural characteristics are considered in other areas, such as the Black Forest or the German Alps. This does not mean that they lack protection, but that they are given similar protection. Thus, much of the North Sea coast and parts of the Baltic Sea coast are designated *Nationalparke* (national parks) (see Countryside conservation above).

Urban conservation

D109. Urban areas or districts can be specially protected where the *Gemeinde* (municipality) adopts an *Erhaltungssatzung* (preservation statute), under Section 172 of the BauGB (federal building code). The passing of a preservation statute means that the special permission of the *Gemeinde* is required for the demolition, alteration or change of use of existing structures or the building of new structures in the designated area (see also Section C: Other permits).

D110. Urban conservation is normally promoted by subsidies available from the *Länder* and/or the *Gemeinde*, to encourage and help building owners to protect and maintain conserved buildings.

D111. Because of the extent of relatively intact historic urban centres in the new *Länder*, the *Bund* has adopted a special programme for *Städtebaulicher Denkmalschutz, Sicherung und Erhaltung historischer Stadtkerne* (preservation of urban monuments, securing and preserving urban centres). The emphasis of the programme is the investigation, recording and securing of the existing structures/buildings and the prevention of further decay (see Section F: Heritage policy).

D112. The programme applies to towns and cities whose centres have an urban cultural or historical quality of a minimum Category 2 (national importance) status. The administration and design of the individual programmes is coordinated and approved by the *Landesdenkmalamt* (State monuments office) in each of the new *Länder*. The *Bund* and the *Länder* agree the annual amounts of finance to be made available for each *Land*. The finance comes from the *Aufbau Ost* funds and from the *Bund's* urban renewal budget.

Sources and further information

BMBau (1994), *Raumordnungsbericht 1993*, Bonn, BMBau.

Preservation and conservation of historic buildings

D113. The protection of monuments and historic buildings is a responsibility of the *Länder*. The *Landesdenkmalschutzgesetze* (State preservation of monuments acts) provide the legal basis for

protection. These acts require that a permit (see Section C: Other permits) is required for:

- the demolition or alteration of historic buildings;
- the removal or alteration of parts of historic buildings; and
- the construction, alteration or demolition of new buildings.

D114. The *Landesdenkmalschutzgesetze* provide protection for:

- individual building monuments (single buildings);
- ensembles of buildings (a number of buildings combined in an urban context, such as old town centres, squares, streetscapes);
- earth monuments (mostly early historic monuments, such as megalithic graves, Roman and German fortifications or ancient places of worship);
- moveable monuments (such as altars, paintings, church bells and wall panels).

D115. The monuments are entered into a *Denkmalliste* (monuments list) or *Denkmalbuch* (monuments book). There are two different systems of protection operated by the *Länder*. In most of the *Länder* only those monuments which are entered in the lists are protected. In other *Länder*, notably Bayern, Niedersachsen and Saarland, full protection is provided to all listed and unlisted buildings and objects which fulfil the criteria for a monument under the *Landesdenkmalschutzgesetz* (see also Section F: Heritage policy).

Sources and further information

BMBau (1994), *Raumordnungsbericht 1993*, Bonn, BMBau.

Denkmalschutzgesetze of the *Länder*.

Resource planning

D116. Resource planning is dealt with in the same way as any other sectoral area in *Landesplanung* (State spatial planning — see Section B: *Länder* policy instruments). However, certain resources have a specific legislative

framework. For example, the planning and protection of water resources is regulated by the *Wasserhaushaltsgesetz* (federal water act), as the framework legislation, and the individual water resources legislation of the *Länder*. The

supply of resources (electricity, water, etc.) and their disposal (waste disposal) is often carried out by private companies operating under *Länder* legislation, which in turn is based on the framework legislation of the *Bund*.

E. Overview of spatial planning in practice

Introduction

E1. In order to understand a planning system, one must be able to place it within the framework of the definitive national policy areas at the higher level and extrapolate to the precise effects of the individual case at the lower level. Following the description of the system of spatial planning in the Federal Republic of Germany in Sections A-D of the compendium, Sections E and F shall provide the necessary information for a more complete understanding of this system and its practical effects. This shall comprise the most essential areas of policy, which influence spatial planning and in turn are influenced by it.

E2. The most essential areas of policy which are outlined in this overview are:

- Economic development
- Industrial
- Commercial and retail
- Housing
- Transport
- Environment
- Waste management and pollution
- Natural resources
- Leisure and tourism
- Heritage

Overview of spatial planning in practice

The national context

E3. Germany is now united, but since the early 1990s it has faced a historical challenge: it must repair the social, economic and ecological consequences of division. Along with its partners in the European Union, Germany is actively pursuing the creation of a single European market and the promotion of social, economic and fiscal union in Europe, in accordance with the provisions of the Single European Act 1986. Germany is also making an active contribution towards rebuilding the other economies of central and eastern Europe. At the same time, Germany's production sectors (industry, services and agriculture) must also establish their role in changing world markets as international competition for leading technological and economic positions unfolds.

E4. The situation of the Federal Republic of Germany, with its geographic location in the centre of Europe, with a high population density, a high degree of industrialisation and a dense traffic network provides the fundamental background to spatial planning policy-making.

E5. The Federal Republic of Germany is a federation with 16 *Länder* (States) and around 16 000 *Gemeinden* (municipalities) which have strong, constitutionally guaranteed powers of self-government.

E6. One also has to bear in mind that the size of some of the German *Länder*, in terms of area

and/or population, are as large, and in certain cases larger, than some of the other European Union Member States. Therefore, this overview and the description of policies in Section F must be limited to the major policy objectives and trends, particularly at regional and local levels, rather than an in-depth description of the very broad range of policies which are being pursued by the *Länder* and the *Gemeinden*.

E7. As a consequence of the Germany's federal structure and of the subdivision of powers dictated by the German Constitution, policy and policy implementation measures in a number of important areas are undertaken by agreed, joint programmes between the *Bund* and *Länder*.

The legislative background to spatial policies

E8. Being a federal State, responsibility for policy-making and implementation is shared among the *Bund*, the *Länder* and the *Gemeinden*.

E9. At a higher level there are the EU laws, known as directives. These are legal provisions agreed upon by the majority of the EU Member States. Directives, in principle, have no immediate legal effect, but must be transformed into national law in each of the EU Member States. The European Commission monitors this transformation process and ensures that the deadlines for the transformation of directives into national law are met. A further influence on national policies are the policies agreed by the European Union, such as the EU common agricultural policy or the EU regional and social policies.

E10. The division of responsibility among the *Bund*, the *Länder* and the *Gemeinden* is laid down in the German Constitution. In relation to the policy areas, which are of particular interest to spatial planning, the division of responsibility is as follows:

E11. The *Bund* has the exclusive right to legislate (i.e. the *Bund* alone can set norms) for the following areas:

- international affairs;
- bilateral, multilateral and cross-border agreements;
- federal railways, federal trunk roads and federal inland waterways.

E12. In cases of so-called concurring legislative powers (that is powers shared by the *Bund* and the *Länder*) the right to legislate goes to the *Bund* if there is a need for nation-wide provision. Where the *Bund* makes use of this possibility, the principle that *Bund* law supersedes *Länder* law applies. The following areas are subject to concurring legislative powers:

- building development and local land use planning;
- waste management;
- pollution control (air, noise, etc.);
- nuclear protection;
- economic law (including commerce and retail).

E13. In cases of so-called framework legislative powers, the *Bund* alone enjoys the right to establish framework laws, which are then filled in by the detailed and specific legislation passed by the individual *Länder* in these fields. The following policy areas are subject to framework legislative powers:

- supra-local spatial planning;
- water management and the protection of water resources;
- nature conservation;
- landscape protection;
- social housing construction and the promotion of housing construction in general;
- local transport.

E14. The *Länder* are involved in all *Bund* legislation via the *Bundesrat* (federal council), which comprises representatives of the *Länder*. Laws which affect the interests of the *Länder* or of the *Gemeinden* require the approval of the *Bundesrat*.

E15. The constitutional principle underlying German legislative power is that the *Länder* have the right to legislate unless the Constitution provides otherwise (or where the *Bund* does not make use of its concurring and framework legislative powers, which of course does not occur). The fol-

lowing policy areas of interest here are regulated to the most part by *Länder* laws:

- the protection of monuments;
- leisure and tourism;
- building regulations.

E16. The *Länder* form the second level of government in the Federal Republic of Germany. Under the federal system the execution and administration of *Bund* laws is a responsibility of the *Länder*. The *Länder* must also ensure that the statutory requirements and obligations, including those undertaken by the *Gemeinden*, are adequately monitored.

E17. The matters of local government are not within *Bund* jurisdiction, but are a responsibility of the *Länder* (notwithstanding the fact that *Bund* legislation is binding on all local authorities). The German Constitution contains a guarantee for local government. The *Gemeinden* (cities, towns and villages) have their own elected councils, who are responsible for all matters of a local character, including local land use planning.

The background to the funding of spatial policy implementation

E18. The *Bund*, *Länder* and *Gemeinden* have their own funds guaranteed to them by the Constitution. In order to avoid a situation whereby the *Länder* and *Gemeinden* are led on a 'golden leash' by the *Bund*, direct allocation by central government has been replaced by a statutory and highly regulated system of financial adjustment involving the *Bund*, the *Länder* and the *Gemeinden* (see Section A: Financial system).

E19. As a matter of general principle each authority is required to bear the costs arising from the execution of the tasks for which it is responsible. In practice there are many exceptions to this rule, such as in the area of local capital investments in infrastructure and public transport, which are too expensive for the *Gemeinden* to fund from their own budgets. In such cases they are dependent on financial support in the form of dedicated grants.

E20. In addition, the Constitution lists a number of tasks in respect of which financial participation by the *Bund* in development measures undertaken by the *Länder* or *Gemeinden* is permissible. These are essentially measures for which joint funding by the *Bund* and *Länder* is justified on

the grounds of both their high cost and their supra-regional significance:

- the construction and extension of higher education facilities;
- the improvement of the economic structure of a region;
- the improvement of the agricultural structure; and
- coastal protection.

E21. Furthermore, the Constitution allows the *Bund* to provide aid for specific capital investment projects at local level (with the aid channelled through and administered by the *Länder*) including:

- transport projects;
- housing programmes;
- urban renewal projects; and
- hospital construction.

E22. In all cases direct funding contact between the *Bund* and the *Gemeinden* is kept to a minimum. The *Bund* restricts its involvement to making funds available to the *Länder* and to regulating the formal details of development programmes. The actual allocation of funds (to the *Gemeinden* in terms of how much money for what project) and the implementation of the development programmes are undertaken by the *Länder*.

E23. Funding from the European Union is also channelled through the *Länder* to the *Gemeinden*, mainly in the designated disadvantaged regions: the EU Objective 1 regions of the new *Länder* and the Objective 2 and Objective 5b regions in the old *Länder*. Of major spatial planning importance here is the aid for local and regional projects under the European Regional Development Fund, the European Social Fund and the Leader, Interreg and URBAN programmes.

The main components and priorities of spatial planning policy

E24. The broad aims of spatial planning in Germany are contained in the *Raumordnungsgesetz* (ROG) (federal spatial planning act) and include:

- the development of the structure of the Federal Republic of Germany so as to create

equivalent living conditions throughout the country;

- the improvement of the spatial interdependence of the new *Länder* and the old *Länder*;
- the promotion of the spatial conditions for European integration.

E25. The first aim does not mean equal living conditions but the creation equivalent opportunities and the securing of minimum standards throughout the country, including for example, in relation to the quality of life and environmental quality. The creation of equivalent living conditions is now recognised as a long-term aim.

E26. Overcoming the challenges presented by reunification is the single most important priority in the Federal Republic of Germany. This has recently been added to by the bleak economic outlook facing the country. Unemployment in Germany has risen to 11 % in early 1996 as a result of stagnation in the economy, the coming to an end of the reconstruction boom in the new *Länder* and the effects of a harsh winter.

E27. In a new action programme the *Bundesregierung* (federal government) is hoping to create two million new jobs by the year 2000. In order to achieve this, reforms in the social welfare system in Germany are proposed, including reductions in welfare spending, unemployment benefits and early retirement schemes. The room for manoeuvre in tackling the problems facing the German economy is limited by the need for economic policy to comply with the criteria for European economic union. Against this background, the following are the main components and priorities of spatial planning policies:

E28. Economic development: The main component of economic development policy is the *Gemeinschaftsaufgabe Verbesserung der regionalen Wirtschaftsstruktur* (joint task for the improvement of regional economic structure), which is undertaken jointly by the *Bund* and the *Länder*. The highest incentives are available in promotion areas, which are broadly similar to the EU Objective 1 regions (the entire new *Länder*) and the EU Objective 2 regions (areas undergoing structural change in the old *Länder*). The *Bund* and old *Länder* also undertake the *Aufbau-Ost* 1995-2005 programme which provides financial support for the reconstruction of the new *Länder*.

E29. In the *Gemeinden* the priority is on attracting new enterprises to improve the local eco-

nomical and tax base. Obviously it is the *Gemeinden* in the new *Länder* which are in greatest need of investment. Generally, there is a move beyond just the provision of cheap sites, services and infrastructure to supporting new enterprises setting up and of improving the attractions of the locality and using city or regional marketing as means to attract new investment.

E30. Industrial policy is a component of economic development policy in Germany. The promotion of research and development by the *Bund* supports product innovation. At the *Bund* level, the priority of privatising industry in the new *Länder* is now complete. Continued priority is being given to the promotion of market orientated technologies and innovative products.

E31. The *Länder* and the *Gemeinden* have the responsibility of ensuring that the locational requirements of industry are provided for within the context of a system of central places. At the local level, this includes the zoning of land for industrial uses and, more recently, the development of specialised science and technology parks.

E32. Commercial and retail location policy is also orientated by the system of central places provided for in spatial planning at the *Länder* level. The support of the functions and vitality of central business districts via the restriction of large commercial and retail developments outside of CBDs or on 'greenfield sites' is the main policy here, as provided for in spatial planning at the *Länder* level and in the provisions of the *BauNVO* (federal land use ordinance).

E33. Housing: The poor quality of the housing stock in the new *Länder* and acute regional shortages of housing in the old *Länder* means that housing is a priority policy area. There are a number of elements to housing policy:

- the promotion of the construction and modernisation of housing;
- the promotion of social housing construction;
- the promotion of owner-occupation and of private ownership of housing (i.e. for rent); and
- speeding up the procedures for zoning building land for housing.

E34. At the local level, there is not an adequate supply of land ready for building, particularly in

the agglomerations. Here, the swift release of land for building is a priority.

E35. Transport: Germany's position in the geographical centre of Europe means that it is also a focus of European north-south and east-west transit traffic. Fourteen of the 34 trans-European networks (TENs) are located wholly or partly within Germany. These have been taken into account in the preparation of the *Bundesverkehrswegeplan* (BVWP) (federal transport infrastructure plan) 1992, which lists the *Bund* investment projects for federal trunk roads, railways and inland waterways which are expected to be implemented up to the year 2012.

E36. The completion of the *Verkehrsprojekte Deutsche Einheit* (German unity transport projects), comprising 17 motorway, federal railway and federal canal projects which have a key function in linking the new and old *Länder*, is a national priority. Other priorities include:

- the extension and improvement of the federal rail network and extending the European high-speed rail network;
- linking airports with high-speed inter-city railways;
- shifting inter-regional freight traffic from road to rail and the provision of regional road/rail freight transfer centres;
- the improvement of public local transport;
- introducing traffic management systems to help relieve congestion.

E37. Environment: In Germany the policy areas of environmental protection, nature conservation, protection of resources, waste management and pollution control are very closely integrated and are grouped together in the *Bund* and (most of the) *Länder* ministries. Environmental policy in Germany is based on:

- the precautionary principle under which standards are set for environmental policy decisions for the purpose of preventing risks to people and the environment;
- the polluter pays principle under which the costs for failing to take anticipatory environmental protection measures or for inadequate stewardship of the environment, must be borne by the polluter;

- the principle of cooperation in the creation of an ecologically-orientated, social market economy via taxation incentives, fiscal charges, voluntary undertakings, etc. to bring about innovations.

E38. Environmental policy has three main and interrelated priorities (at all levels):

- dealing with, and seeking to avoid, the environmental problems of an affluent society in a densely populated, highly industrialised country lacking in raw materials. This means that priority must be given to the constant development of anticipatory environmental protection;
- repaying the considerable ecological mortgages that 40 years of socialist centrally planned economy have left behind in the former GDR;
- the acceptance of responsibility for the environment, both at home and beyond national borders, in a European and worldwide partnership for action on environmental improvement.

E39. The objectives of nature conservation and the preservation of landscapes includes the protection of the entire natural environment. Various levels of protected areas are designated including *Nationalparke* and *Biosphärenreservate*. The basic principle underlining nature conservation policy is that interference with nature is to be minimised and any interference which does occur is to be balanced by beneficial measures in another location.

E40. At *Gemeinde* level, environmental policy is now recognised as one of the most important tasks of local government:

- in the inner-cities environmental improvements are seen as one way of reversing the out-migration of people and jobs;
- in rural areas environmental policies are seen as a way of protecting the existing high quality of the environment, while at the same time reducing the pollution resulting from intensive agriculture. Here, environmental policy is also interlinked with nature conservation and tourism policies.

E41. Waste management: The (*Bundes*)-*Abfallgesetz* (federal waste management act) incor-

porates the principle that waste is to be avoided, resulting waste is to be recycled and unavoidable or unusable waste is to be disposed of in an environmental way. The enactment of the *Kreislaufwirtschafts- und Abfallgesetz* (federal recycling and waste management act) in 1994 and its coming into effect in 1996 introduces the concept that the production, consumption and disposal of products must form a closed system.

E42. The provision of permanent storage depots for low and medium radioactive waste and for high radioactive waste is a national (and very controversial) priority. At the *Länder* and *Gemeinde* levels, the continuous rise in the amount of domestic and productive waste, despite efforts at reduction, means that the provision of waste disposal facilities is a priority. The promotion of recycling is also of great importance.

E43. Pollution control: The main instrument for pollution control is the *Bundes-Immissionschutzgesetz* (BlmSchG) (federal control of pollution act), which provides regulations on air and noise emissions from facilities, areas, traffic and products. The BlmSchG is a central instrument of precautionary environmental policy which represents a departure from the end-of-the-pipe technologies (waste water treatment, filters, etc.) towards environmental protection integrated in production processes and products.

E44. The main pollution control priority is to improve air quality in the heavily polluted regions in the new *Länder*. A broad priority is to reduce air and noise pollution from traffic, though this will be difficult to achieve as the number of vehicles on the road and their use increases.

E45. Natural resources: include agriculture and forestry, water resources and coal mining policies. Agricultural structural policy is undertaken jointly by the *Bund* and the *Länder*, within the framework of EU agricultural policy. Higher incentives are available to promote farming in the EU Objectives 1 and 5b regions and other disadvantaged areas, which together cover half the total agricultural land in Germany.

E46. The priorities of German agriculture policy are:

- the improvement of living conditions in rural areas;

- the supply of the population with high quality products at reasonable prices; and
- to achieve an efficient, market-orientated and environmentally sustainable agricultural sector within the framework established by EU agricultural, forestry and fisheries policies.

E47. Coal-mining policy is also strongly influenced by EU policy, and the main components of policy are negotiated between the EU, the *Bund* and the (coal-mining) *Länder*. Coal production in Germany is steadily decreasing, but also needs to be continued since it is the country's only indigenous source of fossil fuel. The main priority in coal mining areas is to secure the creation of alternative employment. At the regional and local levels, great importance is given to the spatial and environmental assessment of proposals for the commencement or extension of open-cast brown-coal (lignite) mining. This is a very sensitive issue, which can also have cross-border impacts which need to be considered.

E48. The cornerstone of policy for the protection of water resources is anticipatory protection by the avoidance or treatment of pollutant emissions at source, with an emphasis on the promotion of more environmentally compatible production. *Wasserschutzgebiete* (water protection areas) protect areas of surface and ground waters; as the sources of water supply. In the new *Länder*, the water supply infrastructure needs improvement. The cleaning up of the heavily polluted rivers in the new *Länder* is also a priority for cross-border cooperation between Germany, Poland and the Czech Republic. The flooding of the Rivers Rhine and Maas in 1993-94 has raised the need for greater cross-border coordination of water management measures.

E49. Leisure and tourism: In Germany, tourism and leisure development are promoted as part of economic development policy, under which the promotion of small tourism facilities in rural areas ties in with EU promotional programmes. As a result of their impact on the countryside, proposals for major tourism and leisure facilities must be coordinated with and fit in with spatial planning and, in particular, with policies for nature conservation and environmental protection. On the other hand, the protection of existing tourist facilities (hotels, guesthouses, etc.) from conversion to other uses is a priority in many German tourist destinations.

E50. Heritage: Protecting architectural, cultural and historical heritage takes the form of (a) listing

buildings and other artefacts for preservation (by the *Länder*), (b) local programmes of conservation-orientated urban renewal (by the *Gemeinden*) and (c) promotional programmes for the conservation and rehabilitation of the many old town centres in the new *Länder*, which are of historical value but in a poor state of repair.

E51. The main current priority is the protection and refurbishment of the more than 220 town centres and villages in the new *Länder*, which are of at least national importance, but are in a bad state of repair following 40 years of neglect under the socialist centrally planned system in the former GDR.

Policy areas and their interaction with spatial planning

Economic development

E52. The creation of equivalent living conditions belongs to the highest objectives of policy in the Federal Republic of Germany. In the spatial context this means that the following objectives must be pursued:

- the removal of spatial disadvantages by the provision of local infrastructure;
- the provision of aid to overcome structural change in industry;
- active employment policies in structurally weak regions.

E53. Spatial planning has a key role for the realisation of these objectives: it must ensure that locations and sites for local infrastructure are provided; it must bring about the re-use of derelict industrial sites, formerly used by traditional sectors of industry, such as specific parts of the coal and steel industry in the Ruhr area; it must also support an active employment policy by means of the removal of locational disadvantages.

E54. The area of the former East Germany (GDR) presents a great challenge in this respect. The planned economy did not leave behind many large firms or old industries capable of survival; most firms had to be radically restructured and reduced, which led to a loss of many jobs. The former agricultural cooperatives in the new *Länder* also had to be completely re-organised and

privatised. At the same time, the old *Länder* have found themselves in a process of structural change.

E55. In surmounting these problems, the political actors in the *Bund*, the *Länder* and the *Gemeinden* must arrive at a compromise between the self regulatory power of the free market and active support by means of public aid programmes and intervention, while keeping within the criteria for European monetary union.

E56. The *Bund* and the *Länder* work together in this arena by providing joint funding for the implementation of the joint-task for '*Verbesserung der regionalen Wirtschaftsstruktur*' (improving regional economic structure). Projects carried out by the *Gemeinden* and private firms are promoted within the framework of this joint-task. The projects must fit-in with the spatial planning policies of the *Länder*. At present the majority of the promotional funding is provided to the new *Länder*. The European Union supports this policy via the provision of aid under the EU Structural Funds.

E57. The *Länder* have their own *Landesentwicklungsgesellschaften* (State development companies), the larger cities have *Wirtschaftsförderungsgesellschaften* (economic promotion agencies) and the smaller *Gemeinden* also prepare their own economic promotion programmes. At the moment the *Gemeinden* obtain additional income, via the *Gewerbesteuer* (business tax), when a new firm sets up within their administrative area. The future of the *Gewerbesteuer* is, however, being debated. One of the reasons for the debate is that this tax exists, in its present form, only in Germany and not in any other EU Member State.

Industrial

E58. Industrial policy is a component of regional structural policy, the essential features of which have just been described above. Industrial policy is itself important as a result of the special weight and large influence of productive industry on the settlement structure and on employment. At present the main emphasis and trends are:

- the *Bund* and the *Länder* support structural change away from the classical heavy industries of coal and steel and towards modern technology. Medium-sized firms are especially promoted;

- special weight is attached to environmentally friendly methods of production and environmentally friendly products;
- international cooperation is promoted, both in terms of production and in research and development;
- mono-structural spatial development is to be avoided; a polycentral settlement structure promotes regional balance and similar opportunities.

E59. The privatisation of former East German State-owned companies is now a completed chapter of German industrial policy.

E60. Spatial planning supports industrial policy via the provision of industrial building land and the recycling of derelict land. Local land use planning, in combination with environmental regulations, ensures that harmful effects and emissions from industrial enterprises are removed from other land uses (commerce and housing) by spatial separation and specific precautions. The EC directive on environmental impact assessment, in particular, led to the laying down of comparable standards for the assessment of the environmental impacts (EIA) of major industrial projects. Cross-border EIA issues are also important here and the proposed amendments to the EIA Directive would require Germany to make a number of additions to its own EIA legislation.

Commercial and retail

E61. German cities and municipalities endeavour to unify and integrate housing, shopping and commerce within the built-up areas of settlements. What is sought after is the *Stadt der kurzen Wege* (town of short paths), rather than the complete separation of functions which result in the establishment of pure dormitory suburbs, shopping centres on 'greenfield sites' and mono-functional office and headquarter districts. These aims must be implemented as priorities by means of spatial planning, in particular via local land use planning.

E62. This occurs at the level of *Landesplanung* (State spatial planning) by the designation of a system of central places and development axes. The central places have different weight and different functions; there are higher centres, medium centres, lower centres and small centres. The centres are inter-connected by means of devel-

opment axes, but are separated from each other by green areas. Particular functions are assigned to different levels of centres, the fulfilment of which requires an adequate provision of land for industry, commerce and housing. Spatial planning must ensure this.

E63. Large-scale retail operations and shopping centres receive particular attention. According to German planning law, these are only permitted in the *Kerngebiete* (core areas) of the larger towns or in specifically designated *Sondergebiete* (special areas). In this way, one attempts to control and limit the establishment of shopping centres on 'greenfield sites'. However, some *Gemeinden*, often on the fringe of larger towns, try to get around this policy and zone large areas of land for business uses and as special areas, in the hope of attracting centres and increasing their income from local business taxation. This tendency was particularly strong in the new *Länder* directly after reunification.

E64. Spatial planning must take over full responsibility in this matter if the over-development of the countryside and the undermining of established settlement structures and town centres is to be avoided. Solutions to these problems in border areas can only be found when the same policies are applied in the neighbouring country. Therefore, there is a need for coordinated cross-border action.

Housing

E65. The supply of housing in the Federal Republic of Germany differs significantly from region to region. Areas with good and balanced housing supply exist alongside other areas with a scarcity of housing and poor accommodation, at least in certain segments of the market. There are housing problems:

- in the new *Länder*;
- in the agglomerations throughout Germany.

E66. The centrally planned-economy system left behind a number of problems in the new *Länder*: new housing construction in the former East Germany (GDR) was concentrated on the building of large pre-fabricated housing estates. The urban areas affected must now be improved and even the pre-fabricated housing blocks themselves are in need of refurbishment. The *Bund* and *Länder* have allocated public funds for this task.

E67. The stock of old housing in East Germany was literally on the verge of collapse by the time the Berlin Wall came down. In particular, the old housing stock in the inner-cities was in very poor condition. The return of houses to the former owners drew private investment into the buildings in many cases and much has now been renewed.

E68. The levels of rent payable for dwellings in the new *Länder* are still controlled; increases can only occur within limits provided by law; the discussion on the time and level of the rent increases permitted is naturally a very politically sensitive issue.

E69. In the old *Länder*, scarcity of housing accommodation occurs particularly in the agglomerations. The *Bund* has reacted to this with a new programme of social housing construction. The planning procedures for housing projects has been speeded-up and relaxed by a number of recent laws. In addition, the *städtebauliche Entwicklungsmaßnahme* (urban development measures) have been recently incorporated into federal planning law. In formally designated *städtebauliche Entwicklungsbereiche* (urban development zones) the *Gemeinden* are to dispose of all building land at relatively low prices. The costs of infrastructure and connections to the existing roads and services is to be financed by means of the increase in land values which accrues to the *Gemeinden* (who acquire and convert the land to building land).

E70. The problems of housing supply are also influenced by internal migration from the new *Länder* to the old *Länder* and by immigration generally. As a result of the freedom of movement within the EU, the creation of a relatively equal and fair supply of housing could become an important European issue.

E71. Spatial planning must ensure a sufficient supply of land for housing on the one hand, while on the other, it must prevent the over-development of the countryside. The instruments for both of these tasks already exist under German law, all that is necessary is that they be used appropriately.

Transport

E72. Transport infrastructure has a very important role to play in the process of European integration. Of particular importance in this context are the trans-European networks, providing the

main trunk traffic routes for Europe. Fourteen of the potential TENs projects are situated wholly or partly in Germany. These trunk traffic routes are also referred to in the general principles for traffic in the *Raumordnungspolitischen Orientierungsrahmen* (guidelines for spatial planning).

E73. The provision of transport infrastructure in Germany takes place via a multi-level planning process. The *Bund* legislature adopts the *Bundesverkehrswegeplan* (BVWP) (federal traffic infrastructure plan) and revises it at regular intervals of about five years. This plan contains all the proposed investment projects for *Bundesfernstraßen* (motorways and federal trunk roads), *Bundeswasserstraßen* (federal waterways) and the *Schiene des Bundes* (federal railway network), but not the airports.

E74. Under the guidelines provided by the *Bund*, the *Länder* translate the BVWP into more concrete terms, via the *Linienbestimmung* (designation of the line) and the legally binding *Planfeststellungsverfahren* (statutory plan approval procedure). The local authorities are responsible for local roads and paths.

E75. With the opening up of eastern Europe, Germany has now become a major 'transit' country. This has placed enormous burdens on the road network. The railways and waterways are not achieving the wished-for proportion of traffic, especially in the new *Länder* where road traffic has increased significantly.

E76. Immediately after German reunification, the *Bundesregierung* made provision for special arrangements to ensure the construction or extension of a number of road, rail and waterway connections under the programme *Verkehrsjahr 2000* (German unity traffic projects). It is likely that the European Union will have to make similar arrangements for the trans-European networks, which will also require coordinated cross-border spatial planning for the routes. Air transport and the network of airports also require coordination at the European level.

Environment

E77. One of the tasks of environmental policy is to ensure that ecologically sensitive areas are protected from harmful effects. The legal instruments to serve this are provided at the *Bund*, *Länder* and *Gemeinden* levels. The *Länder* have important responsibilities in this respect, it is in their *Landesentwicklungspläne* (State develop-

ment plans) that special protection areas are designated, including *Naturschutzgebiete* (nature conservation areas) and *Nationalparke* (national parks).

E78. The *Bund* is responsible for a large part of environmental legislation; it carries the main financial burden of special programmes, under which current and urgent problems are to be solved. Since reunification, current programmes are concentrated on the removal of the very considerable environmental damage in the former East Germany. The former State-owned industrial conglomerates and the armed forces of the Federation of Independent States (the former Red Army) left behind a large amount of dangerous waste and environmental damage.

E79. The contamination of land has resulted in the development of policy for soil conservation, for which draft federal legislation has been prepared. Current policy provides that local urban land use planning may not designate any more land uses, without prior examination as to whether the land to be designated is free from waste and contamination.

E80. The *Gemeinden* are responsible for translating and incorporating the environmental policy objectives set by *Landesplanung* (State spatial planning) and *Regionalplanung* (regional planning) into their local land use plans and for the implementation of individual projects. They also make applications (to the *Länder*) for the inclusion of projects benefiting environmental protection and the promotion of economic development under the promotional programmes of the European Union, including cross-border nature conservation and environmental improvement projects with the Czech Republic and Poland.

Waste management and pollution

E81. Every household in Germany produces around 333 kg of waste per person. Commercial and industrial waste comes on top of this waste mountain. Against this background, it is evident that the capacity of waste disposal sites is barely sufficient to take all the waste produced. Therefore, waste management policy in Germany is orientated towards:

- firstly, the avoidance of the creation of waste;
- secondly, the useful recycling of waste that is created;

- and then thirdly, any remaining waste is to be disposed of in an environmentally acceptable manner.

E82. Spatial planning is mainly concerned with the third aspect, especially with the location of disposal facilities (waste disposal sites, incineration plants, waste processing plants). The designation of locations for waste disposal facilities is a responsibility of the *Länder*. This involves the carrying out of a *Raumordnungsverfahren* (spatial planning procedure — see Section B: *Länder* policy instruments), followed by a *Planfeststellungs-verfahren* (statutory plan approval procedure — see Section D: Major infrastructure).

E83. Waste management policy also has a cross-border significance, since certain waste is exported. This concerns not only the export of recyclable materials (paper, glass, etc.) but also the export of toxic waste. It is a responsibility of the European Union to ensure similar and strict rules for the disposal of dangerous materials.

E84. Badly advised or poorly managed waste storage can lead to the contamination of land and water pollution; ill-advised or badly managed incineration leads to air pollution. The regulation of waste disposal is, therefore, also an aspect of the prevention of air pollution. The regulations for the avoidance of air pollution are mainly contained in the *Bundes-Immissionsschutzgesetz* (BImSchG) (federal control of pollution act) and the ordinances made under it. Spatial planning issues are not the deciding factors, but they can play a role in the search for a suitable site for such facilities (on the edge of settlements or in the surrounding undeveloped areas) and in influencing the design of the facility.

Natural resources

E85. The *Länder* have a significant spatial planning role in the protection of natural resources. In their *Landesentwicklungspläne* (State development plans) the *Länder* designate *Wasserschutzgebiete* (water protection areas) and areas for agriculture and for the extraction of minerals, as well as areas for nature conservation (mentioned under Environment policy).

E86. The promotion of agriculture, forestry and coastal protection is undertaken jointly by the *Bund* and *Länder* as part of *Agrarstrukturpolitik* (agriculture structural policy), within the framework provided by EU agricultural policy. The land use implications of these combined policies derive from the removal of land from agricultural

usage and the promotion of forestry and rural tourism.

E87. These land use implications are dealt with in detail at the level of *Regionalplanung* (regional planning) via the designation of *Aufforstungsgebiete* (reforestation areas), the preparation of *forstliche Rahmenpläne* (forestry development plans) and regional recreation and tourism planning. One of the main purposes of the *Regionalplan* in rural areas is to reconcile the local and regional interests of agriculture, forestry, settlements, rural tourism and nature conservation.

E88. The protection of surface and ground waters is a general priority throughout Germany. There are specific instruments for the protection of water, such as *Wasserschutzgebiete* and the need for permission to abstract or use water or for any discharges into water or groundwater. The regulations on the quality of drinking water are influenced by EU standards.

E89. The Federal Republic of Germany, is (no longer) rich in the classical minerals such as coal, iron ore, oil and natural gas. As in the past, coal (hard-coal) is still mined in the Ruhr area, but this is a shrinking industry, as coal can be acquired cheaper on the world market than it can be produced in Germany.

E90. Open-cast mining has still a spatial importance in the *Länder* of Brandenburg, Sachsen, Thüringen and Sachsen-Anhalt, as well as in Nordrhein-Westfalen. The brown-coal (lignite) open-cast mining industry is a very controversial topic because of its massive impact on the countryside, involving the complete relocation of villages in some cases, while also being a major employer in relatively poor rural regions. The cross-border environmental effects of mining and mining related traffic are important in border regions, and require the introduction of procedures for cross-border environmental impact assessment and cross-border public participation.

Leisure and tourism

E91. Germany is not a classical destination for international holiday-tourists like, for example, the Mediterranean countries. Nevertheless the North Sea and Baltic Sea coasts, the German Lower Alps and the Mittelgebirge (low mountains) in Thüringen, Sachsen and northern Bayern are very popular destinations for German holiday-makers and visitors. As a result of the population density and level of urbanisation in Germany, the

planning of leisure and recreation regions and facilities are an important element in spatial policy. Nearly all of the *Länder* have designated tourism areas, where special spatial planning provisions are implemented to control undesirable development and to protect the tourism functions of the areas.

E92. The natural environment in the main tourism regions is specially protected under area-wide measures for nature conservation. These protection areas are also extended by smaller regional or locally important areas. Regional planning and local land use planning have the particular responsibility of keeping these nature conservation areas free from unwanted settlement and protecting them from over-use and damage by visitors, while at the same time enabling the planned provision of leisure and sports facilities.

Heritage

E93. Safeguarding cultural heritage, within the framework of spatial planning, means above all the preservation of monuments, which includes the protection of ensembles of buildings. In Germany it is the *Länder* who are mainly responsible for this task. They prepare the lists of monuments, in which building monuments and other artefacts are registered. All building monuments must be identified in spatial plans.

E94. The *Bund* supports the *Länder* in their implementation of these tasks. This is done by means of taxation legislation, under which tax relief is available in certain circumstances for investment in monuments and the costs involved in the preservation of buildings.

E95. Since reunification, the *Bund* and the new *Länder* have jointly adopted a programme for *städtebauliche Denkmalschutz* (preserving urban monuments), the help of which promotes the preservation and renewal of historical town centres. In this way many of the historically important towns in the new *Länder* are renewing their former splendour, for example, Dresden, Weimar, Stralsund, Quedlinburg, Erfurt and many others. A second model programme under general urban renewal policy, financed mainly by the *Bund*, is promoting the development of new conservation-orientated urban renewal methods and procedures in pilot projects in 11 towns and 10 villages in the new *Länder*.

E96. At local level, heritage policy is implemented by means of conservation-orientated urban

renewal and the identification of conservation areas. In relation to the latter, the *Gemeinden* can designate *Erhaltungsgebiete* (preservation areas), within which the demolition or alteration of built structures requires special permission. Many *Gemeinden* combine the use of preservation areas, local (binding) design regulations and 'careful' urban renewal to secure city, town and village conservation.

A global approach to spatial planning

E97. In order to be able to respond quickly and effectively to new circumstances and developments, policies must be kept under nearly constant monitoring, review and adaptation. This applies to spatial planning policy and to all other policy areas in the Federal Republic of Germany. A top-down and bottom-up process provides for the continuous evolution of policy. The following are just a few examples of how this process takes place:

- at the international level via:
 - EU directives, for example on environmental impact assessment,
 - EU policy, for example on competition, agriculture and the fifth action programme on the environment,
 - international conventions such as the International Conference on the Protection of the North Sea or the UN Framework on Climate Change;
- at the *Bund* level via:
 - inter-ministerial model research projects, for example the *flächenhafte Verkehrsberuhigung* (areal traffic calming) joint research projects promoted by the BMBau, BMV and BMU — the Federal Ministries of Spatial Planning, Transport and the Environment; which are jointly supported and guided by the respective federal agencies and undertaken in cooperation with the *Länder* and the *Gemeinden* where the model projects take place;
- between the *Bund* and *Länder* via:
 - inter-ministerial conferences of *Bund* and *Länder* ministers (for example the MKRO — the standing conference of the *Bund* and *Länder* ministers for spatial planning);
- between the *Bund*, the *Länder* and the *Gemeinden* via:
 - the *Förderprogramme städtebauliche Modellvorhaben* (promotion programme for model urban renewal projects), promoted by BMBau and the respective *Länder* and *Gemeinden*, for model urban renewal and urban conservation projects in selected towns and villages in the new *Länder*;
- between the *Gemeinden* via:
 - partnerships for the exchange of information and experiences, for example the use of experienced *Sanierungsträger* (semi-public redevelopment agencies) from the *Gemeinden* in the old *Länder* in helping set-up similar agencies for urban renewal in the *Gemeinden* in the new *Länder*;
- from the grassroots level:
 - the original initiative of a loose consortium of community initiatives, pressure groups, local political organisations and members of the architectural and planning professions resulted in establishing the urban renewal element in the *Internationale Bauausstellung* (IBA) (international building exhibition) in Berlin in the early 1980s (see Section D: Special agencies). This in turn resulted in the creation of the STERN agency for careful urban renewal, which became a model example of urban renewal which was adapted by other cities in Germany.

E98. In Germany, there is no binding federal spatial plan nor is there a federal planning authority, in the strict sense. The role of the federal ministry with responsibility for spatial planning — The *Bundesministerium für Raumordnung, Bauwesen und Städtebau* (BMBau) (Federal Ministry of Spatial Planning, Building and Urban Development) is essentially that of:

- spatially coordinating the sector planning policies undertaken by the *Bund* (i.e. the federal ministries); and of
- coordinating the spatial planning policies undertaken by the *Länder* with the broad aims of spatial planning laid down by the *Bund* in the *Raumordnungsgesetz* (ROG) (federal spatial planning act).

E99. The *Ministerkonferenz für Raumordnung* (MKRO) is the standing conference of the *Bund* and *Länder* ministers responsible for spatial plan-

ning. It provides all statements of spatial planning policy, including the *Raumordnungspolitische Orientierungsrahmen* (guidelines for spatial planning). The monitoring and integration of transport, environmental and spatial planning policies is undertaken by a conference of the *Bund* and *Länder* ministers responsible for these areas. The decisions of this ministerial conference (the Krickenbeck Declaration 1992) were included in the *Raumordnungspolitische Orientierungsrahmen*.

E100. The *Raumordnungsbericht* (federal spatial planning report), which is prepared at regular intervals by BMBau, provides a comprehensive analysis of spatial planning and other sectoral planning policies. It includes the statistical background, problems, trends, interactions and policies of all subject areas which have an impact on spatial planning (see Section B: *Bund* policy instruments).

E101. The *Landentwicklungspläne* (LEPs) or *Landesentwicklungsprogramme* (LEPros) (State development plans or programmes) provide a broad and comprehensive, State-wide spatial planning objectives and also function as instruments for the coordination of all policies with a spatial impact in the respective *Land*. There are also a variety of government committees for integrated sector planning at the *Länder* level, for example the *Kabinettausschuß Stadtentwicklung, Sport und Freizeit* (cabinet committee for urban development, sport and leisure) in the *Landesregierung Nordrhein-Westfalen* (State government of Nordrhein-Westfalen).

E102. The main purpose of *Regionalplanung* (regional planning) is to group together all the sectoral plans and programmes for a particular region and to translate their objectives into more definite form in a *Regionalplan* (regional plan). The aims and objectives of the *Regionalplan* must be taken into account in the preparation of local land use plans by the *Gemeinden*, who in turn participate directly in drawing up the regional plans.

E103. The *Gemeinden* are responsible for planning, integrating and implementing local spatial planning policies. The *Baugesetzbuch* (BauGB) provides that the preparation of local land use plans shall contribute to securing a more humane environment and to protecting and developing the basic conditions for natural life (BauGB Section 1(5)). In terms of spatial planning, the *Gemeinden* have particular responsibility for (among other things):

- local land use planning, urban conservation and the setting of local development objectives;
- traffic planning, local public transport and the construction and extension of public local infrastructure;
- landscape planning, improvement of public open space and amenities, tree protection, public water supply, local energy-saving planning and ecology;
- waste water disposal, local waste management and the cleaning up of old contaminated sites; and
- the adoption of environmentally sustainable procedures in all municipal activities.

E104. The planning and implementation of these spatial planning policies is changing from separate sectoral tasks, dealt with by a single local authority department, to a task which crosses all departments and local policy areas, requiring greater policy integration, more public participation and better qualified staff.

E105. At a European level, there is a need for a global approach to spatial planning, which is being promoted by the European Ministers for Spatial Planning through the preparation of a European spatial development perspective (ESPD) (1). The proposals for action contained therein concentrate on three main components:

- the creation of a polycentric urban system, as balanced as possible, discouraging excessive concentration around some large centres and the marginalisation of peripheral areas;
- the creation of a network of environmentally acceptable and efficient infrastructure, strengthening the cohesion of the Community territory;
- and the formation of a European network of open spaces for the protection of natural resources, with protection areas classified according to their different functions.

The preceding overview of the central areas of spatial planning policies illustrates that these three components of a potential European spatial planning policy are the most appropriate to cover the principal need for action.

(1) See the 'Conclusions issued by the German Presidency at the close of the Informal Council of Ministers responsible for spatial planning' held in Leipzig on 21 and 22 September 1994.

F. Policies

Housing

Introduction

F1. The reunification of Germany has provided a great challenge to housing policy. The former centrally organised, planned economy system of housing in the new *Länder* must be converted into a social market economy system, step-by-step.

F2. A complete picture of the housing situation in the new *Länder* will be provided by the results of the next housing census. On the basis of current information, it is estimated that of the existing seven million dwelling units, some 500 000 are uninhabitable and between one and two million require immediate repair and refurbishment. The poor condition of buildings in the new *Länder* represents the major problem of housing supply. The neglect of the housing stock has been caused by a number of factors:

- the freezing of rents at levels way below the cost of maintaining the buildings;
- the over-concentration of new construction on prefabricated housing estates; and
- the elimination of private ownership of rented accommodation.

F3. At present the most important tasks of housing policy in the new *Länder* are:

- to provide the framework conditions for a functioning housing market;
- to continue the process of privatisation;

- the provision of finance for social housing for low-income groups; and

- the promotion of modernisation and refurbishment of the existing housing stock.

F4. In all parts of Germany, and in particular in the agglomerations in the old *Länder*, the demand for housing remains consistently high. This is due in part to each of the following:

- strong immigration and high levels of internal migration from east to west;
- higher personal incomes in the 1980s resulting in demand for larger and better-quality accommodation; and
- a major increase in the number of single person households.

F5. The housing market in Germany is also characterised by a relatively low level of owner-occupation, compared to other European countries. Approximately 42 % of residents in the old *Länder* are owner-occupiers. Owner-occupation is highest in peripheral areas in general (50 %) and in the more densely populated rural areas surrounding cities in south-west Germany (up to 65 %). In inner cities, privately rented flats are the predominant form of housing, especially for one- or two-person households and the level of inner city ownership is no more than 18 %.

F6. In the new *Länder* up to 80 % of housing in the cities is owned by the *Gemeinden* via housing associations, a further 10 % is in the ownership of cooperatives. The highest level of owner-occupation in the new *Länder* is 35 % in Thüringen. A central element of *Bund* housing policy is

the promotion of private property ownership and owner-occupation.

F7. The *Baulandbericht* (building land report) 1993 concludes that the market for housing building land in Germany, especially in the agglomerations, is characterised by a situation in which there is not an adequate supply of land ready for building and the land that is designated in local land use plans for housing construction is not coming onto the market to a sufficient extent.

F8. Furthermore, the displacement of existing housing by more profitable uses in the larger agglomerations and the consequent increases in the price of building land, is pushing housing construction further into the urban hinterland. Thus, greater and greater distances have to be accepted nowadays in purchasing sites for single-family houses.

European Union

F9. EU policies do not have a direct impact on housing policies in the Federal Republic of Germany. Nevertheless, the policies of sustainable development advocated in the European Union Treaty and the White Paper on growth, competitiveness and employment have an important influence on settlement policy, which is supported and promoted by the *Bund* and *Länder*.

F10. The well-being of future generations must be taken into account in all decisions relating to spatial development (fifth action programme 'Towards sustainability'). The emphasis on a more balanced and polycentric urban system (as agreed at the informal Council of Ministers responsible for spatial planning in Leipzig on 21 to 22 September 1994) in Europe, is also a central principle of German spatial planning policy (see Section A: Political priorities and Section A: European Union).

Bund (Federal/national) policies

F11. The Bundesministerium für *Raumordnung, Bauwesen und Städtebau* (BMBau) (Federal Ministry of Spatial Planning, Building and Urban Development) has responsibility for federal policy on housing. Under joint programmes with each of the *Länder*, the BMBau provides finance (via the *Länder*) for redevelopment and renewal, inner city housing and in the new *Länder*, the improvement of existing residential areas and pre-fabricated housing estates. The BMBau is also responsible for the law on housing construction, rent

allowances and tenancy and it prepares the federal policies for the promotion of housing construction.

Promotion of new housing construction

F12. The promotion of new housing construction has been improved since 1989 to overcome the scarcity of supply. The enactment of the *Wohnungsbauförderungsgesetz* (federal housing promotion act) 1994, provides instruments for the promotion of new housing construction, which are aimed at the reduction of the current housing shortage. As a result of these new instruments there is a wide range of measures for the promotion of new housing construction, including:

- the promotion of social housing construction (see *Länder* policies below);
- the provision of interest relief and low-interest credit for new housing involving the extension and conversion of buildings and the conversion of attic space for residential accommodation;
- tax relief for the construction of housing for rent. Special tax relief, of up to 50 % of the costs within the first five years, is available for the construction of rented housing accommodation in the new *Länder*;
- the sale of certain parcels of land owned by the *Bund* in the new *Länder* at reduced prices for the construction of social housing (including housing formerly occupied by the Russian armed forces).

F13. In addition the *Baugesetzbuch* (BauGB) (federal building code) has been amended to provide (i) simplified procedures for the provision of building land for housing in areas of housing need, (ii) speeded-up procedures for the issuing of building permissions for housing in areas of housing need and (iii) the conversion of attic accommodation for residential use.

F14. The *Bund* provides financial aid to the new *Länder* to help them undertake their programmes for publicly-promoted housing. The amount of funds provided for this purpose by the *Bund* has increased significantly since 1990. Through a special programme, the *Bund* also provides additional financial aid to the old *Länder* to promote social housing construction in regions with a high-level of demand (i.e. in the major cities).

F15. The number of new dwelling units completed in the FRG has increased from 209 000 in 1988 to 375 000 in 1992 and to more than 400 000 in 1993. In 1992 building permissions for more than 460 000 dwelling units were issued — the highest level for 20 years.

Modernisation of the housing stock

F16. The modernisation of housing accommodation is a matter for the owner, in the first instance. In the old *Länder*, modernisation is to some extent promoted by the housing programmes of the *Länder*, however, promotion is mainly restricted to measures for energy conservation.

F17. In the new *Länder* the situation is different. Here, the rehabilitation and modernisation of the housing stock, which has been neglected for decades, requires the support of the *Bund* and *Länder*, in order to improve living standards as soon as possible.

F18. The *Bund* and (wealthier) *Länder* provide financial aid for the rehabilitation and modernisation of housing to the new *Länder* under the 'Aufschwung-Ost' programme (until December 1995, see Section D: Regional economic development).

F19. In addition there is the *Wohnraum-Modernisierungsprogramme* (housing accommodation modernisation programme) carried out by the Kreditanstalt für Wiederaufbau, a financial agency specially established and financed by the *Bund*. This agency provides low-interest loans for housing modernisation in the new *Länder* to owner-occupiers and tenants of rented accommodation, as well as to the *Gemeinden* and municipal housing associations. A proportion of the funds available is reserved for the rehabilitation of accommodation in prefabricated housing blocks.

F20. Generally, the costs of the modernisation of rented accommodation can be set-off against the landlords' taxable income. Such tax benefits are not normally available to owner-occupiers, except in the new *Länder*, where modernisation costs (up to a maximum limit) can be set-off against taxation.

Privatisation and the promotion of owner-occupation

F21. Much of the housing stock in the new *Länder* is in the ownership of public (municipal) hous-

ing associations or companies. This housing stock is burdened with large inherited debts and interest repayments. A proportion of these debts and repayments will be taken over by the *Bund*, *Länder* and a specially established agency, provided the housing associations implement a system of privatisation of at least 15 % of their housing stock within 10 years.

F22. Priority is to be given to the purchase of these 'privatised' housing units by the existing tenants. A system of financial grants is available to the tenants for this purpose. However, the high levels of unemployment, the lack of savings and the fear of future unemployment among tenants in the new *Länder*, means that the majority of tenants cannot afford to purchase their dwellings. Only the commercial property investment companies can be expected to take up a large share of the housing units being offered under this forced privatisation programme. Nevertheless, the privatisation of housing in the new *Länder* has broadened both the levels of owner-occupation and of private ownership of rented residential property.

F23. Throughout Germany, the private ownership of residential property is promoted by:

- tax incentives for purchasers of housing for owner-occupation;
- tax incentives for the construction of housing for owner-occupation; and
- limited interest relief for builders or investors who provide new housing for ownership.

F24. Tax advantages for owner-occupiers are very important since it would not be possible to profitably finance the construction of a single-family house without them. Because of the progressive income tax rate in Germany, the advantages are greater for those with higher incomes.

F25. Ownership of apartments, in the form of condominiums, is established under the *Wohnungseigentumsgesetz* (WEG) (federal condominium act), in which separate apartment ownerships are created in a single building by legal contract (so-called 'flying freeholds'). Old buildings in inner cities are frequently converted into such condominiums.

F26. The changes introduced to the BauGB by the *Investitions-erleichterungs- und Wohnbaulandgesetz* 1993 and the Bau- und Raumordnungsgesetz 1997 improved the conditions for land management at the local level:

- the *städtebauliche Entwicklungsmaßnahmen* (urban redevelopment measures) were extended and made a permanent part of the BauGB, permitting the *Gemeinden* to undertake land management from the planning stage, through land acquisition to the provision of building land (see Section D: Urban regeneration);
- time-limits are laid down for the procedural steps in local land use planning;
- the possibilities of regulating planning, building and infrastructure provision measures between private investors and the *Gemeinden* via the *Vorhaben- und Erschließungsplan* (VuE-Plan) (project and infrastructure plan) and the *städtebauliche Vertrag* (urban development contract) (for details of these instruments see Section C: Other permits and Section D: Partnerships).

Länder (State/regional) policies

F27. The *Länder* implement federal policy on housing, administer the financial aid and other subsidies provided by the *Bund* and prepare and implement their own policy, programmes and financial assistance for housing. The *Landesentwicklungs-gesellschaften* (State development companies) also play a very important role in the provision of developed land for housing.

F28. The social housing sector in Germany is supported by subsidies from the *Bund*, *Länder* and the *Gemeinden*, for the construction of new dwellings and the modernisation of dwellings for low-income groups. The subsidies are provided for rented flats as well as for owner-occupied dwellings.

F29. Because of the regional shortages of housing accommodation, the combined funds provided by the *Bund* and *Länder* for the *sozialer Wohnungsbau* (social housing construction) programme has increased significantly from DEM 8.3 billion in 1990 to DEM 21.8 billion in 1994; excluding the additional funding from the *Länder*

(DEM 3.4 billion) and the *Gemeinden* (no figures available) for their own programmes. In 1994, 166 855 new dwellings and the modernisation of 185 630 dwellings were promoted under the social housing construction programme of the *Bund* and *Länder*.

F30. The *Länder* administer this programme and are responsible for awarding the subsidies to the *Gemeinden*, investors, housing associations, households, etc. The *Länder* also provide the major share of the funding — DEM 18.3 billion in 1994 (or 84 %).

F31. The legal framework for the social housing construction programme is provided in the *II. Wohnungsbaugesetz* (II. WoBauG) (2nd. federal housing construction act). Under this act each of the *Länder* prepares an annual programme for new social housing construction and the modernisation of dwellings. The details of the programmes, procedures and subsidies differ between the *Länder*, but there are essentially three types of *Förderweg* (promotion method) provided for in the II. WoBauG.

F32. The 1st *Förderweg* involves mainly interest-free loans for the construction of dwellings for low-income persons. Additional loan entitlements are available for families, young couples, handicapped persons and German immigrants. Subsidies are provided to reduce monthly mortgage repayments or monthly rents. Maximum income limits for the occupiers are applied, as are limits to the size of the 'promoted' dwelling. The 1st *Förderweg* was used to promote the construction of 44 286 new dwellings in 1994 (27 % of the total), on a owner-occupied/rented ratio of 21 to 79 %. The 1st *Förderweg* is the main promotion method in Nordrhein-Westfalen. It is also widely used in Berlin, Brandenburg and Hamburg.

F33. The 2nd *Förderweg* involves a combination of non-repayable subsidies and low-interest or interest-free loans, which are used to reduce the monthly payments of the occupiers. The income limit is 40 % (60 % in the new *Länder*) higher than the 1st *Förderweg*. A special programme under the 2nd *Förderweg* is available for the agglomerations. In 1994, 24 009 new dwellings (14 % of the total) were promoted under the 2nd *Förderweg*; on an owner-occupied/rented ratio of 73 to 27 %. The 2nd *Förderweg* is widely used in Nordrhein-Westfalen and the more densely populated urban areas in the old *Länder*.

F34. Under the 1st and 2nd *Förderwege* the occupiers pay a fixed 'rent', which is fixed annually by each of the *Länder* according to the respective market rental levels. The loans and subsidies provided make up the difference between the fixed rents (or mortgage repayments) and the capitalised cost of constructing and managing the dwellings. The special programme under the 2nd *Förderweg* provides for a higher band of fixed rents in the agglomerations, which is a reason for the more widespread use of the 2nd *Förderweg* in Nordrhein-Westfalen.

F35. Because the 1st and 2nd *Förderwege* involve fixed rents and fixed periods of tenancy and loan repayments, they are not favoured so much by private sector builders or investors. They are mainly used by non-profit housing cooperatives (*Wohnungsbaugenossenschaften*), semi-public housing associations (*Wohnungsbaugesellschaften*) and public housing companies (*gemeinnützige Wohnungsunternehmen*).

F36. The 3rd *Förderweg* is much more flexible than the other two. It is aimed at the provision of housing for social tenants and for other persons whose incomes are (150 to 200 %) above the maximum allowable under the 1st *Förderweg* (these also pay higher rents). The level of the subsidies is based on:

- the cost of construction;
- the initial level of rent to be paid by the tenants; and
- the duration of the promotion period (7 to 35 years, with a 10-year period being most common).

At the end of the promotion period, the rents payable return to the market rent. Social tenants then receive rent allowances from the *Gemeinden*. The division of the subsidies between cash subsidies and low-interest (or interest-free) loans can be agreed between the builder and the *Land*.

F37. In 1994, 98 560 new dwelling were promoted under the 3rd *Förderweg* (59 % of the total); with an owner-occupation/rented ratio of 29 %-71 %. The use of the 3rd *Förderweg* is on the increase in most of the *Länder* and it is widely used in Berlin and the new *Länder*, but it is not used at all in Nordrhein-Westfalen. The 3rd *Förderweg* is favoured by private builders and investors because the rent (promotion) periods, the

initial rents and the type of subsidy can be flexibly applied to suit each project.

F38. A single *Land* agency or *Land*-owned bank generally administers the application procedures and awards the loans and subsidies involved in the three *Förderwege* and other housing promotion programmes (modernisation, heating, insulation, etc.), for example the Senate-owned Investitionsbank Berlin (IBB) is the relevant agency in Berlin.

F39. Other housing investment projects, which do not fall under the social housing construction programmes can receive tax relief. Housing improvements and new housing construction in a designated *Sanierungsgebiet* (redevelopment area) can also benefit from subsidies and tax incentives (see Section D: Urban regeneration).

Gemeinde (municipal/local) policies

F40. The *Gemeinden* implement the housing policies of the *Bund* and *Länder*, as well as their own programmes for social housing, rent policy, etc. They prepare the local land use plans designating building land for housing and also provide land and infrastructure for the construction of housing.

F41. The *Gemeinden* acquire land banks for housing development and sell the land cheaply, mostly to housing associations, to enable low-cost housing to be built. Because of the high-cost of land in the agglomerations, many *Gemeinden* in these areas operate a housing programme on municipally-owned sites to provide reasonable-cost housing for owner-occupation by families with middle-incomes (mainly) and low-incomes.

F42. The *Gemeinden* can designate formal *Entwicklungsbereiche* (urban development zones) under the BauGB (see Section D: Public sector development policies). Current policy, advocated by the *Bund*, is that the *Gemeinden* are to dispose of all building land in urban development zones at relatively low prices. The costs of infrastructure and connections to the existing roads and services is to be financed by means of the increase in land values which accrues to the *Gemeinden* (who acquire and convert the land to building land).

F43. Rent control is a legal instrument of rent policy and is used most frequently in the German cities, where each year the *Gemeinde* publishes

a band of rental levels for flats, according to building age, location, condition and the facilities provided (bath, indoor toilet, type of heating, etc.).

F44. *Bund* legislation states that rents have to be based on those charged in the previous three years for similar flats in locally comparable locations. Rent increases are generally restricted to 20 to 30 % over the following three years, unless improvements to the flats' facilities are carried out. The legislation also protects tenants against wrongful eviction and exorbitant rents.

F45. Based on the policy to improve the economic basis of the existing housing stock in the new *Länder*, rent increases were implemented under the 1991-94 rental levels reform. Rent control has also been relaxed to allow rental levels rise independent of other general price increases. The maximum level of annual rent increase is controlled by *Bund* legislation; it is now 10 to 20 %. The increases in rent are balanced by revised rent allowance regulations.

F46. To soften the effects of the overstretched housing market in Germany one can apply for the payment of *Wohngeld* (rent allowance or housing benefit), where the market results in unaffordable rental or owner-occupier loan repayment costs in individual cases. The right to receive *Wohngeld* and the amount thereof is dependent on family size, income and the rental or housing costs to be paid.

F47. The instrument of *Zweckentfremdungsverbot* (prohibition of change of use) is operated by the *Länder*, in cooperation with the *Gemeinden*, to prevent changing residential uses into other uses. It is most often used to protect housing in inner-city locations from changes of use.

F48. The housing associations are major actors in the housing market in Germany. These are *Wohnungsbaugenossenschaften* (non-profit housing cooperatives), *Wohnungsbaugesellschaften* (semi-public (municipal owned) housing associations) and *gemeinnützige Wohnungsunternehmen* (public housing companies — who must operate under market conditions since 1990).

F49. There is a large proportion of private investors in the housing market. Property owners are represented by a number of organisations, including the federal-wide *Zentralverband der Deutschen Haus-, Wohnungs- und Grundeigen-*

tümer (confederation of German house, apartment and land owners).

F50. Tenants associations are found in every town and city. They provide information and legal advice to tenants and lobby on behalf of tenants interests' on all aspects of housing policy. The various associations are grouped together at *Länder* level and at *Bund* level in the *Deutscher Mieterbund* (German tenants confederation).

Monitoring

F51. The implementation of housing policy is monitored in the *Raumordnungsberichte* (spatial planning reports), which are prepared regularly by BMBau, for the whole of Germany, and by each of the *Länder*. A federal housing census is also undertaken at regular intervals, the latest census was in 1995.

F52. The BMBau also publishes a *Baulandbericht* (building land report) every few years, the latest edition is from 1993. The *Bundesbaublatt*, a monthly magazine issued by BMBau, contains statistical data and analysis on housing and other building and planning policies.

Trends

F53. The *Bundesforschungsanstalt für Landeskunde und Raumordnung* (BfLR) (federal research institute for regional studies and spatial planning) published a prognosis (6 February 1996) indicating that 470 000 new dwellings will be needed each year in Germany between 1995 and 2010, in order to accommodate housing need. This is a consequence of a combination of inter-related factors:

- an increase in the number of private households from 35.2 to 39 million by 2010;
- increasing immigration;
- reductions in the number of persons per dwelling; and
- increases in the average dwelling floorspace per person.

F54. However, the *Deutscher Mieterbund* maintain that the BfLR prognosis is too low since there is already a deficit of 1.5 million dwellings in Germany and a further 100 000 dwellings are lost each year through demolition, change of use or the combination of two dwellings into one.

Others maintain that the BfLR prognosis is too high, because Germany has one of the lowest birth rates in the world and immigration will not be allowed to balance the process of population decrease.

F55. Rent control and controls on annual rental increases are being relaxed throughout Germany, especially in the agglomerations where major bottlenecks in the housing markets exist. The reduction of rent control is being put forward as a means to encourage the construction of dwellings for rent by private investors. At the same time, changes in rent law are being proposed by the *Bund* which will allow for higher and more frequent rent increases and also make it easier to terminate tenancy agreements.

F56. The BfLR prognosis of housing need (6 February 1996) points out that a major increase in home owner-occupation is likely in both the older and the new *Länder*. This will lead to demand for more building land. It is indicated that while there is enough designated building land to accommodate demand in the short-term, municipalities will have to designate more housing land to meet future needs.

F57. The results of the *Baulandbericht* 1993 emphasise that the emerging building land requirements can only be met on a sustainable basis by the public authorities adopting longer-term strategies and making increasing use of private-sector land management.

F58. The report also states that the general concept in settlement planning of decentralised concentration is of increasing importance in the preparation of long-term strategies. Thus there is a need to leave behind the divisions of responsibilities between the cities and their surrounding municipalities and to promote urban networks. The aim being to bring about settlement structures that are spatially and functionally concentrated, with new housing areas closely linked into the city-regions' public transport infrastructure.

F59. The BMBau operates a research programme on *Experimenteller Wohnungs- und Städtebau* (ExWoSt) (experimental housing and urban development) which among other issues covers mixed-use urban development involving housing and working in the same block or building, new traffic reducing forms of housing, ecologically orientated housing design and the use of

ecological building materials and integrated settlement and transport planning.

F60. There are also a number of projects for *ökologische Siedlung* (ecological settlement), which have been completed recently or are at the planning stage. They involve the cooperation of the *Länder*, *Gemeinden* and housing associations. These pilot projects comprise small housing and flat developments with a variety of features including:

- optimising passive solar energy;
- use of ecological building materials and grass roof coverings;
- on-site energy provision and waste management and a system of rainwater and piped water management; and
- reduced parking and paved surfaces (in some cases car ownership is also restricted).

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Bundesbaublatt' which covers housing, building and spatial planning issues. Other cities also regularly issue magazines on housing and planning issues, for example *Foyer*, the quarterly magazine of the *Senatsverwaltung für Bau- und Wohnungswesen* (senate administration for building and housing) Berlin.

Commercial and retail

Introduction

F61. Commercial and retail policy in the Federal Republic of Germany is influenced by the following factors:

- the market demand for floorspace by commercial and retail firms;
- the demand for services and retail facilities by the consumers;
- the requirement of spatial planning to achieve a balanced central place structure; and
- the need to provide a reliable supply of goods and services as close as possible to local populations.

F62. In this context commercial uses refers mainly to office uses, including uses for financial services and other non-manufacturing and non-retailing services. Commercial policy is essentially policy for the location of commercial land uses, which is relatively straightforward and based on the abovementioned factors. Here the requirements of the system of central places contained in *Landesplanung* (State spatial planning) are important.

F63. Retail policy is also essentially policy for the location of retail uses. Here, however, the main focus of policy is on the location of shopping centres and other large retail operations, such as department stores, hypermarkets, retail warehouses and large DIY (do-it-yourself) centres. The principal factors influencing retail location policy are (in addition to those mentioned above):

- the need to protect existing town centres as the focal point in the hierarchy of retail use provision;
- to promote the expansion of retail facilities in existing town centres, since the latter provide

maximum accessibility to the widest range of the population; and

- the protection of undeveloped areas on the outskirts of densely built-up areas and the need to achieve a sustainable pattern of settlement and development.

F64. In the old *Länder*, some shopping centres and other large-scale retail operations have been established outside of existing town centres on 'greenfield sites'. These centres are often accessible only by car and thus lead to additional traffic generation. This problem is being tackled in the old *Länder* by policies and mechanisms in the spatial plans of the *Länder*.

F65. Following reunification the new *Länder* were faced with a huge increase in demand for consumer goods and for the retail floorspace to supply these goods. The lack of spatial plans at *Länder* and local level, the need for new development, competition between the *Gemeinden* to attract this development and the problem of unclear property ownership in the town centres combined to encourage the development of new purpose-built shopping centres on 'greenfield' sites. The number and size of the new retail facilities permitted outside the town centres is now casting a questionmark over the survival of many retail firms in the central business districts of the towns and cities in the new *Länder*.

F66. A significant factor in the over-supply of and permission for 'greenfield' shopping centres is the competition between *Gemeinden* to attract new retail/commercial enterprises. The motivating force behind this is the *Gewerbesteuer* (local business tax) collected by the *Gemeinden* from businesses within their area. Thus, a major regional shopping centre is a very attractive proposal for a small *Gemeinde* on the outskirts of a large town. The inter-municipal competition can also be used by shopping centre developers to gain favourable terms and quick decisions.

F67. The priority for retail location policy, throughout Germany, is the prevention of new large-scale retail facilities or major extensions to existing facilities, located outside of the town and city centres. A related priority is the support of existing town centre facilities and the promotion of a wider range of uses to strengthen the drawing power of the town centre.

European Union

F68. EU policies do not have a direct impact on commercial or retail policies in Germany. Nevertheless, the policies of sustainable development advocated in the European Union Treaty and the White Paper on growth, competitiveness and employment have an important influence on settlement policy, which is supported and promoted by the *Bund* and *Länder*.

F69. The well-being of future generations must be taken into account in all decisions relating to spatial development (Commission fifth action programme on the environment 'Towards sustainability'). The emphasis on a more balanced and polycentric urban system (as agreed at the informal Council of Ministers responsible for spatial planning in Leipzig on 21 to 22 September 1994) in Europe, is also a central principle of German spatial planning policy (see Section A: Political priorities and Section A: European Union).

Joint *Bund* and *Länder* (federal/national and State/regional) mechanisms to implement policy

F70. The location of commercial and retail uses is orientated by the system of central places provided for in the *Landesentwicklungspläne* or *Landesentwicklungsprogramme* (LEP/LEPros) (State development plans or programmes). This system of central places is further developed in the *Regionalpläne* (regional plans — see Section B: *Länder* policy instruments), which in turn provide the framework for the preparation of local land use plans, the F-plan and B-plans, by the *Gemeinden*.

F71. The *Baunutzungsverordnung* (BauNVO) (federal land use ordinance) contains uniform, federal-wide rules for land use and general rules for the density of development permitted within each category of land use. These rules specify the types of land use areas (or zones) to be included in local land use plans.

F72. Under the BauNVO, commercial uses are permitted in:

- *Kerngebiete* (core areas), which are intended primarily to provide space for commerce and for central business, administrative and cultural buildings;
- *Gewerbegebiete* (commercial areas), which are intended predominantly to provide ac-

commodation for commercial and light industrial operations which are not seriously disruptive; and

- *Mischgebiete* (mixed use areas), which are intended to provide space for housing, and to accommodate businesses which do not exert a disruptive effect on the residential function (permitted are business premises, office buildings and local administrative buildings).

F73. Shops, other businesses such as restaurants, public houses, etc., and other commercial operations which supply services to the local area may be permitted in *Allgemeine Wohngebiete* (general residential areas) in particular. Small-scale office and business premises may also be permitted in these areas.

F74. The location of shops and small/middle scale retailing operations of up to 700m² in floor area is permitted in 'core areas' and 'mixed use areas'.

F75. In general, large-scale offices, headquarter and main administrative offices are to be located in 'core areas' or 'commercial areas'.

F76. Section 11 (3) of the BauNVO provides that:

- shopping centres; and
- large-scale retail operations and other large-scale commercial operations (e.g. retail warehouses), which by the nature of their type, location or scale may exert a more than minor impact on the implementation of the aims of federal or State spatial planning, or on urban development and planning, are permitted only in 'core areas' or *Sondergebiete* (special areas) designated for them. (Under Section 11 (3) 3 BauNVO this impact is considered to occur where the floorspace exceeds 1 200m².)

F77. This policy is extended in various ways by the LEP/LEPros and the *Regionalpläne* of the *Länder*. The Nordrhein-Westfalen *Landesentwicklungsprogramm* 1989 provides that 'core areas' or 'special areas' for shopping centres and other large-scale retail/commercial operations are only to be identified, by the *Gemeinden* in their F-plans/B-plans, in so far as:

- the uses permitted in them correspond to the type, location and size of the central place;

- the permitted uses secure a reliable supply of goods to the population; and
- they are spatially and functionally related to the main emphasis of settlement policy.

F78. This provides a limit to the planning sovereignty of the *Gemeinden*, which has been upheld in the courts. Otherwise the relocation of retail/commercial operations to neighbouring municipalities would leave a municipality without the possibility of providing costly social facilities for education, sport, culture, etc.

F79. Other *Länder* also apply strict policy control on the *Gemeinden* on this issue. In Schleswig-Holstein, the minister responsible for *Landesplanung* (State spatial planning) introduced the so-called *Verbrauchermarkt-Erlaß* (hypermarket decree), which provides wide-ranging clarification to the *Gemeinden*. Under this decree all planned large-scale retail facilities must be reported to the *Land* ministry in order to allow consideration of the spatial planning implications of the proposal.

F80. The main emphasis of policy in the new *Länder* since 1990 has been to establish a system of *Landesplanung*, within which the above policies can be incorporated. This includes the preparation of *Landesplanungsgesetze* (State spatial planning acts) and spatial plans, the LEP/LEPros. The preparation of local land use plans at the *Gemeinde* level are also a priority.

F81. Commercial and retail policy is monitored in the *Raumordnungsbericht* (spatial planning report), prepared by each of the *Länder* at regular intervals (generally every four years). The spatial plans at *Land*, regional and local level are also continuously monitored and new developments are recorded in the cadaster (land and building permission register).

Gemeinde (municipal/local) policies

F82. The F-plans (preparatory land use plans) and B-plans (binding land use plans), prepared by the *Gemeinden* must be brought in line with the aims of *Raumordnung* and *Landesplanung* (Section 1 (4) BauGB). In particular, large-scale retail operations and shopping centres are only allowed in the central areas of medium and high-central places.

F83. Furthermore, the local land use plans for neighbouring *Gemeinden* must be coordinated

(Section 2 (2) BauGB). In the preparation of local land use plans attention is also to be paid to (among other things), 'economic requirements, including maintaining the structural role of medium-sized businesses, in the interests of local, close-to-the-consumer supply to the population ...' (Section 1 (5) No 8 BauGB).

F84. The *Gemeinden* play an important role in the preparation of *Regionalpläne* (regional plans — see Section B: *Länder* policy instruments), which provide the framework for the preparation of their F-plans and B-plans. The *Industrie- und Handelskammern* (chambers of commerce), who represent commercial and retail interests, participate in the preparation of spatial plans at *Länder* and *Gemeinde* levels. Another relevant traders organisation is the *Bundesarbeitsgemeinschaft der Mittel- und Großbetriebe des Einzelhandels* (BAG) (federal association of middle and large-sized retailing traders).

F85. The *Gemeinden* often use *städtebauliche Wettbewerbe* (urban development competitions) for large-scale urban development projects. These can be open-competitions or competitions restricted to a number of selected architectural firms. The competitions generally only occur where the site to be developed is in public ownership and (i) the project is for public uses (e.g. government buildings) or (ii) the site is to be sold on to an investor/developer (e.g. the Friedrichstadt Passagen in Friedrichstraße, Berlin). The competition entries are guided by *Wettbewerbsbedingungen* (competition conditions) prepared by the *Gemeinde*, which provide the framework conditions on design, land use and other matters for the proposed project.

F86. The winning entry is translated into: architectural drawings by the winning firm or by other architectural firms and simultaneously (b) into a B-plan (binding land use plan) by the *Gemeinde* (or by a private planning firm on behalf of the *Gemeinde*).

Trends

F87. In the retail sector there is an emerging process towards the concentration and regionalisation of retail outlets. New multi-purpose regional shopping centres are being established in out-of-town locations near major motorway inter-sections, particularly in the new *Länder*. This will

pose a challenge to central business districts and to efforts to reduce intra-regional motor car traffic.

F88. The restrictive regulations governing shop opening hours throughout Germany have been re-examined. Shops are allowed to stay open up to 8 p.m. on weekday nights and to 4 p.m. on Saturdays; though regional variations are likely.

F89. There are also a number of trends occurring within the services and offices sectors:

- the services sector is increasing its share of total employment and accounting for a larger proportion of the workforce in manufacturing industries;
- there is a process of relocation of back-office activities (computer processing, data handling, etc.) to cheaper accommodation in suburban locations and of sub-contracting back-office activities to firms outside of Germany — in Eastern Europe and Asia;
- the efficiencies provided by information and communications technologies are leading to the reduction of employment in banking and financial services;
- home banking and on-line banking via the Internet are becoming a reality. This will have implications for service employment and the location of banks;
- modern information and communications technology allows a certain amount of freedom for the locational decisions of service firms, while at the same time demanding new forms of flexible office design;
- contact-orientated service firms still seek prime office locations, mainly in areas with a vibrant urban character and mixture of uses; and
- the flexibility provided by modern technology provides potential for new forms of urban development.

F90. The BMBau has initiated research under its *Experimenteller Wohnungs- und Städtebau* (ExWoSt) (experimental housing and urban development) programme in the field of mixed-use in urban development. The aim of the research programme is to examine ways of achieving a

mixture of functions in inner-city areas and new development areas, which contribute to the creation of urbanity, improve urban quality, provide for working and living (within the same block or building) and turns away from the idea of the separation of individual functions.

F91. In terms of building design, there is a trend towards the construction of ecologically orientated buildings, especially in the office sector. These buildings are designed to maximise passive solar energy, provide green roof gardens or roof surfaces, use ecological building materials, reduce artificial air conditioning, reduce paved surfaces for parking and circulation and provide a system of rainwater and piped water management.

F92. The evolution of urban networks, involving the complementary specialisation of functions and mutual exchange of services among the networked cities, is also expected to play a significant role in urban development and the regional location of services in the future.

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The BMBau issues a monthly magazine *Bundesbaublatt* which covers building and spatial planning issues. Other cities also regularly issue magazines on building and planning issues, for example *Foyer* the quarterly magazine of the Senatsverwaltung für Bau- und Wohnungswesen, Berlin. Statistical data and market analysis on the office and retail sectors and the property market in general are published monthly by the Ring

Deutscher Makler (confederation of German estate agents) in the *Allgemeine Immobilien Zeitung*.

Industrial

Introduction

F93. Industrial policy is a central component of economic development policy, also called regional structural policy, (see Section F: Economic development) and is prepared and implemented by the *Bund*, the *Länder* and the *Gemeinden*.

F94. The nature of industrial policy in the Federal Republic of Germany is a combination of the promotion of industrial development on the one hand, and the need to provide for the locational requirements of industry on the other, while also taking consideration of the potentially disruptive effects of some industrial uses on other uses and on residential areas in particular.

F95. The main objective of German industrial policy since 1990 has been to change the economy of the new *Länder* from a communist command-style economy to a market economy. An important part of this policy involved the privatisation of former State-controlled industrial and commercial facilities.

F96. The introduction of free market economics into the new *Länder* resulted in a swift collapse in production and employment. At the same time, structural economic change is affecting the older industrial regions in the old *Länder*. The heavy industries of steel, coal and shipbuilding are in decline, while newer industries, such as household electronics are faced with stiffer international competition and the need to be more innovative. The second objective of German industrial policy is to help these regions overcome the structural changes involved.

F97. Special attention is given to the promotion of new productive enterprises and the extension of existing enterprises, which are capable of competing at both national and international levels. Allied to this is the need to strengthen the productive, competitive and innovative abilities of industry. The promotion of research is a priority in this respect.

F98. A key element of the economic and spatial planning policies of the *Bund* is the promotion of

'equivalent living conditions' throughout the country. Accordingly, suitable locations for industry are to be provided within the framework of a polycentral spatial and settlement structure. The principle of polycentral settlement structures is the most appropriate spatial concept for both satisfying the population's accommodation requirements and industry's need for industrial and commercial sites.

European Union

F99. International cooperation in research is an important element of industrial policy. Germany takes part in and is a member of most of the European research programmes, including those of the European Space Agency, CERN and Eureka (European research coordination activity).

F100. The new *Länder* have been designated as EU Objective 1 regions from the beginning of 1994. This will result in an increase in the amount of EU funding available for industrial development and infrastructure, among other things, in the new *Länder*. In the old *Länder*, EU funding is provided for land reclamation, renewal and redevelopment in old traditional industrial areas (EU Objective 2 regions). European regulations on environmental impact assessment also have an influence on the environmental controls applied to some types of industry and their location.

F101. The policies of sustainable development advocated in the European Union treaty and the European Commission's White Paper on growth, competitiveness and employment have an important influence on industrial policy.

Bund (federal/national) policies

F102. The *Bund* established the *Treuhandanstalt* in 1990 to manage the privatisation of the former State-controlled industrial, commercial and agricultural enterprises in the new *Länder*. The *Treuhandanstalt* ceased operations at the end of 1994. By this time over 7 800 enterprises had been privatised and some 3 700 firms were wound-up. The privatisation process covered all industrial sectors including shipbuilding, steel, motorcar, electrical and chemical industries.

F103. The promotion of industry is part of the *Verbesserung der regionalen Wirtschaftsstruktur* (the improvement of the regional economic structure) under the *Gemeinschaftsaufgaben* (joint-tasks) to be undertaken and financed jointly by

the *Bund* and *Länder*. The details of these policies are described in Section D: Regional economic development and Section F: Economic development.

F104. The international success of the German economy is dependent more and more on pure research, which is essential for the development of innovative products. Pure research covers a very wide spectrum of scientific subjects from polar to space research and from biotechnology to materials research, for example. The promotion of research and development by the *Bund* is concentrated on market-orientated technology.

F105. The *Bund* supports and promotes the process of restructuring to provide for innovative capacity and the creation of an efficient research and development (R & D) potential through programmes for the promotion of new product development, new technologies and the improvement of the transfer of useable R & D results to small and medium-sized companies. The promotion includes financial subsidies and loans to small and medium-sized firms.

F106. In 1992 the total amount of funds provided for research and development amounted to approximately DEM 81 billion, of which nearly 18 % was provided by the *Bund*, 13 % by the *Länder* and nearly 48 % by industry and commerce.

F107. Economic policy is monitored by a committee comprising the *Bund* and *Länder* ministers for the economy. This committee prepares the annual programme for regional economic development (see Section D: Regional economic development and Section F: Economic development).

Länder (State/regional) policies

F108. Industrial location policy is established according to the system of central places provided in the *Landesentwicklungspläne* or *Landesentwicklungsprogramme* (LEP/LEPros) (State development plans or programmes). Suitable locations for industry are identified in the *Regionalpläne* (regional plans) and are translated into designations for industrial land use in the local land use plans (F-plans and B-plans).

F109. Establishing the location of major, large-scale industrial facilities can also involve a *Raumordnungsverfahren* (spatial planning procedure — see Section B: *Länder* policy instruments).

The main objective of this procedure is to compare the advantages and disadvantages of different locations for the proposed project.

F110. More recently, the spatial location of productive industry and of service industry is being orientated along the concept of decentralised concentration, particularly in heavily built-up areas. This concept seeks to reduce the spread of settlements and of new development into surrounding undeveloped areas. This requires, among other things, a stronger planning relationship between areas identified as locations for industry, commerce and housing.

F111. The *Landesentwicklungsgesellschaften* (LEGs) (State development companies) play an important role in the provision of land and the construction of buildings for industry. In the major cities, this can involve the reclamation of contaminated former industrial sites for new uses, including industry. A foremost example of the renewal of old industrial areas by a LEG is the IBA-Emscher Park project in Nordrhein-Westfalen (see Section D: Special agencies and Case studies Volume 1: Regional policy: The development of an ecological business and housing park on the site of a former coalmine in the Ruhr area).

F112. The *Länder* and *Gemeinden* both use the provision of sites for industry as a major component of regional and local economic development policy (see Section F: Economic development).

Gemeinde (municipal/local) policies

F113. The *Gemeinden* prepare the local land use plans which designate areas for industrial uses exclusively and for mixed commercial and light industrial uses.

F114. The *Baunutzungsverordnung* (BauNVO) (federal land use ordinance) provides a federal-wide classification of land uses which are to be used in the preparation of F-plans and B-plans. This classification provides for:

- *Industriegebiete* (industrial areas) to exclusively accommodate commercial operations and in particular productive and manufacturing industrial operations which are not permitted in other areas;
- industrial uses which are 'not seriously disruptive in character' are permitted in *Gewerbegebiete* (commercial/light industrial areas);

- 'non-disruptive' industrial uses are permitted in *Kerngebiete* (core areas or central business districts);
- the designation of *Sondergebiete* (special areas), may be provided in the plans for special industrial uses, such as docks areas.

F115. Many of the larger cities have their own *Entwicklungs-gesellschaften* (development agencies), which operate in the same way as the LEGs. In most cases they will also have a *Wirtschaftsförderungsamt* or *-gesellschaft* (economic promotion office or agency), which promotes and plans local economic development. The *Gemeinden* promote industry directly, by selling land at reduced prices and indirectly, by providing services at reduced costs.

F116. The local *Industrie- und Handelskammer* (chambers of commerce) also play a part in encouraging the provision of land for industry.

F117. According to the *Baulandbericht* (building land report) 1993, there are few bottlenecks in the supply of designated industrial land (i.e. land zoned for industry in local land use plans). Although regional differences are apparent, the report concludes that there is an adequate reserve of industrial land ready for building. There is also extensive additional potential for the reuse of derelict land (so-called 'brown land') and for increasing densities.

F118. In general, the *Gemeinden* tend to give precedence to the designation of industrial and commercial land in their land use plans, compared to the designation of land for housing, on account of the lower technical and social infrastructure costs and the financial advantages in terms of local tax revenue involved.

F119. The high costs involved in reclaiming derelict industrial land is a problem for financially weaker *Gemeinden*. In such cases the *Länder* and the LEGs can play a significant role in financing or directly undertaking reclamation.

Trends

F120. The internationalisation of production and the spatial division of labour, combined with high domestic wage costs and the strength of the German currency, is encouraging large German manufacturers to relocate their production facilities outside of Germany. The relocating manufacturers are mainly those which are particularly sen-

sitive to cost factors. The main beneficiaries are countries offering a cheap, well-trained and disciplined industrial labour force, in particular the poorer EU regions and neighbouring eastern European countries.

F121. The German motor industry generates one fifth of the gross national product (GNP) and one in six jobs in Germany are dependent on it. The trend towards production abroad is placing many jobs in the motor industry supply sector at risk. However, overall costs can be reduced by increasing labour flexibility and thus making more use of the existing workforce, as is the case at BMW's new Regensburg plant.

F122. The determination from nearly all sides to keep this key German industry alive has important implications for:

- employment and wage policies (reduced labour costs are sought by the motor industry employers); and
- environmental policy and transport policy (the pro-car lobby and the motor industry opposes high petrol taxes and the imposition of any speed limits on the German motorways).

F123. The recognition that future industrial development will be based on innovative products allied to new technology and product R & D has provided an impetus for the establishment of science and technology parks in the main urban centres in Germany. The main promoters and developers behind these science and technology parks are the *Entwicklungs-gesellschaften* of large cities or the LEGs of the *Länder*, although private investment companies are also involved in profitable locations in the west and south of Germany. The parks themselves tend to comprise a mix of scientific establishments, often connected to a local university, industrial research facilities, small and medium-sized companies, many of which are joint ventures between scientific and industrial partners, and other high-tech companies in the fields of electrical engineering, environmental engineering, bio-engineering and information technology.

F124. Ecologically orientated design is becoming an important factor in the construction of new industrial premises. The main principles of design are the maximum use of passive solar energy, high insulation, minimal water usage and the recycling of water in production processes, the minimal sealing of areas (paving, tarmac, etc.) for

circulation and car parking and the use of ecological building materials (for an example of this see Case studies Volume 1: Regional policy).

F125. The process of complementary specialisation of functions within internal and cross-border urban networks, as referred to in the sub-section on economic development above, is also an important new instrument for industrial development policy.

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Leisure and tourism

Introduction

F126. The number of people who take part in sporting activities and tourism for leisure is growing all the time. Tourism has become a major economic factor in Germany and throughout the world. The basic resources on which tourism and many outdoor leisure activities depend are a healthy environment and attractive natural surroundings. As leisure activities grow, so too does the need for government action on environmental protection in leisure and tourism on a national and international scale.

F127. On the demand side, Germany is one of the largest tourist markets in the world. In 1993, 47.3 million Germans went on holiday, making a total of 116 million holiday trips. A total of 450 million persons, or 8 % of the world population,

travelled outside of their home country in 1992. Some 60 % of journeys were taken by tourists, while the remaining 40 % were business trips.

F128. Germany is not a classical destination for international holiday-tourists like, for example, the Mediterranean countries. However, German tourist resorts on the North Sea and Baltic Sea coasts, in the Lower Alps and in the Mittelgebirge (low mountains) of northern Bayern, Thüringen and Sachsen are very popular holiday and short vacation destinations for many Germans.

F129. Furthermore, because of the density of population and the level of urbanisation, the planning of leisure and recreation regions is an important element of spatial policy throughout Germany. Nearly all German *Länder* have specific tourism regions, which are specially dealt with in terms of spatial planning policy and the control of development.

F130. The major influences on recreation and tourism policy are:

- economic development, in the case of tourism. In particular, the privatisation of tourism facilities in the new *Länder*, which has been substantially completed;
- the reduction of pressure on tourism areas, especially in historic cities and nature protection area, together with the issue of access management;
- the protection of tourism facilities from conversion to other uses;
- mobility, access to and the supply of recreation facilities; and
- the protection of the environment, which has emerged as a very important factor in the planning of recreation and tourism facilities.

F131. Since leisure and tourism demands high environmental quality and since the livelihood of the tourism industry is dependent on a healthy environment, there is a need to ensure that the development of leisure and tourism takes place in a form which is environmentally sustainable. Tourism and leisure are not only economic factors, but also a cause of damage to the environment in many cases.

F132. In Germany, tourism and leisure development policies often have a direct impact on

nature conservation policies. National parks and other nature protection areas can also be important national or regional tourist attractions, thus leading to a conflict between leisure uses and nature conservation. Indeed, the most intensively used tourism and recreation areas are often in the most sensitive ecological areas. Therefore, achieving a balance between leisure use and environmental protection is a priority.

F133. The provision of access to and the supply of recreational areas and facilities in and around urban areas is a priority of spatial planning. In rural areas, the priorities relate to recreation provision for the local and regional populations, while at the same time protecting the countryside and agricultural areas from potential damage from recreational uses. The provision of tourism facilities and related infrastructure in rural areas, complementary to the needs of agriculture and forestry, is also a priority.

F134. Tourism development is a component sector of regional economic development (see Section D: Tourism development), the main emphasis of which is the:

- modernisation and adaptation of tourist facilities and the reduction of pressures caused by tourism in the old *Länder*; and
- privatisation of tourist facilities (mostly completed) and their extension and redevelopment in the new *Länder*.

F135. Given the importance of tourism to the local economy, there is also a need to protect tourist facilities from conversion to other uses. Some tourism locations are threatened with the conversion of tourist accommodation (hotels, guest houses, etc.) into apartments for sale as second holiday homes. This can result in a reduction in the bed capacity available for tourists in the area. The prevention of these conversions is a priority in attractive tourist resorts (such as on the islands in the North Sea or around the lakes in southern Bavaria).

European Union

F136. A number of EU regional development and social policies have a direct influence on recreation and tourism policy in Germany. These include EU Structural Fund allocations for infrastructure and economic development in the new *Länder*, the conservation of coastal areas

(Envireg), the promotion of tourism in rural areas (Leader) and in border areas (Interreg).

F137. The Blue Flag is an EU-wide campaign which has been in existence for a number of years now and aims to give greater emphasis to environmental issues in the development of tourist infrastructure, particularly along the coast. In Germany, the *Blaue Europa-Flagge* (Blue Flag) is awarded by the *Deutschen Gesellschaft für Umwelterziehung* (DGU) (German environmental education society) in Hamburg. However, the campaign has met with considerable opposition from its actual target group, German seaside resorts.

F138. The reason for this opposition is that beaches are evaluated differently and that water quality, for example, is measured by different methods throughout Europe. According to the German seaside resorts this leads to distortions in the campaign, which should be ironed-out by harmonising the requirements for the Blue Flag across the EU. Other criticisms are that the Blue Flag merely reflects the quality of the coastal waters and not the condition of nature, the landscape and the local surroundings.

F139. A working party made up of members of the coastal *Länder*, the DGU and the *Umweltbundesamt* (federal environmental agency) has completed a report on the issue for presentation to the Foundation for Environmental Education in Europe (FEEE) in Copenhagen, which represents the interests of the Blue Flag throughout Europe.

Joint *Bund* and *Länder* (federal/national and State/regional) policies

F140. The *Bund* and *Länder* support tourism development with a range of financial promotion measures under their 'joint tasks for regional economic development' (see Section F: Economic development) for projects by the *Gemeinden* and the private sector involving:

- the erection, extension, relocation and rationalisation of tourism enterprises;
- improvements to and connections to infrastructure and the provision of public tourism facilities; and
- the development of holiday and recreational destinations in rural agricultural areas (providing accommodation for up to 15 persons),

with additional EU promotion (Leader and Interreg).

F141. Generally, the level of financial subsidies for these projects involves up to 15 % of the capital cost in the old *Länder* and 23 % of the capital cost in the new *Länder*. The projects and subsidies are administered by the *Länder* and the projects must be in accordance with the spatial plans of the *Länder*.

F142. The planning of leisure and tourism uses is required to be coordinated with spatial planning. The MKRO (standing committee of *Bund* and *Länder* ministers for spatial planning) passed a decision on *Großflächige Freizeit-einrichtungen in der Raumordnung und Landesplanung* (large-scale leisure facilities in *Länder* spatial planning) in 1992. As a result of their considerable impact on nature and the countryside, the planning of large-scale leisure facilities, such as golf courses, marinas and adventure parks, need to be coordinated with other sector planning. As a rule, the planning of these leisure facilities will require:

- a *Raumordnungsverfahren* (spatial planning procedure — see Section B: *Länder* policy instruments); and
- an *Umweltverträglichkeitsprüfung* (environmental impact assessment).

Länder (State/regional) policies

F143. Policy on leisure includes both active and passive recreation and tourism, which are often covered together as part of *Länder* spatial plans. However, the development of tourism is also an integrated part of regional economic development (see Section F: Economic development and Section D: Tourism development). On the other hand, the planning of recreational facilities is also inter-linked with policies and plans for countryside conservation. The integration of the policies on these subjects occurs in the spatial plans at *Länder* and regional levels, for example in *Fachpläne für Fremdenverkehr und Erholung* (sector plans for tourism and recreation).

F144. The *Landesentwicklungspläne* or *Landesentwicklungsprogramme* (LEPs or LEPros) (State development plans or programmes) set out the aims for the planning of recreation and tourism throughout the *Länder* (see Section B: *Länder* policy instruments). The *Regionalpläne* (regional plans) provide the detailed designation

of areas for recreation and tourism uses, in accordance with the aims of the LEP/LEPros.

F145. In general, the main aim is to concentrate recreation and tourism infrastructure in specifically identified areas, in order to protect remaining open spaces from ecological damage arising from such uses. Recreation and tourism uses are not open space functions, but are similar to commercial, industrial or special land uses and are to be identified as land-use areas accordingly. In this regard, the LEP/LEPros generally specify that developments for leisure uses are not 'privileged' types of development under Section 35 of the BauGB (see Section C: Other permits) and are, therefore, not permissible in principle in rural outskirts areas.

F146. *Fremdenverkehrsgebiete* (tourism areas) are designated in the *Regionalpläne* or the LEPs. For example, the *Regionaler Raumordnungsplan Süd-Hessen* designates specific *Gemeinden* (municipalities), or parts thereof, as tourism areas. The plan provides that the special suitability of these areas for tourism is to be strengthened and promoted. The preparation of local land-use plans by the *Gemeinden* in these areas has to take consideration of tourism and recreation. This includes the integration of the location of commercial, congress, exhibition and sports facilities and other leisure uses with tourism planning.

F147. The Süd-Hessen regional plan also provides for the development or extension of regional leisure centres (called *Regional Freizeitzentren*) in specific locations, which are listed in the plan. These centres include a mixture of uses for recreation, water sports, swimming pools, play facilities, sports grounds, etc. The provision and extension of sports facilities is based on the needs of the population (m² per person). The location of educational facilities (schools, colleges, etc.) is to be taken account in the planning of new sports facilities.

F148. Other *Land* or regional spatial plans can include detailed guidelines for certain leisure and tourism uses. These guidelines can also be issued by the (*Land*) minister responsible for spatial planning. In Schleswig-Holstein the minister issued detailed guidelines for the construction and maintenance of golf courses (*Anforderungen an den Bau und die Unterhaltung von Golfplätzen*). These guidelines are intended to limit conflict between the use of land for golf and for

other uses, to protect the environment and avoid damage to protected areas. The guidelines set out specific requirements for planning the location of golf courses, based on a map illustrating suitable areas for golf uses (*Planungsgrundsätze für die Standorte von Golfplätzen* — planning principles for the location of golf courses 1991).

F149. Spatial plans also widely use access management to avoid damage to protected areas, such as national parks. This involves the division of the protected area into a number of sub-areas of differing importance for protection. The location of facilities and infrastructure is then used to steer the public into areas capable of accepting large numbers of visitors. In very sensitive areas access is restricted to specially marked routes and pedestrian ways. Accompanying public information promotes the need for nature conservation.

F150. The monitoring of spatial planning policies occurs in the regularly prepared (usually every four years) *Raumordnungsbericht* (spatial planning report). The *Bund* and each of the *Länder* prepare a *Raumordnungsbericht* for their respective areas. There are also a variety of special committees monitoring areas of sector planning at *Länder* level, for example the *Kabinettsausschuß Stadtentwicklung, Sport und Freizeit* (cabinet committee for urban development, sport and leisure) in the *Landesregierung Nordrhein-Westfalen* (State government of Nordrhein-Westfalen).

Gemeinde (municipal/local) policies

F151. Where a tourism area has been designated in *Länder* or regional spatial plans, the *Gemeinde* may introduce a requirement for permission for the creation of owned apartments. The purpose of the need for permission is to prevent the conversion of rented apartments, hotels and guest houses into apartments for ownership (i.e. second homes see Section C: Other permits and Case studies Volume 3: Coastal planning: The protection of tourism functions in the town of Westerland on the Island of Sylt).

F152. The BauNVO (federal land use ordinance) provides that special areas serving recreational purposes can be designated in the local F-plan and B-plans, prepared by the *Gemeinden*. Areas to be considered as such special areas, called *Sondergebiete, die der Erholung dienen* (special areas serving recreation) are:

- weekend-home areas;

- holiday-home areas; and
- caravan and camping areas.

Various development control provisions can be included in a B-plan (binding land use plan) for these areas, such as the uses permitted and the density and scale of development.

F153. The monitoring of local recreation and tourism policy can involve local committees, such as the *Arbeitskreis Wirtschaft und Naturschutz* (economic and nature conservation working party), which includes representatives of business interests and the nature protection associations on the island of Usedom (Mecklenburg-Vorpommern).

Trends

F154. The single most important emerging issue for leisure and tourism policy is the conversion of former military facilities and training grounds. The scale of these former facilities and their ecological quality pose a major challenge, especially in the new *Länder*, where they occupy a total area of 517 000 hectares.

F155. Although these sites have served military purposes, they are often of high ecological quality and this together with their vast size mean they should be exploited as part of the inter-regional network of open spaces (free from development). Sites of lesser ecological importance can be used for new uses, including housing, industry, leisure and tourism. However, the cost of converting the former facilities represents a major challenge to the *Gemeinden*; especially where the sites are badly contaminated or require extensive replanting, recultivation or redevelopment (see also Section F: Environment).

F156. To promote environmental protection in the tourism industry the *Umweltbundesamt* (federal environmental agency) is preparing a consulting project for the German tourist industry, which is being sponsored by the *Deutscher Reisebüro-Verband* (DRV) (German association of travel agents). This project includes:

- leaflets for tourists on the theme of *Ökologisch Reisen die Natur Entlasten* (nature travel the ecological way); and
- providing tourism industry staff at German and foreign resorts with tips on the protection

of the environment and on the sustainable development of tourism.

F157. Proposals are being drawn up by the *Umweltbundesamt* and the *Deutschen Fremdenverkehrsverband* (DFV) (German tourism association) for the establishment of a federal competition for *Umweltfreundliche Fremdenverkehrsorte* (environmentally friendly tourist destinations), to be promoted by the *Bundesministerium für Wirtschaft* (Federal Ministry of the Economy) and the *Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit* (Federal Ministry of the Environment, Nature Conservation and Nuclear Safety).

Sources and further information

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Environment

Introduction

F158. In the Federal Republic of Germany the policy areas of the environment, nature conservation, protection of resources, waste management and pollution control are very closely integrated. This is highlighted by the grouping of the policy area in the *Bund* and *Länder* ministries. Thus the relevant *Bund* ministry is the *Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit* (BMU) (Federal Ministry of the Environment, Nature Conservation and Nuclear Safety). A number of the *Länder* ministries also

combine these policy areas or group the responsibilities for the environmental protection and nature conservation with that of spatial planning.

F159. It must be pointed out that in Germany the term *Umwelt* (environment) is given a very wide interpretation. Thus, the functions of environmental protection include the following tasks:

- nature conservation and landscape protection;
- protection of inland waters (see Natural resources);
- protection of seas and coastal waters (see Natural resources);
- air quality control (see Waste management and pollution);
- noise abatement (see Waste management and pollution);
- protection against hazardous substances including environmental chemicals (see Waste management and pollution);
- waste management (see Waste management and pollution);
- soil conservation;
- climate protection;
- environmental impact assessment; and
- radiation protection (see Waste management and pollution).

F160. Thus, there is bound to be some overlap between the policies described in this subsection and those described in the subsections on waste management and pollution and on natural resources, though it has been sought to keep these overlaps to a minimum. The various policy areas of environmental protection have been divided among the subsections according to the relevant headings. This subsection on the environment will mainly be devoted to the policy areas of nature conservation and landscape protection, the reclamation of contaminated land and soil conservation, climate protection and environmental impact assessment.

F161. The protection of the environment is a central element of *Bund* and *Länder* policies. Although there have been improvements in envi-

ronmental quality, there remains a permanent challenge for further improvement. The environmental policy of the Federal Republic of Germany essentially covers three levels of interrelated activity:

- coping with, and long-term avoidance of, the environmental problems of an affluent society in a densely populated, highly-industrialised country lacking in raw materials. This means that anticipatory environmental protection policy must be constantly further developed;
- repaying the considerable economic mortgages that 40 years of socialist planned economy have left behind in the former GDR; and
- the acceptance of responsibility for the environment, at home and beyond national borders, in a European and worldwide partnership.

Nature conservation

F162. In Germany, the objectives of nature conservation and the preservation of landscapes includes the protection of the entire natural environment. Still remaining natural areas must be preserved and their area and number extended by measures to restore natural conditions. Within this context, the protection of indigenous species and their habitats has highest priority. The *Bund* has the responsibility of providing framework legislation on nature conservation, which is filled out in detail by the nature conservation legislation of the *Länder*.

Reclamation of contaminated land

F163. Improvements to environmental quality took on new priorities following German reunification, for example, the reclamation of contaminated land in the new *Länder*, where the clean-up is essential to improve the living conditions of the population and to provide for more environmentally friendly forms of settlement and economic development.

F164. Land which is contaminated includes the following:

- former industrial facilities (chemicals, heavy engineering, etc.);
- former waste disposal sites; and

- former military bases, ammunition depots and military training sites; these facilities cover 517 000 hectares in the new *Länder* alone, with 4 300 locations identified as potentially contaminated.

F165. The extent of contaminated land provides not only a poor quality of life, but also a bad image. Concerns about the type and extent of contamination leads to an unwillingness on the part of new commercial and industrial firms to take over old inner-city production facilities or sites. This in turn encourages the location of new firms on 'greenfield' sites, causing development sprawl, additional traffic, an inefficient use of land and further unnecessary reductions in environmental quality. Furthermore, land reclamation is expensive and cannot be paid for from the limited resources of the *Gemeinden* (especially in the new *Länder*).

Climate protection

F166. As a result of human activity, the concentration of — also naturally occurring — greenhouse gases are steadily increasing. This is resulting in a reduction in the earths' ability to dissipate long-wave thermal radiation into the cosmos, leading to the effect of global warming. The main cause is the gas CO₂ which is produced on combustion of fossil fuels. Germany, which produces 900 million tonnes of CO₂ each year is responsible for approximately 4.5 % of worldwide CO₂ emissions.

European Union

F167. Environmental pollution is not bound by national borders. National measures are therefore not enough, but must be supplemented by measures at an international level. The Federal Republic of Germany takes part in and promotes international cooperation and agreements on environmental policy (see also Section F: Waste management and pollution policy). Environmental policy in Europe and beyond its borders is and will continue to be strongly influenced by EU environmental policy. The Single European Act and the Maastricht Treaty have improved the legal basis for a common European environment policy.

F168. The provisions of Directive 85/337/EEC on environmental impact assessment (EIA) have been transferred into *Bund* legislation in the *Umweltverträglichkeitsprüfungsgesetz* — (UVPG

— the federal EIA act), which requires an EIA for all projects contained in Annex I of the Directive.

F169. The review of the implementation of the EIA Directive carried out by the European Commission in 1992 revealed major differences between the legislative provisions in the Member States. The amendments proposed by the Commission in 1994 to standardise the provisions require Germany to make a number of additions to its UVPG (EIA act). In particular this means specifying an EIA for all projects listed in Annexes I and II of the Directive.

F170. The EU Structural Funds and the EU environmental protection programme play an important role in the provision of financial aid for the reclamation of contaminated land; in the old industrial areas in the old *Länder* (EU Objective 2 regions) and throughout the new *Länder* (EU Objective 1 regions).

Nature conservation

F171. International cooperation in the field of nature conservation and the protection of species take place in the European Union, the Council of Europe, the United Nations Environment Protection Programme (UNEP), the United Nations Educational, Scientific and Cultural Organisation (Unesco) and the International Union for the Conservation of Nature and Natural Resources (IUCN).

F172. The following supranational and international regulations apply to the Federal Republic of Germany:

- the EC Bird Directive on the conservation of European wild birds (which came into effect in Germany in 1987);
- the EC Directive on flora/fauna/habitats;
- the Bern Convention, the annexes to which classify various protection levels for plants and animals (and came into effect in Germany in 1985);
- the Bonn Convention on the conservation of migratory animals;
- the Ramsar Convention on the conservation of wetlands;
- the Convention on biological diversity under the framework of the United Nations Confer-

ence on Environment and Development (UNCED), which provides for the protection of species and determines the principle of sustainability for the use of natural resources.

Climate protection

F173. The Federal Republic is a signatory to the UN Framework Convention on climate change, and ratified this Convention in November 1992. Germany was the host to the 1st Conference of Parties to the Framework Climate Convention, which was held in Berlin in 1995. Germany has already undertaken to reduce CO₂ emissions in line with international and EU efforts on climate protection and is also a signatory to the UN Vienna Convention for the protection of the ozone layer (1985) and the Montreal Protocol, which provides an international contractual basis for the worldwide phasing out of CFCs and Halons.

Bund (federal/national) policies

Nature conservation

F174. According to the German Constitution, the *Bund* has the right to make framework laws on the areas of water management, nature conservation and landscape protection. The federal framework legislation is then filled in by the detailed and specific legislation passed by the *Länder* for these areas.

F175. The Federal Act in the area of nature conservation is the *Bundesnaturschutzgesetz* (federal nature protection act) and its main objectives are:

- provisions for the designation of protection areas which are to be kept free from uncontrolled development;
- the promotion of nature and the countryside; and
- the provision of balancing environmental compensation where a new project has (or will have) an adverse effect on nature.

F176. The protected areas are designated by the *Länder* under their own legislation. The types of area include *Naturschutzgebiete* (nature conser-

vation areas), *Nationalparke* (national parks), *Landschaftsschutzgebiete* (landscape protection areas), *Naturparke* (nature parks) and *Biosphärenreservate* (biosphere reserves); further details are provided in Section D: Countryside conservation.

F177. In addition to the *Bundesnaturschutzgesetz*, the *Artenschutznovelle* (first amendment to the federal nature protection act) and the *Bundesartenschutzverordnung* (federal ordinance on the protection of wild species of flora and fauna) provide the legal basis for the protection of wild species of animals and plants.

F178. The main federal act in relation to water management is the *Wasserhaushaltsgesetz* (federal water act), which regulates the management, extraction and use of water resources and also provides for the designation of *Wasserschutzgebiete* (water protection areas) by the *Länder*. This policy area is covered in more detail in Section F: Natural resources.

Land reclamation

F179. Following reunification, federal environmental regulations came into effect in the new *Länder*, with transitional provisions in certain instances. The *Einigungsvertrag* (unification treaty 1990) provided the foremost objective of environmental policy as the creation of a high level of ecologically uniform living conditions throughout Germany. In order to achieve this objective, a capable system of environmental administration had to be built up in the new *Länder*, with financial aid, expert advice and personnel from the *Bund* and the old *Länder*.

F180. In 1990 the BMU presented a system of priority measures for ecology and development in the new *Länder*, which are implemented under the 1991 federal action programme *Ökologischer Aufbau* in combination with the *Aufschwung Ost* economic development programme. The priority ecological measures include:

- the improvement of drinking water;
- the setting-up of a smog early-warning system;
- the shutting down of facilities dangerous to health, which cannot be converted to a suitable environmental standard;

- conversion from the use of high-sulphur-content brown coal to more emission-free fuels;
- the renewal and conversion of power stations, generators for industry and communal heating schemes;
- the closure of waste disposal sites likely to pose health risks;
- restrictions on the use of contaminated land; and
- the development and improvement of infrastructure for water supply, sewage treatment and waste disposal.

F181. Under the *Ökologischer Aufbau* programme the *Bund* provides financial aid to the new *Länder* to undertake projects for the avoidance of environmental damage. This aid is also coupled to the provision of employment in cleaning-up the environment and reclaiming contaminated land. Additional financial aid is provided to the *Länder* under the EU environmental protection programme.

F182. The BMU is preparing a regional reclamation concept based on current examination and research to identify the location, nature and extent of contamination of land.

F183. In December 1992, the *Bund* and *Länder* agreed a five-year programme for the removal of dangerous industrial waste from past uses in the new *Länder*. The aim of this programme is to systematically remove (and carefully dispose of) this waste, particularly from locations where its existence is discouraging new economic investment. The removal of this waste is essential to the redevelopment of these industrial locations; since under existing environmental legislation (*Umweltrahmengesetz* 1990) the (new) owner and occupier are responsible for past industrial waste found on the site. Thus, this programme is intended to promote industrial location in these older areas, and away from 'greenfield' sites.

F184. The protection of soil is a new field of activity and is due to be regulated at federal level in the near future. The draft federal bill on *Bodenschutz* (soil conservation) was published in February 1994 and passed into law during 1998. Soil conservation legislation has become important since the discovery of toxic waste in former locations of heavy industry and because of finds of

old wartime ammunition and the uncovering of old waste-disposal sites.

Climate protection

F185. Although the amount of environmental damage in the new *Länder* is serious, it is concentrated in certain areas (of heavy industry, lignite mining and the major cities), and there has been considerable improvements in the environmental situation since reunification. In particular, the levels of SO₂ and CO₂ have been dramatically reduced. However, much of this is due to the massive decline in production activities and the closure of some very heavy and dirty industries.

F186. Nevertheless, the structural changes taking place in the old *Länder* and the closure or cleaning-up and modernisation of the industrial base in the new *Länder* have contributed to major environmental improvements and reductions in CO₂ emissions since 1990, at a faster rate than other industrialised countries.

Länder (State/regional) policies

F187. The statutory responsibilities of the *Länder* in terms of environmental protection include:

- the granting of licences for:
 - the construction and operation of industrial plants, power stations, waste disposal sites and waste treatment plants;
 - the transportation of special waste;
 - the discharge of waste water into rivers, streams and sewers;
- the fixing of levies and charges;
- the setting up of reporting and measurement stations;
- the carrying out of monitoring and control activities;
- the compiling of emission registers;
- the designation of nature conservation, landscape protection and water protection areas and
- the punishment of infringements.

F188. The integration of environmental policy and policies on nature and landscape protection,

water protection, waste management and spatial planning takes place in *Landesplanung* (State spatial planning), under the federal framework established by *Raumordnung* (federal spatial planning).

Nature conservation

F189. The protection of nature and the countryside is regulated by the *Bundesnaturschutzgesetz* (federal nature protection act) as the framework legislation, and the *Landesnaturschutzgesetze* (State nature protection acts) of the *Länder*, which provide the detailed legislation. These acts require that interference with nature is to be minimised and any interference, which does occur, is to be balanced by beneficial measures in another location.

F190. The *Landesnaturschutzgesetze* provide for:

- the designation of protection areas, such as *Naturschutzgebiete* (nature conservation areas — which have an average size of 130 hectares) and *Nationalparke* (national parks — which have an average size of 100 000 hectares); see Section D: Countryside conservation;
- landscape planning; and
- the need for permission under nature protection legislation (see Section C: Other permits).

F191. In Germany there are about 5 000 *Naturschutzgebiete* and 10 *Nationalparke*, covering approximately 1.3 million hectares in total.

F192. The system of landscape planning differs between the *Länder*, but it generally comprises a structure of landscape planning instruments prepared in parallel to the spatial plans at *Länder*, regional and local level. At the *Länder* level these instruments can include:

- the *Landschaftsprogramm* (landscape programme), which establishes the objectives for nature and countryside protection at *Länder* level, including the designation of protection areas, *Regionale Grünzüge* (regional green spaces) and *Wasserschutzgebiete* (water protection areas), as well as priority areas for agriculture and forestry; and

- the *Landschaftsrahmenplan* (landscape framework plan), which provides the basis for regional landscape planning and contains the supra-local measures for the protection of nature and the countryside.

F193. These landscape plans are coordinated with the spatial plans, the LEP/LEPros and the *Regionalpläne*, at *Länder* and regional level, with the spatial plans/programmes having legal precedence. The preparation of urban land use plans and landscape plans at the *Gemeinde* level has to take account of the contents of *Länder* landscape planning.

F194. The objectives of *Länder* landscape planning is taken into account, along with spatial planning, in the assessment of suitable locations for major projects under the *Raumordnungsverfahren* (spatial planning procedure — see Section B: *Länder* policy instruments).

Land reclamation

F195. The responsibility for the elimination of environmental damage and the reclamation of contaminated land also lies with the *Länder*. Funding from the *Bund* and the EU is administered by the *Länder* and distributed to the *Gemeinden*, under the *Länder* programmes for these purposes. The *Länder* programmes for environmental improvement and land reclamation are often combined with urban renewal and economic development projects, undertaken by the *Landesentwicklungsgesellschaften* (LEGs) (State development companies); for example the IBA Emscher Park (see Section D: Special agencies and Case studies Volume 1: Regional policy).

F196. Special financial funding instruments are also established by the *Länder* to help the *Gemeinden* to reclaim and redevelop derelict and contaminated land, using intermediate land ownership as an instrument in this process, for example the *Grundstücksfonds Ruhr* (Ruhr land funds). In some cases these funds are operated by the LEGs, as is the case in the Ruhr.

F197. The *Länder* also have responsibility for the administration and implementation of both *Bund* and their own legislation for the control of pollution and waste management (see Section F: Waste management and pollution).

Gemeinde (municipal/local) policies

F198. Environmental policy is now recognised as one of the most important tasks of local government:

- in the inner-cities environmental improvements are seen as one way of reversing the out-migration of people and jobs. This involves, among other things, the reduction of existing air and noise pollution, reclamation of contaminated land and 'greening' the inner cities; and
- in rural areas environmental policies are seen as a way of protecting the existing high quality of the environment, while at the same time reducing the pollution resulting from intensive agriculture. Here, environmental policy is also interlinked with nature conservation and tourism policies.

F199. The *Gemeinden* bear considerable responsibility for planning and implementing local environment policy, in line with the principle of self-government they enjoy under the German constitution. The *Gemeinden* have particular responsibility for:

- so-called 'green' planning (landscape planning and ecology);
- local land use planning and the setting of local development objectives;
- waste water disposal and the construction of sewage treatment plants;
- the expansion of waste management (including the promotion of recycling);
- the constructions and extension of public local infrastructure (roads, footpaths);
- citizens' advice; and
- cleaning up old sewage networks and contaminated sites.

F200. The implementation of these environmental responsibilities by the *Gemeinden* very often involves the assembly of a package of financial aid, divided between the *Gemeinde* and the *Land*, with additional funding in certain cases available from the *Bund* and the EU.

F201. In accordance with the *Landesnaturschutzgesetz* and the landscape planning objectives of the *Land*, the *Gemeinde* pre-

pare local landscape plans, in parallel with their local land use plans — the F-plan (preparatory land use plan) and the B-plans (binding land use plans). These landscape plans can include:

- the *Landschaftsplan* or -programme (landscape plan or programme), which contains the local requirements for nature and landscape protection for the entire administrative area. The requirements are coordinated with and incorporated in the F-plan; and
- the *Grünordnungsplan* (landscape control plan), which contains detailed requirements for subject areas within the *Gemeinde*, at the level of the B-plan.

F202. In some *Länder* these local landscape plans are advisory only. In others, they may contain binding provisions which, however, may not conflict with the B-plan for the area. The consideration of ecological or environmental effects of urban land use planning must be taken into account by the *Gemeinden* in the preparation of F-plans and B-plans.

F203. One of the most important matters of environmental policy implemented by the *Gemeinden* is the designation of land for building and the definition of the permissible development projects which are to be constructed (under the BauGB (the federal building code)). The BauGB provides that in preparing their F-plans and B-plans, the *Gemeinden* shall organise their areas in such a way that conflicting land use demands are reconciled to the benefit of the public.

F204. The preparation of local land use plans shall contribute to securing a more humane environment and to protecting and developing the basic conditions for natural life (BauGB Section 1 (5)). In particular, the requirements of environmental protection, nature protection and the preservation of the countryside must be considered and balanced, with special attention given to:

- the ecological balance in nature;
- water;
- the air;
- the soil and any mineral deposits; and
- the climate.

F205. The specification of the development objectives contained in the *Gemeinden* F-plans and B-plans, will generally include the following types of measures related to environmental protection:

- traffic planning which aims at the reduction of air and noise pollution and provides for the extension of public transport, the construction of cycle paths and the creation of reduced traffic or traffic-free areas (pedestrian areas);
- improvements to residential amenities by the relocation of industrial plants or the reduction of noise and air emissions, the provision and improvement of open space and green areas and the greening of facades;
- the development and implementation of local energy-saving plans;
- the preservation and extension of parks, open space, trees and forests;
- securing the supply of drinking water;
- providing for environmentally friendly forms of waste disposal management (including recycling); and
- the adoption of environmentally sustainable procedures in all municipal activities, such as street cleaning and snow removal.

F206. Many *Gemeinden* are adopting a much more active approach to environmental protection, which includes:

- the preparation of a report on the current local environmental situation as a basis for preparing environmental action programmes;
- the use of preventative policies to avoid environmental problems occurring via, for example, local environmental impact assessments, traffic planning, waste disposal management; and
- environmental policy is changing from a sectional task, dealt with by one local government department, to a task which crosses all departments and local policy areas, requiring greater policy integration, more public participation and better qualified staff.

Environmental monitoring and information

F207. Since its establishment in 1974, the *Umweltbundesamt* (UBA) (federal environmental agency) advises the government of the Federal

Republic of Germany on scientific and technical matters of environmental protection. As one of its many functions, the *Umweltbundesamt* operates a detailed environmental information system, *Umweltplanungs- und information system* (Umplis) (federal environmental information and documentation systems).

F208. The Umplis system includes:

- the *Umweltdatenkatalog* (UDK) (environmental data catalogue);
- the *Geographisches Informationssystem Umwelt* (GISU) (geographical information system on the environment);
- the *Gefahrstoffschnellauskunft* (GSA) (express information on hazardous substances);
- the *Umwellliteraturdatenbank* (Ulidat) (environmental literature database);
- the *Umweltforschungsdatenbank* (Ufordat) (environmental research database);
- the *Umweltrechtsdatenbanken* (URDB) (environmental law databases); and
- the first generally accessible environmental data bank and encyclopaedia — *Ökobase*, which is aimed at the wider public.

F209. The *Umweltbundesamt* has been commissioned by the Copenhagen-based European Environmental Agency (EEA) to guide a consortium of institutions in Austria, France and the United Kingdom in the creation of a European database and information system on airborne emissions under the Eionet programme.

F210. The *Jahresbericht* (annual report) prepared by the UBA provides detailed analysis of all environmental protection policy, research and international developments. A summary of the annual report is also provided in English.

F211. In accordance with the framework climate convention, the *Umweltbundesamt* prepared the *Nationalbericht* (national report) on climate change and socioeconomic data for deposit with the Intergovernmental negotiating committee in 1994.

F212. The integration of environmental and spatial planning policies is contained in the *Raumordnungspolitischer Orientierungsrahmen* (guidelines for spatial planning), agreed by the

MKRO, the *Bund* and *Länder* ministers responsible for spatial planning. The guidelines include general principles for the environment and land use, including:

- conservation-orientated modes of land use in areas rich in environmental resources;
- the sustainable management of ecological resources;
- the elimination of environmental damage; and
- the promotion of polycentral settlement structures to avoid pressures on the environment.

Trends

F213. Since 1992 the *Deutsche Institut für Urbanistik* (German institute for urban studies) has been running the *Nationales Projekt: Kommunale Klimaschutzprogramme* (national project: local authority climate protection programmes). In cooperation with environmental experts from German cities and towns, representatives of the *Deutscher Städtetag* (German cities assembly) and scientific institutes, a detailed description and analysis of local authority climate protection in Germany was prepared by mid-1994.

F214. Phase II of this national project is now underway and the first interim report was presented at the 1995 World Climate Conference in Berlin. Work is also in progress on the *Leitfaden für die Erarbeitung kommunaler Programme zur Vermeidung von CO₂- und anderen Treibhausgasemissionen* (guidelines for drawing up local authority programmes for reducing emissions of CO₂ and other greenhouse gases). An action-orientated manual is planned, containing checklists, edited collections of examples, material and documents, and other useful items for climate protection in the field. The aim being to support the work by towns and cities in drawing up their individual 'local Agenda 21' under the UN Conference on Environment and Development in Rio de Janeiro (June 1992).

F215. The *Bundes-Bodenschutzgesetz* (federal soil conservation bill), which came into force in 1998, is intended to provide industry and the local authorities with a better basis for planning and decision making. In order to ensure that soil is able to perform its numerous functions, the bill seeks to protect it from harmful impacts. Preventative action to rule out new contamination and

efforts to rehabilitate existing contaminated sites are given equal priority in order to rule out threats to humans and the environment.

F216. The *Umweltbundesamt* cooperates closely on a bilateral basis with the *Rijksinstituut voor Volksgezondheid en Milieuhygiene* (RIVM) in the Netherlands, in assessing the dangers posed by contaminated sites. The two institutions have been holding regular workshops since 1994 to discuss methodologies for assessing exposure in connection with contaminated sites.

F217. The international workshop on contaminated sites in the European Union: policies and strategies held in Bonn in 1994 brought together representatives from the EU Member States, with a view to future harmonisation at the EU level of national legislation and programmes on contaminated sites.

F218. Pilot studies and research on the reuse of former military sites is being conducted by the BMU and the *Bundesumweltamt* under the NATO Committee on Challenges of Modern Society (CCMS), in association with the national environmental agencies in the United States and the Netherlands.

F219. The amendments to the EEC EIA Directive 97/11/EC, include provisions to put the requirements of the Convention on environmental impact assessment in a transboundary context (Espoo Convention) of 25 February 1992 in European law. This requires, among other things, that the public be involved on an international scale. German law on EIA has to be adapted to this requirement.

F220. The demand for eco-technologies, for technologies which reduce or remove pollutants, environmental consultancy and environmental related research and development have created an 'eco-industry' in Germany which is estimated to employ 680 000 persons and with the potential for another 400 000 jobs by the year 2000. Environmental technology had a turnover of DEM 26 billion in 1991 and exports about 40 % of its goods.

F221. Since 1978 products which serve the same purpose as other products, but which distinguish themselves by their environmental friendliness may be marked with the *Blaue Engel* (blue angel) environmental label in Germany. The label

is awarded by an independent jury and by 1993 there were 3 500 products in 71 product groups marked with the blue angel (e.g. refrigerators and freezers without any CFCs, solar equipment, products made from recycled materials).

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The *Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit* provides a wide range of scientific and informational publications and reports on environmental protection policies in Germany, including a regular magazine *Wir und unsere Umwelt*, aimed at the public and containing information and tips on a broad range of environmental issues. The *Umweltbundesamt* publishes an annual report on the environment, a wide range of scientific research reports and texts on environmental issues and policies as well as information brochures for the general public. A number of these publications are available in English and some are published in French and Russian.

Transport

Introduction

F222. The availability of efficient transportation networks is one of the prerequisites for the creation of competitive enterprises. The provision of efficient transport links reduces regional locational disadvantages and serves to promote balanced regional development. The need for improvements in transport infrastructure arises not only from increased demand, but also from altered national and international conditions. The evolution of the European internal market and the opening-up of eastern Europe, combined with the need to improve economic development in the new *Länder* and to spread competitive conditions for economic growth beyond the agglomerations, present a great challenge to policy on the provision of transport infrastructure in the Federal Republic of Germany.

F223. Furthermore, transport policy must provide more attention to achieving an environmentally acceptable and safe solution to the problem of increasing traffic throughout Europe.

F224. In 1992 the road network in the Federal Republic of Germany had a total length of just under 640 000 kilometres, including approximately 230 000 kilometres of inter-city roads (trunk roads). The length of motorways in Germany has more than doubled since 1970. The railway network of the *Eisenbahn des Bundes* (federal railway) covered a total of 41 000 kilometres in 1991.

F225. Since reunification there has been a huge increase in the number of private motor cars in the new *Länder*, where in 1990 there were 250 cars per 1 000 persons. By the middle of 1993, the number of cars in the new *Länder* (excluding those with old GDR registrations) had increased to 400 per 1 000 persons (or 80 % of the level in the old *Länder*: 500 private cars per 1 000 persons). The increase in car ownership in the new *Länder* has resulted in a 50 % reduction in the use of public road and rail passenger transport. In the old *Länder*, increases in incomes have supported the continuing growth in car ownership, despite increases in the price of petrol.

F226. Private motor car traffic now accounts for approximately 78 % of local traffic journeys. This traffic is placing a heavy burden on the infra-

structure and environment of built-up areas, particularly in the agglomerations. Similarly, reunification resulted in a significant reduction in the amount of goods transported by rail in the new *Länder*, with an increase in road haulage there increased by over 300 % in volume between 1989 and 1993. This increase also adversely affected goods transportation by inland waterways. Additional road traffic has also been created by goods transport between the old and new *Länder* and the increases in trans-European transit traffic, following the opening of eastern Europe.

F227. The existing road and rail traffic infrastructure in Germany is not tailored to meet the requirements of German reunification nor of the traffic generated by the coming together of Europe. The infrastructure in the new *Länder* needs to be completely renewed and new links created across the former border within Germany. At the same time, Germany now constitutes a new interface both between western and eastern Europe and between northern and southern Europe.

F228. *Öffentlicher Personennahverkehr* (ÖPNV) (public local transport), comprising buses, trams, underground (U-Bahn) and overground city (S-Bahn) railways, is a responsibility of the *Länder* in the first instance, though operated by local and regional public transport companies. An estimated 9 billion commuter and local passenger journeys were made by public transport in 1992 (compared to 37 billion by car in the same year). The underlying trend is a decline in the use of public transport in favour of the private motor car.

European Union

F229. Within the context of EU policy on trans-European networks (TENs), the *Bund* is committed to extending and coordinating the German and European high-speed rail networks and linking them to eastern Europe. Fourteen of the 34 TENs projects listed in the Europe 2000+ report of the European Commission are located wholly or partly within Germany (see Figure F1).

F230. The EU is also an active partner at the local level, helping finance regionally important projects and public transport links under the European Regional Development Fund (ERDF).

F231. Air transport throughout Europe will be strongly influenced in the future by the liberalisation process of the EU. The influence of the international organisation Eurocontrol is also an

Figure F1: Trans-European networks (TENs) in the Federal Republic of Germany

I. Projects commenced or about to be commenced:

Brenner-Axis: Verona-Munich-Nürnberg-Erfurt-Halle/Leipzig-Berlin

High-speed train: London-Paris-Brussels-Köln-Rhein/Main

High-speed train east: Paris-Metz-Strasbourg-Karlsruhe

The Betuwe Line: Rotterdam-Rhein/Ruhr (combined goods and passenger rail traffic)

II. Projects to be speeded-up so they can commence in two years:

Autobahn Nürnberg-Prague

Autobahn Berlin-Warsaw-(Moscow) or alternative high-speed train

Autobahn Dresden-Prague

International airport for Berlin

III. Projects for which additional examinations are required:

Connection to Fehmarn (Germany-Denmark)

Rhein-Rhone canal

Elbe-Cder canal

Donau canal extension between Straubing and Vilshofen

High speed train: Randstaat (NL)-Rhein/Ruhr (D)

High speed train: Amsterdam-Arnheim-Köln

Magnetbahn: transrapid Berlin-Hamburg

Source: Trans-European networks — priority projects (according to the recommendations of the Christophersen Group Report, Essen, 1994), as referred to in 'Europa 2000+', European Commission, Brussels, 1994, p. 56.

important factor in the creation of a uniform European system of standards, specifications and air-traffic control.

Bund (federal/national) policies

F232. The main federal sector plan for motorways, federal waterways and inter-city railways is the *Bundesverkehrswegeplan* (BVWP) 1992 (federal transport infrastructure plan), which is prepared by the *Bundesministerium für Verkehr* (BMV) (Federal Ministry of Transport).

F233. The BVWP 1992 is a declaration of the transport investment intentions of the *Bundesregierung* (federal government) for the period 1991-2012, providing the timescale and project content for federal investment in the federal trunk roads, federal railways and the federal inland waterways.

F234. The main policy emphasis of the BVWP 1992 is:

- the improvement and extension of the federal railway network, in particular the links between the older and the new *Länder*;
- the construction of by-passes around settlements and the improvement of overburdened motorways; and

- the improvement of the federal inland waterway (navigable rivers and canals) network and the east-west links in this network.

F235. The BVWP 1992 has given foremost priority to the improvement of the federal rail network. Approximately 40 % of all *Bund* infrastructure investment under the BVWP is for projects in the new *Länder*.

F236. The BVWP 1992 provides for the extension of the German and European high-speed rail networks, connecting these to eastern Europe and also identifies new trans-national railway routes from northern to southern Europe.

F237. In the preparation of the BVWP 1992, a number of inter-city rail routes were examined for the introduction of a high-speed magnetic rail link. The route between Hamburg and Berlin received a positive evaluation. It is intended that an implementation of this link would be funded, to some extent, by private finance.

F238. In 1991 the *Bund* identified 17 motorway, railway and canal infrastructure projects from the draft BVWP which have a key function for the integration of the new and old *Länder*. These are the '*Verkehrsprojekte Deutsche Einheit*' (German unity transport projects). Since these projects are of major priority, the *Bundesregierung* established

new legislation to speed-up their planning and implementation. This new legislation allows the *Bundesregierung* to pass acts for specific infrastructure projects (see Section D: Major infrastructure).

F239. The *Bund* promotes the improvement of local road and public transport infrastructure by providing funds for this purpose under the *Gemeindeverkehrsfinanzierungsgesetz* (GVFG) (federal act for financing municipal transport). The revision of the GVFG in 1992 increased the amount of financial aid for public transport in the agglomerations and in rural areas.

F240. It is estimated that by the year 2000, the runway capacities of many of the 17 international airports in Germany will be at or nearing full capacity. The legislative and administrative competence for air transport rests with the *Bund* and the BMV. But the responsibility for the construction or extension of airports rests with the *Länder*. Therefore, these projects are not included in the BVWP 1992, but in the individual spatial plans of the *Länder* (the LEP/LEPros).

F241. The BMV is seeking to promote the integration of air transportation with other traffic infrastructure. These connections to public transport and the main road networks are contained in the BVWP 1992. The BMV is presently preparing a concept for airports and has established a commission for this purpose.

F242. The monitoring and integration of transport, environmental and spatial planning policy is undertaken by a conference of the *Bund* and *Länder* ministers responsible for these policy fields. The decisions of this conference are incorporated in the *Raumordnungspolitischen Orientierungsrahmen* (guidelines for spatial planning; see Section A: Political priorities) 1992. The policies agreed by the conference (Krickenbeck Declaration 1992) and contained in the guidelines include:

- priority for public local transport and relief from transit road haulage in densely populated areas;
- the shifting of inter-regional freight transportation from road to rail and inland waterways;
- the development of the existing rail network for rapid goods transportation;

- improving the inter-relationship of housing and employment locations; and
- extending and coordinating the European high-speed rail network.

F243. Since 1982 the three ministries of:

- the *Bundesministerium für Raumordnung, Bauwesen und Städtebau* (BMBau) (Federal Ministry of Spatial Planning, Building and Urban Development);
- the *Bundesministerium für Verkehr* (BMV) (Federal Ministry of Transport); and
- the *Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit* (BMU) (Federal Ministry of the Environment, Nature Conservation and Nuclear Safety), together with their respective federal research agencies have been undertaking the *Modellvorhaben 'Flächenhafte Verkehrsberuhigung'* (model projects in areal traffic reduction). This model programme covers measures to develop urban sustainable traffic systems in 14 towns and cities throughout Germany.

F244. The model projects implemented in these towns and cities include the promotion of pedestrianisation, cycling and public transport, measures for the reduction of traffic noise and traffic pollution and improvements in road safety and the design of streets. The publication of the individual projects, their outcomes and recommendations for their implementation elsewhere, makes the expertise gained in the model projects available for use in other towns and cities.

Länder (State/regional) policies

F245. The projects contained in the BVWP above are incorporated into the plans and programmes of the *Länder* (the LEP/LEPros). The projects are further developed in detail in two stages by the *Länder* authorities:

- in the *Linienbestimmung* (designation of the line of the project); and
- in the subsequent *Planfeststellungsverfahren* (statutory plan approval procedure). These two stages are explained in Section D: Major infrastructure.

F246. The administration and implementation of the BVWP trunk road infrastructure projects are carried out by the *Länder* on behalf of the *Bund*.

The construction and improvement of the federal railways is carried out by the *Eisenbahn Bundesamt* (federal railways agency), a subordinate agency of the BMV. The management of the train services is undertaken by the *Deutsche Bahn AG* (German railway company), formed by the amalgamation and privatisation of the two former East and West German railway companies.

F247. Many of the spatial plans of the *Länder* have identified possible locations for the establishment of regional *Güterverkehrszentren* (freight haulage centres). These are to enable the transfer of inter-regional and international freight from road to rail and waterways. The centres are to be located at suitable intersections of the road, rail and waterway networks, whereby inter-regional freight is to be delivered by rail and/or waterway and distributed regionally. It is envisaged that these centres could be established by partnership with freight haulage companies.

F248. The German *Länder* stagger their holiday break and school vacation periods in order to reduce the volume of holiday traffic to be carried by the motorways at any one time.

F249. The supervision of local public transport (ÖPNV) is a *Länder* responsibility, though actual implementation is undertaken by the *Gemeinden* in the major towns and cities. It is the *Länder* who issue the licences for public transport operators and routes.

Gemeinde (municipal/local) policies

F250. The construction and improvement of the county and local road and path networks is undertaken by

- the *kreisfreie Städte* (county-free towns);
- the *Landkreise* (counties — especially county main roads); and
- the *Gemeinden* (municipalities — within the settlements),

in accordance with the spatial planning instruments at *Länder* and local level.

F251. The Federal GVZ Act provides funding from motor-fuel taxation and from the *Bund* budget for the improvement of local public transport and road construction in the *Gemeinden*. The GVZ is a very important source of finance for improvements to local public transport infrastruc-

ture, particularly in the financially weak *Gemeinden* in the new *Länder*.

F252. There are some 3 000 km of local rail systems in Germany — trams, underground and city railways, and also comprehensive town, city and rural bus networks. Starting in 1967, regional *Verkehrsverbände* (transport associations) have been established in the agglomerations among the local public transport companies and the regional services of *Deutsche Bahn AG*. The purpose of these transport associations is to provide uniform fares and tickets and integrated networks and timetables within city regions.

F253. The *Gemeinden* are responsible for the provision of local infrastructure (including roads) within their administrative areas. The BauGB provides that up to 90 % of the cost of local infrastructure can be collected from builders/investors, whose properties are served by the local infrastructure. Since the amendment of the BauGB in 1993, the *Gemeinden* can also impose the costs of providing, among other things, traffic infrastructure which serve development projects on the builder/investor, by means of a *städtebaulicher Vertrag* (urban development contract; see Section D: Partnerships).

Trends

F254. The adverse environmental effects of transport are being reduced in the Federal Republic of Germany by a number of measures including:

- the adoption of motor car technical standards and incentives to accelerate the replacement of older vehicles by cleaner and quieter new ones (also in conjunction with Directive 94/12/EC on emissions from motor cars);
- tax incentives to encourage sales of unleaded petrol;
- strict motor maintenance and inspection regulations;
- transport management systems; and
- improvements in city-region public transport.

However, the benefits from these measures are being more than offset by the growth in the number of motor cars and increases in goods transport by road.

F255. Traffic congestion is a problem in nearly all urban areas in Germany and particularly in the agglomerations. On-board, computerised traffic guidance and information systems are being tested for use in large urban regions, as are various types of electronic road pricing systems. Whatever systems are to be adopted, there will be a need to provide compatibility throughout both Germany and Europe.

F256. The introduction programme for inter-city express (ICE) rail links is considered to have resulted in some substitution of car and airline inter-city traffic. The number of persons carried by inter-city, inter-city express and inter-regional railways in Germany increased by 5 % between 1989 and 1993 (to 112 million passengers in 1993).

F257. Responsibility for public local transport and its financing is expected to be transferred shortly to the communal authorities — the *Gemeinden* and *Kreisen*, as is envisaged in corresponding EU regulations.

F258. In rural areas where the population density is low, new forms of flexible public transport are being promoted, including: taxi minibuses, call-up buses and on-call/call-up taxis. In these areas cooperation between neighbouring *Gemeinden* for the provision of joint services is being promoted by the *Bund* and *Länder*.

F259. Regional concepts for traffic management which promote a change in modal-split towards public transport are important in the short- and medium-terms. The trend of establishing regional public transport associations is important since they provide:

- an attractive, user-friendly price range (e.g. the Umweltkarte (environment ticket) of the Verkehrsgemeinschaft Berlin-Brandenburg — a cheap, monthly commuter ticket which also allows the user to take another adult and three children free in the evenings and at weekends);
- an optimisation of logistics;
- inter-linking of the various public transport operators, including the local, regional and inter-city services of the *Deutsche Bahn AG*; and
- provides support for control measures (e.g. park and ride).

F260. Changes in modal-split are also being brought about by creating new public transport 'products' such as:

- family tickets, weekend tickets, tourist tickets and 'kombi-tickets', the latter combine the public transport ticket to and from a venue in the ticket to the venue (for sports events, concerts, fairs, discotheques, etc.);
- night services, with special services on bus and/or tram/city rail routes throughout the night in most large German cities; other cities provide special feeder buses to large discotheques to/from the suburbs; and
- buses, trams and city railway carriages which can accommodate bicycles (bike and ride) and therefore encourage more people to cycle. Some cities and regional operators have established express cycle-bus routes for weekend excursions to countryside resorts.

F261. In the long-term, emphasis is being placed on the integration of traffic and settlement planning between the cities and their surrounding *Gemeinden*. This is to occur at the level of the *Regionalplan*, with such plans providing for:

- traffic reducing settlement planning; and
- the development of housing, commercial and industrial uses adjacent to railway stations.

F262. Under the *Experimenteller Wohnungs- und Städtebau* (ExWoSt) (experimental housing and urban development) research programme, the BMBau operates a research field on urban development and traffic. The research includes model projects on the integration of urban development and traffic planning, with the aim of designing new forms of settlement which avoid unnecessary car journeys. Other projects include integrating the location of industrial/commercial activities with traffic and urban planning and the creation of joint, integrated development and traffic concepts between *Gemeinden*.

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Economic development

Introduction

F263. In the Federal Republic of Germany economic development policy is referred to as '*regionale Strukturpolitik*' (regional structural policy) and is a part of general economic policy, which in turn includes industrial policy (see Section F: Industrial). Further references to economic policy are contained in Section A: Economic development and Section D: Regional economic development.

F264. The key element of federal economic and spatial planning policies is the promotion of 'equivalent living conditions' throughout the Federal Republic of Germany.

F265. The medium to long-term aims of regional structural policy are:

- foremost, the balancing of locational disadvantages in order to remove differences in regional development potential;
- the creation of replacement employment in the so-called structurally weak regions in order to lessen the effects of structural change in these regions; and
- the reduction of regional unemployment by the creation and extension of both competitive firms and jobs.

F266. Regional structural policy in Germany is concentrated on three key areas:

- the new *Länder*, which must overcome the dramatic process of structural change from a planned economy to a market economy,
- rural areas, in which there is a scarcity of industrial and commercial employment, especially in high value jobs; and
- relatively industrialised areas which have a mono-economic structure and which are threatened by structural changes which particularly effect these industrial branches.

F267. The centrepiece of regional structural policy is the *Gemeinschaftsaufgabe* (joint task) jointly undertaken by the *Bund* and *Länder* for the '*Verbesserung der regionalen Wirtschaftsstruktur*' (the improvement of regional economic structure). The *Bund* participates in establishing the framework and providing finance for this 'joint task'. However, it is the individual *Länder* who have the exclusive responsibility for the implementation of regional economic development improvement measures.

European Union

F268. Economic development policy in Germany is influenced by the Single European Act and the Maastricht Treaty, which have removed the internal borders within Europe and resulted in changed criteria for investment and investment location. The sectoral policies of the EU also have an influence on economic development, for example steel production or agricultural policy.

F269. Areas of traditional heavy industry (shipbuilding, steel and coal mining) in the old *Länder* benefit from EU Structural Funds (EU Objective 2 regions). The designation of the entire area of the new *Länder* (including East Berlin) as an EU Ob-

jective 1 region, since the beginning of 1994, will increase the levels of EU funding available for economic development in these *Länder*.

Bund (federal/national) policies

F270. The *Bund* established the *Treuhandanstalt* in 1990 to manage the privatisation of the former State-controlled industrial, commercial and agricultural enterprises in the new *Länder*. The *Treuhandanstalt* ceased operations at the end of 1994. By this time over 7 800 enterprises had been privatised, including some 2 400 management buy-outs, and some 3 700 firms were wound-up. This privatisation process covered all industrial sectors, including shipbuilding, steel, motor car, electrical and chemical industries.

F271. In many cases, the *Treuhandanstalt* provided funds to cover former debts, reclamation of contaminated land and the redevelopment and improvement of out-of-date facilities. The privatisation secured further investment from the purchasers of some DEM 200 billion and a guarantee of nearly 1.5 million workplaces. However, the privatisation process has resulted in high unemployment in the new *Länder*, due to the closure of firms considered economically unviable and the reductions in staff to provide more efficient and competitive enterprises.

Joint Bund and Länder (federal/national and State/regional) policies

F272. An annual programme for regional economic development, the *Gemeinschaftsaufgabe Verbesserung der regionalen Wirtschaftsstruktur*, together with its associated financial arrangements, is prepared by a committee of the *Bund* and *Länder Wirtschaftsministern* (ministers for the economy). The programme is administered by the *Länder*, each of which approves selected projects proposed by the *Gemeinden*, according to the finances available to each *Land*. The projects are selected and implemented within the context of *Landesplanung* (State spatial planning — the LEP/LEPros).

F273. In 1993 the committee of *Wirtschaftsministern* agreed that the entire area of the new *Länder* would be given assisted area status. The assisted areas in the old *Länder* were reduced to a coverage area of 22 % of the old *Länder* population (formerly 30 % including West Berlin). Overall the assisted areas in the Federal Republic of Germany now cover 38 % of the population (see Figure D1 at the end of the publication).

F274. The subsidies under the regional economic programme are available for infrastructural investments made by the *Gemeinden* and private investments in new firms or business expansion. These subsidies are made in a variety of forms comprising grants, bonus payments, low-interest or interest-free loans and loan guarantees. They are aimed at the following:

- the setting-up of new business (with subsidies of between 10 and 23 % generally and up to 35 % in the new *Länder*), including the costs for land or buildings; and
- the promotion of small and medium-sized firms, business expansion, new technology and of measures for environmental protection and energy efficiency in industrial production.

F275. A large share of these subsidies are now given to projects in the new *Länder*, with an emphasis on the promotion of medium-sized firms. Insurance, banking and trading (retail) companies are not entitled to many of the subsidies, since they do not suffer competitive disadvantages.

F276. A second major source of funding for economic development in the new *Länder* is provided by the *Bund* and the old *Länder* under the *Aufbau-Ost* programme 1995-2005. Funding under this programme is provided to the *Gemeinden* and private investors for:

- the improvement of economic infrastructure;
- the promotion of housing construction and urban development;
- the expansion of employment and training;
- community and social facilities; and
- research and development.

F277. Tax subsidies and discounts are also available on industrial and other business investments. Once a year, all the subsidies available are listed in a special edition of the *Zeitschrift für das gesamte Kreditwesen* (magazine for all forms of credit).

Länder (State/regional) policies

F278. Most of the *Länder* have their own *Landesentwicklungsgesellschaft* — LEG (State development company), which are major actors in the provision of developed sites for commercial and industrial users (among other things). The

LEGs take over land owned by the *Land* and in some cases the *Bund* and acquire land, often disused or contaminated industrial sites, for the purposes of developing it for housing, industrial and commercial uses. The LEGs undertake the project planning, infrastructure development, management and, in some cases, the construction of buildings for sale or rent (examples of this type of project occur in the IBA Emscher Park — see Section D: Special agencies and Case studies Volume 1: Regional policy).

Gemeinde (municipal/local) policies

F279. Along with projects promoted with financial aid from the *Bund* and *Länder*, the *Gemeinden* often undertake their own projects for the promotion of economic development. They use their statutory powers to acquire land-banks for industrial and commercial development and to improve and extend local infrastructure and they can provide indirect subsidies in the form of cheap sites or reduced charges for local services (such as water). The attraction to the *Gemeinden* of new industry and commerce is the improvement to their economic base and an increase in *Gewerbsteuer* (local business tax).

F280. Many of the larger towns and cities have established specific departments within their administrations or have created special municipal agencies, such as a *Wirtschaftsförderungsamt* or *Wirtschaftsförderungsgesellschaft* (economic promotions office or agency). In addition, the larger cities have also established their own financial companies for project assessment and the provision of subsidies (from the *Bund*, the *Land* and the *Gemeinde*) on a range of investment projects including economic development, promotion of housing construction and urban redevelopment (which also includes an economic development content); for example the *Investitionsbank Berlin* (IBB).

F281. Recently there is a tendency towards the broader promotion of local economic development. Rather than simply relying on the traditional methods to attract new firms, such as the provision of sites, services and infrastructure connections, the *Gemeinden* now tend to seek ways to strengthen the competitiveness of the local economy and to support the setting up of new enterprises.

F282. There is a wide variety of support given to new or infant enterprises including:

- business and marketing advice;
- the provision of business incubator centres, often with shared facilities to reduce costs;
- the development of specialised types of estates and buildings for the location of new, future-orientated enterprises, such as the Bio-Tech-Park in Braunschweig or the Media-Park in Köln;
- the provision of start-up capital loans; and
- the organisation of discussion forums and local business fairs or providing support for the costs of small firms exhibiting at major national and international product fairs.

F283. Local economic development policy is also introducing the concept of marketing the city or region to attract new enterprises. The attraction of 'soft' locational factors are now recognised as having been undervalued in the past; environmental quality and good housing, schools and cultural facilities all play a role in attracting new enterprises. City and regional marketing is now using these local strengths as promotional factors and at the same time seeking to develop new attractions, which include conference and other facilities for trade fairs, congresses and business-tourism, in order to provide a local or regional environment conducive to innovation.

Policy review and trends

F284. The review of economic development policy is undertaken by the committee of the *Bund* and *Länder* ministers for the economy. Fiscal policy is kept under review by the Bundesbank (federal bank). The BMBau reviews economic development policies and their relationship with spatial planning in its *Raumordnungsbericht* (spatial planning report), the most recent of which was published in 1994.

F285. The role of regional structural economic policy under the *Bund-Länder* 'joint task' is presently under review, against the background of economic recession, huge financial transfers to the new *Länder* and increased EU influence on policy (as a result of the Objective 1 status of the new *Länder*). The review is focused on the type and range of projects which could be promoted, including some which are ineligible at present. It is also looking at the treatment of the new *Länder* within the 'joint task' system. Since their economies are now faring reasonably well, there

is concern that a continuation of the massive amounts of funding provided over the last five years could encourage a subvention mentality in the new *Länder*.

F286. The creation of urban networks is an important emerging trend within the field of economic development. Groups of cities specialising in particular functions and services are grouping together to achieve the mutual benefits of agglomeration, while remaining physically separated within a hierarchy of central places. Urban networks are seen as having a significant role in cross-border spatial development (see Case studies Volume 1: Regional policy).

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Natural resources

Introduction

F287. In Germany, the policy areas of the environment, nature conservation, the protection of natural resources, waste management and pollution control are very closely integrated and considered part of the very broad policy area of environmental protection (see Section F: Environment). This subsection on natural resources will cover policies on agriculture and forestry, water

management and the protection of water resources and policy on coal mining.

Agriculture and forestry

F288. Agricultural land use accounts for 50 % of the land area of Germany, with a further 29 % devoted to forestry. However, there is a relatively high proportion of small farms in the old *Länder* — 80 % of the farms, occupying 40 % of the agricultural land, are smaller than 16 hectares. On the other hand, the farms in the new *Länder* are some of the largest in the country, as a result of collectivisation during the former period of communist government.

F289. Today's cultural landscape has been largely shaped by agriculture, while some habitats such as hedgerows and meadows owe their origin to farming. It is also true that traditional farm practices are giving rise to various forms of environmental pollution and posing a threat to this very ecological diversity. Excessive use of fertiliser and pesticides to increase output is contaminating the soil, groundwater, rivers and lakes and even the seas. Emissions from industrialised farming enterprises add to overfertilisation, soil acidification and the anthropogenic greenhouse effect.

F290. Structural changes are taking place in agriculture as a result of the reform of EU agricultural policy and the recent GATT trade agreements. The economic problems facing farmers are increasing as a result of changes in agricultural policy and greater demands for environmental conservation. The consequences are a decline in the number of persons employed in agriculture, which in turn is threatening the survival of the rural economy and of traditional village life.

Water management

F291. German policy on the protection of waters is based on the principle of anticipatory protection by the avoidance and limitation of pollutant emissions at the source. This provides a clear message: away from 'end-of-the-pipe technology' towards more environmentally compatible production, as well as towards avoidance and treatment at the point of origin. The instruments provided under legislation are, wherever possible,

directed towards the source of pollution (see Section F: Waste management and pollution).

F292. Average annual rainfall in Germany is 768 millimetres. This corresponds to a water volume of 274 billion cubic metres annually. The old *Länder*, which are among the regions in the world most abundant in water, account for more than two thirds of the available water supply. On the other hand, the situation in the new *Länder* is tighter, with some areas having a shortage of water. Throughout Germany, the protection of sources of water supply is a foremost priority and an important factor in spatial planning policies.

F293. Over 97 % of the population of the Federal Republic of Germany are connected to public mains water supply. This supply is obtained from groundwater and springs (70 %) and surface water (30 %). Surface water is a major source of supply in the *Länder* of Nordrhein-Westfalen (59 %) and Sachsen (66 %). The water extracted from these sources very often contains pollutants, in particular those originating from agriculture. The need for the special treatment of extracted water is a major reason for the high costs of water in parts of the old *Länder* (up to DEM 5.50 per cubic metre).

F294. In the new *Länder*, the water supply infrastructure requires major improvements in order to bring the quality of water supplied into line with the old *Länder*. Here too, there is a lower level of connections to public sewers (serving 73 % of the population compared with 93 % in the old *Länder*), while the sewage systems are more obsolete and the treatment plants can only be used to a limited extent.

F295. The policy of the Federal Republic of Germany on the protection of waters includes the protection of surface waters (such as rivers and lakes), groundwater, coastal water and the seas.

F296. The waste water purification measures which have been implemented with increasing intensity since the 1970s have resulted in substantial improvements in the biological water quality of the rivers in the old *Länder*. However, the majority of the rivers in the new *Länder* are classified as being heavily or excessively polluted.

F297. The high concentration of industry and intensive agricultural production is resulting in deteriorating quality of groundwater in many regions in recent decades. Groundwater resources are being threatened by increasing nitrate and pesti-

cide levels. This situation is made worse by old abandoned waste disposal sites, and in the new *Länder* by the effects of open-cast brown-coal mining and abandoned military and industrial sites.

F298. The North Sea is intensively used by its eight coastal States. It is one of the maritime areas with the highest traffic density. The pollution of the North Sea is intensified by the inflow of substances from its coastal States and from beyond via river and atmospheric pollution. The Baltic Sea, with a catchment population of 70 million people from nine coastal States is considerably polluted. The pollution load from the German catchment area amounts to between 2 and 4 % of the total pollution.

Mining and mineral extraction

F299. The Federal Republic of Germany has few natural raw materials — it has no natural gas, little oil and no large quantities of metals. However, it does have significant coal resources. Coal (hard coal) mining takes place largely in the *Länder* of Nordrhein-Westfalen and Saarland, while open-cast mining of brown-coal (lignite) occurs mainly in Brandenburg, Nordrhein-Westfalen, Sachsen, Sachsen-Anhalt and Thüringen. The extraction of sand and gravel and their transportation are also important issues within natural resources policy.

European Union

F300. Agricultural policy in the Federal Republic of Germany is undertaken by the *Bund* and *Länder* within the framework established by EU agriculture policy. This includes the implementation of EU policies, directives and regulations, including, for example, Regulation (EEC) No 2080/92 on the provision of financial payments for reforestation and Regulation (EEC) No 2078/92 on the use of environmentally friendly agricultural production methods.

F301. The EU Leader programme provides incentives in the EU Objective 1 (new *Länder*) and 5b regions (parts of the old *Länder*) for rural diversification by funding the development of non-agricultural enterprises, rural tourism and countryside conservation.

F302. In 1987 the *Internationale Kommission zum Schutz des Rheins gegen Verunreinigung*

(international commission on the protection of the River Rhine), which includes representatives from Germany, Switzerland, France, the Netherlands, Luxembourg and the EU, adopted the 'Action programme on the River Rhine'. In this programme the partners commit themselves to, among other things, reductions in the input of hazardous substances by 50 % between 1985 and 1995. In addition, an international warning and alarm system for the River Rhine guarantees that countries bordering the Rhine are immediately informed of any hazardous incident.

F303. In 1990 the International Commission of the River Elbe was founded and includes representatives from Germany, the Czech Republic and the EU. In 1991 the first action programme was adopted, which includes the immediate planning and short-term construction of municipal and industrial sewage treatment plants.

F304. In 1992 the German-Polish Treaty on the Protection of the Transboundary Rivers of Oder and Neisse was signed, thereby introducing provisions for the construction and maintenance of water management plants, the supply of drinking and industrial water, flood control measures as well as early warning plans.

F305. The quality of water supply is influenced by the EU drinking water regulations, Directive 91/271/EEC on the treatment of communal sewage and Directive 91/676/EEC on the protection of water against pollution from agricultural nitrates.

F306. The Federal Republic of Germany plays a leading role in international cooperation for the protection of the marine environment under the following:

- the International Conference for the Protection of the North Sea (INK);
- the Convention on the Protection of the Marine Environment of the North-East Atlantic 1992;
- the Helsinki Convention on the Baltic Sea 1974;
- the Convention on the Protection of the Marine Environment of the Baltic Sea Area 1992;
- the International Programme on the Baltic Sea 1992 — which is to last for 20 years and provide for the rehabilitation of 132 areas of

prime importance, eight of which are located in Germany;

- the 1972 London Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter; and
- the 1973/83 Marpol Convention (International Convention on the Prevention of Pollution from Ships).

F307. Policy on the extraction and use of coal resources is strongly influenced by EU coal policy. It is also influenced by the need to maintain an indigenous source of fuel for the generation of power, in the absence of other national sources of fuel. Environmental factors also play an important role, in particular, the need to reduce carbon dioxide emissions and to provide more environmentally acceptable methods of coal production and its use in power stations.

Bund (federal/national) policies

Agriculture and forestry

F308. One of the main tasks of agricultural policy is the privatisation of the former agricultural cooperatives, established under the former communist government, in the new *Länder*. This concerns circa 1.9 million hectares and is being implemented in a phased programme, due to be completed by the year 2000. Similarly, 50 % of the formerly nationalised forest land in the new *Länder* is currently being privatised. The ownership of the remainder is to be transferred to the respective *Länder* and *Gemeinden*.

F309. The main aims of agriculture, forestry and fishery policy are:

- the improvement of the living conditions in rural areas;
- the supply of the population with high quality products at reasonable prices; and
- to achieve an efficient, market-orientated and environmentally sustainable agricultural sector within the framework established by EU agricultural, forestry and fishery policies.

F310. Since the reform of the EU agricultural policy in 1992, agricultural incomes are supported by direct and production-independent financial

assistance, partly in connection with the removal of agricultural land from production.

F311. Each year the *Bundesministerium für Ernährung, Landwirtschaft und Forsten* (Federal Ministry of Food, Agriculture and Forestry) prepares an *Agrarbericht* (agriculture report), which is presented to the *Bundestag* (federal parliament). This report provides a comprehensive analysis of the structural developments in Germany in the areas of agriculture, forestry and fishing.

Joint Bund and Länder (federal/national and State/regional) policies on agriculture and forestry

F312. Agricultural structural policy is implemented and financed jointly by the *Bund* and *Länder* under the *Gemeinschaftsaufgabe Verbesserung der Agrarstruktur und des Küstenschutzes* (joint task for the improvement of the structure of agriculture and of coastal protection). The central focus of this joint task is a promotional programme for:

- new farming enterprises;
- the restructuring, re-equipping and modernisation of existing farm enterprises;
- improvements to water supply, including the straightening and clearing of rivers and streams;
- the reorganisation of agricultural land to provide landholdings suitable for farming; and
- coastal protection.

F313. The programme also includes important elements of EU agricultural policy, such as the replacement of farmed land with forestry and the introduction of environmentally friendly agricultural production methods.

F314. A higher level of financial assistance, including direct income supplements, is available to promote and support farming in disadvantaged areas. These cover circa 9.4 million hectares (1992), or half the total agricultural land in Germany.

F315. Tree planting on agricultural land receives subsidies for the initial investment in the tree crop, with an emphasis on the planting of a mixture of deciduous trees. Premium payments are

also available to off-set the losses in income resulting from the conversion of farm land to forestry.

F316. The removal of land from agricultural use and the introduction of extensive (rather than intensive) agriculture are central means to reduce agricultural production, to reduce the environmental burdens caused by farming and to protect natural resources. Within the framework of EU agricultural policy, the *Bund* and *Länder* prepare a five-year programme for land removal, which in 1992/93 accounted for the removal of over 415 000 hectares of land from agricultural use (or 3.6 % of all agricultural land).

F317. Voluntary land removal is now being replaced by economic land removal, which is quasi-obligatory for farms over 16 hectares. Under this scheme, product price subsidies can only be obtained by farmers who remove 15 % of their land from agricultural use.

F318. In 1992/93 measures for promoting extensive farming covered 457 000 hectares in Germany. Here, chemical or synthetic substances are no longer to be used in agricultural production. The use of environmentally friendly and natural resource protecting production methods under Regulation (EEC) No 2078/92 has been introduced since autumn 1993.

Management of water resources (Bund policies)

F319. The *Bund* has the responsibility for the enactment of 'framework legislation' in the field of water management. The *Länder* complete this framework by enacting their own laws which also provide the necessary procedural and organisational regulations. The main components of *Bund* legislation for water resources are:

- the *Wasserhaushaltsgesetz* (federal water act) 1986 which defines basic regulations on measures for the quantitative and qualitative management of water. It provides for the compulsory licences required for the abstraction and use of water. The Act also provides for the designation of *Wasserschutzgebiete* (water protection areas) and incorporates strict minimum requirements for the piping of waste water into surface waters; and
- the *Trinkwasserverordnung* (drinking water ordinance), which regulates the management

and supply of drinking water by the supply companies, the supervision of the supply and contains regulations on minimum standards and quality of drinking water.

F320. By the beginning of 1993, 35 new or amended administrative ordinances under the *Wasserhaushaltsgesetz* 1986 had come into effect. These impose further limits on the introduction of waste water into surface waters by municipalities or industry by preventing emissions directly at their point of entry. These ordinances established waste water regulations for entire branches of industry.

F321. There is no federal-wide water supply plan, the supply of water being a matter for the *Länder* and their constituent local authorities.

F322. In 1988 the *Bundesregierung* (federal government) adopted a 10-point catalogue for the purpose of improving the protection of the North and Baltic Seas. The most important aims include the faster implementation of national measures and of international obligations, aimed primarily at a speedier reduction of nutrients and hazardous substances. The basic elements of this 10-point catalogue have all been met, including ending the dumping of dilute acids (1989), ending waste incineration at sea (1989) and the banning the dumping of waste from ships (1991).

Mining (Bund policies)

F323. The coal mining industry is subsidised by financial measures agreed between the EU and the *Bund*, and between the *Bund* and the (coal-mining) *Länder*, the mining companies and the mining trade unions (the *Kohlerunde*). The subsidised production of hard coal is to be reduced to 50 million tonnes per annum by 2005. This aim should be achieved in the year 2000. It is envisaged that an indigenous supply of 35 million tonnes of hard coal is to be secured for electricity production annually until 2005. The *Bund* and the *Länder* have agreed a special programme for the creation of alternative employment in mining areas.

F324. The restructuring of the brown-coal (lignite) industry in the new *Länder* has taken place rapidly. Annual production declined by 60 % between 1990 and 1992, to some 120 million tonnes. This decline was caused by a steep fall

in demand, which in turn was caused mainly by the collapse of productive industry in the new *Länder* following reunification. Increased use of oil and gas also led to this decline. The fall in brown-coal production has led to the closure of many of the open-cast mines and resulted in a dramatic increase in unemployment.

F325. A medium-term employment programme has been agreed between the *Bund* and the (brown-coal mining) *Länder*, in which former mining employees are engaged in the removal of mining waste and the cleaning-up of the lands and facilities used for mining (see Section F: Environmental policy). A positive side to the reduction in the use of the high-sulphur content brown-coal has been the significant improvements in air quality in the new *Länder*.

F326. Uranium mining by the former East German mining company *SDAG Wismut* has left behind very seriously contaminated land and dangerous waste. This company has now been transferred to a *Bund*-owned semi-public company, *Wismut GmbH*, which is charged with the responsibility of closing down the mining operations and reclaiming and recultivating the lands.

Länder (State/regional) policies

Agriculture and forestry

F327. The *Länder* are responsible for *Flurbereinigung* (improving the structure of agricultural landholdings). Most of the area-*Länder* have established special authorities at regional level for this purpose and these authorities prepare plans and assess applications for the improvement, realignment and exchange of landholdings to make them more suitable for agricultural use.

F328. *Aufforstungsgebiete* (reforestation areas) are designated by the *Regionalplanungsbehörden* (authorities responsible for regional planning — see Appendix 4) in the *Regionalpläne* (regional plans), on the basis of agreed cooperation between the *Landesministerium für Landesplanung* (State ministry responsible for spatial planning), the *Landesministerium für Naturschutz* (State ministry responsible for nature conservation) and representatives of the agricultural and forestry interests in the region.

F329. An important instrument to reconcile forestry planning with other spatial planning areas

and to provide for the development of forestry is the *forstliche Rahmenplan* (forestry development plan). This is an informal plan, prepared at the regional or municipal level, which provides concepts for forestry protection measures and for action on forestry policy. A *forstliche Rahmenplan* must be in accordance with the aims and objectives of *Landesplanung*.

Management of water resources

F330. Water management in terms of the quantity and quality of water is implemented by the *Länder*, under *Bund* legislation as supplemented by their own laws for this purpose. This includes the designation of *Wasserschutzgebiete* (water protection areas), which are identified in the spatial plans and the landscape plans of the *Länder*.

F331. The designation of *Wasserschutzgebiete* covers both water quality and the need for the conservation of water resources. Any development within a *Wasserschutzgebiet* requires that the special status be relaxed or must provide an alternative means of water supply.

F332. The *Länder* administer the requirements for licences under the *Wasserhaushaltsgesetz* for extracting or damming water, lowering the water table or discharging waste water (or other substances) into surface or ground water (see Section C: Other permits).

F333. The new *Länder* must improve their water supply infrastructure in line with the requirements of the *Trinkwasserverordnung* by the end of 1995. The *Bund*, the *Bundesgesundheitsamt* (federal health agency) and the *Länder* provide finance and technical assistance for this purpose to the new *Länder*.

Mining

F334. Policies for coal mining are integrated into the *Länder* spatial plans (LEP/LEPros). These policies include the identification of locations for coal mining, the locations for coal storage and waste deposit, the provision of infrastructure to serve mining and the protection of mining areas from other incompatible development. Social, settlement and ecological considerations are taken into account in the preparation of these policies. Naturally, because of the major impact of

coal mining, in particular open-cast coal mining, mining policy is a hotly debated and very sensitive issue.

F335. In *Land Brandenburg*, the *Braunkohlenausschuss* (BKA) (brown coal committee), comprising representatives from the mining industry, the trade unions, the *Landkreise* (counties) and other relevant regional organisations, prepares the sector plans for brown coal mining. The sector plans (*Braunkohlenpläne*) assess and recommend the locations for mining. These are then considered within the overall spatial planning context of *Landesplanung* (State spatial planning) and must be approved by the *Ministerium für Umwelt, Naturschutz und Raumordnung* (State Ministry of the Environment, Nature Conservation and Spatial Planning).

F336. A major element of sector planning for coal at *Länder* level is the reclamation of land formerly used for coal mining purposes. This includes former areas of mining activity, as well as areas used for storage and waste deposit. The promotion of alternative sources of employment in mining regions is also a very important policy, supported by financial aid from the *Bund*, the *Länder* and the EU Structural Funds (see Section F: Economic development). The IBA Emscher Park (see Section D: Special agencies and Case studies Volume 1: Regional policies) is an example of the revitalisation of a former coal mining and industrial region.

Gemeinde (municipal/local) policies

F337. The *Gemeinden* also implement *Bund* and *Länder* policies in relation to the protection of water resources. Of most significance is the fact that the *Gemeinden* must comply with the provisions of the *Trinkwasserverordnung*, under the supervision of the *Länder*. The *Gemeinden* in the new *Länder* had until the end of 1995 to comply with this ordinance.

F338. The *Landkreise* (counties) and the *kreisfreie Städte* (county-free towns) prepare coordinated, and in some cases joint, water supply plans, under the supervision of the *Länder* authorities.

F339. In the preparation of their F-plan and B-plans, the *Gemeinden* must take into account the policies of the *Land*. In this context, that includes the protection of designated *Wasserschutzgebiete* (water protection areas). Urban land use

planning incorporates the water protection areas, without being responsible for them.

F340. In relation to land protection, new land uses may not be designated in local land use plans, without prior examination as to whether the land to be designated is free from waste and contamination.

F341. The F-plan and B-plans prepared by a *Gemeinde* must indicate any areas which have mining below the surface, or which have been designated for the extraction of minerals (see Section B: Local policy instruments). As in all regions, the *Gemeinden* in areas affected by coal mining participate in the preparation of the *Regionalpläne* (regional plans — see Section B: *Länder* policy instruments) for these areas. In Nordrhein-Westfalen, the *Gemeinden* of the Ruhr area are organised in the *Kommunal Verband Ruhrgebiet* (association of Ruhr municipalities), which is engaged in the preparation of *Regionalpläne* for the Ruhr area.

Trends

F342. The *Umweltbundesamt* and the *Verband der Landwirtschaftskammern* (VdL) (association of chambers of agriculture) have commenced joint consultation projects to motivate farmers and rural residents to attach greater importance to the goals of environmental protection in farming and the countryside.

F343. Procedures and measures still need to be found for reconciling cross-border environmental problems and issues relating to the protection or exploitation of natural resources. The flooding of the Rhine and Maas rivers in 1993/94 illustrates the need for the coordination of water management measures on both sides of national borders. The cross-border protection of drinking water resources is also a major issue. Here, it is important that water protection areas which adjoin borders are identified and extended in the spatial plans of the neighbouring country.

F344. Both of these issues are currently being addressed by the *Arbeits-gemeinschaft Europäischer Grenzregionen* (AGEG) (working party of European border regions).

F345. The cross-border environmental problems of mining activities in border regions is also an issue which needs to be tackled. For example, the proposed extension of open cast brown coalmining at Garzweiler (south of Mönchengladbach)

threatens the surrounding geohydrological system and the German-Dutch nature park at Maas-Schwalm-Nette in particular. This proposed extension is now to be the subject of a cross-border environmental impact assessment under the framework agreed at the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention 1992).

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The *Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit* provides a wide range of scientific and informational publications and reports on environmental protection policies in Germany, including a regular magazine *Wir und unsere Umwelt*, aimed at the public and containing information and tips on a broad range of environmental issues. The *Umweltbundesamt* publishes an annual report on the environment, a wide range of scientific research reports and texts on environmental issues and policies as well as information brochures for the general public. A number of these publications are available in English, French and Russian.

Heritage

Introduction

F346. The safeguarding of cultural heritage, within the framework of spatial planning, means above all the preservation of historic and architectural monuments, including the protection of ensembles of buildings. The protection of cultural heritage plays an important role in the protection of national, regional and local identities as well as providing a valuable resource for tourism.

F347. In Germany, policy on the protection of built heritage has two components, each of which have a different historical and legal background. *Denkmalschutz* (the preservation of monuments) has a tradition in Germany which stretches back hundreds of years. *Stadterhaltung* (urban conservation), on the other hand, is much younger, although the conservation of urban areas has always played a role in urban planning and architecture.

F348. The preservation of monuments is mainly associated with the protection of individual objects or a small number of objects and their surroundings. However, urban conservation policies are primarily orientated towards objectives covering whole areas.

F349. Legislation on *Denkmalschutz* is passed by each of the *Länder*. This gives rise to some differences between the *Länder* in terms of the regulations and procedures involved. The legislation governing *Stadterhaltung* is, however, provided in the *Baugesetzbuch* (BauGB) (federal building code), which is the unified code of law for local land use planning, urban development and urban conservation covering the whole of Germany.

F350. The responsibility for carrying out urban conservation policy rests with the *Gemeinden*, where it is undertaken within the framework of urban renewal policy. Because of the large capital investment involved in urban renewal, the *Gemeinden* are provided with investment funding from the respective *Land* and also from the *Bund* — out of its urban renewal budget.

F351. The development of urban conservation policy dates back to the early 1970s. By then the former West Germany (FRG) was emerging from the period of post-war reconstruction into a period of consolidated economic growth and prosperity. However, the continuation of the policies of post-war reconstruction in West German cities gave rise to public concern about the destruction of the remaining older inner-city districts. During this decade, so-called *Flächensanierung* (area-wide or comprehensive redevelopment) proposals were resisted by a loose coalition of citizen action groups, squatters, local political groups and some members of the architectural and planning professions. These protests resulted in a broad public debate on the issue of urban conservation and on the quality of urban life in general.

F352. The eventual outcome of this public debate was a support for the policy of careful urban renewal, characterised by rehabilitation, sensitive infill-development and the revitalisation of the urban environment, which became a central component of the *Internationale Bauausstellung* (IBA) (international building exhibition) in Berlin in the early 1980s (see Section D: Special agencies). This model approach to urban renewal, established by the *STERN Gesellschaft der behutsamen Stadterneuerung* (STERN careful urban renewal agency) in Berlin, became a role model for conservation-orientated urban renewal projects in other German cities.

F353. During the 1970s and 1980s urban conservation became an important area of policy action throughout the former West Germany, backed by public opinion and promotional funding from the *Bund*, *Länder* and the *Gemeinden*. Foremost examples in this success story are the conservation-based urban renewal projects completed in the old inner-city districts of Aachen, Bremen, Karlsruhe and Lübeck, to mention just a few. While policies for the conservation of the urban heritage are continuing in the old *Länder*, the emphasis of urban conservation policy at national level is now concentrated on the new *Länder*.

F354. Because of rent control at uneconomic rental levels and the emphasis of new construction on pre-fabricated housing estates (rather than the more expensive policy of refurbishing the existing housing stock), many of the old residential areas and the central mixed-use areas of the towns and cities in the former East Germany (GDR) have remained neglected and unmaintained for over 40 years. Although the actual physical structure of these areas are reasonably intact, the buildings themselves are in a very poor state of repair and need major investment for their refurbishment. Many of these towns and cities have a wealth of historic and architecturally important buildings:

- there are 30 towns with enclosed town centres dating back to the Middle Ages which are of international importance; and
- a further 200 towns where at least part of the town centres are of national importance.

European Union

F355. Heritage conservation is emerging as an important policy area of the European Union, including the conservation of 'cultural landscapes'.

Of major influence here is Article 128 of the Treaty on European Union, which encourages cooperation among Member States and the provision of EU support for the conservation of cultural heritage of European significance. The need for an integrated approach to conservation is also an important factor, as required by the Convention for the Protection of the Architectural Heritage of Europe (in Granada on 3 October 1985).

Bund (federal/national) policies

F356. Because of the large number of relatively intact historic urban centres in the new *Länder*, the *Bund* agreed a special programme with the new *Länder* and Berlin for 'Städtebaulicher Denkmalschutz, Sicherung und Erhaltung historischer Stadtkerne' (preservation of urban monuments, securing and preserving urban centres). The main emphasis of this programme is the protection of threatened urban central areas which have a high level of historic and architectural monuments and/or high quality building ensembles.

F357. The first phase of this programme covers 220 cities and towns in the new *Länder* (including east Berlin), whose centres have an urban cultural or historical quality of a minimum Category 2 (national importance) status. The scale of the areas included can vary from between 5 and 250 hectares; from small ensembles to whole town centres and districts of cities.

F358. The administration and components of the programme in each town and city is coordinated and approved by the *Landesdenkmalämter* (State monuments office) in each of the new *Länder*. Funding for the programme comes mainly from the *Bund* and *Länder* (approximately 80 %), with up to 20 % provided by the *Gemeinden*.

F359. The implementation of schemes under the programme, generally involves investigation, recording of details, securing the buildings/structures against further decay, followed by renovation and modernisation. The improvement of the historical streets and squares (footpaths, lighting, etc.) is also provided for.

F360. In 1993, a federal competition was organised to display various projects under the programme and to encourage further participation by the *Gemeinden*. The submissions received for the competition ranged from the preservation of individual buildings to area-wide renewal measures. The next step is to involve the protection

of residential areas dating from the *Gründerzeit*, that is from before the First World War.

F361. General urban renewal policy also serves the purposes of urban conservation in the central areas of towns and villages. The *Förderprogramm Städtebauliche Modellvorhaben* (promotional programme for model urban renewal projects), financed by the *Bund* from its urban renewal budget, provides aid for model renewal and conservation projects in 11 towns and 10 villages in the new *Länder*. An example of the application of this programme in the town of Stralsund in Mecklenburg-Vorpommern is described in Case studies Volume 3: Environment and heritage.

F362. Each of the central areas of the 11 towns and 10 villages selected in this model programme is of at least national historical and architectural importance. The two main objectives of the model programme are the conservation and rehabilitation of the historical building fabric and the revitalisation of the town and village centres taking their heritage into account. In each of the 'model' towns and villages, the preparation and implementation of experimental urban renewal measures and procedures are to be demonstrated as models, which will provide knowledge and experience to other towns and villages seeking to renew their own historically and architecturally important centres.

F363. The taxation legislation of the *Bund* provides for tax relief on certain investments made which serve the conservation of protected buildings and structures. The *Deutsche Stiftung Denkmalschutz* (DSD) (German foundation for the preservation of monuments), which is an independent foundation, provides financial assistance for the preservation of monuments and projects in urban conservation.

Länder (State/regional) policies

F364. The jurisdiction for legislation regarding the preservation of monuments, or *Denkmalschutz*, rests mainly with the *Länder*. The *Bund* is only responsible for legislation protecting objects of national heritage value against export outside the country.

F365. Most of the *Landesverfassungen* (State constitutions) provide guarantees for the preservation of monuments, but the actual terminology used differs significantly from *Land* to *Land*, with references being made to one or more types of

heritage or area of importance: cultural, historical, folklore, art, architectural, urban planning, scientific, technical, technological, etc.

F366. Each of the *Länder* have their own (Landes-) *Denkmalschutzgesetz* ((State) preservation of monuments act), which differ from each other to some extent. However, all of the acts contain provisions for the protection of:

- building monuments and structures;
- ensembles of buildings;
- earth monuments and early historic monuments; and
- objects (such as paintings, altars, etc.).

F367. The monuments to be protected are entered into a *Denkmalliste* (monuments list) or a *Denkmalbuch* (monuments book), by means of a formal listing procedure. In most of the *Länder*, only those monuments entered into the *Denkmalliste* or *Denkmalbuch* are fully protected under the *Landes-Denkmalschutzgesetz*. However, in Bayern, Niedersachsen and Saarland, full protection under the law is provided to all buildings (and objects) which fulfil the statutory features of a monument or ensemble — this is the major issue for their protection in the eyes of the law and not whether the building is actually listed or not.

F368. The responsibility for *Denkmalschutz* normally rests with the *Landesministerium für Kultur* (State Ministry of Culture), though the statutory responsibilities for the preservation of monuments is, in most of the *Länder*, delegated to the *Landesdenkmalamt* (State monuments office). The *Landesdenkmalamt* is the State authority responsible for:

- the preservation of monuments and the care of the monuments to be preserved (this includes providing expertise and financial grants to the *Gemeinden* and third parties);
- scientific research on monuments or potential monuments;
- the supervision of the monuments in the *Land* and the provision of advice on their protection to the local authorities and the public; and
- the approval of any proposals for the alteration or demolition of a monument and for

any changes to buildings adjacent to monuments (see Section C: Other permits).

F369. The *Länder* also undertake and finance their own heritage protection programmes. For example, the *Land* Nordrhein-Westfalen has been operating a programme since 1985 for *Historische Stadtkerne* (historical town centres) which comprises the conservation and renewal of the centres of 34 towns.

F370. A second programme for *Historische Ortskerne* (historical local centres), covering 11 smaller settlements, has been in operation in Nordrhein-Westfalen since 1990. The 45 *Gemeinden* are required to take special consideration of the built heritage in all planning and building measures. The *Land* government provides the *Gemeinden* with financial aid for urban renewal, for building works (improvements to the road, street and footpath networks) and with technical advice.

F371. The *Landesdenkmalamt* coordinates and supervises the implementation of these *Land* programmes for the protection and refurbishment of historic monuments, as well as the projects under the *Städtebaulicher Denkmalschutz* and *Städtebaulicher Modellvorhaben* (see *Bund* policies above).

Gemeinde (municipal/local) policies

F372. Under the *Landes-Denkmalschutzgesetz*, buildings, ensembles and other structures listed for preservation in the *Denkmalliste* or *Denkmalbuch* must be indicated in the local land use plans, the F-plans and B-plans, prepared by the *Gemeinde*. Some *Gemeinden* also list other buildings for protection, in consultation with the *Landesdenkmalamt*, and most *Gemeinden* are important owners of protected buildings in their area.

F373. In the preparation of local land use plans, the *Gemeinden* are required under the BauGB (federal building code) to pay particular attention to the requirements for the preservation and maintenance of historic monuments and to local centres, streets and public places of historic, artistic or architectural importance which warrant preservation (Section 1(5) No 4 BauGB).

F374. In addition, the *Landesdenkmalamt* participates as a *Träger öffentlicher Belange* (public agency) in the procedures for the preparation of local land use plans.

F375. However, none of the above places the preservation of monuments in a more important position than that of any other interests to be considered in the preparation of a local land use plan. The interests of the preservation of monuments are as important as the interests of urban conservation, urban design or nature conservation, but they have no absolute priority in terms of the aims of local land use planning.

F376. Under Section 172 of the BauGB (federal building code) a *Gemeinde* may introduce an *Erhaltungssatzung* (preservation statute) for the preservation and renewal of urban areas. The *Erhaltungssatzung* allows *Gemeinden* to define areas in which they would like to pursue specific aims:

- the preservation of the specific urban character of an area derived from its urban pattern (referred to as a *Stadtgestalt-Erhaltungssatzung* (urban design-preservation statute) when implemented for this purpose);
- the preservation of the composition of the local residential population of an area on specific urban development grounds (referred to as a *Milieuschutzsatzung* (milieu protection statute) when enacted for this purpose); and
- guaranteeing the social acceptability of urban restructuring measures.

F377. When a *Erhaltungsgebiet* (preservation area) is formally designated by the *Gemeinde*, special permission (from the *Gemeinde*) is required before demolition, alterations or changes to the use of buildings or structures can be undertaken. Where the purpose of the *Erhaltungsgebiet* is for the preservation of the specific urban character, special permission is also required for the construction of new buildings or structures.

F378. In many cases, the *Gemeinden* use the *Erhaltungssatzung* in combination with other protective provisions provided for under the BauGB and the relevant LBO (State building regulations) including:

- the *Gestaltungssatzung* (local design statute) which is a local statute containing binding local design regulations for new buildings and alterations and conversions to existing buildings; and
- the *Werbeanlagensatzung* (local advertising statute) which is a local statute containing

regulations on the location, size, type, materials, etc. of advertising and vending machines on or adjoining buildings and other structures in an area.

F379. These instruments are mainly applied in an *Erhaltungsgebiet* or in a *Sanierungsgebiet* (redevelopment area). An example of their use is illustrated in the German case study on heritage preservation in Case studies Volume 3: Environment and heritage.

F380. The costs involved in the renewal of *Erhaltungsgebiete* is generally divided between the *Land* and the *Gemeinde*. Under the joint *Bund-Länder* programme for the funding of *städtebauliche Sanierungsmaßnahmen* (urban redevelopment measures), under Section 136 BauGB, the costs of the urban renewal measures are divided equally among the *Bund*, the *Land* and the *Gemeinde*. In numerous cases the instruments of the *Erhaltungssatzung* and of the *städtebauliche Sanierungsmaßnahmen* are combined by the *Gemeinde* for the renewal of an area.

F381. Improvements to private properties are carried out by the owners, who can benefit from a range of public subsidies and tax incentives.

F382. Cooperation between the *Gemeinden* plays an important role in the promotion of conservation policies. Thus, under the *Förderprogramm städtebauliche Modellvorhaben*, the expertise and experiences gained in *Gemeinden* in the old *Länder* were passed on to the model-towns in the new *Länder*. For example, the municipal urban renewal agencies of *Gemeinden* in the old *Länder* helped to set-up similar agencies for the *Gemeinden* in the new *Länder*, including the temporary lending out of their own staff to advise and train the staff of the new agency.

F383. Inter-municipal cooperation also takes place via associations especially established for heritage preservation. For example, the *Arbeitsgemeinschaft historische Städte* (working party of historical towns), provides for cooperation and the exchange of information on common issues and experiences affecting the historical towns of Bamberg, Görlitz, Lübeck, Meissen, Regensburg and Stralsund. Working exchanges on urban conservation also take place between municipalities at the international level via international partner-town arrangements.

Trends

F384. The *Deutsche Stiftung Denkmalschutz* (DSD) has established a novel scheme for the preservation of 11 derelict historic stately homes in *Land* Brandenburg. Under this scheme the DSD and a specially created company *Schlösser GmbH* acquired the stately homes and will undertake their restoration. Funding for the acquisition and restoration is provided from the ZDF television lottery and the DSD. On completion the buildings are to be managed by the company along the lines developed by the National Trust in the United Kingdom.

F385. A new and emerging issue of heritage policy is the protection of 'cultural landscapes' (*Historische Kulturlandschaften*). These are a category of areal protection under the *Bundesnaturschutzgesetz* (federal nature protection act), which can be designated by the *Länder*. Heritage landscapes can also include the surroundings of protected monuments, insofar as their protection serves the preservation of the uniqueness or beauty of the monument.

F386. Pilot projects for the protection of 'cultural landscapes' (under the *Bundesnaturschutzgesetz*) are currently being implemented in the old *Länder*. For example in *Land* Rheinland-Pfalz, for the preservation of historical vine terraces at the *Ahrtal*, which date back to the Middle Ages.

F387. The preservation of monuments in Germany covers not only historical monuments, but also more modern buildings from the 1950s and the 1960s and technical or technological monuments such as old steel factories from the last century and, for example, the first elevated city railway in Germany, situated in Berlin.

Sources and further information

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Information on urban renewal, urban conservation and the preservation of buildings can be found in the monthly magazine *Bundesbaublatt*, published by the BMBau.

Waste management and pollution

Introduction

F388. In the Federal Republic of Germany, the policy areas of the environment, nature conservation, resource protection, waste management and pollution control are more closely integrated than in a number of other European countries (see Section F: Environment). This subsection on waste management and pollution will deal with the policies on:

- waste management;
- nuclear safety;
- air pollution control; and
- noise pollution abatement.

F389. Waste management and the control of pollution have become important areas of environmental policy action in Germany. In spite of all the efforts, significant achievements and the fact that German waste management technology leads the field, the waste disposal situation in Germany is overstretched. Significant improvements have also been made in the control of pollution in the old *Länder* over recent years. However in parts of new *Länder*, the levels of air and water pollution are far worse than those encountered in even the most densely populated areas in the old *Länder*.

Waste management

F390. The central problem of waste management in Germany is the high level of waste and the insufficient capacity of disposal facilities. In the last few years the main problem has been how to dispose of waste in such a way as to have the least effects on the environment.

F391. The continuous rise in the amount of productive waste in the old *Länder* remains a problem, despite efforts at reduction. In the new *Länder* the amounts of productive waste is even higher than in the west, as a result of the removal of waste from old industrial sites, the rehabilitation of contaminated land and an increase in debris from demolition and building works.

F392. At the same time the number of facilities for the disposal of waste has sharply declined during the last decade. In the old *Länder* household waste disposal sites have closed as their capacity has been reached, leading to a much more centralised supply of facilities which require the inter-regional transportation of waste. In the new *Länder*, numerous small disposal sites of a poor environmental standard have been closed down, resulting in a shortage of disposal facilities. It is estimated that the currently available waste disposal sites throughout Germany will be exhausted in a short number of years. A shortfall also exists in facilities for the storage of productive waste. However, new facilities are difficult to establish due to local resistance to new sites of any type.

F393. The main priority of all levels of government is to seek a solution in an active disposal economy, which does not only dispose of waste, but actively avoids its production and provides for the recycling of any waste that does occur.

Nuclear waste management

F394. There are 21 operational nuclear power plants in Germany, which have a capacity of circa 24 000 megawatts or nearly one third of electricity demand (the nuclear power plants in the former East Germany have been decommissioned and are to be dismantled). Responsibility for their operation and supervision lies with the *Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit* (Federal Ministry of the Environment, Nature Conservation and Nuclear Safety) (BMU), supported by the *Bundesamt für*

Strahlenschutz (BfS) (federal agency for radiation protection).

F395. Under the *Atomgesetz* (federal atomic energy act) the permanent storage of radioactive wastes is a responsibility of the *Bund* (the BMU and BfS), which is also responsible for the establishment and running of permanent storage depots. At the beginning of 1993 there was nearly 60 000 m³ of radioactive waste in storage, which is expected to rise to 193 000 m³ by the year 2000.

Air pollution control

F396. There has been a major reduction of pollution from industrial facilities and power stations in the old *Länder*, however, further improvements need to be made. The *Bund* is striving to reduce the levels of sulphur dioxide and nitrous oxide, throughout Germany, by 90 and 50 % respectively between 1989 and 2005. In the new *Länder* sulphur dioxide is a major air pollutant, where levels in urban areas are many times higher than in urban areas of the old *Länder*. This is mainly due to the use of brown-coal for domestic heating in the new *Länder*. The main political priority is, therefore, to bring the quality of air in the new *Länder* into line with the standards achieved in the old *Länder*.

F397. The results of the 1992 survey of forests in Germany showed the highest level of needle and leaf loss to trees since the surveying began in 1984. In 1992, 27 % of trees had noticeable crown damage, some 2 % more than the previous year. In the old *Länder* the forests in southern Germany are worst affected, with a level around the federal average. While the situation in the new *Länder* has improved, partially as a result of the closure of heavily polluting industries, the level of noticeable tree damage (34 %) remains a cause for concern. The causes of this forest damage are many sided. Air pollution is a major cause, which is not only a regional but a cross-border problem.

Noise pollution control

F398. As in other densely populated and highly industrialised countries, noise pollution is a major consideration in Germany. Surveys have shown that noise is one of the main sources of pollution

identified by the general public. High levels of noise pollution are caused by:

- traffic noise (noise from motor vehicles, trains and aeroplanes);
- noise from industry, commerce and construction work; and
- noise at home, in the neighbourhood and from recreational activities.

European Union

F399. The policies of the EU have a significant influence on waste management and pollution control policies in the Federal Republic of Germany. It is a central policy of the *Bund* to provide an integrated waste management system, for waste that does occur, in an environmentally sustainable manner, within the framework of the EU waste management policy. Waste management and pollution control policy is also influenced by:

- the EC Directive on the limitation of emissions of pollutants into the air from large combustion plants (1988);
- the EU-wide introduction of the catalytic converter as from 1993;
- compliance with the translation into European Union Law of the Basel Convention on the Control of the Cross-Border Transport of Waste (which took effect in May 1994);
- EU environmental regulations, for example the EC Directive on European Register of Chemical Substances; and
- the third international conference on the protection of the North Sea (1990, The Hague), at which it was agreed to reduce the input of hazardous substances and nutrients by 50 % between 1985 and 1995 and to eliminate the dumping and burning of waste by the end of 1991 (Germany stopped dumping waste in or burning waste on the North Sea in 1989).

F400. The Federal Republic of Germany has bound itself to the reduction of air pollutants in a number of international agreements, including:

- the Geneva Clean Air Convention of 1979 and the Helsinki and Sofia Protocols (1985 and 1988) on the limitation of SO₂ and NO_x emissions respectively, together with the VOC Pro-

tol on the limitation of volatile organic compounds (1991); and

- the UN Conference on the Environment and Development (Rio de Janeiro) 1992.

F401. International cooperation on nuclear safety, radiation protection and nuclear waste management takes place via:

- the United Nations International Atomic Energy Agency (IAEA) in Vienna;
- the OECD's Nuclear Energy Agency (NEA) in Paris; and
- the European Atomic Energy Community in Brussels.

Germany is also linked into the EU rapid information system on nuclear energy and environmental radioactivity.

Bund (federal/national) policies

Waste management

F402. The main policy instrument for waste management is the Kreislaufwirtschafts- und Abfallgesetz (federal closed cycles and waste management act) 1994. This act incorporates the principle that waste is to be avoided, resulting waste is to be recycled and unavoidable or unusable waste is to be disposed of in an environmentally friendly manner.

F403. A central element of this concept is the introduction of the 'duty to take back and reuse' required of the manufacturers and retailers of products. The first element of this concept came into force with the *Verpackungsordnung* (packaging-waste ordinance) 1991. This ordinance, made under the *Abfallgesetz*, requires manufacturers and retailers to take back and reuse packaging. Thus, manufacturers have to take consideration of the production of packaging for their products. The costs of packaging become a competitive factor; whoever packs less, must dispose of less and whoever disposes of less can reduce costs.

F404. Regulations made under the *Abfallgesetz* have made it illegal simply to dispose of or store (on deposit) special or harmful waste which contains mixed types or components of waste. Many

waste disposal sites are not in the position to accommodate harmful substances for long periods of time. Thus, all waste must be made suitable for storage and must be treated beforehand. Special wastes which need to be kept under observation must be stored overground and sites for such storage must be licensed and may not be located in current or future water supply catchment areas.

F405. The *Gefahrstoffverordnung* (hazardous substances ordinance) covers the legal requirements relating to the storage, use and transport of hazardous chemicals. Other toxic substances which require special supervision are listed in the *Abfallbestimmungsverordnung* (determination of waste ordinance).

F406. Further regulations require the *Länder* to introduce an integrated waste management system, in order to provide environmentally acceptable methods of disposal. Concurrently, the procedures for the planning and admissibility of domestic waste incineration plants (the *Planfeststellungsverfahren* — see Section D: Major infrastructure) have been relaxed. The regulations under the *BImSchG* (federal control of pollution act) have also been relaxed for these plants.

Nuclear waste management

F407. Under the *Bund* waste management concept, waste from nuclear power plants is stored in temporary depots until it can be stored permanently. Radioactive waste from industry, medicine and research is temporarily stored in collection depots in the *Länder* until it can be brought to a permanent depot.

F408. There is a permanent depot for low and medium radioactive waste at Morsleben (Sachsen-Anhalt), in which radioactive waste from the former East Germany was stored from 1979 to 1991. The licence for this depot applies until the year 2000 and the BfS has applied for a *Planfeststellungsverfahren* (statutory plan approval procedure) for its continued operation after 2000. A second depot for low and medium radioactive waste is expected to come into operation in a former iron-ore mine at Salzgitter (in Niedersachsen).

F409. A former salt mine site at Gorleben (in Niedersachsen) is currently being examined for

its suitability as a permanent depot for high radioactive waste, the by-product of nuclear fuel reprocessing.

Control of air pollution

F410. The *Bund* clean air policy is based on the principles of:

- precaution;
- 'the polluter pays';
- cooperation; and
- the use of financial instruments.

F411. The measures based on these principles for the renewal of power stations and industrial facilities have led to significant improvements in air quality in the old *Länder*. For the new *Länder* there are staged time-limits for the application of clean air regulations.

F412. The main legal instrument is the *Bundes-Immissionsschutzgesetz (BImSchG)* (federal control of pollution act) 1974, which was comprehensively amended in 1990. The aim of this act is to protect people and the environment from harmful effects of pollution and to take precautions against such potential effects. This is achieved by means of regulations covering facilities, areas, traffic and products.

F413. The *BImSchG* provides a range of important legal ordinances and regulations which cover the permissibility of industrial and commercial facilities (see Section C: Other permits), the procedures for which are administered by the *Länder*.

F414. The *BImSchG* area related regulations include the demarcation of pollution examination and control areas, the establishment of an emissions register, the preparation of *Luftreinhaltepläne* (clean air plans) and smog regulations for cities and regions by the relevant authorities. These regulations are implemented and supervised by the *Länder*.

F415. The *BImSchG* product regulations deal with, for example, the limitation of sulphur dioxide emissions from heating oil and diesel.

F416. The most important regulations on the control of noise pollution in Germany are contained in the BImSchG (federal control of pollution act) and the legal ordinances and administrative provisions prepared under it. The most important legal provisions to combat noise from

traffic, industry, commerce and recreation are listed in Figure F2.

F417. The *Bund's* noise pollution abatement policy is based on the combination of three elements:

- measures under administrative law — such as the setting of maximum limits and guideline

Figure F2: Federal measures for waste management and pollution control

Federal measures on waste management

The key Federal law is the *Kreislaufwirtschafts- und Abfallgesetz* (Federal closed cycles and waste management act) 1994 together with a number of ordinances which together aim for a reduction of the volume of waste, the avoidance of the creation of waste and the environmentally-friendly disposal of waste that is created. The ordinances include:

The *Altölverordnung* (waste oil ordinance) 1987 and the *Lösemittelverordnung* (solvents ordinance) 1989, both of which provide for the reduction of harmful substances in waste.

The *Verpackungsverordnung* (packaging-waste ordinance) 1991 on the reduction of the amount of waste materials from packaging.

The *TA Abfall* (technical instructions on waste) 1993 set out the requirements for the storage, treatment and incineration of wastes requiring special monitoring (the so-called 'hazardous wastes').

The *TA Siedlungsabfall* (technical instructions on residential waste) 1993, which lay down requirements for the reduction of harmful substances, the reuse and recycling of domestic waste, preliminary treatment and the disposal of residential waste (essentially domestic waste, bulky waste products, household goods (electrical and those containing chemicals or other substances), building debris and sewage sludge.

Federal measures for the control of air pollution

The key Federal law is the *Bundes-Immissionsschutzgesetz-BImSchG* (Federal control of pollution act) and the 21 legal regulations and five administrative regulations within the framework of the Act. These regulations include plant, traffic, area and product-related regulations aimed at the control of pollution at source. Among the plant-related regulations are:

The *13th BImSchVerordnung* (the ordinance on large combustion plants), which lays down stringent threshold limits for power stations and district heating plants in respect of all air pollutants, including sulphur dioxide, nitrogen oxide and dust.

The *TA Luft* (the technical instructions on air quality control), which clearly define the requirements for industrial plants (including waste incineration plants), the erection and operation of which require a special permit under the 4th BImSchV (4th BImSch Ordinance).

The *1st BImSchV* (ordinance on small combustion plants), which defines the requirements for small furnaces for private households and small consumers.

Federal measures on noise abatement

The Federal law on noise abatement is contained in the *Bundes-Immissionsschutzgesetz—BImSchG* (federal control of pollution act) and the legal ordinances and administrative provisions based on it. The most important legal provisions to combat noise pollution from traffic, industry, commerce and recreation are as follows:

The *16th BImSchV — Verkehrslärmschutzverordnung* (ordinance on protection from traffic noise) which prescribes traffic noise limit values to be applied in the design and construction of roads, railways and tramways.

The *Technische Anleitung zum Schutz gegen Lärm —TA Lärm* (technical instructions on noise pollution abatement) which lays down guideline values for noise emissions from industrial and commercial facilities.

The *15th BImSchV — Baumäschinenlärm-Verordnung* (ordinance on noise from building machinery) which stipulates EU-wide noise limit values for certain types of building machinery and obliges manufacturers to provide marking on this machinery indicating its noise level.

The *8th BImSchV — Rasenmäherlärm-Verordnung* (ordinance on lawn mower noise) which lays down EU limit values for lawn mower noise.

The *18th BImSchV — Sportanlagenlärm-Schutz-Verordnung* (ordinance on noise from sports grounds and facilities) which sets noise limit values for sports grounds and recreational facilities (e.g. open-air swimming pools).

Federal measures for nuclear safety

Nuclear safety and radiation protection is regulated by:

- the *Atomgesetz* (Federal atomic energy act);
- the *Strahlenschutzverordnung* (radiation protection ordinance);
- the *Strahlenschutzvorsorgegesetz* (Federal preventative radiation protection act), under which the integrated measuring and information system (IMIS) on the control of environmental radioactivity was established. This guarantees a fast flow of information between the various offices at Federal and Länder level.

Sources: Federal Environment Ministry, *Environmental Policy in Germany*, Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit, Bonn, 1994.

values in legal regulations, the establishment of noise protection areas and restrictions on the times of the day during which activities which produce noise may be carried out (e.g. at midday and on Sundays);

- technical measures — such as the erection of noise barriers, the manufacture of low-noise motor vehicles (according to the three-stage plan introduced by the EC in 1981) and the introduction of changes in operating methods; and
- planning and traffic measures which are implemented by the *Gemeinden* (see below).

Monitoring at federal level

F418. At federal level, the *Umweltbundesamt* (UBA) (federal environmental agency), monitors and provides information on waste management, pollution control and other environmental issues. The UBA advises the *Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit* and the respective *Länder* ministries.

F419. At regular intervals the BMU, on behalf of the *Bundesregierung* (federal government), produces the *Bundesimmissionsschutzbericht* (federal report on pollution control) and places it before the *Bundestag* (federal parliament). This report is an analysis of air and noise pollution control policy throughout Germany, and also covers research and international cooperation.

F420. The *Umweltbundesamt* has been commissioned by the European Environmental Agency to set up and operate a European centre gathering data on airborne emissions, which involves coordination with agencies in Austria, France and the United Kingdom. The *Umweltbundesamt* is also contributing to the development of an EU environmental information and inventory systems under the EU Corine and Corinair90 programmes.

Länder (State/regional) policies

F421. The *Länder* implement and administer the abovementioned *Bund* legislation on waste management and pollution control and supplement this legislation with their own laws. The *Länder*:

- prepare waste management plans;
- prepare the plans and administer the planning procedures for waste disposal facilities and infrastructure;
- provide financial aid to the *Gemeinden* for waste management planning and the construction and improvement of facilities and infrastructure for waste disposal;
- supervise waste disposal by the *Gemeinden* and private contractors who must be licensed by the *Land*;
- monitor pollution control and administer federal pollution control legislation (BImSchG);
- designate areas for the preparation of *Luftreinhaltepläne* (clean air plans); and
- coordinate the integration of waste management and pollution control policies in spatial planning.

F422. The monitoring of pollution control is carried out by the *Gewerbeaufsichtsamt* (factory inspectorate) of each *Land*. In many *Länder* the inspectorate has regional or district offices. All applications for permits under the BImSchG (see Section C: Other permits) are made to and assessed by the factory inspectorate.

F423. The designation of locations for waste disposal facilities (waste disposal sites, incineration plants, waste processing plants) is a responsibility of the *Länder*. This involves the carrying out of a *Raumordnungsverfahren* (spatial planning procedure — see Section B: *Länder* policy instruments), followed by a *Planfeststellungsverfahren* (statutory plan approval procedure — see Section D: Major infrastructure).

F424. The *Länder* monitor waste management and are preparing their own information systems for:

- the protection of land, including information on open spaces, built-up areas, polluted or derelict land and land suspected of contamination, for example the *Bodeninformationssystem* (BIS) of Nordrhein-Westfalen; and
- dangerous and environmentally relevant products, providing technical information on dangerous substances.

Gemeinde (municipal/local) policies

F425. The *Städte* (towns) and *Landkreise* (counties) undertake the disposal and management of waste for their respective administrative areas. Waste can only be transported or collected by the local authority or by licensed private contractors providing waste disposal services. The relevant department of the local authorities monitor their own and the private contractors performance.

F426. Non-household waste is the responsibility of the original owner, who is responsible for its disposal. Non-household waste may only be passed over (e.g. for treatment or storage) to a licensed contractor, which is either the local authority or a licensed private contractor. All non-household waste must be made suitable for storage and must be suitably treated before it is to be stored.

F427. Land uses may not be designated for use in local land use plans (the F-plan or B-plan) without prior examination as to whether the land is free from waste and contamination.

F428. At the municipal level, the regional or district offices of the *Gewerbeaufsicht* (factory inspectorate) cooperate with the *Gemeinden* in the implementation of the *Bund* and *Länder* policies on the control of noise pollution, which involves designating noise protection areas and monitoring activities which cause noise.

F429. The *Gemeinden* implement urban planning and traffic planning measures to reduce traffic noise — by means of urban and traffic planning (e.g. the construction of by-pass roads) and other measures to control and regulate traffic (e.g. pedestrian precincts, speed limit areas and the so-called 'green wave' system, whereby traffic lights are sequenced to ensure they are always green for vehicles adhering to the correct speed limit in a given area).

Trends

F430. The enactment of the *Kreislaufwirtschafts- und Abfallgesetz* (federal closed cycles and waste management act) in 1994, and its coming into effect in 1996, envisages a final detour from the throw-away mentality, towards a society orientated towards resource saving and the avoidance of waste. This act requires that the production, consumption and disposal of products must form a closed system. Only where the disposal of used goods occupies the same value as the sup-

ply of goods to the consumer, can the natural basis for life be protected for the future.

F431. Further legal instruments are being prepared to make recycling and waste disposal a consideration in the production of products such as motor vehicles, electric and electronic goods and recycled paper.

F432. Since the level of pollution from power stations and industrial facilities has been reduced, traffic is now the largest source of air pollutants in Germany. While the use of catalytic converters has reduced the level of pollution from single vehicles, the increase in the number of vehicles on the road has not led to any reduction in pollution. To combat this there is a need for:

- more vehicle measures, such as further reductions in exhaust emissions to comply with the Euro-II-Norm (applied in Germany in 1997) and a change from vehicle taxation to an emissions-related tax; and
- traffic-related measures, for example the extension of railways and the development of 'combined traffic' (inter-regional goods and passenger traffic by rail with regional goods distribution depots).

F433. Towards the end of the summer 1995 a new federal act, the so-called *Ozongesetz* (ozone act), came into force. Under this act motorcars without a catalytic converter will not be permitted to be driven when an ozone level of 240 micrograms is recorded in three locations (within 250 km and the ozone level is expected to be the same on the following day). Special licences under this act are provided to taxis, buses and delivery vehicles and exceptions are made for tourists and commuters.

Sources and further information

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Federal Environment Ministry (1994), *Environmental policy in Germany*, Bonn, BMU.

Umweltbundesamt (1995), *Umweltbericht 1994*, Berlin, UBA.

Umweltbundesamt (1995), *Environmental data — Germany 1995*, Berlin.

APPENDICES

Appendix I. Glossary

Abgeordnetenhaus

The parliament and house of legislature of the 'city State' of Berlin.

Abwägung

Literally weighing up; this is the consideration and balancing of interests procedure undertaken by the *Gemeinde* (municipal council) during the preparation of a local land use plan (F-plan or B-plan).

Allgemeines Eisenbahngesetz

(Federal) general railways act.

Alte Länder

Old States. The 11 *Länder* of the FRG (West Germany) before reunification. These are Baden-Württemberg, Bayern, Berlin (West), Bremen, Hamburg, Hessen, Niedersachsen, Nordrhein-Westfalen, Rheinland-Pfalz, Saarland and Schleswig-Holstein (see also *Neue Länder*).

Aufbau Ost

The 10-year economic reconstruction and development programme for the new *Länder* which commenced in 1995, promoted by the *Bund* and old *Länder*.

Aufstellungsbeschluß

The decision of the municipal council to prepare a local land use plan (F-plan or B-plan).

Aufschwung Ost

The development programme promoted by the *Bund* and the old *Länder* for the economic development of the new *Länder* up to 1994.

Ausgleichsbetrag

A betterment charge, which under certain procedures is to be paid to the *Gemeinde* (municipality) by all landowners whose land (not buildings) have increased in value as a result of redevelopment measures paid for by public funds in a *Sanierungsgebiet* (redevelopment area).

Außenbereich

The surrounding undeveloped area, meaning the undeveloped areas outside of built-up areas (also referred to as rural areas and other 'white land').

Bauaufsichtsbehörde

Building (control) authority or department, usually a department within the *Baubehörde* (building authority) or *Baugenehmigungsbehörde* (building permission authority), which are also given this title. A generic term.

Baueinstellung

The suspension of construction, also known as *Baustopp*. One of the two main enforcement procedures against illegal development in Germany (see also *Beseitigung baulicher Anlagen* below).

Baugebot

Building order. An enforcement order issued by the *Gemeinde* requiring an owner to build on a plot.

Baugenehmigung

Building permission, which contains both planning permission and building regulations permission.

Baugenehmigungsbehörde

Building permission authority/department of a *kreisfreie Stadt* (county-free town) or *Landkreis* (county), which issues the *Baugenehmigung* (building permission for both planning and building regulation matters). A generic term. (see also *Bauaufsichtsbehörde*).

Baugenehmigungsverfahren

The procedure to obtain a *Baugenehmigung* (building permission).

Baugesetzbuch (BauGB)

Federal building code, comprising the legislation on land use planning, the permissibility of development, urban development and urban redevelopment (urban renewal).

BauGB-Maßnahmengesetz

Act providing supplementary measures for the BauGB (federal building code) which were in force from 1993 to 1997.

Baulandbericht

Building land report, prepared regularly by the *Bundesministerium für Raumordnung, Bauwesen und Städtebau*; the last report was published in 1993.

Bauleitpläne

An inclusive term for local land use plans.

Bauleitplanung

Local land use planning (literally building guidance planning) also referred to as urban land use planning.

Baumschutzsatzung

Tree preservation statute.

Baunutzungsverordnung (BauNVO)

Federal land use ordinance; containing the land use classifications and density control measures which are applicable uniformly throughout Germany.

Bauordnung

Building regulations (see also *Landesbauordnungen*).

Bauvoranfrage

Application for a preliminary (building permission) decision.

Bebauungsplan (B-plan)

Binding land use plan, which is a detailed plan containing legally binding provisions for the use and development of land within its boundaries. It is legally binding on all public and private parties/persons.

Beirat für Raumordnung

The spatial planning advisory council. A statutory advisory council under the *Raumordnungsgesetz* (federal spatial planning act) to advise the *Bundesminister für Raumordnung* (federal minister for spatial planning).

Beseitigung baulicher Anlagen

The removal of structures. One of the two main enforcement procedures against illegal development in Germany (see also *Baueinstellung* above).

Bezirk (plural Bezirke)

District, generally meaning an administrative area of a large *Land* (State). (The cities of Berlin and Hamburg are also sub-divided into administrative areas called *Bezirke*.)

Bezirksregierung

District administration of a *Land* (State), also called a *Regierungspräsidium*.

BlmSchG-Genehmigung

Permission under the *Bundesimmissionsschutzgesetz* (BlmSchG) (federal control of pollution act).

BlmSchG-Verordnungen

Ordinances made under the *Bundesimmissionsschutzgesetz* (BlmSchG) (federal control of pollution act).

Biosphärenreservate

Biosphere reserve (area of protection for valuable natural and cultural landscape areas), a title granted by Unesco.

Bodenrecht

Land law.

Bund

Federation (or federal government).

Bundesamt für Bauwesen und Raumordnung

Federal Office for Building and Spatial Planning.

Bundesbaugesetz (BBauG)

Federal building act 1960; incorporated in 1986 into the *Baugesetzbuch* (federal building code).

Bundesfernstraßenausbaugesetz

Federal act for the extension of federal trunk roads.

Bundesfernstraßengesetz

Federal trunk roads act.

Bundesforschungsanstalt für Landeskunde und Raumordnung (BfLR)

Federal research institute for regional studies and spatial planning; since 1998 renamed the Bundesamt für Bauwesen und Raumordnung.

Bundesimmissionsschutzgesetz (BImSchG)
Federal control of pollution act.

Bundeskanzler
Federal Chancellor (prime minister).

Bundesminister
Federal minister.

Bundesministerium
Federal ministry.

Bundesministerium für Raumordnung, Bauwesen und Städtebau (BMBau)
Federal Ministry of Spatial Planning, Building and Urban Development.

Bundesnaturschutzgesetz (BNatSchG) 1976
Federal nature protection act.

Bundesrat
Federal council, the upper house of parliament comprising representatives of the *Länder* (States).

Bundesraumordnung
Federal spatial planning.

Bundes-Raumordnungsgesetz (ROG)
See *Raumordnungsgesetz*.

Bundesraumordnungsprogramm (BROP)
Federal spatial planning programme of 1975, now out of date.

Bundesregierung
Federal government.

Bundestag
Federal parliament, comprising the publicly elected representatives.

Bundesverfassungsgericht
Federal constitutional court.

Bundesverkehrswegeplan (BVWP)
Federal transport infrastructure plan.

Bundesverwaltungsgericht
Federal administrative court, the highest administrative court in Germany.

Bürgerinitiativen
A general term used to describe a range of citizen action groups, community groups, pressure groups and public initiative groups.

Bürgerliches Gesetzbuch
The German civil code.

Bürgermeister

Lord mayor and chief executive of a smaller municipality; see also *Oberbürgermeister*.

Bürgerschaft

'City State' parliament, house of legislature in Bremen and Hamburg.

City State

The cities of Berlin, Bremen and Hamburg, which are *Stadtstaaten* (city States).

Denkmal

Monument.

Denkmalliste

List of monuments to be preserved.

Denkmalbuch

Book containing the monuments to be preserved.

Denkmalschutz

The preservation of monuments.

Denkmalschutzgesetz

Preservation of monuments act (enacted by the *Länder*).

Deutsche Bahn AG

Federal railway company. The company which operates the federal railway service and facilities.

Eisenbahnbundesamt

Federal railways agency. The federal agency which manages the infrastructure (especially the railway track network) of the federal railways. It is subordinate to the *Bundesministerium für Verkehr* (Federal Ministry of Transport).

Erhaltungsgebiet

Preservation (conservation) area.

Erhaltungssatzung

The preservation statute, a local law for the preservation and conservation of buildings and other structures (under the BauGB).

Erschließung

The provision of local (public) infrastructure, comprising public roads, footpaths, sewers, etc.

Erschließungsbeitragssatzung

A local statute adopted by the *Gemeinde* on the level of charges to be paid by affected landowners for the provision of local infrastructure.

Erschließungsvertrag

Infrastructure contract. A contract between the *Gemeinde* and a developer permitting the developer to provide local infrastructure.

Experimenteller Wohnungs- und Städtebau (ExWoSt)

Experimental housing and urban development research programme operated by the *Bundesministerium für Raumordnung, Bauwesen und Städtebau*.

Fachplan (plural Fachpläne)

Sector plan or subject plan.

Fachplanungen

Sector planning.

Flächennutzungsplan (F-plan)

Preparatory land use plan, comprising a land use zoning plan for the entire area of a municipality. Binding on all public agencies (but not on private agencies).

Flurbereinigung

The reorganisation of agricultural land.

Förderprogramm Städtebauliche Modellvorhaben

Promotion programme for model urban renewal projects. A model urban renewal programme being promoted by BMBau in 11 historic towns and 10 villages throughout the new *Länder*.

Förderweg

Promotion method; used here to describe the three different promotion methods for housing construction under the second *Wohnungsbaugesetz* (second federal housing construction act).

Fremdenverkehrsgebiete

Tourism areas designated in LEPs (State development plans) or *Regionalpläne* (regional plans).

Gebietsentwicklungsplan

District development plan. A regional plan for the development of an administrative district (*Bezirk*) within the larger *Länder*.

Gegenstromprinzip

Counter-current principle, whereby each planning level (or authority) must take account of the objectives of higher level plans. At the same time, each lower planning level must be allowed to participate in the preparation of plans at the next higher level.

Gemeinde (plural Gemeinden)

Community or municipality with rights of local self-government. *Gemeinden* is used to refer collectively to *kreisfreie Städte* (county-free towns) and *kreisangehörige Gemeinden* (municipalities belonging to a county).

Gemeindedirektor

Chief executive of a municipality in the *Länder* of Niedersachsen and Nordrhein-Westfalen.

Gemeindeverkehrsfinanzierungsgesetz (GVFG)

(Federal) act for the financing of municipal transport.

Gemeindliche Vorkaufsrechte

Municipal pre-emption rights.

gemeinnützige Wohnungsunternehmen

Public housing companies.

Gemeinschaftsaufgaben

Joint tasks or responsibilities of the *Bund* and *Länder* — which are the jointly-financed provision of educational facilities, improvement of the regional economic structure, improvement of the agricultural structure and coastal protection.

Genehmigung

Permission, approval, licensing or authorisation; see *Baugenehmigung* (building permission) and *BImSch-Genemhigung*.

Gestaltungssatzung

Local design statute. Usually adopted by a *Gemeinde* to provide binding design regulations for new building in an area to be conserved or in a *Sanierungsgebiet* (redevelopment area).

Gewerbeaufsicht

Factory inspectorate; an authority of the *Land* (State) responsible for the issue of permission under the *Bundesimmissionsschutzgesetz* (BImSchG) (federal control of pollution act).

Gewerbeaufsichtsamt

The department or office of the factory inspectorate, often situated locally or in regional centres.

Gewerbegebiet

Commercial area (including light industrial uses) — a type use zoning provided in the BauNVO (federal land use ordinance) for designation in local land use plans.

Gewerbsteuer

Local business tax, which is made up of two parts based on business profits and on the capital of the business.

Grenzregelung

Adjustment of property boundaries.

Grünordnungsplan

Landscape control plan.

Grundbuch

Property register; kept by the *Landkreise* and *kreisfreie Städte*, which records all transactions, rights and charges (e.g. mortgages) on land and buildings.

Grundgesetz

The basic law (constitution) of the Federal Republic of Germany.

Grundsteuer

Land property tax, which is a tax payable on all lands and buildings payable to the *Gemeinde* (municipality).

Grundstücksfonds

Special State financial funds set up for the acquisition, reclamation and redevelopment of derelict and contaminated industrial land.

Industriegebiet

Industrial area, an area of land use zoning included in the BauNVO (federal land use ordinance) which may be designated in local land use plans.

Industrie- und Handelskammer
Chamber of commerce.

'innerhalb von im Zusammenhang bebauten Ortsteilen'
Within built-up areas.

Instandsetzungsgebot
Refurbishment order. One of the *städtebauliche Gebote* (urban development orders) which can be used by a *Gemeinde* to force a property owner to undertake refurbishment measures designated in a B-plan.

Internationale Bauausstellung (IBA)
International building exhibition.

Investitionserleichterungs- und Wohnbaulandgesetz
Federal investment facilitation and housing land act 1993, which among other things introduced amendments to the *Baugesetzbuch* (BauGB) (federal building code).

Kerngebiet
Core area — or central business district, a land use zoning provided in the BauNVO (federal land use ordinance) for designation in local land use plans.

Kreditanstalt für Wiederaufbau
Federal financial agency for reconstruction in the new *Länder*.

Kreis
County (also called a *Landkreis*).

Kreisangehörige Gemeinde
Municipality belonging to a county.

Kreisfreie Stadt
County-free town or city (with a charter to govern itself), having sovereign rights, especially in relation to land use planning.

Kreistag
County council.

Land (plural Länder)
State, of which there are 16 in the *Bund* (federation) comprising the Federal Republic of Germany.

Landesamt für Denkmalschutz
State monuments office (responsible for the preservation of monuments).

Landesbauordnung
State building regulations.

Landesbehörde
State authority.

Landesentwicklungsgesellschaft (LEG)
State development company.

Landesentwicklungsplan (LEP)

State (comprehensive) development plan.

Landesentwicklungsprogramme (LEPro)

State (comprehensive) development programme.

Landesplanung

State spatial planning.

Landesplanungsgesetz (LPIG)

State planning act.

Landkreis (plural Landkreise)

County (also called *Kreis*).

Landrat

Political head and chief executive officer of a county (except in Niedersachsen und Nordrhein Westfalen where the *Landrat* is president of the *Kreistag* (county council) and the head of the administration is the *Oberkreisdirektor*).

Länder

States (plural of *Land*); the 16 States which make up the Federal Republic of Germany. Also referred to elsewhere as the federal States or the regional States of Germany.

Landschaftsplan

Landscape plan.

Landschaftsplanung

Landscape planning.

Landschaftsrahmenplan

Framework landscape plan.

Landschaftsschutzgebiet

Landscape protection area.

Landtag

Land (State) parliament.

Linienbestimmung

The designation of the line (route) of a planned transport route (trunk roads, railways, etc.).

Luftreinhaltepläne

Clean air plans.

Ministerkonferenz für Raumordnung (MKRO)

The standing conference of (all) *Bund* and *Länder* ministers responsible for *Raumordnung* (spatial planning).

Ministerpräsident

Prime minister of a *Land* (State).

Mischgebiet

Mixed use area, a type of land use zoning listed in the BauNVO (federal land use ordinance) which can be designated in local land use plans.

Modernisierungsgebot

Modernisation order. One of the *städtebauliche Gebote* (urban development orders) which can be used by a *Gemeinde* to force a property owner to undertake modernisation measures designated in a B-plan.

Nationalpark

National park (area of special nature protection).

Naturpark

Nature park and recreational area.

Naturschutzgebiet

Nature conservation area (a far-reaching area protection measure).

Naturschutzgesetz (NatSchG)

Federal nature protection act.

Naturschutzverbände

Nature conservation associations. Those associations which are officially recognised are also TöB (public agencies) and participate in plan preparation.

Neue Länder

New *Länder* (States). The five re-established *Länder* in the area of the former GDR (East Germany). These are the *Länder* of Brandenburg, Mecklenburg-Vorpommern, Sachsen, Sachsen-Anhalt and Thüringen. References to the new *Länder* also include east Berlin (now united with west Berlin in the *Land Berlin*) (see also *Alte Länder*).

New Länder

See *Neue Länder* above.

Oberbürgermeister

Lord mayor and chief executive of a larger municipality; see also *Bürgermeister*.

Oberverwaltungsgericht

Higher administrative court, the highest administrative court of a *Land*.

öffentlicher Personennahverkehr (ÖPNV)

Public local transport.

Old Länder

Old States. The 11 *Länder* of the FRG (West Germany) before re-unification. These are Baden-Württemberg, Bayern, Berlin (West), Bremen, Hamburg, Hessen, Niedersachsen, Nordrhein-Westfalen, Rheinland-Pfalz, Saarland and Schleswig-Holstein (see also *Neue Länder*).

Ortsämter

Local branch administrative offices of the *Senat* (senate) administration in the 'city State' of Bremen (and also in the districts of Hamburg).

Planentwurf

Draft plan.

Planfeststellungsverfahren
Statutory plan approval procedures.

Planungsbeirat
Advisory planning board or council, usually set-up to participate in the participation of State plans/programmes and regional plans. The advisory planning board/council comprises representatives from local authorities, industry and commerce, pressure groups and nature conservation associations.

Planungsverband
Planning association (plural, *Planungsverbände*).

Planzeichenverordnung
(Federal) plan notation symbol ordinance.

Pflanzgebot
Planting order. One of the *städtebauliche Gebote* (urban development enforcement orders) used by a *Gemeinde* to force an owner to undertake planting measures which are designated in a B-plan.

qualifizierter Bebauungsplan
Qualified B-plan (binding land use plan). One which contains the minimum contents which qualify the B-plan to be used as a basis for a decision on a *Baugenehmigung* (building permission).

Rahmenplanung
Framework development planning.

Raumordnung
Spatial planning. In particular used for spatial planning at *Bund* (federal) level.

Raumordnungsgesetz (ROG)
Federal spatial planning act, which provides the framework and guiding principles for spatial planning at the *Länder* level.

Raumordnungspolitischer Handlungsrahmen
Operational framework for spatial planning adopted by the *Ministerkonferenz für Raumordnung* (MKRO) in 1995.

Raumordnungspolitischer Orientierungsrahmen
Guidelines for spatial planning adopted by the *Ministerkonferenz für Raumordnung* (MKRO) in 1992.

Raumordnungsverfahren
Spatial planning procedure; a special procedure to ensure that the planning of large development projects comply with State plans/programmes and regional plans (applies to the planning of all supra-local projects, such as airports or waste incinerators).

Regierungsbezirk
District administrative area within a *Land* (State), also called a *Bezirk*.

Regierungspräsident
Appointed chief executive of a *Bezirk* within a *Land* and head of the district administration (see *Bezirksregierung*).

Regierungspräsidium
District administration within a *Land* (also called a *Bezirksregierung*).

Regionale Grünzüge
Regional (network of) open spaces.

Regionalplan
Regional plan.

Regionalplanung
Regional planning.

Regionaler Planungsverband
Regional planning association (plural, *Regionale Planungsverbände*), made up of the local government authorities within the region (of a *Land*).

Rote Listen der gefährdeten Tiere und Pflanzen in der Bundesrepublik Deutschland
The red lists of endangered animals and plants in the Federal Republic of Germany are published by the *Bund* for the whole of Germany and by the individual *Länder* for their territory. The red list documents the degree of rarity of and threat to animal and plant species.

Sanierung
Redevelopment.

Sanierungsgebiet
Redevelopment area.

Sanierungsträger
A semi-public redevelopment agency, often established by the *Gemeinde* (municipality). Active in planning, organising and implementing urban regeneration on behalf of the *Gemeinde*.

Satzung
Local statute or local law; also referred to as a by-law.

Schienenwegeausbaugesetz
(Federal) act for the extension of the federal railways.

Senat
Senate council. The executive of the 'city States', formed by a collegium of the *Senators* (ministers) and the mayor as chairperson.

Sondergebiet
Special area — for special or particular types of land use, which is provided for in the BauNVO (federal land use ordinance) for designation in local land use plans.

Sondergebiete, die der Erholung dienen
Special areas serving recreation purposes, a designation in local land use plans provided for in the BauNVO (federal land use ordinance).

sozialer Wohnungsbau
Social housing construction.

Stadt
Town or city.

Stadtdirektor

Chief executive officer of a smaller town in the *Länder* of Niedersachsen or Nordrhein-Westfalen.

Stadtentwicklung

Urban development.

Stadterhaltung

Urban conservation.

Stadterneuerung

Urban renewal.

Stadtrat

Town or city council.

Stadtstaaten

The city States of Berlin, Bremen and Hamburg (city *Länder*).

Städtebauförderungsgesetz

(Federal) promotion of urban development act 1971; incorporated in 1986 into the *Baugesetzbuch* (federal building code).

Städtebauliche Gebote

The urban development enforcement orders — the *Baugebot* (building order), the *Modernisierungsgebot* (modernisation order), the *Instandsetzungsgebot* (refurbishment order), the *Pflanzgebot* (planting order) and the *Rückbau- und Entsiegelungsgebot* (demolition order). The orders are used by the *Gemeinde* to urge owners to undertake works which are provided for in a B-plan.

Städtebauliche Gebote

The urban development enforcement orders under the *Baugesetzbuch* (federal building code).

Städtebaulicher Denkmalschutz, Sicherung und Erhaltung historische Stadtkerne

A special programme promoted by the *Bund* for the preservation of urban monuments, securing and preserving urban centres, in 220 urban centres in the new *Länder*.

Städtebaulicher Entwicklungsbereich

Urban development zone (a designated development zone under the *Städtebaulicher Entwicklungsmaßnahmen*).

Städtebaulicher Entwicklungsmaßnahme

Urban development measures, which are special measures available to a municipality under the *Baugesetzbuch* (BauGB) (federal building code).

Städtebaulicher Rahmenplan

Framework development plan, which is a more flexible and informal type of plan than a *Bebauungsplan*. It is not legally binding and is often prepared in advance of the formal *Bebauungsplan(s)*, for which it also provides the content in substantive terms. It is widely used in planning urban redevelopment and renewal.

Städtebaulicher Vertrag

The urban development contract used to regulate agreements between a municipality and a private person or company for the provision of infrastructure or to regulate the conditions for the use of a building or plot.

Städtebauliche Sanierungsmaßnahmen

Urban redevelopment measures, which are special redevelopment measures available to a municipality under the *Baugesetzbuch*.

Städtebauliche Wettbewerb

Urban development or town planning competition.

Städtebaurecht

Urban planning law.

STERN GmbH

STERN Gesellschaft der behutsamen Stadterneuerung GmbH (STERN agency for careful urban renewal), established in Berlin during the IBA Berlin (international building exhibition) and now active in conservation-orientated urban renewal throughout the city.

Teilungsgenehmigung

Subdivision permission.

Träger öffentliche Belange (TöB)

Public (interest) agencies, including all public authorities and agencies, utility companies, etc. (the types of public agencies are listed in Section B: Other organisations).

Treuhandanstalt

A special semi-public agency set-up by the federal government to supervise the privatisation of State-owned enterprises and properties in the former GDR (East Germany). The *Treuhandanstalt* ceased operations at the end of 1994.

Umliegung

Reallocation of landholdings (and property rights).

Umlageungsplan

Reallocation plan.

UMPLIS

Umweltplanungs- und Informationssystem (federal environmental information and documentation system) provided by the *Umweltbundesamt* (Federal environmental agency).

Umweltverträglichkeitsprüfung (UVP)

Environmental impact assessment.

Untätigkeitsklage

A legal action against administrative inaction, which is possible in all cases (and not just under building law) where an administration does not react to an application made by a member of the public. This legal action is commenced in the *Verwaltungsgericht* (local administrative court).

Veränderungssperre

The freezing (postponement) of development.

Vereinfachtes Verfahren

A simplified procedure to amend or supplement a B-plan. It can only be used where the basic intention of the plan is not affected.

Verfahren

Procedure (process or proceedings); see also *Baugenehmigungsverfahren, Raumordnungsverfahren*.

Verkehrswege-Planungsbeschleunigungsgesetz

(Federal) act to speed up the planning of transport routes.

Verordnung

Legal ordinance.

Verwaltungsgericht

Local administrative court.

Verwaltungsgerichtsordnung

Code of the administrative courts.

Vorhaben

Development project or proposal.

Vorhaben- und Erschließungsplan (VuE-Plan)

Project and infrastructure plan, which is a project based local statute (plan statute) giving consent for projects which have not previously been rendered permissible by way of Sections 30-35 of the BauGB (federal building code).

Vorkaufsrecht

Pre-emption right. A municipality has statutory pre-emption rights provided under the BauGB (federal building code); these are explained in Section D: Public sector development policies.

Vorzeitiger Bebauungsplan

Preliminary B-plan (binding land use plan), which is a B-plan prepared before an F-plan (preparatory land use plan) has been adopted.

Wasserhaushaltsgesetz

Federal water act.

Wasserschutzgebiet

Water protection area.

Werbeanlagensatzung

Local advertising statute, containing binding regulations on the location and design of advertising.

Widerspruchsverfahren

Appeal procedure, whereby a person wishing to appeal to an administrative court must first submit the case to the authority which first made the decision. If this authority does not change its decision, the case must be presented to the next higher authority, for its decision, before an appeal can be made to the courts.

Wirtschaftsförderungsgebiete

Economic promotion areas (assisted areas).

Wirtschaftsförderungsgesellschaft

Economic promotion agency (usually established by the municipality in larger towns and cities or in regions to promote economic development).

Wohnraummodernisierungsprogramm

Federal housing accommodation modernisation programme, a special programme promoted by the *Bund* for the modernisation of housing accommodation in the new *Länder*.

Wohnungsbauförderungsgesetz

Federal housing promotion act 1994.

Wohnungsbaugenossenschaft

Non-profit housing cooperatives.

Wohnungsbaugesellschaften

Semi-public housing associations

II. Wohnungsbaugesetz (II. WoBauG)

Second federal housing construction act.

Wohnungseigentumsgesetz (WEG)

Federal condominium act.

Zurückstellen von Baugesuchen

The postponement of applications for *Baugenehmigung* (building permission).

Zweckentfremdungsverbot

Prohibition of change of use (from residential uses to other non-residential uses).

Appendix II. Abbreviations and acronyms

BauGB	Baugesetzbuch (federal building code)
BauNVO	Baunutzungsverordnung (federal land use ordinance)
BBR	Bundesamt für Bauwesen und Raumordnung (federal office for building and spatial planning)
BGS	Bundesgartenschau (federal horticultural exhibition)
BfLR	Bundesforschungsanstalt für Landeskunde und Raumordnung (federal research institute for regional studies and spatial planning)
BfN	Bundesamt für Naturschutz (federal nature conservation agency)
BfS	Bundesamt für Strahlenschutz (federal agency for radiation protection)
BImSchG	Bundesimmissionsschutzgesetz (federal control of pollution act)
BMBau	Bundesministerium für Raumordnung, Bauwesen und Städtebau (Federal Ministry of Spatial Planning, Building and Urban Development)
BML	Bundesministerium für Ernährung, Landwirtschaft und Forsten (Federal Ministry of Food, Agriculture and Forestry)
BMU	Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit (Federal Ministry of the Environment, Nature Conservation and Nuclear Safety)
BMWi	Bundesministerium für Wirtschaft (Federal Ministry of the Economy)
BMV	Bundesministerium für Verkehr (Federal Ministry of Transport)
B-Plan	Bebauungsplan (binding land use plan)
BROP	Bundesraumordnungsprogramm (federal spatial planning programme)
BWVP	Bundesverkehrswegeplan (federal transport infrastructure plan)
DEM	Deutsche Mark
EC	European Community
EEA	European Environmental Agency
EIA	environmental impact assessment
EU	European Union
ExWoSt	Experimenteller Wohnungs- und Städtebau (experimental housing and urban development programme)

F-Plan	Flächennutzungsplan (preparatory land use plan)
FRG	Federal Republic of Germany
GDP	gross domestic product
GDR	German Democratic Republic (East Germany)
GG	Grundgesetz (basic law or constitution of the Federal Republic of Germany)
GVFG	Gemeindeverkehrsfinanzierungsgesetz (federal act for the financing of municipal transport)
ha	hectare
IBA	Internationale Bauausstellung (international building exhibition)
ICE	inter-city express (railway)
IGA	Internationale Gartenausstellung (international horticultural exhibition)
MKRO	Ministerkonferenz für Raumordnung (standing conference of <i>Bund</i> and <i>Länder</i> ministers for spatial planning)
LBO	Landesbauordnung (State building regulations)
LEG	Landesentwicklungsgesellschaft (State development company)
LEP	Landesentwicklungsplan (State development plan)
LEPro	Landesentwicklungsprogramm (State development programme)
LPG	Landwirtschaftliche Produktionsgenossenschaft (agricultural cooperative in the former GDR)
LPIG	Landesplanungsgesetz (State planning act)
LROG	Landesraumordnungsgesetz (State (spatial) planning act)
m	metre
OECD	Organisation for Economic Cooperation and Development
ÖPNV	öffentlicher Personennahverkehr (local public transport)
ROG	Raumordnungsgesetz (federal spatial planning act)
STERN	(STadtERNeuerung = urban renewal), semi-public agency for careful urban renewal in Berlin — STERN Gesellschaft der behutsamen Stadterneuerung GmbH (STERN agency for careful urban renewal)
TöB	Träger öffentliche Belange (public (interest) agencies)
UBA	Umweltbundesamt (federal environmental agency)
Umplis	Umweltplanungs- und Informationssystem (federal environmental information and documentation system) provided by the Umweltbundesamt (federal environmental agency)
UNCED	United Nations Conference on Environment and Development
Unesco	United Nations Educational, Scientific and Cultural Organisation
UVP	Umweltverträglichkeitsprüfung (environmental impact assessment)
WoBauG	Wohnungsbaugesetz (federal housing construction act)
ZGV	Zentralverband Gartenbau (German horticultural association)

Appendix III. Addresses and telephone numbers

Bundesministerien (federal ministries)

Bundesministerium für Raumordnung, Bauwesen und Städtebau (BMBau) (Federal Ministry of Spatial Planning, Building and Urban Development)
Deichmanns Aue 31-37
D-53179 Bonn
Tel. (49-228) 337-0

Bundesministerium für Ernährung, Landwirtschaft und Forsten (BML) (Federal Ministry of Food, Agriculture and Forestry)
Postfach 140270
Rochusstraße 1
D-53123 Bonn
Tel. (49-228) 529-1

Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit (BMU) (Federal Ministry of the Environment, Nature Conservation and Nuclear Safety)
Postfach 120629
Kennedyallee 5
D-53175 Bonn
Tel. (49-228) 305-0

Bundesministerium für Verkehr (BMV) (Federal Ministry of Transport)
Postfach 210100
Robert-Schumann-Platz 1
D-53175 Bonn
Tel. (49-228) 300-0

Bundesministerium für Wirtschaft (BMWi) (Federal Ministry of the Economy)
Villemomblerstr. 76
D-53123 Bonn
Tel. (49-228) 615-0

Bund authorities

Bundesamt für Bauwesen und Raumordnung-BBR. Until 1997 = Bundesforschungsanstalt für Landeskunde und Raumordnung (BfLR) (Federal Research Institute for Regional Studies and Spatial Planning)
Am Michaelshof 8
D-53177 Bonn
Tel. (49-228) 826-0

Bundesamt für Naturschutz (BfN) (federal nature conservation agency)
Konstantinstraße 110
D-53179 Bonn
Tel. (49-228) 84 91-200

Umweltbundesamt (UBA) (federal environmental agency)
Bismarckplatz 1
D-14193 Berlin
Tel. (49-30) 89 03-0

Länder ministries for Landesplanung (State spatial planning)

Baden-Württemberg

Wirtschaftsministerium Baden-Württemberg (Ministry of Economics)
Theodor-Heuss-Straße 4
D-70174 Stuttgart
Tel. (49-711) 123-0

Bayern (Bavaria)

Bayerisches Staatsministerium für Landesentwicklung und Umweltfragen (Ministry of State Development and Environmental Affairs)
Rosenkavalierplatz 2
D-81925 München
Tel. (49-89) 92 14-0

Berlin

Senatsverwaltung für Stadtentwicklung und Umweltschutz des Landes Berlin (senate administration for urban development and environmental protection)
Lindenstraße 20-25
D-10958 Berlin
Tel. (49-30) 25 86-0

Brandenburg

Ministerium für Umwelt, Naturschutz und Raumordnung des Landes Brandenburg (Ministry of the Environment, Nature Conservation and Spatial Planning)
Albert-Einstein-Straße 44-46
D-14473 Potsdam
Tel. (49-331) 866-0

Bremen

Senator für Umweltschutz und Stadtentwicklung der Freien Hansestadt Bremen (senator for environmental protection and urban development)
Hanseatenhof 5
D-28195 Bremen
Tel. (49-421) 361-6012

Hamburg

Stadtentwicklungsbehörde der Freien und Hansestadt Hamburg (Hamburg city development authority)
Alter Steinweg 4
D-20459 Hamburg
Tel. (49-40) 35 04-0

Hessen (Hesse)

Hessisches Ministerium für Wirtschaft, Verkehr und Landesentwicklung (Ministry of Economics, Transport and State Development)
Kaiser-Friedrich-Ring 75
D-65185 Wiesbaden
Tel. (49-611) 81 50

Mecklenburg-Vorpommern (Mecklenburg-Western Pomerania)

Der Wirtschaftsminister des Landes Mecklenburg-Vorpommern (the minister for economics)
Johannes-Stelling-Straße 14
D-19053 Schwerin
Tel. (49-385) 588-0

Niedersachsen (Lower Saxony)

Niedersächsisches Innenministerium (Ministry of the Interior)
Lavesallee 6
D-30169 Hannover
Tel. (49-511) 120-1

Nordrhein-Westfalen (Northrhine-Westphalia)

Ministerium für Umwelt, Raumordnung und Landwirtschaft des Landes Nordrhein-Westfalen (Ministry of the Environment, Spatial Planning and Agriculture)
Schwannstraße 3
D-40476 Düsseldorf
Tel. (49-211) 45 66-0

Rheinland-Pfalz (Rhineland-Palatinate)

Staatskanzlei des Landes Rheinland-Pfalz (Ministry of the Prime Minister)
Peter-Altmeier-Allee 1
D-55116 Mainz
Tel. (49-6131) 16-1

Saarland

Ministerium für Umwelt des Saarlandes (Ministry of the Environment)
Hardenbergstraße 8
D-66119 Saarbrücken
Tel. (49-681) 501-11

Sachsen (Saxony)

Sächsisches Staatsministerium für Umwelt und Landesentwicklung (Ministry of the Environment and State Development)
Ostra-Allee 18
D-01067 Dresden
Tel. (49-351) 48 62-0

Sachsen-Anhalt (Saxony-Anhalt)

Ministerium für Umwelt, Naturschutz und Raumordnung (Ministry of the Environment, Nature Conservation and Spatial Planning)
Pfälzer Straße
D-39106 Magdeburg
Tel. (49-391) 567-01

Schleswig-Holstein

Ministerpräsidentin des Landes Schleswig-Holstein (prime minister)
Staatskanzlei, Abteilung Landesplanung
Grenzstraße 1-5
D-24149 Kiel
Tel. (49-431) 219-0

Thüringen (Thuringia)

Thüringer Ministerium für Umwelt und Landesplanung (Ministry of the Environment and State Planning)
Rudolfstraße 47
Postfach 722
D-99014 Erfurt
Tel. (49-361) 2144-0

Source: BMBau (1994), *Raumordnungsbericht 1993*, Anhang 2 (Appendix 2) updated by information from the *Länder* to mid-1995.

Local government organisations

Bundesvereinigung der Kommunalen Spitzenverbände (federal association of local government organisations)
Lindenallee 13-17
D-50968 Köln
Tel. (49-221) 377 10

Deutscher Städtetag (German cities assembly)
Lindenallee 13-17
D-50968 Köln
Tel. (49-221) 377 10

Deutscher Landkreistag (German counties assembly)
Adenauerallee 136
D-53113 Bonn
Tel. (49-228) 228 03-0

Deutscher Städte- und Gemeindebund (confederation of municipal authorities)
Kaiserwertherstraße 199-201
D-40474 Düsseldorf

Other organisations (selection)

Abwassertechnische Vereinigung e. V. (AtV) (German association on water pollution control)
Theodor-Heuss-Allee 17
D-53773 Hennef
Tel. (49-2242) 872-0

Bundesverband der Deutsche Industrie (BDI) (federation of German industry)
Gustav-Heinemann-Ufer 84-88
D-50968 Köln
Tel. (49-221) 37 08-00

Bundesvereinigung der Landesentwicklungsgesellschaften und Heimstätten e. V. (federal association of State development and housing companies)
Poppelsdorfer Allee 28
D-53115 Bonn
Tel. (49-228) 63 13 86

Deutsche Gesellschaft für Umwelterziehung e. V. (DGU) (German environmental education society)
Frauenthal 25
D-20149 Hamburg
Tel. (49-40) 10 69 21

Deutsches Institut für Urbanistik (DIFU) (German institute for urban studies)
Straße des 17. Juni 112
D-10623 Berlin
Tel. (49-30) 390 01-100

Deutscher Industrie- und Handelstag (DIHT) (association of German chambers of industry and commerce)
Adenauerallee 148
D-53113 Bonn
Tel. (49-228) 104-0

Deutscher Mieterbund (DMB) e. V. (German tenants' confederation)
Aachener Straße 313
D-50931 Köln
Tel. (49-221) 400 83-0

Deutsche Stiftung Denkmalschutz (DSD) (German foundation for the preservation of monuments)
Koblenzer Str. 75
D-53177 Bonn
Tel. (49-228) 957 38-0

Hauptverband der Deutschen Bauindustrie (German building industry confederation)
Am Hofgarten 9
D-53113 Bonn
Tel. (49-228) 267 09 89

Verband der Landwirtschaftskammern (VdL) (association of chambers of agriculture)
Godesberger Allee 142-148
D-53175 Bonn
Tel. (49-228) 37 50 66

Verband Deutscher Verkehrsunternehmen (VDV) (association of German transport companies)
Kamekestr. 37-39
D-50672 Köln
Tel. (49-221) 579 79-0

Zentralverband der Deutschen Haus —, Wohnungs- und Grundeigentümer e. V. (Confederation of German House, Apartment and Land Owners)
Cecilienallee 45
D-40474 Düsseldorf
Tel. (49-211) 43 45 55

Professional institutes (selection)

Bund Deutscher Baumeister, Architekten und Ingenieure e. V. (BDB) (German federation of master builders, architects and engineers)

Kennedyallee 11

D-53175 Bonn

Tel. (49-228) 37 67 84

Bundesarchitektenkammer — Bundesgemeinschaft der Architektenkammern KdöR (BAK) (federal association of chambers of architects)

Königswinterer Straße 709

D-53227 Bonn

Tel. (49-228) 44 10 41 — 44 10 43

Bundesingenieurkammer e. V. (BIngK) (federal chamber of engineers)

Habsburgerstr. 2

D-53173 Bonn

Tel. (49-228) 36 52 67

Deutsche Akademie für Städtebau und Landesplanung e. V. (German academy of urban and regional planning)

Kurfürstendamm 188/189

D-10707 Berlin

Tel. (49-30) 885 49 36

Vereinigung der Stadt —, Regional- und Landesplaner (SRL) e. V. (association of urban and regional planners)

Weg am Kötterburg 3

D-44807 Bochum

Tel. (49-234) 501514

Verband Deutscher Architekten e. V. (association of German architects)

Edelsbergerstr. 8

D-80686 München

Tel. (49-89) 570 07-0

Deutscher Verein für Vermessungswesen (DVV) e. V.

(German surveying association)

Brinckmannstraße 5

D-40225 Düsseldorf

Tel. (49-211) 89-94221

Ring Deutscher Makler (RDM) (confederation of German property consultants and property managers)

Möckebergstraße 27

D-20095 Hamburg

Tel. (49-40) 33 12 10/33 12 19

Zentralverband Deutscher Ingenieure e. V. (ZDI) (Central Association of German Engineers)

Edelsbergerstr. 8

D-80686 München

Tel. (49-89) 570 07-0

Environmental protection/community and pressure groups (selection)

Bund für Umwelt und Naturschutz Deutschland e. V. (BUND) (German confederation for the environment and nature conservation)

Im Rheingarten 7

D-53225 Bonn

Tel. (49-228) 400 97-0

BUND is an environmental and nature conservation organisation with associate groups in each *Land* and a membership of over 200 000 persons.

Bundesverband Bürgerinitiativen Umweltschutz e. V. (BBU) (confederation of community groups for environmental protection)
Prinz-Albert-Straße 43
D-53113 Bonn
Tel. (49-228) 21 40 32
The confederation is an independent federal grouping of community groups from throughout Germany.

Greenpeace e. V.
Vorsetzen 53
D-20459 Hamburg
Tel. (49-40) 311 86-0
and
Chauseestraße 131
D-10115 Berlin
Tel. (49-30) 238 57 37

Cross-border cooperation

Arbeitsgemeinschaft Europäischer Grenzregionen (AGEG) (association of European border regions)
c/o Euregio, Enscheder Straße 362
D-48559 Gronau
Tel. (49-2562) 250 62
The association comprises regional associations and local authorities from border regions throughout western Europe, including Austria, Denmark, France, Germany, Italy, Luxembourg, the Netherlands, Spain and Switzerland.

Euregio (European region)
Postfach 1180, Enscheder Straße 362
D-48559 Gronau
Tel. (49-2562) 702-0
Euregio is a region comprising some 110 German and Dutch local authorities, which are involved in cross-border regional cooperation in the area between the Rhine, Ems and the IJssel.

Sources

The names, addresses and telephone numbers of other organisations can be found in:
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Appendix IV. General sources of further information, references, organisation of regional planning and list of *Bund* and *Länder* statutes

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Baunutzungsverordnung (BauNVO) (federal land use ordinance) 19.7.1989, amended by the Reunification Treaty from 31.8.1990.

Bundesimmissionsschutzgesetz (BImSchG) (federal control of pollution act) of 14.5.1990.

Bundesnaturschutzgesetz (BNatSchG) (federal nature conservation act) 12.3.1987 (BGBl. I S. 3574), as last amended on 30.4.1998 (BGBl. I S. 823).

Raumordnungsgesetz (ROG) (federal spatial planning act) 18.8.1997 (BGBl. I S. 2081).

Wohnungsbauerleichterungsgesetz (WoBauErlG) (investment facilitation and housing development land act), 17.5.1990.

The *Länder*: regional planning organisation and legislation

Baden-Württemberg:

Regional planning is the responsibility of 12 *Regionalverbände* (regional associations), one of which is a cross-border association for the region of Donau-Iller (with Bayern).

Legislation

Landesplanungsgesetz (LplG) (State planning act) of 8 April 1992, as last amended on 7 February 1994.

Landesentwicklungsplan (LEP) (State development plan) of 12 December 1983.

Landesbauordnung für Baden-Württemberg (LBO) (State building regulations), in the form of 28 November 1983, as last amended on 23 July 1993.

Gesetz zum Schutz der Kulturdenkmale (preservation of monuments act), of 25 May 1971, as last amended on 23 July 1993.

Naturschutzgesetz (NatSchG) (nature protection act) of 21 October 1975, as last amended on 12 December 1991.

Bayern (Bavaria)

Regional planning is the responsibility of 18 *Regionale Planungsverbände* (regional planning associations), one of which is a cross-border association for the region Donau-Iller (with Baden-Württemberg).

Legislation

Bayerisches Landesplanungsgesetz (State planning act) of 4 January 1982, as last amended on 28 June 1990.

Landesentwicklungsprogramm Bayern (State development programme) of 25 January 1994.

Bayerische Bauordnung (BayBO) (building regulations) of 18 April 1994.

Gesetz zum Schutz und zur Pflege der Denkmäler (Denkmalschutzgesetz — DSchG) (preservation of monuments act) of 25 June 1973, as last amended on 23 July 1994.

Bayerisches Naturschutzgesetz (BayNatSchG) (nature protection act) of 10 October 1982, as last amended on 28 April 1994.

Berlin

Legislation

Bauordnung für Berlin (BauO Bln) (building regulations) of 28 February 1985, as last amended on 4 May 1994.

Denkmalschutzgesetz Berlin (DSchG Bln) (preservation of monuments act) of 22 December 1977, as last amended on 28 September 1990.

Berliner Naturschutzgesetz (NatSchG Bln) (nature protection act) of 30 January 1979, as last amended on 30 March 1994.

Brandenburg

Regional planning is the responsibility of five *regionale Planungsgemeinschaften* (regional planning communities).

Legislation

Landesplanungsgesetz (State planning act) of 6 April 1995.

Gesetz zur Einführung der Regionalplanung und der Braunkohlen- und Sanierungsplanung (act for the introduction of regional planning) of 13 May 1993.

Denkmalschutzverordnung (preservation of monuments ordinance) of 11 May 1992.

Naturschutzgesetz (nature protection act) of 25 June 1992.

Bremen

Legislation

Bremische Landesbauordnung (BremLBO) (building regulations) of 23 March 1983, as last amended on 12 June 1990.

Denkmalschutzgesetz (DschG) (preservation of monuments act) of 27 May 1975, as last amended on 14 October 1992.

Bremisches Naturschutzgesetz (BremNatSchG) (nature protection act) of 17 September 1979, as last amended on 22 September 1988.

Hamburg

Legislation

Hamburgische Bauordnung (HBauO) (building regulations) of 1 July 1986, as last amended on 4 December 1990.

Denkmalschutzgesetz (preservation of monuments act) of 3 December 1973, as last amended on 12 March 1984.

Hamburgisches Naturschutzgesetz (HmbNatSchG) (nature protection act) of 2 July 1981, as last amended on 21 December 1990.

Hessen (Hesse)

Regional planning is the responsibility of the three *Regionalen Planungsversammlungen* (regional planning assemblies) for the districts of Darmstadt, Gießen and Kassel.

Legislation

Hessisches Landesraumordnungsprogramm (HLROP) (State spatial planning programme for Hesse), binding since 18 March 1970, as last amended on 15 October 1980.

Hessische Bauordnung — HBO (State building regulations) of 20 December 1993.

Denkmalschutzgesetz (preservation of monuments act) of the 5 September 1986.

Hessisches Naturschutzgesetz (HENatG) (nature protection act) of 19 September 1980, as last amended on 19 December 1994.

Mecklenburg-Vorpommern (Mecklenburg-Western Pomerania)

Regional planning is the responsibility of four *Regionale Planungsverbände* (regional planning associations).

Legislation

Landesplanungsgesetz (State planning act) of 31 March 1992.

Erstes Landesraumordnungsprogramm (first State spatial planning programme), binding from 16 July 1993.

Naturschutzgesetz (nature protection act) of 10 January 1992, as last amended on 21 May 1992.

Niedersachsen (Lower Saxony)

Regional planning is the responsibility of the *Landkreise* (counties), *kreisfreie Städte* (county-free towns), the *Kommunalverband Großraum Hannover* (communal association for Greater Hannover), the *kreisangehörige Stadt Göttingen* (the town of Göttingen) and the *Zweckverband Großraum Braunschweig* (association for Greater Braunschweig).

Legislation

Niedersächsisches Gesetz über Raumordnung und Landesplanung (NROG) (State spatial planning act) of 27 April 1994.

Landesraumordnungsprogramm (LROP) (State spatial planning programme), LROP Part 1 binding since 2 March 1994; LROP Part 2 binding since July 1994.

Niedersächsische Bauordnung (NBauO) (building regulations) of 6 June 1986, as last amended on 22 March 1990.

Niedersächsisches Denkmalschutzgesetz (preservation of monuments act) of 30 May 1978, as last amended on 22 March 1990.

Niedersächsisches Naturschutzgesetz (nature protection act) of 2 July 1990.

Nordrhein-Westfalen (Northrhine-Westphalia)

Regional planning is the responsibility of the *Bezirksplanungsräte* (district planning councils/boards), of the *Regierungspräsidenten* (district administrations) for the districts of Arnberg, Detmold, Düsseldorf, Köln and Münster, and of the *Braunkohlensusschuß* (brown coal committee).

Legislation

Landesplanungsgesetz (LPIG) (State planning act) of 5 October 1989, as last amended on 12 April 1994.

Gesetz zur Landesentwicklung (Landesentwicklungsprogramm) (State development programme), binding since 1 October 1989.

Landesbauordnung (BauONW) (State building regulations) of 26 June 1984, as last amended on 20 June 1989.

Denkmalschutzgesetz (preservation of monuments act) of 11 March 1980.

Landschaftsgesetz (LG) (landscape and protection of natural resources act) of 26 June 1980, as last amended on 20 September 1989.

Rheinland-Pfalz (Rhineland-Palatinate)

Regional planning is the responsibility of five *Planungsgemeinschaften* (planning communities).

Legislation

Landesplanungsgesetz (State planning act) of 8 February 1977, as last amended on 20 December 1994.

Landesbauordnung (building regulations) of 28 November 1986, as last amended on 4 April 1989.

Denkmalschutz- und Pflegegesetz (preservation of monuments act) of 23 March 1978, as last amended on 5 October 1990.

Landesgesetz über Naturschutz und Landschaftspflege (nature protection act) of 5 February 1979, as last amended on 14 June 1994.

Saarland

Regional planning is the responsibility of the *Ministerium für Umwelt des Saarlandes* (Ministry of the Environment).

Legislation

Saarländisches Landesplanungsgesetz (SLPG) (State planning act) of 27 April 1994.

Landesbauordnung (building regulations) of 10 November 1988 (new regulation being prepared).

Saarländisches Denkmalschutzgesetz (preservation of monuments act) of 12 October 1977.

Saarländisches Naturschutzgesetz (nature protection act) of 19 March 1993.

Sachsen (Saxony)

Regional planning is the responsibility of five *Regionale Planungsverbände* (regional planning associations).

Legislation

Sächsisches Landesplanungsgesetz (State planning act) of 24 June 1992, as last amended on 4 July 1994.

Landesentwicklungsplan Sachsen (State development plan) of 16 August 1994 (in force since 6 September 1994).

Sächsische Bauordnung (building regulations) of 19 August 1992, as last amended on 4 July 1994.

Sächsisches Denkmalschutzgesetz (preservation of monuments act) of 3 March 1993, as last amended on 4 July 1994.

Sächsisches Naturschutzgesetz (nature protection act) of 16 December 1992, as last amended on 4 July 1994.

Sachsen-Anhalt (Saxony-Anhalt)

Regional planning is the responsibility of the three *Regierungspräsidien* (district administrations) for the districts of Halle, Magdeburg and Dessau, together with the *Regionale Planungsbeiräte* (regional planning advisory councils) for each of the districts.

Legislation

Vorschaltgesetz zur Raumordnung und Landesentwicklung (provisional State planning act) of 2 June 1992, as last amended on 17 December 1993.

Landesbauordnung (building regulations) of 23 July 1994 (in force since 1 September 1994).

Denkmalschutzgesetz (preservation of monuments act) of 21 October 1991.

Naturschutzgesetz (nature protection act) of 11 February 1992.

Schleswig-Holstein

Regional planning is the responsibility of the *Ministerpräsidentin des Landes Schleswig-Holstein* (State prime minister).

Legislation

Landesplanungsgesetz (State planning act) of 10 June 1992, as last amended on 6 March 1995.

Gesetz über Grundsätze zur Entwicklung des Landes (Landesentwicklungsgrundsätze) (principles of State development act) of 22 September 1981, as last amended on 19 November 1985.

Landesbauordnung (building regulations) of 11 July 1994.

Gesetz zum Schutz der Kulturdenkmale (preservation of monuments act) of 18 September 1972, as last amended on 16 June 1993.

Landesnaturenschutzgesetz (nature protection act) of 16 June 1993.

Thüringen (Thuringia)

Regional planning is the responsibility of the four *Regionale Planungsgemeinschaften* (regional planning communities).

Legislation

Landesplanungsgesetz (State planning act) of 17 September 1991.

Landesdenkmalschutzgesetz (preservation of monuments act) of 7 January 1992.

Source

BMBau (1994), *Raumordnungsbericht 1993*, Anhang 2 (Appendix 2), Bonn, BMBau, as updated by information from the *Länder* to mid-1995.

Figure A3: Administrative divisions



Figure B3: Extract from the *Regionalplan* (regional plan) for Südlicher Oberrhein, 1995



Figure B4: Key diagram from the *Regionalplan* (regional plan) for Südlicher Oberrhein, 1995

Regional settlement structure

Existing	Planned	
		Settlement areas
		Locations for commerce and industry
		Inter-communal business park
		Special area <i>Bund</i>

Regional development - Free space structure

	Regional green areas
	Green gap (between settlements)
	Free space area requiring protection (priority areas for important biotopes)
	Priority area for flooding
	Priority area for extraction minerals
	Area for the securing of water extraction (regional groundwater protection area)
	Water
	Woodland

	Areas suitable for farming
	Protected woodland (not NSG)
	Protective woodland (not NSG)
	Nature conservation area (NSG)
	Landscape protection area
	Water protection area
	Spring protection area
	Flood plain
	Flood protection reservoir

Regional infrastructure

Existing	Planned	
		Railway routes
		Railway route (single track)
		Other railway
		Electrification
		Halt, railway station
		Container terminal
		Road categories
		Road, Category I
		Road, Category II
		Road, Category III
		Harbour, jetty

Existing	Planned	
		Airport, airstrip
		Flying boat landing area
		Special landing area
		Flight paths
		Telecommunications route/facility
		High-voltage line
		Power station
		Transformer station
		Gas pipeline
		Sewerage works
		Domestic waste site
		Municipal boundary
		Regional boundary

Figure B5: Extract from the *Flächennutzungsplan* (F-plan) (preparatory land use plan) for Berlin, 1994

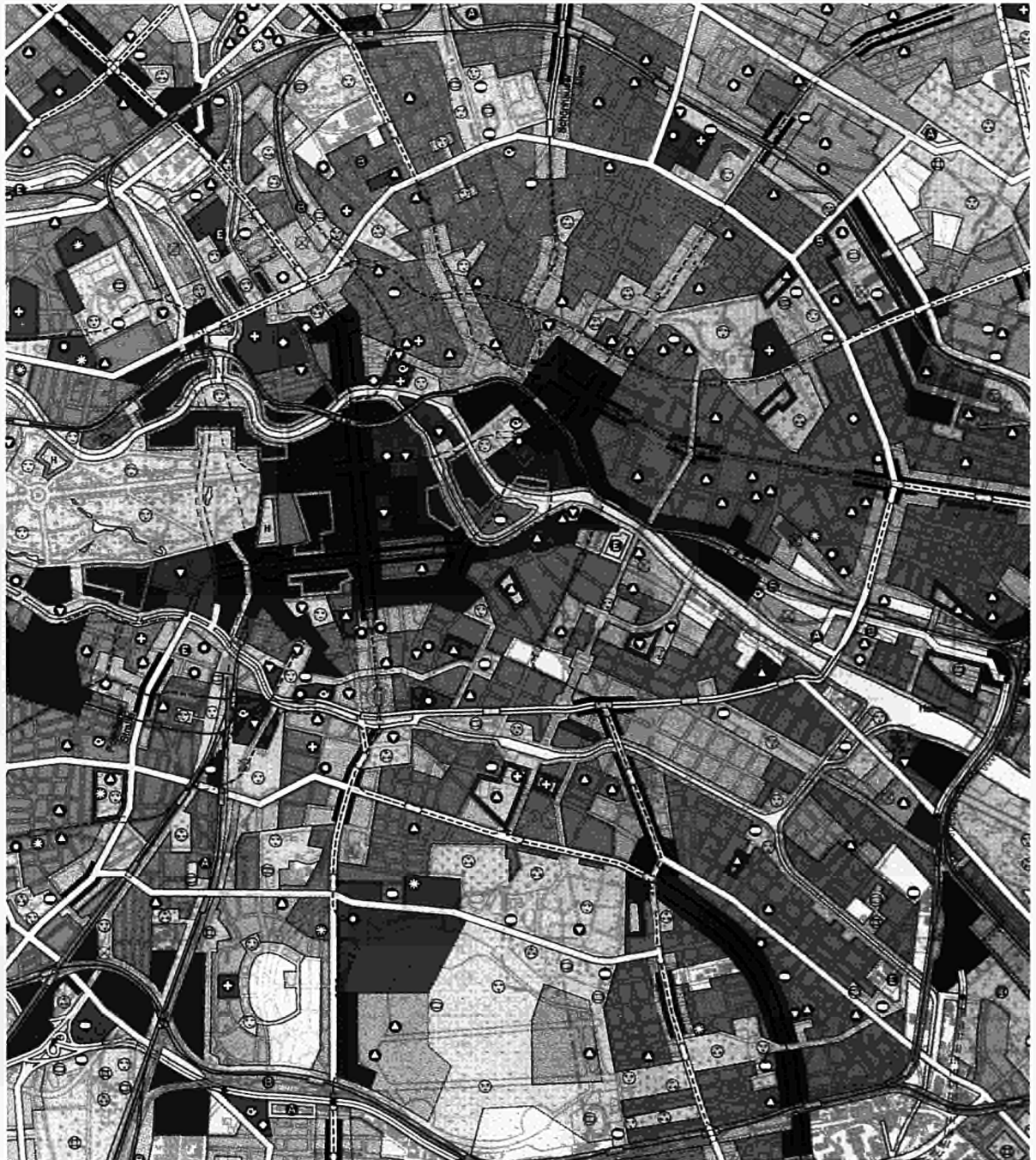


Figure B6: Key diagram from the *Flächennutzungsplan* (F-plan) (preparatory land use plan) for Berlin, 1994

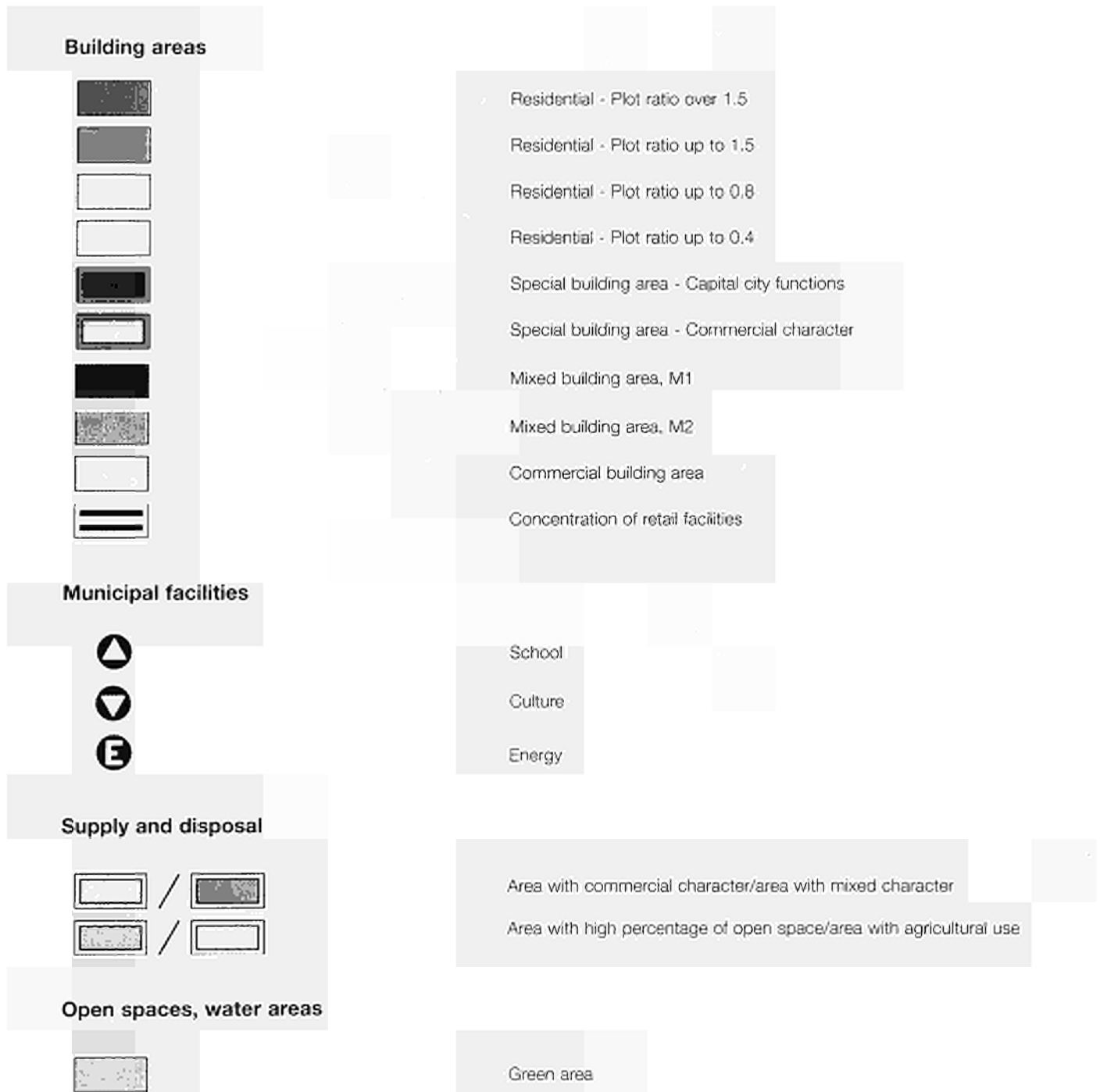


Figure D1: Promotion areas of the German and European Union structural policies

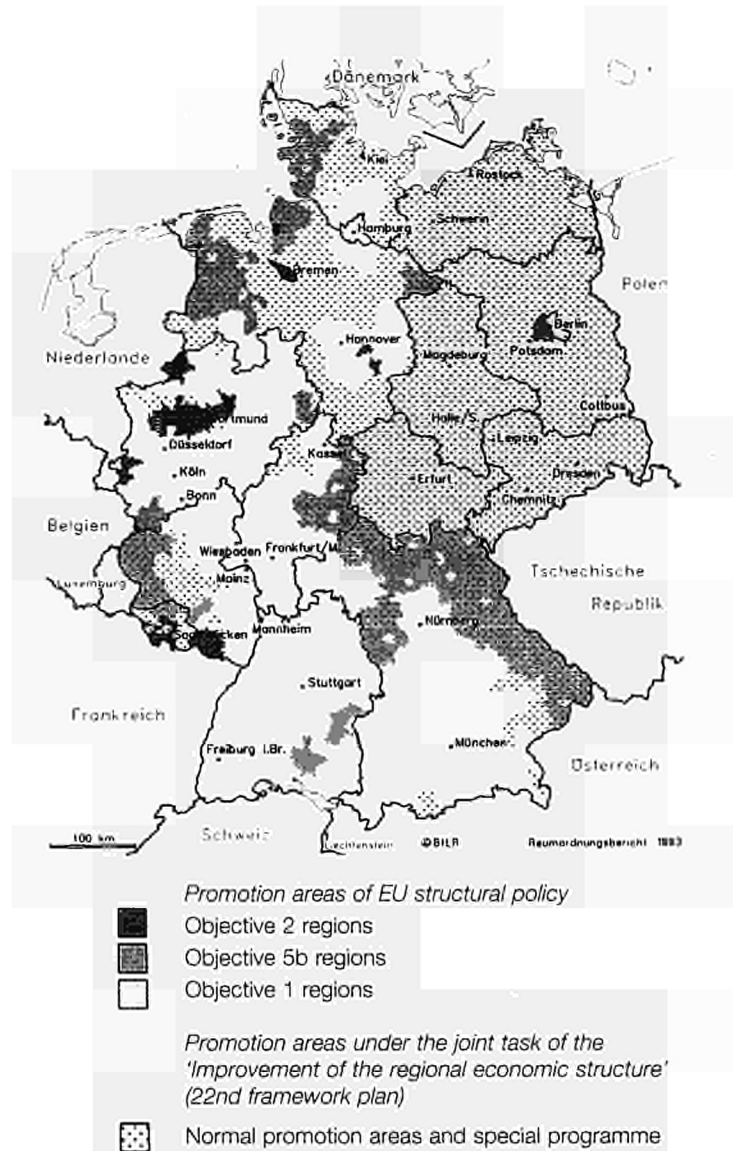
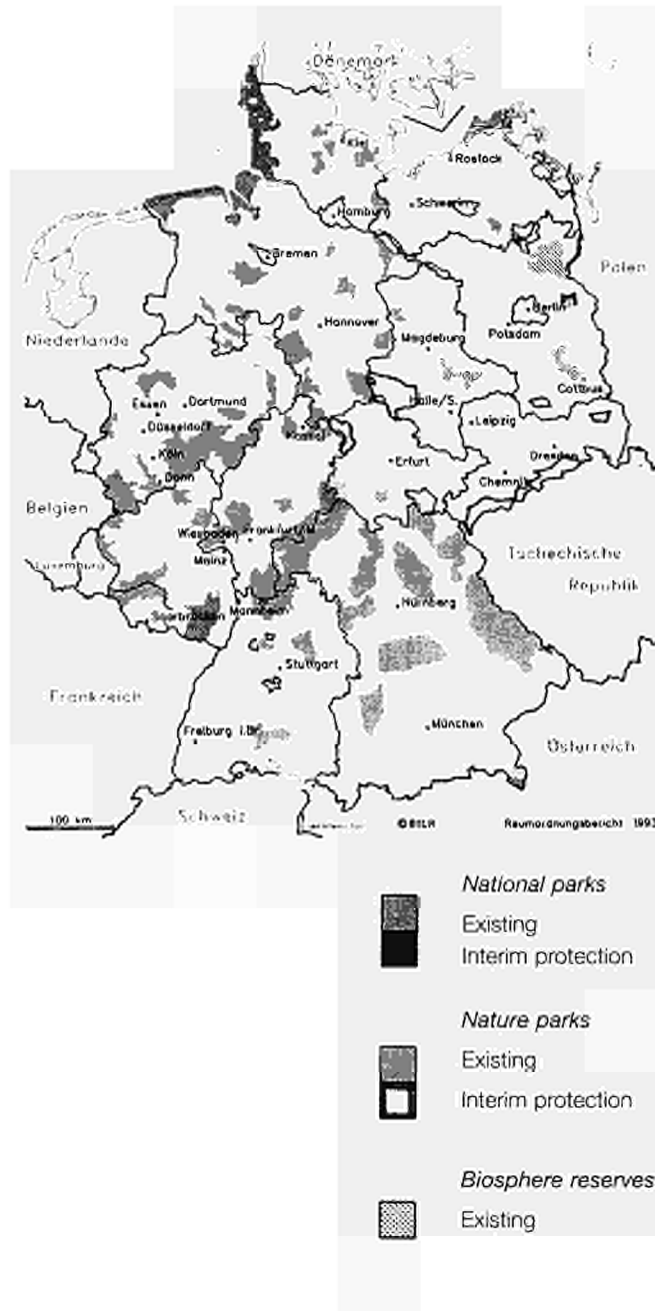


Figure D3: Nature protection areas in Germany



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