Revisione dei confini e accorpamenti di regioni: fatti e proposte.
Il caso tedesco

To compare the territorial reorganizations is not easy because of different legal structures and historical backgrounds. What is a region? For France and Italy the answer is clear, a substructure of the central state created by national law. In Germany, regions do not exist as legal entities. Therefore, let us look to the subdivisions, which Eurostat is using for international statistic comparisons.

NUTS Levels

"nomenclature des unités territoriales statistiques"

	France	Italy	Germany
NUTS 0	Country (1)	Country (1)	Country (1)
NUTS 1	Group of Regions (9 in Europe)	Group of Regions (5)	States (16)
NUTS 2	Regions (22 in Europe)	Regions (20)	Government Districts/Former Districts/Small States (38)
NUTS 3	Départements (101)	Provinces (109)	Counties and big cities (412)
Population	63,9 Millions	60,8 Millions	80,8 Millions

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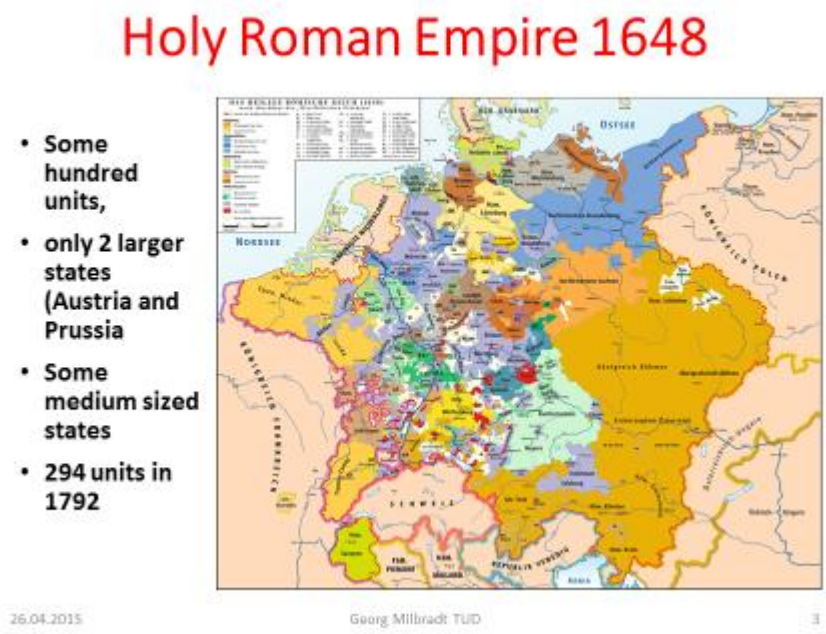
The regions in both Latin countries belong to NUTS[1] 2. NUTS 0 is the country, a group of regions in France and Italy belong to Nuts 1, *départements* or *province* to NUTS 3.

In Germany, the Länder or states belong to NUTS 1, the Regierungsbezirke or administrative districts to NUT 2, and the Kreise or counties to NUTS 3. Administrative districts exist in the large area states only, i.e. in North Rhine Westphalia 5 districts for 18 million inhabitants, which is comparable to a French or Italian region. In the smaller area states and the city-states, government districts were never established or abolished in the last decades.

[1] The acronym NUTS stands for *"nomenclature des unités territoriales statistiques".*

Generally, Germany has more units on each NUTS level and the average population is lower than in France and Italy in spite of the higher population. The German NUTS of levels 1 to 3 are more diverse than in the two other countries. The average population size of municipalities is nearly the same in Germany and Italy, whereas the French municipalities are much smaller.

Politically, French and Italian regions are first order subdivisions of the country, whereas Germany is formed of 16 very diverse states. The government districts are purely administrative subdivisions of the states without any autonomy and hardly comparable to your regions. Therefore, the planned territorial reforms in Italy and France have no direct German counterpart. You can compare your regional reforms with territorial reorganizations of German states or German counties only.



At first, let us look to the states. Nearly all the time Germany was a federation. To understand the legal and political structure of today's Germany, one has to go back to history. In 1648 by the Peace of Westphalia, the territories of the Holy Roman Empire gained extensive sovereignty over its lands and inhabitants, but remained entities of the empire. Because of the established principle "cuius regio, eius religo", each sovereign had the right to determine the denomination of his subjects; thereby religion could change from one village to the other. It is nearly impossible to count all this territories, among them free imperial cities, ecclesiastic and secular powers. The political map of Germany was very much fragmented, especially in the Southwest, the West

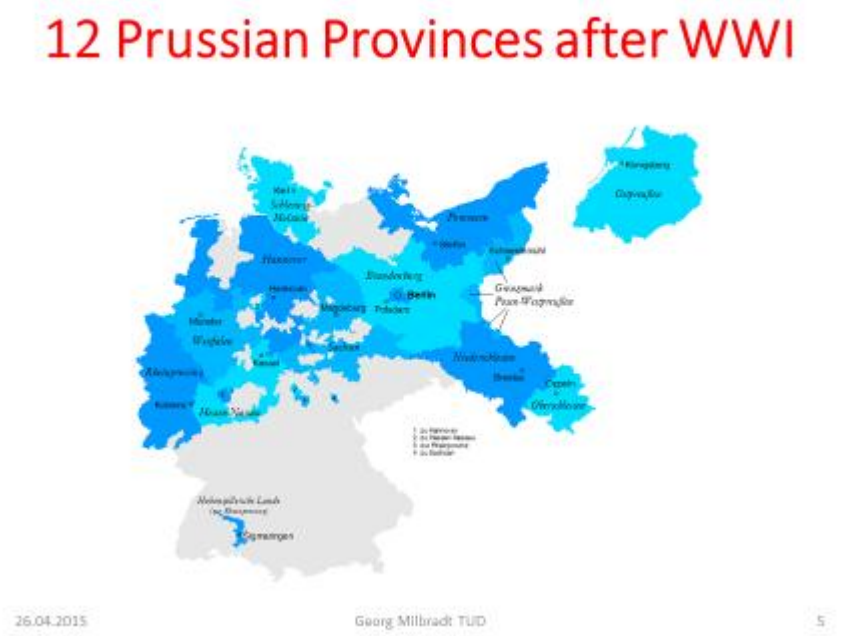
and in the Centre. Still today, this territorial and religious diversity has some influence on the feelings, attitudes and political views of the German citizens.

In 1792 on the eve of the wars with revolutionary France, 294 states were still represented in the imperial diet. Then the French occupations and the dissolution of the Holy Roman Empire under the pressure of Napoleon altered the map. The ecclesiastic states were abolished and served as a compensation for the princes from the annexed west bank of the Rhine and the enlargement of medium size principalities. The Congress of Vienna changed the borders again. Now 39 states formed the German Confederation, among them 4 free cities. The Austro-Prussian War of 1866 and the foundation of the second Empire altered the map again. Austria, Luxembourg and Lichtenstein left the new Germany. Prussia annexed some Austrian allies in Northern Germany, among them the city Frankfurt.

In 1871, 25 member states, 22 German princes and 3 free cities, founded the new empire by a treaty. As the federation was a creature of its members, the new constitution contained no provision concerning territorial organization on the state level.

As the boundaries between the states were the result of history not of rational spatial planning the German states differed very much in territory and population. The relation in population between the largest state Prussia and

the smallest a tiny principality in Western Germany was 1:862, in territory even larger between Prussia and the city-state of Bremen 1: 1,362



Up to the end of WWI, the territorial structure of the states remained unchanged. However, after lost WWI intensive debates started which lasted until the thirties. Politicians, scholars and bureaucrats questioned the territorial organization and called for reforms, especially concerning Prussia and the tiny territories, which had survives since the Holy Roman Empire just by coincidence. The proponents presented more or less radical proposition, especially to correct the dramatic territorial and demographic imbalance between Prussia and the rest by dissolving Prussia and making its provinces to states and merging small territories with their larger neighbours and thereby reducing the huge diversity and inequality between the states.

However, the majority of the National Assembly feared that the dissolution of Prussia would weaken Germany and lead to the loss of more territory. The still powerful Prussian bureaucracy feared a loss of influence and rejected territorial reforms concerning Prussia.

The new constitution shifted more competences to the centre and reduced federalism. The borders of the states remained, but the constitution contained a special provision in article 22 for territorial reorganization, which commissioned and empowered the Reich to change state boundaries by law.

Article 22 Weimar Constitution

"The organization of the Reich in states, as far as possible under consideration of the will of the concerned population, shall serve the people's maximal economic and cultural achievement. The transfer of state territory within the Reich, the formation of new states within the Reich is conducted by a Reich law amending the constitution. If the concerned states agree, a simple Reich law may suffice… "

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This clause is very unusual for real federations. The central statel in Switzerland, Canada, Australia or the USA do not have such possibilities. Generally, federations cannot change the territorial structure of its members, but the Weimar Republic was in some way a centralized federation. However, Article 22 played no greater role. At first, the article was suspended for the time of the French occupation of the Rhineland, and then all attempts for reorganization failed because of the strict opposition of the states, which could prevent the necessary constitutional amendment by the second chamber, the Reichsrat. Only 7 very small Thuringian states merged voluntarily by a treaty among the partners ratified by a Reich law.

The Nazi, too, feared a general territorial reorganization of the Reich. They knew very well that this issue was very unpopular. Traditions and religious divide rooted in the old empire still influenced public opinion. Instead, the new dictatorship covered the official territorial order by a new centralized party structure, which divided Germany in Gaue, new administrative party districts, and undermined the federal structure. Only two partial reorganizations occurred. Because of port enlargements and settlement structures, the city-state of Hamburg was merged with neighbouring Prussian counties and cities. As a compensation Prussia incorporated the city-state of Lübeck and some territories of Bremen and Hamburg situated near the North Sea. Shortly before the end of the war, Reich enlarged Thuringia by Prussian enclaves and neighbouring territory.

As you see, the state borders of the Congress of Vienna remained more or less unchanged until the end of WWII.

However, the four occupation powers totally redrew the map of Germany. The country lost its eastern territories completely, and Prussia was dissolved. The rest was divided in 4 occupation zones, in which each power organized the territorial and political structures separately. However, the zone borders followed mainly the old state and provincial boundaries except for the French zone.

The victorious powers formed new states out of former Prussian provinces and the medium sized states, amalgamating them with the still remaining smaller territories. These decisions had many similarities to the reform propositions discussed after WWI. However, the British let the enlarged city-state of Hamburg survive. The Americans got Bremen because of its port, an enclave in the British zone, and thereby the second relative small city-state survived too; Berlin was divided in 4 sectors and jointly administered, the Saarland was again separated from Germany and was economically integrated into France. As a result, 11 states, among them 2 city-states, were formed in the Western zones and 5 in the Soviet zone plus Berlin as a special territory and the separated Saarland.

With the consent of the Western powers, the Western states founded the Federal Republic in 1949, whereas a people's congress constituted the German Democratic Republic in the same year. Especially under the American and French influence, the new Basic Law strengthened the federal structure compared with the Weimar Republic.

However, the occupation powers applied different approaches when forming new states in their zones. The result was not always satisfactory. By the dissolution of Prussia and the incorporation of very small states into the new ones, the imbalances in population, area, economic strength were much smaller than in the 2nd empire and the Weimar Republic and definitely comparable to other old federations like Switzerland or the USA. However,

some politicians, bureaucrats and spatial planners dreamed of better, more rational solutions, on the other hand, populations, which belonged for a long time to now dissolved states, felt uncomfortable and wanted to get back the old structures, especially because of the still existing religious divide.

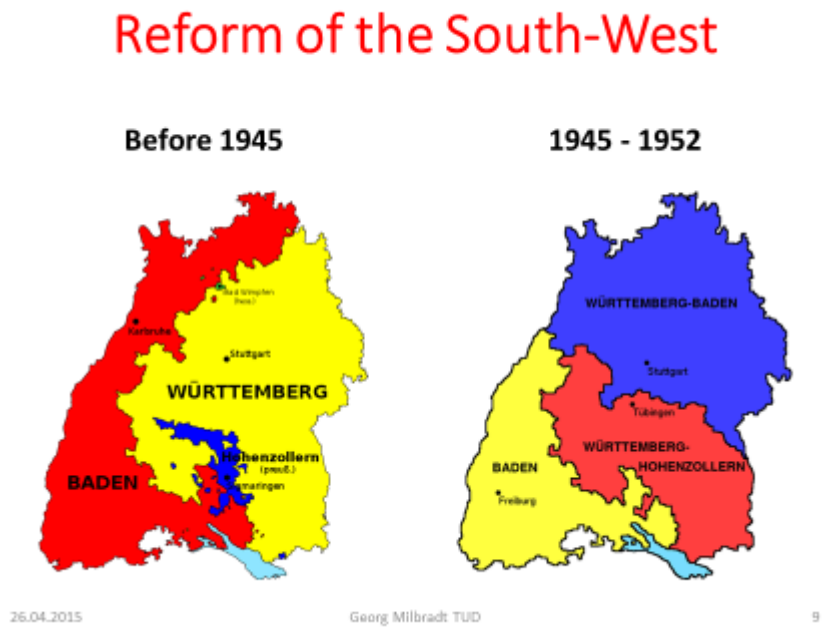
Therefore, the old discussion of the twenties and thirties, often with the same proponents, started again. And again, the new constitution contained a special article 29 with an order to reorganize the state territories. On the one side a reform should *"ensure that each Land be of a size and capacity to perform its functions effectively"*, on the other hand, *"due regard shall be given in this connection to regional, historical and cultural ties, economic efficiency, and the requirements of local and regional planning."*

A federal law should decide the reorganization, but it needed the consent of the populations concerned by a referendum. Again, the basic principle of real federalism was violated that changes of boundaries, a mergers or divisions of states are only possible by a voluntary act.

Article 29 contained also the possibility that the local population could petition for a reform under special circumstances and by a complicated procedure.

The history and the result of this Basic Law provision were nearly the same as of the old Weimar article. At first, the occupation powers suspended the article. After the end of the occupation regime, the politicians had not the courage for a reform despite several official reform commissions and many scientific proposals. Therefore, further amendments watered down the content of article 29. Today's version contains only the possibility and no longer an order for a general reform and the permission of border changes by consent. All public petitions to change borders failed in the end too.

However, the Basic Law contained another special article concerning the organization of the South West. Originally three states existed Baden, Württemberg and a small enclave of Prussia, which was the original homeland of the Hohenzollern dynasty in the Middle Ages. These territories should belong to the American zone.



But later France was accepted as the fourth power which needed an own zone. Therefore, the Americans ceded the territory south of the Karlsruhe-Stuttgart motorway to France, which erected two small states along the old boundaries, whereas the Americans founded one bigger state consisting of the northern territories of Baden and Württemberg. It was obvious that this solution was not convincing and sustainable. Therefore, the Basic Law allowed a merger of the 3 states by federal law with the consent of the population. Which some constitutional trouble this territorial reorganization of 1952 was successful in the end. Later the Saarland joined the federation as the smallest German area state.

Germany after Reunification

13 Area States and 3 City States

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The re-unification did not change the picture. The 5 formerly dissolved and now re-erected Eastern states entered the federation. The boundaries were slightly corrected because of the communist district reform of 1952 and local plebiscites in 1990.

Berlin caused some problems. Traditionally the city was the capital of Brandenburg, later of Prussia and Germany. Because of its post-war special status, it became a city-state surrounded by Brandenburg territory. Similar to the old provision for the South West the unification treaty contained a constitutional amendment, which allowed the merger of the two states by federal law with consent of the population in each state. However, the merger failed, because the people of Brandenburg voted against it. As Berlin had become a metropolis of nearly 4 million people whereas the rural not densely populated Brandenburg had only less the 2 ½ million the Brandenburgers feared that they would be outnumbered by the Berliners in a common state.

After this defeat, most politicians have given up all reform discussion. However, there are still propositions circulating in expert circles and sometimes haunting the press. Most of the propositions recommend to abolish the city-states and integrate into the neighbouring area states and to merge the smaller states. One possible solution could be to combine Hesse, Rhineland-Palatinate and the Saarland in the West and Saxony, Saxony-Anhalt and Thuringia in the East, and Schleswig-Holstein, Mecklenburg-West Pomerania and Hamburg in the North. Bremen would become part of Lower Saxony and Berlin part of Brandenburg.

Thereby the number of states would come down from 16 to 8. But this is pure theory.

The result of the last nearly 200 years of territorial changes on the state level is, that only 2 real reform were made, 1806/15 and 1945/47, both times mainly by foreign powers and as a result of wars. Only three important partial reforms occurred: In 1920 the creation of Thuringia and in 1952 of Baden-Württemberg both by a merger of states and in 1937 the enlargement of Hamburg by cession of Prussian territory. I am quite sure that a general territorial reform on the state level will not occur in Germany in the foreseeable future except in the case of a catastrophe, which heaven forbid. Only partial reforms seem possible, but even these are not very likely.

However, the experience and the legal situation on the substate level are very different. During the 19th and 20th century and especially in the last 50 years state parliaments enacted more or less extensive reforms to respond to new political and administrative challenges. As state laws create counties and municipalities as well as decentralized state authorities, they have no individual constitutional protection of existence. However, the Basic Law and state constitutions are guaranteeing the right of extensive self-government to the municipalities and to a lesser degree to the counties. Therefore, local authorities can challenge laws with the argument of violation of their constitutional rights. The constitutional courts have ruled that the states can reorganize the local boundaries if this is in the well-founded public interest and if the reform follows common principles and avoids arbitrary exceptions.

As we have 13 area states, we had 13 different reforms. However, many elements are common: All reforms reduced the number of counties and municipalities, enlarged the territory and increased the average population of the remaining units considerably. The intention was to reduce level of governments (government districts, special state and local administrations), to simplify the administrative structures and to improve the administrative capacity and specialization of local governments. The reforms were often accompanied by a devolution of state competencies to local authorities in order to strengthen self-government further. Other objectives were to reduce the number of public employees and save administrative expenditures on the one hand, and improve public services to the citizens and simplify administrative processes on the other. As far as possible, only one authority should be responsible for an administrative decision. The territorial

concentration of local governments was seen reasonable because the citizens have better communication possibilities than in the past.

Reforms on the local level are important in Germany because local authorities execute most of the public services and 2/3 of all public investment, and employ 1/3 of the public workforce. Nearly no decentralized federal administration exists, mainly the federal ministries in Berlin, and relatively few employees are working for the central government. The states have the administrative core competencies for education, police, justice and tax administration and more than half of public employees.

One main issue of all reforms was to find a better answer to the process of suburbanization around the cities. Because of space scarcity in the centre new business and residential areas developed in a belt outside the old borders of the central city causing increasing problems of spatial planning, and coordination of traffic, education, health, environment, and a growing imbalance between local tax capacity and expenditure needs. More and more often, voluntary cooperation between local governments were no sufficient answer because of very different interests, especially between the centre of an agglomeration and the periphery. Often local politicians and administrators delayed necessary decisions and struck short run compromises. The general solution was to enlarge the central cities considerably by merging the belt with the city. The reform should internalize the problems and reduce the possibilities of free-rider-strategies of the periphery.

The other main issue was to empower small rural governments. Often they were too small to deliver satisfactory public services and had to cooperate with their neighbours. The result often was an inexplicable tangle of new agencies. The general solution was again a merger of villages and small cities to larger unities and thereby reducing cooperation necessities. Some states allowed interim solution to avoid public protest

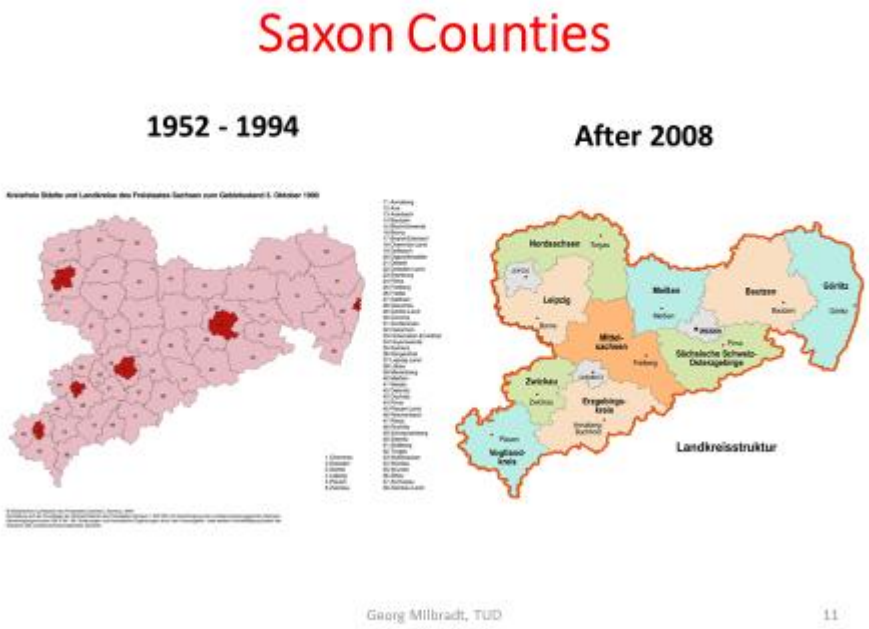
As an example for these reforms, I would like to present to you the case of North Rhine Westphalia in the West and Saxony in the East.

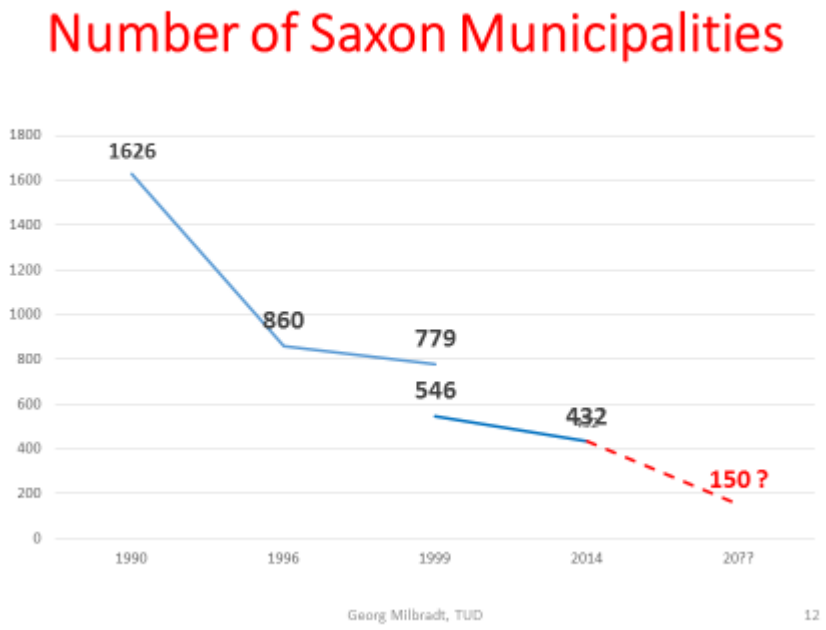
Between 1965 and 1974 North Rhine Westphalia, a state of around 18 million inhabitants, reformed its local structure completely. Counties and municipalities were merged on a large scale to overcome the old boundaries.

Instead of 57 counties before the reform only 30 exist now, 38 cities with a status of a county were reduced to 23, and the number of municipalities from

over 2300 diminished to 373. Therefore, the average population per unit on the county level is nearly 350,000. All municipalities have over 5.000 inhabitants. There is no city with the status of county under 100,000.

Saxony with a population of 4.1 million performed a similar reform after reunification in several steps. The number of counties diminished from 48 to 10 and the number of cities with county status from 6 to 3, he number of municipalities from over 1,626 to 432.





The three government districts were abolished and many state competencies transferred to the counties. Some specialized state agencies together with the personnel merged with the county administrations. The cities with county status have now a minimum population of 240.000 and the county population is generally between 200,000 and 400,000. The reformers in Saxony took into deliberation the demographic changes, which will take place in the next decades in Eastern Germany, especially outside the big cities.

Compared with France and Italy Germany had more far reaching reforms on the lower level concerning counties and municipalities as well as government districts whereas reforms on the state level were nearly impossible because of the federal structure. France and Italy are focusing their reform discussion on the regional level. The improvement and strengthening of local self-government and decentralization were main drivers in Germany, whereas these objectives do not seem so important in France and Italy.