Federalism in Germany and the USA: Environmental Regulatory Implications and Trends

The USA and Germany are currently each engaged in a battle over the respective rights of the federal vs. state government in determining environmental standards and regulations. In the United States, California and a number of other states are introducing emissions regulations either on their own or in regional partnerships. In Germany, reform of federalism could lead to exceptions from country-wide environmental regulations. In both instances, this tug-of-war could lead to disparate environmental regulations and standards from region to region, an outcome that could pose significant challenges for industry. The project report focuses on the federalism debate as it relates to environmental regulation in Germany and the United States and its implications for business.

In the context of the project, one particular but increasingly important area is examined, that in which the sub-national units of policy-making are playing a significant role: the regulatory process of environmental policy. Aiming to provide insights and knowledge needed by both Germany and the US in order to respond to common challenges in this area, the project highlights the environmental regulatory frameworks in Germany and the US. Moreover, practitioners and policy makers are given suggestions for ways to enhance their opportunities to improve their effectiveness in shaping the right policy mix at all levels of government.

The project report was published as AICGS Policy Report N0 31 [1].

The report is divided into two sections. The first section written by R. Andreas Kraemer, Director of Ecologic, describes and assesses the structures and practice of federalism in Germany. It focuses on the environment, which is a dynamic area of policy that is particularly rich with tensions among scales or levels of government. It also explores the foundations and development of federalism and "subsidiarity" in Germany and the European Union.
The constitutional make-up of the Federal Republic of Germany is sketched and the application of federalism in the field of environment is described in some detail. There is a focus on water management, especially the transboundary co-operation between states and the federal government, where historical practice in the Rhine basin and institutional developments in Germany since the 1950s have laid the foundations for European structures and approaches. The paper explores the conditions for and functions of structures for inter-state or transnational co-ordination, co-operation, and policy learning, and makes suggestions on how to apply them across the Atlantic.

In the second part of the AICGS-Policy Report, Prof. Miranda A. Schreurs from the University of Maryland explores the changing nature of environmental federalism in the US. She focuses in particular on the devolution of responsibility from the federal to the state and municipal levels in energy and climate change politics. These issues are particularly interesting to examine now because of the political tensions that are emerging as a result of the different approaches of the federal and numerous states’ governments as well as their importance in international politics. With climate change and renewable energy policies high on the international agenda, understanding the role that federalism is playing in the development of US policy responses to these issues is of utmost significance. In many ways, there is more policy activity at the sub-national than at the national level in these two policy areas.


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