

“The fiscal ‘anti crisis’-Mechanisms and their implications for the German federalism”

**3rd Observatory
“New tendencies of Federalism in Europe”**



December 4th, 2012 Zaragoza

Dr. Henrik Scheller, University of Potsdam

Agenda

- General developments
- Financial situation in Germany
- European and German debt regimes
- Outlook Finance Reform 2020
- Conclusion

General developments

General developments

- supranationalization of finance and budgetary policy
- verticalization of fiscal streams
- strengthening of the executive branches
- legislative self-restraint of parliaments
- individualization of finance and budgetary policy

Verticalization of fiscal streams

- all crisis-conditioned measures – including reduced tax income and all financial guarantee warranties: 900 billion euro
- 3 economic stimulus packages: 100 billion Euro
- socialization of private banks
- lion's share: federal government (Bund)
- negotiations with the EU
- new coordination and auditing institutions

Strengthening of executive branches

- passage of crisis-conditioned laws through both chambers of parliament need on an average 17 days
- Bundesrat: “massive doubts” regarding the constitutionality of laws → federal self restraint
- traditional patterns of federal policy-making don’t work in the crisis
- “executive federalism” (Ossenbühl: 1984)

Individualization of fiscal policy-making

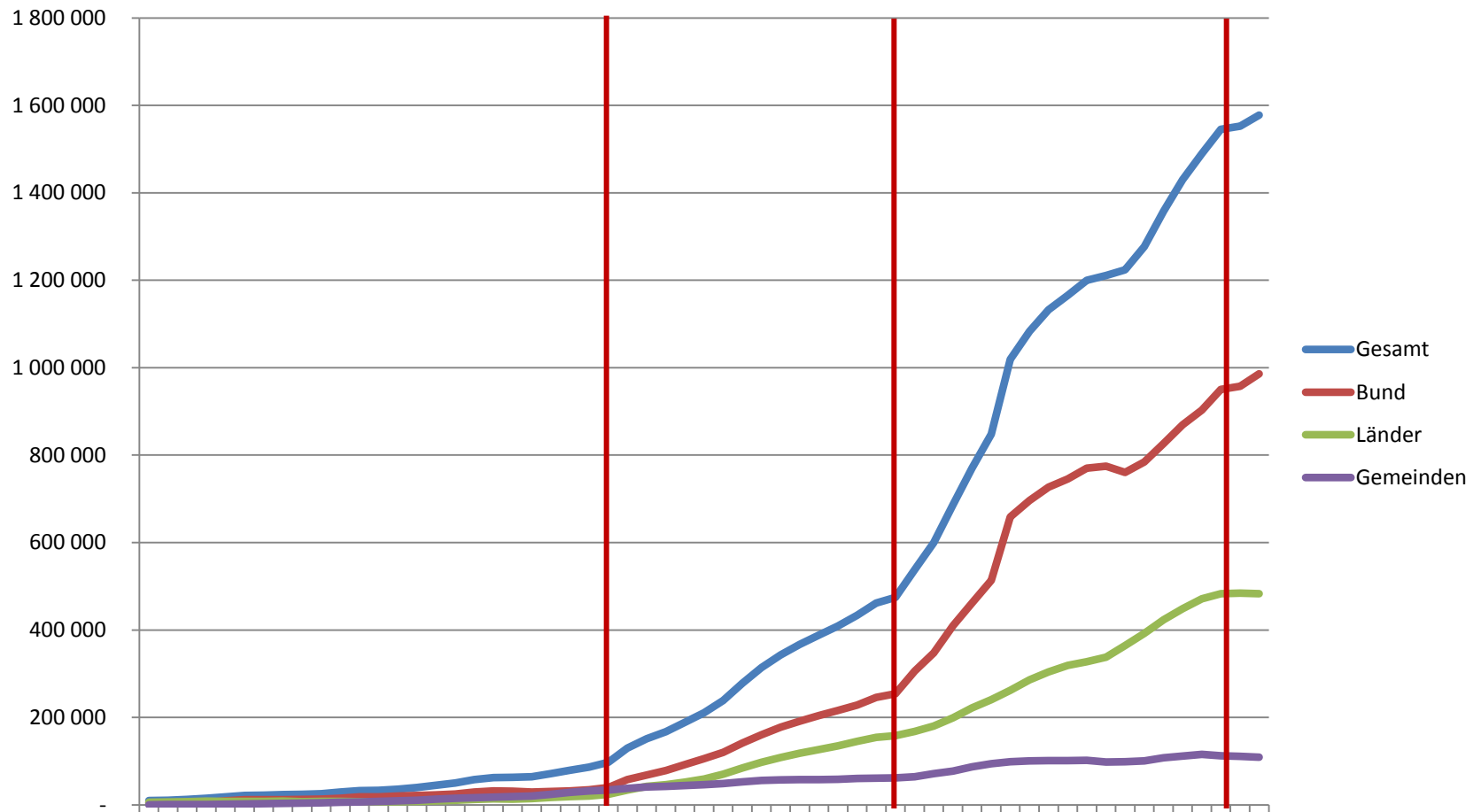
- growing complaints by parliamentarians regarding retrenched rights
- 4 references to the constitutional court
- three decisions: MPs not only to vote, but also to discuss in parliament
- Fiscal constitution and budget process was opened for claims of individual MPs
- Liability framework of the ESM cannot be widened without a consent of the Bundestag



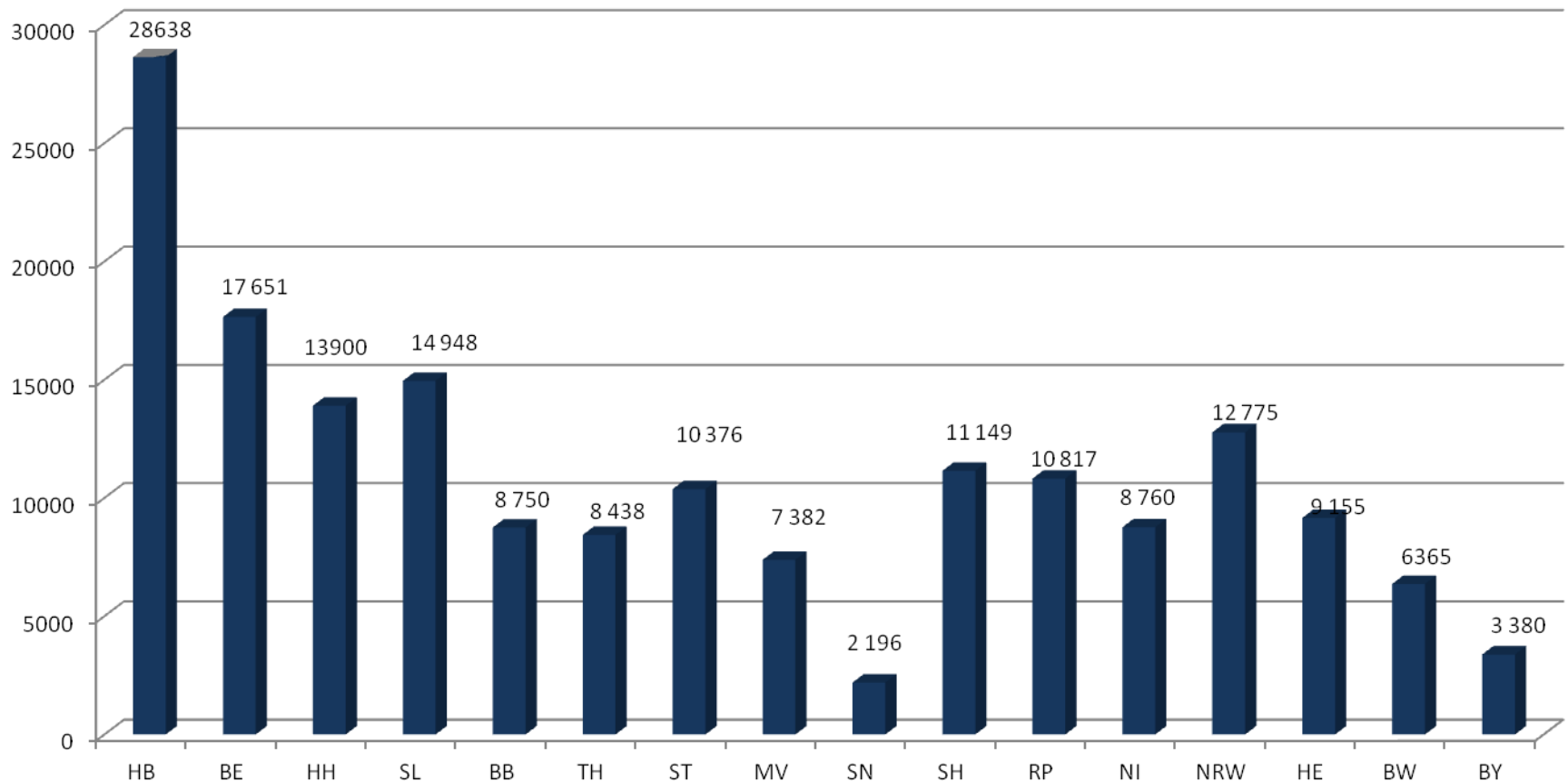
Financial situation in Germany

European and German debt regimes

Public debt 1950 till 2011



Per-Capita-Debt of the Länder 2011



Quelle: Statistisches Bundesamt.

Fiscal Compact: General Objectives

- to foster budgetary discipline
- to strengthen the coordination of their economic policies
- to improve the governance of the euro area, supporting sustainable growth, employment, competitiveness and social cohesion

Fiscal Compact: General Objectives

- the budget shall be balanced or in surplus
- structural deficit lower than 0,5 % of the GDP
- rapid convergence towards their respective medium-term objective
- time-frame for convergence proposed by EC
- automatic correction mechanism
- general government debt over 60 %: one twentieth per year
- exceptional circumstances

Article 109 Basic Law

- Budget autonomy
- Bund and Länder shall perform jointly EC obligations
- in principle: balanced budgets without credit revenues
 - the budget of the Federation shall to be satisfied if revenue from credits does not exceed 0.35 percent GDP (from 2016)
 - Länder: zero debt from 2020
- Rules taking into account symmetrically market upswing and downswing

Article 109 Basic Law

- deviations from “normal conditions” only in times of “natural disasters or unusual emergency situations beyond governmental control “
- amortization plan must be adopted
- Sanctions imposed by the European Community shall be borne by the Federation and the Länder at a ratio of 65 to 35 percent.
- In solidarity, the Länder as a whole shall bear 35 percent of the charges incumbent on the Länder according to the number of their inhabitants; 65 percent of the charges incumbent on the Länder shall be borne by the Länder according to their degree of causation.

Stability Council

Article 109a

[Budgetary emergencies]

To avoid a budgetary emergency, a federal law requiring the consent of the Bundesrat shall provide for:

1. the continuing supervision of budgetary management of the Federation and the *Länder* by a joint body (Stability Council),
2. the conditions and procedures for ascertaining the threat of a budgetary emergency,
3. the principles for the establishment and administration of programs for taking care of budgetary emergencies.

The decisions of the Stability Council and the accompanying documents shall be published.

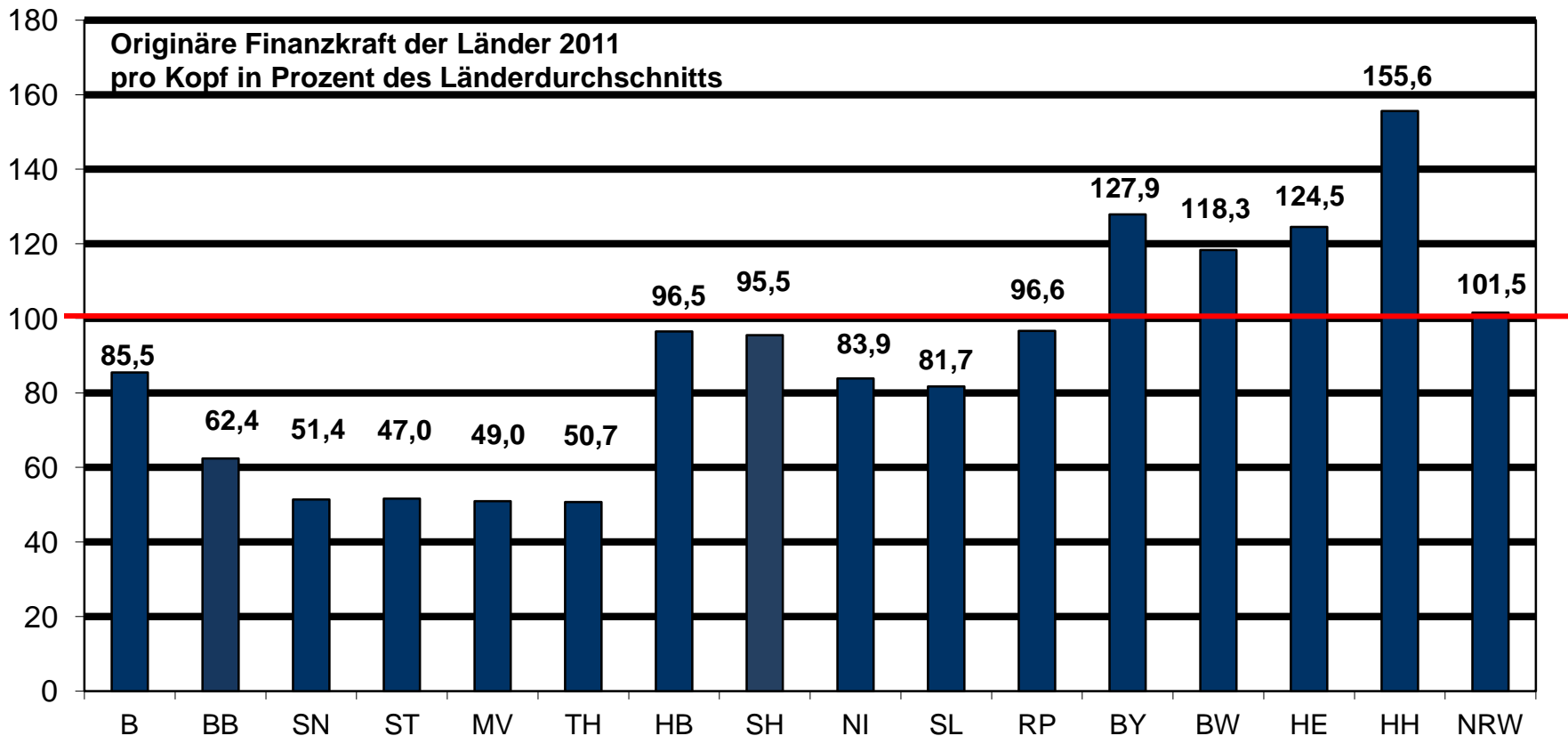
Debt brakes in the Länder

Länder	Schuldenbremse in Verfassung	Gesetzliche Regelung
Baden-Württemberg	nein	einfachgesetzlich
Bayern	nein	einfachgesetzlich
Berlin (KHL)	in Beratung	-
Brandenburg	nein	-
Bremen (KHL)	1. Lesung Juli 2012	ausstehend
Hamburg	Artikel 72, 72a (neu)	Ausführungsgesetz vorgesehen
Hessen	Artikel 141 LV	einfachgesetzlich
Mecklenburg-Vorpommern	Artikel 65 LV	einfachgesetzlich vorgesehen
Niedersachsen	in Beratung	-
Nordrhein-Westfalen	in Beratung	-
Rheinland-Pfalz	Artikel 117 LV	Ausführungsgesetz
Saarland (KHL)	in Beratung	-
Sachsen	in Beratung	-
Sachsen-Anhalt (KHL)	nein	-
Schleswig-Holstein (KHL)	Artikel 53 LV	Ausführungsgesetz
Thüringen	Ablehnung (fehlender Mehrheit)	-

Fiscal Compact Implementation Act

- Institutionalization of a “Board of advisers” supporting the Stability Council
- till 2020 the Bund have to cover possible break-up fees alone – without the Länder
- Bund hat to pay for the consent of the Länder
 - Additional transfers for the extension of the day nursery program (580 million Euro 2012 and 75 million Euro from 2014)
 - Costs for basic financial security transfers for older and disabled people (0,5 billion Euro from 2013)
 - Rehabilitation transfers for disabled people (4 billion Euro)
 - Compensation grants for the prolongation of the mixed financing instruments

Financial power before equalization 2011



Eigene Darstellung auf der Basis von Bundesministerium der Finanzen (BMF): Monatsbericht Februar 2012.

Transfers within the equalization scheme 2011

99,5 %

2011: 2,6 bn Euro
2011: 8,1 bn Euro

95 %

2011: 7,3 bn Euro
(2008: 8,3 bn Euro)

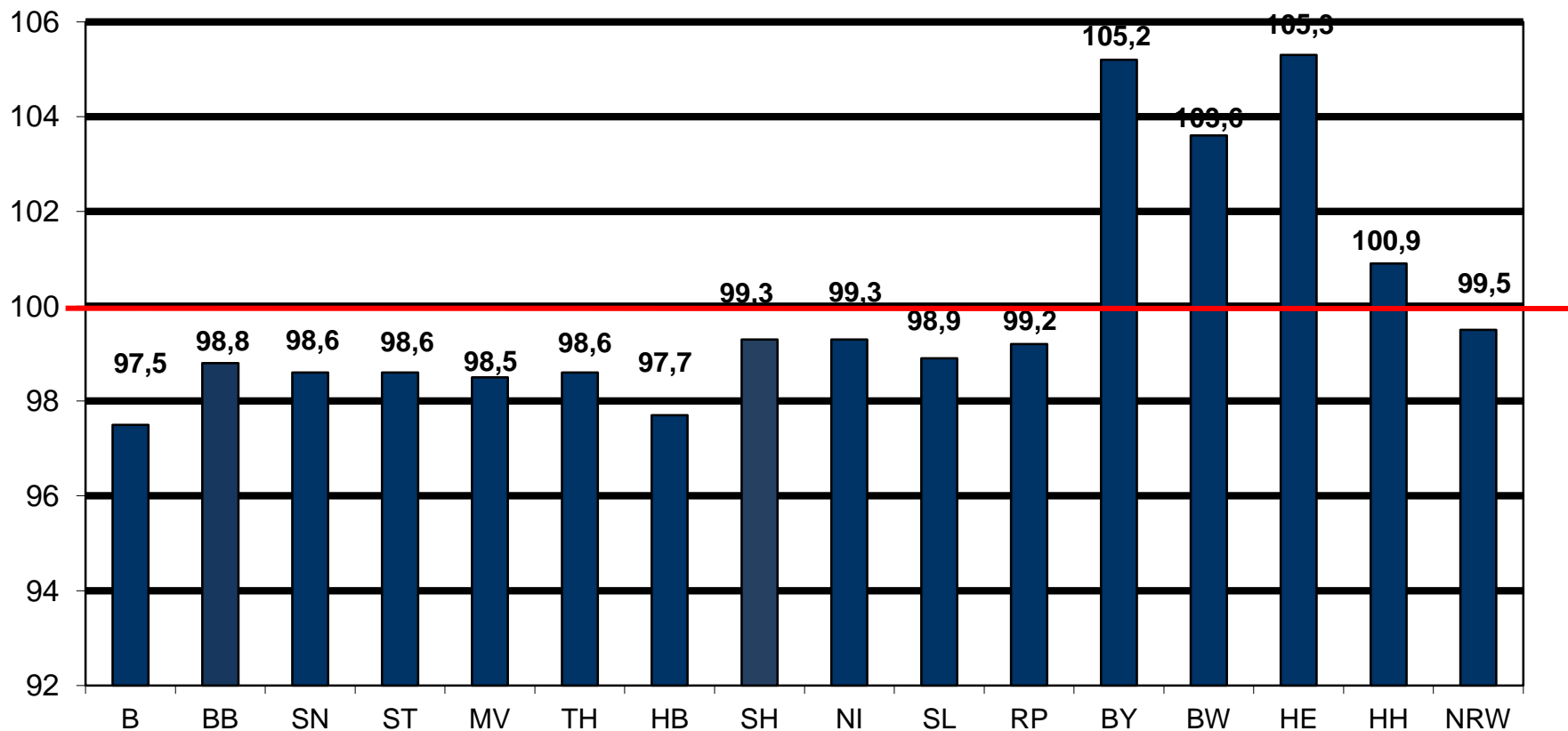
92 %

2011: 7,3 bn Euro
(2008: 8,2 bn Euro)

Bund: 247 bn Euro
Länder: 224 bn Euro

Eigene Darstellung auf der Basis von Bundesministerium der Finanzen (BMF): Monatsbericht Februar 2012.

Financial power after equalization 2011



Eigene Darstellung auf der Basis von Bundesministerium der Finanzen (BMF): Monatsbericht Februar 2012.

Debt-brake Dilemma

Debt brake

- Zero debt from 2020
- Main focus: budget consolidation and expenditure side
- New tasks and additional expenditures only through savings

VAT-Distribution

- No necessity for additional shares of the VAT
- Bund will reject the Länder claims with regard to the own debt brake and
- growing expenditures

Timeline for the “Finance Reform 2020”

- **till June 2013:** stock-taking process by the Finance ministers of the Länder
- **autumn 2013:** election for the German Bundestag – new federal government
- **in December 2013:** common opinion of the Länder’s Prime ministers
- **till summer 2015:** memorandum of understanding with the basic points for a „Finance Reform 2020“
- **till summer 2016:** final negotiations between the Bund and the Länder about the „Finance Reform 2020
- **autumn 2016:** legislation process

Agenda for the “Finance Reform 2020”

- Division of responsibilities between the Bund and the Länder
- Principles of federal burden sharing
- Pre-existing debt, financing interest burden, budget consolidation
- Mixed financing instruments
- Distribution of the competencies for tax legislation and taxing power
- Municipality Tax System
- Basic question of the fiscal equalization scheme
- Vertical and horizontal equalization scheme
- Allocation of other federal funds
- Demography, infrastructure

Conclusion

- Crisis is mostly seen as debt crisis of the nation states
- Germany shall keep the role model in debt reduction for Europe.
- Trend to institutionalize independent advisory bodies
- Entry into a federal tax competition with regard to debt brake dilemma is open.

Supra- and Transnationalization

EU Council and the Ministers of the Euro-Group:

- European Financial Stability Facility (EFSF) → loan guarantees: 780 billion Euro
- European Stability Mechanism (ESM) → loan guarantees: 500 billion euro,
- two bailing-out packages for Greece: 240 billion euro
- „Fiscal Pact“, „Six Pack“, „Euro-Plus-Pakt“
- European Semester: EU Directorate General has become ex-ante influence on the budgeting process of EU member states (→ “debt brake”)