

Ihr Zeichen, Ihre Nachricht vom

Mein Zeichen (Bei Antwort angeben)

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***The status of the State of Lower Saxony as an issuer of bonds:
the constitutional basis.***

The State of Lower Saxony is one of 16 states („Laender“) in the Federal Republic of Germany

I.

In the Federal Republic of Germany the exercise of state powers and the fulfilment of public duties are divided between the „Bund“ or Federation (national state) and the „Laender“ or federal states (constituent states): both the Federation and the Laender possess statehood. Both have established institutions through which the authority of the state is exercised. With regard to the distribution of statutory powers and public duties between the Federation and the states the Basic Law (Grundgesetz) lays down the fundamental principle that competences lie with the states except insofar as such statutory powers or public duties are assigned to the Federation by the Basic Law itself or by virtue of powers contained in the Basic Law (Article 30 of the Basic Law). Thus neither the Federation on the one hand nor the states on the other possess any greater or lesser quality of statehood in relation either to each other or to third parties: each is allocated statutory powers and obligations in certain areas, and these taken together constitute the totality of state authority in the Federal Republic of Germany.

The same can also be seen from the fact that both the Federation and the individual states have by virtue each of their own constitutive powers invested themselves with constitutions, which under Article 28 of the Basic Law must both in the states and in the Federation conform to the funda-

mental principles of a republican and democratic order promoting social welfare under the rule of law, as laid down in the Basic Law.

Thus the states, despite being constituent parts of a larger body politic, possess sovereign power of their own which is not devolved from the Federation, even though this power is limited in the scope of its application.

II.

In the administration of their budgets and thus in the fashioning of their policies within the framework of their respective constitutional competences the Federation and the states are autonomous and independent of each other (Article 109 § 1 of the Basic Law); the Federation and the states enjoy equality of status.

The procurement and appropriation of the necessary funds are provided for by the public finance provisions of the Federal Constitution, which lays down the division of public duties, the responsibility for expenditure, the division of legislative competence including that for fiscal legislation, the distribution of sources of taxation and of tax revenues and the financial equalization between the Federation and the states and between the individual states themselves. This mechanism of functional interdependence between the Federation and the states within a federative system is based on the following principles (Article 106 § 3 and Article 107 § 2.1 of the Basic Law):

1. Within the limits of current revenues the Federation and the states have an equal claim to funds sufficient to cover their essential expenditure.
2. The funding requirements of the Federation and of the states are to be harmonized in a manner that allows equitable equalization to be achieved, that avoids placing an excessive burden on the taxpayer and that affords homogeneous living conditions throughout the territory of the Federal Republic.
3. Appropriate equalization measures are to be taken to compensate for the disparity in financial strength between the individual states.

On the basis of these constitutional principles, the Federation and the states form a community of financial and economic solidarity which irrespective of any disparity in size and in the geographical, economic and population structures of the individual territorial authorities (i.e. the Federation and the individual states) or of the resultant disparity in the levels of their self-generated economic and financial strength ensures the solvency of the Federation and of each of the individual states and thus by virtue of the constitution guarantees the financial soundness and creditworthiness of both the Federation and the states.

III.

The quality of statehood, the financial security and the status as an issuer of bonds of the State of Lower Saxony are to be viewed against the background of these constitutional provisions.

(signed)

(P. Neuber)

(Permanent Secretary)