

# **Green Federalism: Germany**

**Delhi, January 2016**

# National objective: Protection of the Natural Foundations of Life and Animals

Constitutional amendment of 1994 : Article 20a BL

***“Mindful also of its responsibility toward future generations, the state shall protect the natural foundations of life and animals by legislation and, in accordance with law and justice, by executive and judicial action, all within the framework of the constitutional order.”***

Here “state” means all public institutions.

# 1<sup>st</sup> Reform of Federalism (2006)

## Unbundling of Federal and State competencies

- Enlargement of State legislative Power by reducing the concurrent list (i.e education, ban on co-financing)
- Compensation: Enlarging the exclusive list (fight on terrorism; more competencies for the Federal Office of Criminal Investigations) and enlarging the concurrent list ( especially concerning environment)
- Political compromise: new federal legislative powers concerning environment > States have the right of deviate, complicated procedure, but no real relevance!

# Concurrent Legislation (Art 74 BL)

- No 24, waste disposal, air pollution control, and noise abatement (except for the protection from noise associated with human activity);
- No 29, protection of nature and landscape management;
- No 32. management of water resources.

**The last 2 items are new, but v right to deviate**

# Environment

- National minimum standards by Federal law and increasingly by EU Legislation
- Administration of States in “ their own right”
- Only light supervision by Federation
- Continuous cooperation: Standing committee of State Ministers for Environment.
- **But extensive right of environmental movements and associations to take legal actions against decisions of the administration (class actions).**
- Moral coercion by free press and civic society
- In many Cases the problem is not to reach a minimum standard but an **improved standard**, especially concerning EU legislation.

**Thank you for your attention!**