

# Work package 1

## Identifying the relevance of the landscape issue in national and regional policies

### National Report Germany

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## 1. FRAMEWORK AND METHODOLOGY

### 1.1 WP1 objectives

According to the Technical Annex WP1 intends to identify “the relevance of the landscape issue in regional development policies on EU and national level”. This report presents the results of WP1 for the German national level.

The main objectives of WP1 are:

- to find out to which extent the landscape issue is part of regional policies
- to give an overview of structures of the policy network with regard to the policies identified
- to create a basis for the evaluation (WP3) and for proposing adjustments of policies (WP6)

### 1.2 Policy screening methodology

As indicated in the title of this work package, the main focus is put on the landscape and not on the interrelation between landscape and regional development (as it is the case for the whole REGALP project and WP3). Therefore WP1 is an ambiguous task: on the one hand there is the priority of the landscape, on the other hand a basis for WP3 (evaluating the RD/CL relation) should be created.

In order to meet these requirements when filling in the policy screening matrix we decided on a bilateral methodological approach: in the frame of an extensive analyses of official and non-official texts and literature, legally binding documents (laws, regulations, binding programmes and plans, other instruments) as well as non-binding documents (programmes, declarations etc.) have been selected if they either mention landscape explicitly or let expect (from literature or professional experience) impacts on landscape / regional development. Expert interviews haven't been carried out so far, but probably will be in WP3.

As far as legal documents are concerned, only laws, directives etc. *in force* have been filled in the matrix, with only the exception of the Federal Nature Conservation Act which has been amended in March 2002. This updated version seems to be too new for evaluation so that the version from 1998 has been selected for the matrix. Non-binding documents have also been added to matrix but it has to be stated that the main emphasis has been put on legal documents.

The screening covered both national level (Federal Republic of Germany) and the regional level which in the German case is exclusively the Bundesland Bavaria. Binding instruments linked to national or regional binding documents but concerning the municipal level have been mentioned in matrix although the communal level shouldn't have been considered within WP1. Because of the high relevance of these instruments, above all in the frame of the pilot regions' analyses, we decided to mention them in the matrix anyway.

This way of proceeding led in the first tranche to a list of more than 50 national and regional *binding* documents, non-binding documents not yet included. To reduce this large number all

the documents referring only to a very specific issue (like the Plant Protection Law) were not taken over into the final matrix version. Such specific documents of course do have impacts on the landscape but seem not to be really relevant regarding the overall theme of REGALP. This method did produce the results presented in the text and matrix below.

## 2. INTRODUCTION: SPECIFIC SITUATION GERMANY

### 2.1 Political Development of the cultural landscape issue since 1970

#### 2.1.1 Federal Republic of Germany

In 1971, as a first result of the upcoming environmental discussion at the end of the 1960ies / beginning of the 70ies the Federal Government set up the first Environmental Programme defining environmental protection as an essential State's task. As a consequence several environmental laws were introduced during the 70ies. These legal acts on the one hand had a strong focus on protecting abiotic environmental media, on the other hand, the Reichsnaturschutzgesetz dating from 1935 was replaced by the new Federal Nature Conservation Act (BNatSchG) in 1976. The new act laid stress explicitly upon further development and reconstruction of damaged landscapes, contrasting the one-way orientation to mere nature conservation of the Reichsnaturschutzgesetz.

Until the foundation of the Federal Ministry for Environment, Nature Protection and Nuclear Safety (BMU) in 1986, the federal environmental competences were split up on seven separate resorts spread over the different Federal Ministries while nature conservation competences were located at the Federal Ministry for Agriculture. As a result of its further growing social importance the protection of natural basics was laid down as a Federal State's basic objective within Art.20a of the German Constitution.

After the Rio Declaration on Environment and Development in 1992 the idea of sustainable development was taken over into German Environmental policy as the overall concept: the so-called "National Strategy of Sustainability" was developed, the BMU worked out the "Environmental Main Focus Programme" and the Federal Nature Conservation Act was amended in 1998 and again in May 2001. Essential innovations of these amendments are the implementation of the NATURA 2000 directive, a new orientation of the relationship between agriculture and nature protection and the objective of a nationwide biotope network on 10% of the Federal area.

#### 2.1.2 Bundesland Bavaria

In 1970 the Bavarian State Ministry for Regional and Environmental Affairs (BayStMLU) was founded. In the same year the conservation of rural areas as cultural landscape was stated within the Bavarian Agricultural Promotion Act (LwFöG). This act built the basis for the Bavarian Grassland Programm of 1972 benefiting above all the agricultural businesses of the Alps and the low mountain ranges by payments provided by the Bavarian Ministry for Agriculture for landcare measures for the first time ever. In 1983 the programme was advanced to the so-called Bavarian Alps- and Low Mountain Range Programme intended to promote protection, care and

development of cultural landscape by extensive agricultural land-use. This programme was further developed into the Bavarian Cultural Landscape Programme (KULAP) in 1988 and updated in 1992 taking into account the new legal frame set by the Council Regulation (EEC) 2078/92 (on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside) and extending the programme's scope on the whole Bundesland. The conservation of the natural basics and of cultural heritage was fixed as a State's main objective in the Bavarian Constitution (Art.3(2), Art. 141) in 1984.

In the frame of the Agenda 2000 the KULAP as well as further agricultural and environmental funding programmes aiming at the environmental compatibility (like the Nature Protection Contract Programme VNP) were subsumed in the Rural Development Plan of Bavaria (implementation of the EU directive 1257/1999).

## 2.2 Definitions of key terms in the national context

The following definitions of key terms reflect the perception in the frame of German *official* documents if not otherwise identified.

### ***Cultural landscape***

There is no official specific definition for cultural landscape. The Federal Spatial Planning Act just states in §2 (13) that “the historical and cultural coherences as well as the regional togetherness have to be conserved. Grown cultural landscapes have to be conserved regarding their typical features, their cultural and natural monuments.” The Bavarian Land Planning Act mentions in Art. 2 (10) the land utilised by agriculture and forestry as “cultural landscape”. The up to date comprising study “Spatial Planning in Germany” (ARL 2002) gives the following overall description reflecting the current usage of the term: “A cultural landscape is a landscape area whose characteristics in terms of overall structure, land use, fauna and flora species and water and energy reserves have largely been shaped by human activity. The eco-systems it contains are thus predominantly anthropogenic. The term today includes all of the landscapes close to densely populated areas. These contrast with natural (or at least nearly-natural landscapes).”

### ***Nature and Landscape***

To avoid semantic difficulties German legal documents make always use of the couple *nature* and *landscape*. *Nature* is not being used as a separate term. Nature and landscape according to the official perception therefore consist of abiotic environment (soil, water, air, climate), biotic environment (animals and plants) as well as of their interrelation and of the interrelation with human beings.

### ***Natural basics (natürliche Lebensgrundlagen)***

Natural basics are being defined in Federal Nature Conservation Act §1: natural household, natural goods, plants and animals as well as diversity, peculiarity and beauty of nature and landscape.

### ***Spatial planning (cf. also paragraph 5)***

Spatial planning (Raumplanung) in Germany is used as a collective term for comprehensive (i.e. supra-sectoral) planning. On the three levels Federation, Länder and municipalities: spatial planning at Federal level (Raumordnung), Land-level spatial planning (Landesplanung) including regional planning (Regionalplanung) and urban land-use planning at communal level (Bauleitplanung).

### ***Region***

Art. 2 (2) of the Bavarian Land Planning Act defines region as follows: “Areas with existing living and economic conditions or such conditions to be developed, which do correspond with spatial planning’s demands, are being merged as regions. One region should cover the area of several Landkreise (counties). The area of one municipality mustn’t be split.”

The term *region* in German legislative and administrative context stands for the administrative level of planning regions. In Germany’s federal structure this level is located between Administrative Districts (Regierungsbezirke, NUTS 2) and Landkreise (NUTS 3). One planning region consist of several Landkreise and all the associated municipalities. German regions in this sense are therefore different from the EU’s notion of *region*, which regards the complete Administrative Districts as European regions. More details concerning the German regional level and regional planning can be found in section 3 and 4. Besides this official understanding there are of course different diffuse perceptions of the term “region” regarding various areas from one alpine valley to complete administrative districts. This document uses the term *region* exclusively in the official meaning.

### ***Public policies***

This term does not exist in Germany. Trying to transfer the French notion on the German situation leads to the perception of public policies as Federal Ministries’ areas of operations (Geschäftsbereiche der Ministerien).

### ***Regional policy***

The term “regional policy” summarizes the measures aiming at the reduction of regional imbalances and at the creation of more equal competitiveness between the regions. Regional policy concentrates principally on regions marked by high underemployment, unemployment and outbound migration. Its chief aim is to improve the economic and social structure as well as the general living conditions in laggard regions. This is a matter directly related to the Joint Responsibility of Bund and Länder (Gemeinschaftsaufgabe) for “improving regional economic structures” according to Basic Law, Art.91.

### ***Instruments***

*Instruments* are means for implementation of policy objectives. This perception refers to the chain from laws via instruments to effects. Analysing *instruments* within the policy screening of WP1 in this sense leads to the result that documents like the Bavarian Land Development Programme (Landesentwicklungsprogramm Bayern, LEP) is in the matrix being classified as an instrument although it has of course a legally binding character.

### 3. SELECTION OF POLICY SUBJECTS

Following policy subjects (sectoral policies) have been selected for Germany due to their relevance for the landscape issue / the RD/CL relation (the assessment of the policies' relevance did not follow strict evaluation criteria but mainly relies on professional experience):

- Spatial planning and Regional Development
- Settlement and Housing
- Environmental and Nature Protection
- Agriculture
- Forestry
- Transportation

The reason for the fact that “tourism” is not part of the German policy subjects is that objectives regarding tourism are integrated into other subjects (economy policy, spatial planning, nature protection etc.) so that “tourism” cannot be regarded as a separate sectoral policy. Regional development isn't handled as a separate sectoral policy either, because its issues are embedded into spatial planning policy above all. Spatial planning policy on Bundesland level could be seen as “regional development policy”, but in order to reflect the hierarchy of the German spatial planning system, it is treated under “spatial planning”.

The selected sectoral policies correspond to the following German public policies (based on the understanding of “public policies” as the fields of public action of Federal Ministries; “public policy = area of operations of the Ministries”):

- Spatial planning, Transportation, Building and Housing Policy  
(Federal Ministry for Transportation, Building and Housing)
- Environmental Policy  
(Federal Ministry for the Environment, Nature Conservation and Nuclear Safety)
- Agricultural and Forestry Policy  
(Federal Ministry for Consumer Protection, Nutrition and Agriculture)

On regional level these “Federal” public policies are linked to the following ministries:

- Building and Housing  
(Bavarian State Ministry of the Interior)
- Economy and Transportation  
(Bavarian State Ministry for Economy, Transportation and Technology)
- Regional development and Environment  
(Bavarian State Ministry for Regional development and Environmental Affairs)
- Agriculture and Forestry

## 4. DESCRIPTION OF THE POLITICAL AND ADMINISTRATIVE SYSTEM

### 4.1 Fundamental principles

The basic political structure of the Federal Republic of Germany is laid down in the German Constitution, the so-called Basic Law (Grundgesetz) of May 23<sup>rd</sup> 1949. Its general principles are the four pillars democracy, a state founded on the rule of law, social state and federal state. The organisation of the Republic as a union of states in which the exercise of State power is shared between the Federation (Bund) and the component states (Bundesländer) is of highest importance for the REGALP project. The vertical separation of powers determines the whole political, legislative and administrative structure and stands in sharp contrast to centralist models of state as the federal principle promotes regional peculiarities to a degree hardly conceivable in centralist states.

### 4.2 Legislative and administrative structure

Administrative Level	State	Regional Authorities
<b>Bundesrepublik Deutschland</b> <b>Federal Republic of Germany</b> NUTS 0	<b>Legislative power:</b> Bundestag, Bundesrat <b>Executive power:</b> Bundesregierung, Ministries: <ul style="list-style-type: none"> <li>• Office for Foreign Affairs</li> <li>• FM of the Interior</li> <li>• FM for Justice</li> <li>• FM for Defence</li> <li>• FM for Labour and Social Affairs</li> <li>• FM for Education and Research</li> <li>• FM for Consumer Protection, Nutrition and Agriculture</li> <li>• FM for Family, Seniors, Women and Youth</li> <li>• FM for Health</li> <li>• FM for the Environment, Nature Conservation and Nuclear Safety</li> <li>• FM for Transportation, Building and Housing</li> <li>• FM for Economy and Technology</li> <li>• FM for Economic Cooperation and Development</li> <li>• Commissary for Culture and Media</li> </ul>	
<b>Bundesländer</b> NUTS 1 (16)	<b>Legislative power:</b> Landtage <b>Executive power:</b> Landesregierungen, Ministries	
<b>Bundesland Bayern</b> NUTS 1 (the German alpine space is situated exclusively in the Bundesland Bayern)	<b>Legislative power:</b> Landtag of Bavaria <b>Executive power:</b> Landesregierung of Bavaria, Ministries: <ul style="list-style-type: none"> <li>• BM of the Interior</li> <li>• BM for Justice</li> <li>• BM for Science, Research and Arts</li> <li>• BM for Education and Culture</li> </ul>	

	<ul style="list-style-type: none"> <li>• BM for Finance</li> <li>• BM for Economy, Transportation and Technology</li> <li>• BM Health, Nutrition and Consumer Protection</li> <li>• BM for Agriculture and Forestry</li> <li>• BM for Labour, Social Affairs, Women and Family</li> <li>• BM for Regional Development and Environment</li> </ul>	
<b>Regierungsbezirke</b> <b>(Administrative Districts)</b> NUTS 2 (total 7, 2 having part in the alpine space )		<b>Legislative power:</b> none <b>Executive power:</b> Bezirksregierungen
<b>Landkreise und kreisfreie Städte</b> <b>(Rural Districts and cities)</b> NUTS 3 (71 Landkreise, 25 kreisfreie Städte in the Bundesland Bavaria, 10 Landkreise with part in the alpine space)		<b>Legislative power:</b> Kreistag <b>Executive power:</b> Landratsamt
<b>Gemeinden</b> <b>(Municipalities)</b> NUTS 4 (2031 Gemeinden in Bavaria, 101 within the alpine space)		<b>Legislative power:</b> Gemeinderat <b>Executive power:</b> Gemeindeverwaltung

Tab. 1: Detailed overview German administration.

Based on the principle of federalism the legislative and administrative competencies are split up on Bund and Länder (cf. tab. 1). Competencies and tasks of Bund and Bundesländer are regulated in detail by the Constitution (cf. tab. 2). Some fields of legislation are allocated either to the Bund or to the Länder (exclusive legislation). In some fields both Bund and Länder have legislative competencies (“concurrent” legislation), with the Bund having the privilege: only if the Bund doesn’t make use of this privilege the Länder can enact laws. In practice the Bund has fully made use of this privilege in order to guarantee equality of living circumstances in the whole of Germany. For further legislative fields the Bund sets up so called framework laws (Rahmengesetze) which regulate affairs in general on national level but allows the Länder to detail the laws according to their specific situation. National laws always take priority.

Each Bundesland has its own constitution (e.g. the Bavarian Constitution) and possesses the complete institutional range of a parliamentary democracy: parliament (Landtag), government (Landesregierung), administration and jurisdiction. The Constitutions’ content have to correspond with the German Constitution’s principles. The Bundesländer contribute to the national legislation via the Federal Council (Bundesrat).

<b>Bund</b>		<b>Länder</b>
<i>exclusive legislation</i>	<i>concurrent legislation</i>	<i>exclusive legislation</i>
Foreign Affairs	Civil law	Culture
Defence	Criminal law	Police
Citizenship	Civil status affairs	Education
Identity papers	Society’s law	Health

Finance	Assembly law	Press
Foreign commerce, duties	Right of residence	Radio and television
Railway transportation, air transportation	Nuclear power	Municipal affairs (municipal constitutions, municipal boundaries)
Post and telecommunication	Labour legislation	
<b>Framework legislation</b>	Economic law	
Academic affairs	Transportation law	
Hunting, nature protection and land conservation		
Spatial planning and regional development		
Registration		

Tab. 2: Legislative competencies

#### 4.2.1.1 Administration of the Bund

Federal law (Bundesgesetze) is fundamentally being carried out by the administration of the Federal States (Bundesländer). Exceptions are tasks concerning the whole State (“gesamtstaatliche Aufgaben”, Art. 87), which cannot be committed to the Bundesländer. Foreign affairs and defence represent such tasks. The Federal Ministries are the highest administrative authorities. Subordinated to the Federal Ministries there is a large number of further public authorities (higher, middle and lower authorities) concerned with federal tasks (cf. fig. 1).

#### 4.2.1.2 Administration of the Bundesländer

The Bundesländer implement the laws of the Bundesland as well as the laws of the Bund on behalf of the Bund. The administration of the Bundesländer (cf. fig. 2) is again organised as a hierarchical system with the Ministries as the highest administrative authorities on the level of the Bundesländer. On the inferior level they are followed by the “District governments” which represent the Bavarian Government on the district level and administrate the so called “Regierungsbezirke” (Administrative Districts). The seven Bavarian District Governments are joined to the Bavarian Ministry of the Interior but they nevertheless carry out sectoral tasks of almost all the other Bavarian Ministries.

Subordinate to the “Regierungsbezirke” are the “Landkreise” (Rural Districts). The administration of the Landkreise is being carried out by the so called “Landratsämter”.

### Die Organisation der Bundesverwaltung

Die Organisation der Bundesverwaltung kann nur beispielhaft dargestellt werden, nur ein Teil der Behörden unterhalb der Ebene des Bundesministeriums konnte aufgenommen werden.

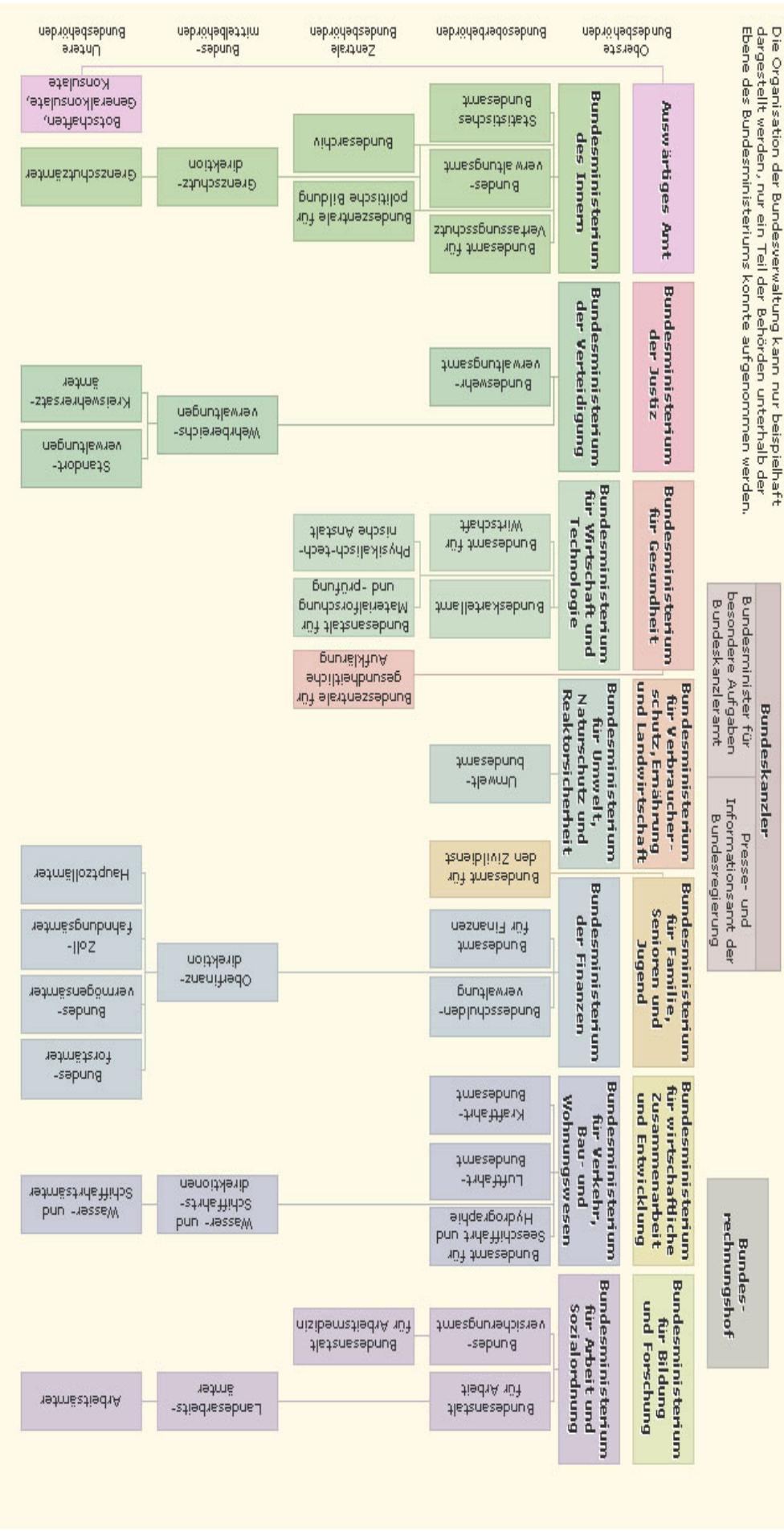


Fig. 1: Administrative organisation of the Bund. Source : [http://www.bund.de/Bild/original\\_63882/bild.jpg](http://www.bund.de/Bild/original_63882/bild.jpg)

Landesverwaltung

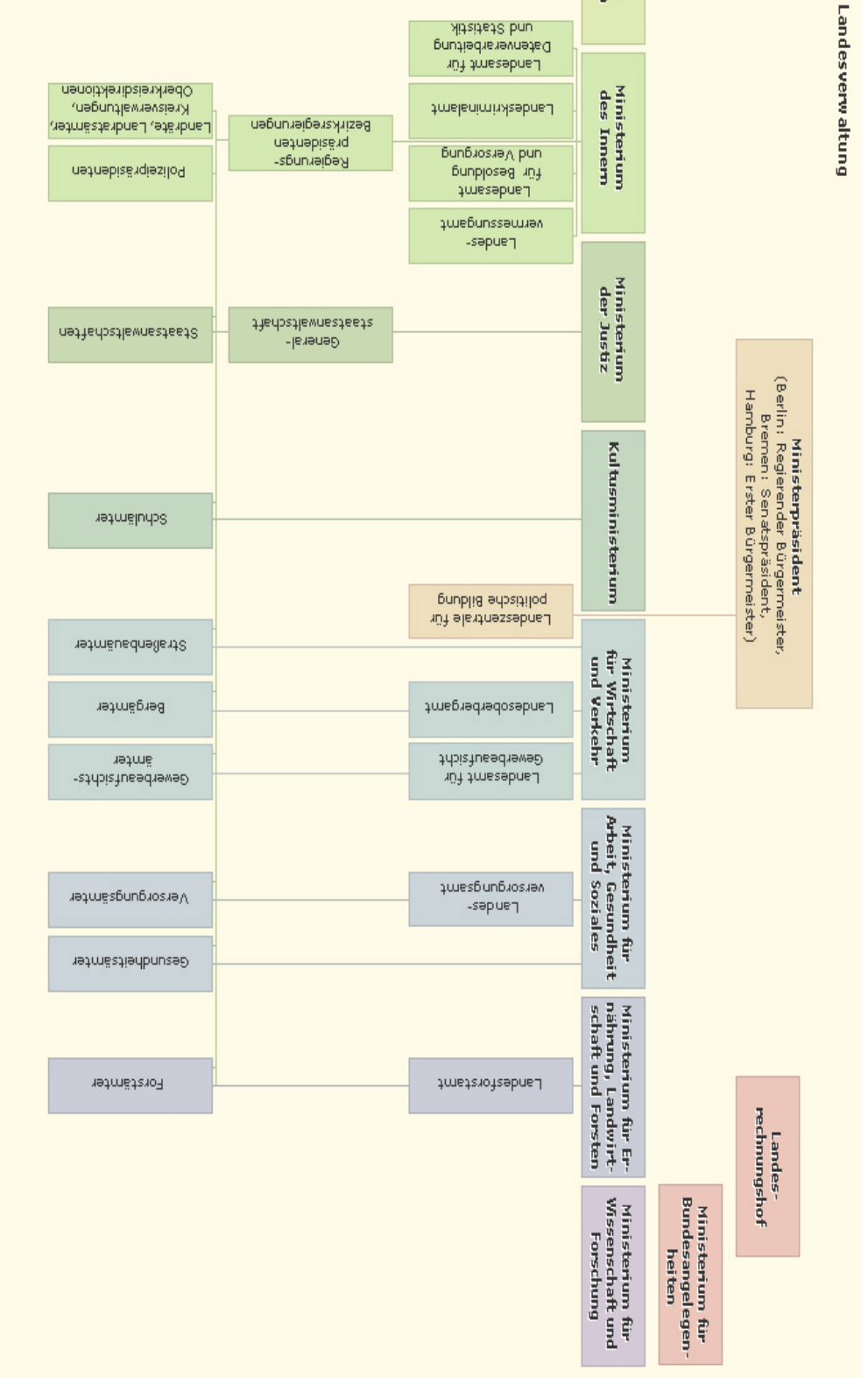


Fig. 2: Administrative Organisation of a Bundesland. Source : [http://www.bund.de/Bild/original\\_53250/bild.jpg](http://www.bund.de/Bild/original_53250/bild.jpg)

#### 4.2.1.3 Administration of the Landkreise (Rural Districts)

Tasks that cannot be fulfilled by municipalities are taken over by the Landkreise. Such tasks concern for example schools, hospitals, district roads etc. The institutions of a Landkreis are the district council with its leader, the “Landrat”, and the district administrative authorities.

#### 4.2.1.4 Administration of the municipalities

Within Germany’s federal structure the municipalities represent the lowest of the 3-level administrative hierarchy, subordinate to Bund and Bundesländer. They possess their own municipal constitutions (“Gemeindeordnung”) which are set up by the Landtag (parliament of the Bundesland). Municipalities are ruled by the mayor and the municipal council (“Gemeinderat”). In the frame of local self-administration the municipalities have their own competencies and finance. According to constitutional law they nevertheless are part of the Bundesländer. Bund and Bundesländer assign tasks to the municipalities and decide on their funds. This means that the municipalities carry out tasks on behalf of Bund and Bundesländer on the one hand and on the other hand tasks in the frame of their local self-administration.

The system of self-administration consists of the following features:

- Competency of staff
- Competency of organisation
- Competency of planning: land use-plans and municipal development plans are set up by the municipality
- Competency of setting up municipal statutes
- Competency of municipal finance
- Competency of municipal taxes

### 4.3 Relation public policies – policy subjects

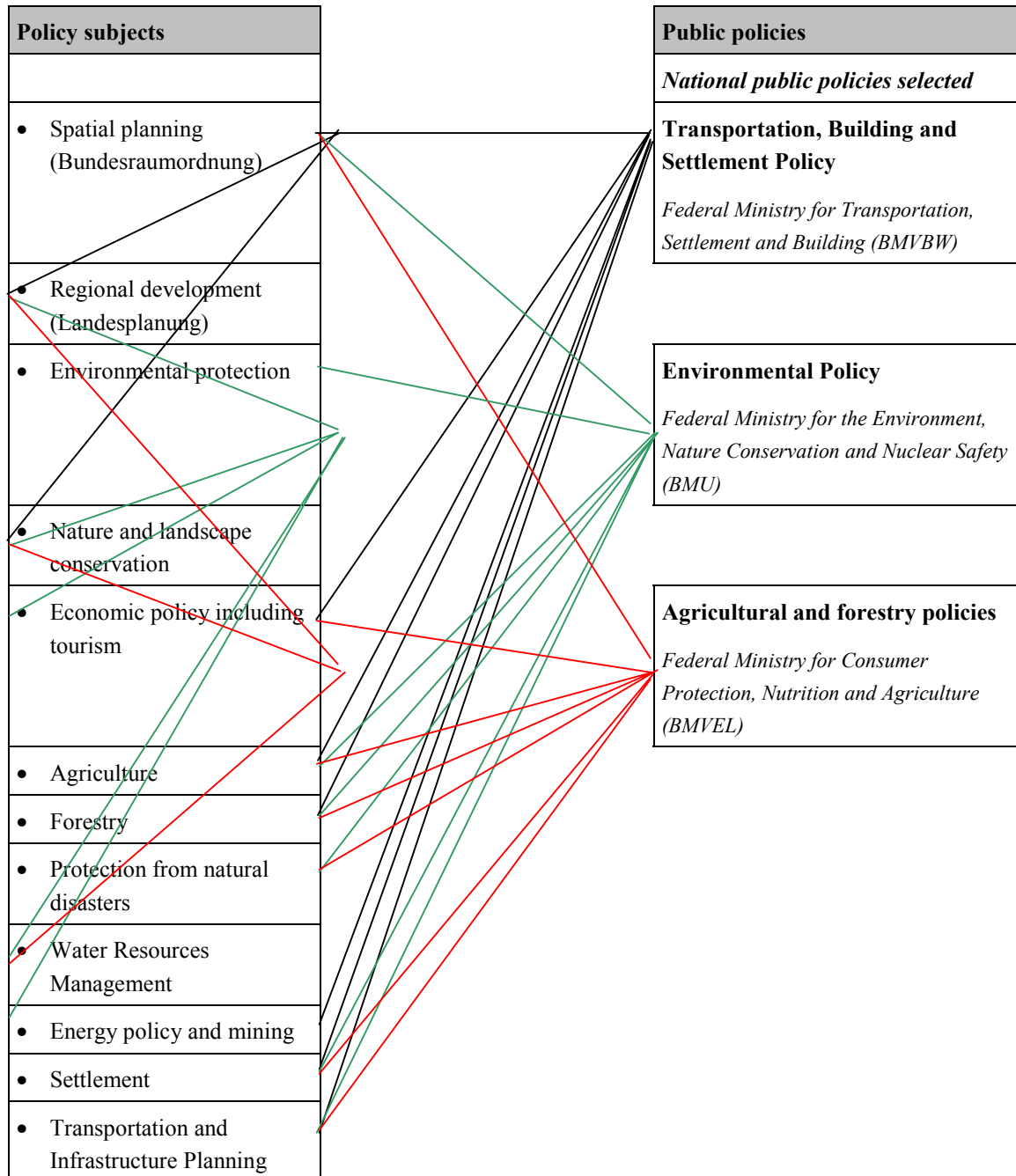


Fig. 3: Relation public policies – policy subjects (according to CEMAGREF (14./15.3.02), Input Team Meeting 2, p. 4, Policies, Laws and Tools (1))

## 5. SPATIAL PLANNING AND REGIONAL DEVELOPMENT

The spatial planning hierarchy is structured according to Germany’s administrative levels (cf. tab. 4). The Planning Region level is a peculiarity between Bundesland and municipal level (cf. 4.3). Special attention has to be drawn to the last column “Instruments”: the planning instruments connected to the spatial planning laws always have to feature an additional environmental planning part (written between brackets) according to nature protection law (cf. 5.). This shows the intense interrelation between spatial planning as an interdisciplinary and nature protection as a sectoral field in Germany.

Administrative level	Non binding documents	Responsible Institution	Binding documents	Instruments
Federal Republic of Germany	Spatial planning action framework programme	Federal Ministry for Transportation, Building and Housing	Federal Regional Planning Act	see below
Bundesland Bavaria		Bavarian State Ministry for Regional Development and Environment	Bavarian Land Use Planning Act	Bavarian land development programme (LEP) Landscape framework programmes Landscape Plans
Planning regions				Regional Plans / Landscape Programme
Municipality				Communal Land-use plans Communal Landscape plans
Municipality (part)				Communal building plans / Communal Green Structure’s plans

Tab. 4: Spatial planning hierarchy

### 5.1 National level

According to Germany’s federal structure a central planning institution does not exist. With the Federal Spatial Configuration Act (Bundesraumordnungsgesetz) from 1998 the Bund has set up the framework law which represents the scope for the Land Plannings Acts of the Länder. There is no legally binding plan of the federal spatial planning and development. The concerned Federal Ministry Transportation, Building and Housing submitted only the so called Spatial Planning Action Framework Programme (Raumordnungspolitischer Orientierungs- und Handlungsrahmen) in 1992 which is not directly binding.

The means of implementing the Spatial Configuration Act's objectives (cf. matrix) are the binding instruments cited in the legal text: spatial development plans, Regional Plans (which are not specified in further detail) and Regional Planning Procedure (Raumordnungsverfahren). The Regional Planning Regulation (Raumordnungsverordnung) from 1990 lists the measures for which a Regional Planning Procedure has to be carried out in order to find out whether these measures are compatible spatial configuration and nature protection objectives.

Though these instruments are mentioned in the federal law they cannot be regarded as federal instruments as the implementation takes place on inferior administrative levels. Spatial development plans concern the administrative level of the Bundesländer, regional plans the level of the planning regions which is the level between Regierungsbezirke (NUTS 2) and Landkreise (NUTS 3).

Besides the Spatial Planning Act the Federal Building Law from 1997 is important to mention. The Ministry concerned with is the Federal Ministry of the Interior. The Building Law does not represent a framework law but contains detailed provisions for all the Bundesländer. The objectives and connected instruments mentioned concern in fact the municipal and regional level more than the national level.

## 5.2 Level of the Bundesland Bavaria

The Federal Spatial Configuration Act is concretised by the Bavarian Land-Use Planning Act from 1997. It regards the specific requirements of the Bundesland Bavaria and therefore is much more detailed (cf. matrix). In order to fulfil the Act's objectives there are several spatial planning instruments whereby legally binding instruments have to be distinguished from so called "soft" instruments. In contrast to the binding instruments the soft instruments don't have legally binding character and are not run all over the country. Such instruments rather provide recommendations and procedures which can be put into practice voluntarily in co-operation with local actors.

### *Legally binding instruments:*

- Establishment of binding programmes and plans for
  - the whole of Bavaria: Bavarian Land Development Programme (Landesentwicklungsprogramm Bayern, LEP),
  - parts of Bavaria, the so called Planning Regions (Planungsregionen): Regional Plans
  - specific sectoral affairs: sectoral technical programmes and plans (fachliche Programme und Pläne)
- Regional Planning Procedure (Raumordnungsverfahren): procedure of examining the spatial and environmental comparability of plannings and measures of spatial relevance

### *"Soft" instruments:*

- Spatial concepts for specific areas (spatial expertises, (cross-border) spatial development conceptions, regional management, regional marketing)
- Regional Management: measures aiming at the implementation of programmes, plans and concepts

As far as the Bavarian Building Law is concerned, the same has to be said as for the Federal Building Law. The provisions of the national act are further concretised but above all the connected instruments like Land-Use Plan etc. are implemented on municipal level and are administered at least partially by the municipal self-administration.

### 5.3 Planning Regions level

The level of Regional Planning is located between the administrative levels Regierungsbezirke and Landkreise, i.e. between NUTS 2 and 3. Hereby all municipalities and Landkreise situated in one planning region are incorporated in a so called Regional Planning Association (Regionaler Planungsverband). The 7 Bavarian Regierungsbezirke (Districts) are further subdivided into 18 Planning Regions in total with three of them having part in the German alpine space (Allgäu, Oberland and Southeast Upper Bavaria region). Within the Association, each municipality and each Landkreis possesses seat and vote. This means that the Regional Planning is of municipal character. Therefore Regional Planning takes an important mediating role between the Bundesland Bavaria and the self-administered municipalities. The term “region” used in the official way is thus always meant as “Planning Region”. This definition differs from the EU-usage of the term “region” which concerns the German Regierungsbezirke (NUTS 2).

The Regional Planning’s main task is the establishment of Regional Plans for the Planning Region. Regional Plans are means for implementing the LEP’s objectives on regional level. The framework given by the LEP is being concretised both in content and spatially by the Regional Plans. Further tasks are the participation in setting up planning objectives on Bavarian level and in establishing sectoral plans and programmes as well as the involvement in Regional Planning Procedures and Urban Land Use Planning Procedures (Bauleitplanung).

### 5.4 Municipality level

These levels are not examined in the frame of WP1. Despite of this it is important to mention the fact that the municipal self-administration competencies include the Urban Land Use Planning Procedure (Bauleitplanung) with the establishment of Land Use Plans (Flächennutzungsplan), Landscape Plans (Landschaftsplan) and Communal Building Plans (Bebauungsplan) which represent the implementation of spatial planning objectives on the local level. This lowest planning level containing a large number of on-site specific recommendations and measures concretises the superordinate and multidisciplinary provisions of the higher levels in detail.

## 5.5 Analysis of objectives

In order to analyse the objectives gathered for the policy subject spatial planning (cf. matrix) in brief, the objectives have been classified according to their main aspect intended (spatial planning *sensu strictu*, settlement, economy etc.).

Binding documents – objectives	Federation	Bavaria
<i>spatial planning, regional development</i>		
development, protection and organisation of the total area of Germany (Bavaria) and its partial areas	BROG	BayLPIG
coordination of spatially relevant plannings and measures (with the demands of regional planning, Bavaria)	BROG	BayLPIG
sustainable spatial development	BROG	
counter flow principle	BROG	
strengthening the partial areas' diversity	BROG	
creation of equal living conditions in all areas	BROG	BayLPIG
development of rural areas as living and economic spaces	BROG	
consideration of the natural situation of the partial areas		BayLPIG
<i>settlement and housing</i>		
development of a balanced structure of settled and undeveloped areas	BROG	
conservation of decentralised settlement structure	BROG	BayLPIG
avoidance of uncontrolled development of settlement	BROG	BayLPIG
<i>Transportation</i>		
creation of effective linear development structures		BayLPIG
planning of transportation infrastructure providing efficient connections		BayLPIG
<i>Economy</i>		
improving the regional economic structures	Basic Law, BROG	BayLPIG
creation of prerequisites for economic development	BROG	BayLPIG
improvement of the prerequisites for development in economically underdeveloped areas	BROG	BayLPIG
<i>agriculture, forestry</i>		
conservation of agriculture, agricultural areas and forests	BROG	BayLPIG
conservation of land utilised by agriculture and forestry as <b>cultural landscapes</b>		BayLPIG
improvement of agriculture's and forestry's yields		BayLPIG
<i>Tourism</i>		
conservation (and creation, Bavaria) of areas suitable for recreation	BROG	BayLPIG
public access to mountains, seas and rivers and other beautiful landscapes		BayLPIG
<i>environmental and nature protection</i>		
protection and development of natural basics	BROG	BayLPIG,
conservation of the natural households' functionality	BROG	BayLPIG
protection, care and development of nature and <b>landscape</b>	BROG	BayLPIG
conservation of <b>historic cultural landscapes</b>	BROG	
conservation and protection of areas of outstanding beauty and peculiarity	BROG	BayLPIG
sparing use of natural goods	BROG	
compensation of inevitable interferences by landcare measures		BayLPIG
conservation of a well-regulated waterhoushold		BayLIG

## Overview

	<i>national level</i>	<i>Land-level</i>
<i>legislation competency</i>	framework legislation	Concretisation
<i>number of objectives<sup>1</sup></i>	21 / 14 / 7	22 / 14 / 8
<i>main focus</i>	<ul style="list-style-type: none"> <li>• spatial planning, regional. dev. (7)</li> <li>• environm.&amp; nature portection (6)</li> </ul>	<ul style="list-style-type: none"> <li>• environm.&amp; nature portection (6)</li> <li>• spatial planning, regional. dev. (4)</li> </ul>
<i>additional focus<sup>2</sup></i>	<ul style="list-style-type: none"> <li>• settlement (4)</li> <li>• economy (3)</li> </ul>	<ul style="list-style-type: none"> <li>• settlement (3)</li> <li>• agriculture, forestry (3)</li> <li>• transportation (2)</li> <li>• tourism (2)</li> </ul>
<i>objectives' orientation</i>	cross-section	strongly cross-section
<i>objective concreteness</i>	general	general / Land-specific
<i>implemetation level</i>	Land, planning region, municipality	Land, planning region, municipality
<i>most important act(s)</i>	BROG	BayLpLG

<sup>1</sup> total / equal on both levels / exclusive on one level

<sup>2</sup> only policy subjects with more than one sectoral objectives mentioned

**General character:** Spatial planning as a separate policy subject is clearly cross-section oriented and characterised by the hierarchical legislative structure with the Federal Spatial Planning Act on national level providing the general framework which is concretised by the Bavarian Land Planning Act.

**Sectoral aspects of objectives:** As far as the objectives are concerned the majority of them is being mentioned by both acts. Herby it has to be stated that the more general Federal aims are in fact concretised on Land-level by adjustments to the specific Bavarian situation. Both acts have to be seen as cross-section documents with the main focus on spatial planning and regional development (in a narrow sense), nature protection and settlement. An astonishing result of the objective analysis is that the Bavarian Land Planning Act features more objectives aiming at nature protection than those aiming at spatial planning. Additionally, both acts contain several more aims dealing with further issues. On national level these are above all economical issues whereas on Bavarian level there are further focuses on agriculture and forestry, transportation and tourism.

**Priorities of objectives:** Regarding the priority of objectives the co-ordination of spatially relevant plannings and measures, sustainable spatial development and the creation of equal living conditions in all parts of the country in accordance with nature protection demands take the first place. Explicitly mentionend is the development of rural areas which seem to be regarded as disadvantaged regions in the economic sense. Another focus is therefore put on the economic development in the rergions, especially in economically underdeveloped areas. The development intended should be enacted with strong regards to protection of nature and

landscape (in its different definitions like “natural basics”, “natural household” etc.) whereby the protection of “historic cultural landscapes” is emphasised. The objectives concerning settlement above all aim at a balanced development of decentralised settlement structures.

**Instruments and implementation:** The instruments linked to the acts are mainly cross-section planning instruments concerning the Land- and subordinate levels. The provisions stated on national level are concretised on Bavarian level and adapted to the Land-specific situation. Therefore the administration of the Land is responsible for setting up the plans and implementing them. This means that there is no central planning organ on Federal level. The Ministry concerned is the Bavarian Ministry for Land Development and Environmental Affairs. The cross-section character of the plans becomes obvious in their integration of sectoral plans like agricultural and forestry plans as well as a whole chapter concerning nature and landscape. In addition, the Regional Planning Procedure has to be mentioned as an important instrument taking place on regional or communal level and leading to permission or interdiction of spatially relevant projects intended.

**Relevance of “landscape” / relation RD/CL:** The term “cultural landscape” is mentioned explicitly once in an agricultural context and once with an nature conservation aspect. “Landscape” is only mentioned once as an nature protection issue again. In each case “landscape” is referred to with concerns of conservation and protection. Within the spatial planning objectives “landscape” is not mentioned at all. Spatial planning objectives refer more to “areas” and “spaces” on a superordinate level which of course includes landscape. Therefore it can be stated that within in policy subject “spatial planning” the relevance of landscape is above all of a conservative aspect; the relation between RD and CL is not being expressed clearly but derivable regarding the implicit connection between the intention of a kind of development which should be connected with landscape conservation

## 6. SETTLEMENT AND HOUSING

The policy subject “settlement and housing” is being dominated by the two main acts “Baugesetzbuch” on national level and “Bayerische Bauordnung” on Land-level. As both above all concern the communal level (which is not the main focus of WP1) the gathering of objectives for the matrix has not been carried out in the same depth as for the binding documents regarding the national or Land-level. This way of proceeding leads to less objectives mentioned in the matrix and has to be considered when comparing the different policy subjects.

Binding documents – objectives	Federation	Bavaria
<i>spatial planning, regional development</i>		
<i>settlement and housing</i>		
sustainable urban development	BauGB	
limitation of sealing soil by building	BauGB	
avoidance of deforming the <b>landscape</b> quality (Landschaftsbild) by buildings		BayBO
<i>transportation</i>		
<i>economy</i>		
<i>agriculture, forestry</i>		
<i>tourism</i>		
<i>environmental and nature protection</i>		
protection and development of natural basics	BauGB	BayBO
sparing use of land	BauGB	
avoidance and compensation of inevitable interferences by landcare measures	BauGB	

## Overview

	<i>national level</i>	<i>Land-level</i>
<i>legislation competency</i>	framework legislation	concretisation
<i>number of objectives<sup>1</sup></i>	5 / 1 / 4	2 / 1 / 1
<i>main focus</i>	<ul style="list-style-type: none"> <li>• environm.&amp;nature protection (3)</li> <li>• settlement and housing (2)</li> </ul>	<ul style="list-style-type: none"> <li>• settlement and housing (1)</li> </ul>
<i>additional focus<sup>2</sup></i>		<ul style="list-style-type: none"> <li>• environm.&amp;nature protection (1)</li> </ul>
<i>note!</i>		<i>the majority of objectives is concerning communal aspects which are not mentioned in the matrix -&gt; low number of objectives!</i>
<i>objectives' orientation</i>	sectoral / slight env. focus	sectoral
<i>objective concreteness</i>	general - concrete	concrete, Land-specific
<i>implemetation level</i>	municipality	municipality
<i>most important act(s)</i>	BauGB	BayBO

<sup>1</sup> total / equal on both levels / exclusive on one level

<sup>2</sup> only policy subjects with more than one sectoral objectives mentioned

**General character:** Settlement and housing policy has to be regarded as a sectoral policy with an additional but slight focus on environmental and nature protection issues. Taking only the policy screening matrix and the overview above into account probably leads to the false conclusion of the relevant acts featuring a low number of objectives. The reason for this impression lies in the strong communal focus of Federal and Bavarian Building Code which hardly contain any objectives relevant for the supra-local level.

**Sectoral aspects of objectives:** The overall majority of objectives is clearly concerned with sectoral aspects of settlement and housing. The actual part of nature and environmental protection aims is far lower than presented in the table above (for the reason of communal concerns prevailing).

**Priorities of objectives:** Communal concerns, which are not part of the analyses in WP1, clearly represent the priority. Additionally there is a general emphasis on sustainable urban development in an environmentally friendly way which has to be regarded as a basic principle.

**Instruments and implementation:** The instruments linked to the acts are almost exclusively various planning instruments concerning the communal level. Responsible for these plans are the counties and the municipalities. Besides that there is the weighing of interests and furthermore the obligation for EIA for specific projects.

**Relevance of “landscape” / relation RD/CL:** The term “cultural landscape” is mentioned only once regarding the conservation of landscape quality. Due to the mainly communal oriented objectives a supra-local and superordinate approach concerning landscape is not included. Therefore the relevance of landscape issues within this policy subject is on explicit level quite low but implicated in some objectives (“sustainable development” etc.). The RD/CL relation seems to consist in the intention of settlement development connected with landscape conservation as far as possible – whereby the development aspect clearly has priority.

## 7. ENVIRONMENTAL AND NATURE PROTECTION

Article 20a of the German Constitution, recorded in the year 1994, lays down the basis of German environmental policy: “Assuming the responsibility for future generations, the State protects the natural basics (natürliche Lebensgrundlagen)”. The major part of current German environmental law in force is national law. The fundamentals are several fields of concurrent legislation either dealing exclusively with specific environmental issues (e.g. waste management etc.) – which have not been considered as relevant for REGALP due to their specific focus on only partial aspects of the landscape – or containing environmental aspects as additional issues (e.g. economy, transportation etc.). Furthermore there is a number of framework legislation competencies, e.g. nature and landscape protection, spatial planning.

The most important binding document in this field is Federal Nature Conservation Act from 1998, updated in May 2002, which is concretised by the Bavarian Nature Conservation Act. The latest version can not be taken into account due to the extensive changes compared to the version from 1998. Additionally, the EU FFH- and Birds Directive are implemented on national level in the frame of the Federal Nature Conservation Act and on regional level in the frame of the Bavarian Nature Conservation Act. Furthermore there are the laws concerning the natural media soil, air and water (cf. matrix).

The objectives of the binding documents on national level and the provisions of the instruments connected are being concretised on Bavarian level by the corresponding Bavarian acts (cf.

matrix) – except for the Environmental Impact Assessment Act which has no equivalent in Bavarian legislation.

With regard to the connected planning instruments, sectoral plans and the environmental sectoral planning parts included into the spatial plans of different administrative levels (cf. tab. 4) have to be distinguished. Even in sectoral plans focussing on other issues than environment (e.g. major project planning), environmental concerns have to be considered. Further details about the hierarchy of planning levels can be found in the previous section. The importance of the municipal level is again given for the field of environment and nature protection for the same reasons as stated for spatial planning in 4.4.

Binding documents – objectives	Federation	Bavaria
<i>spatial planning, regional development</i>		
<i>settlement and housing</i>		
landscape compatible development of settlement		BayNatSchG
conservation of undeveloped areas	BNatSchG	BayNatSchG
conservation of typical urban (and landscape) sceneries		Bav. Constitut.
avoidance of constructions in areas obligatory for a balanced natural household or which are characterised by beauty, peculiarity, rareness or recreational value		BayNatSchG
adjustment of constructions to nature and landscape situation		BayNatSchG
<i>transportation</i>		
landscape compatible development of infrastructure		BayNatSchG
<i>economy</i>		
<i>agriculture, forestry</i>		
consideration of agriculture's and forestry's importance for the conservation of the cultural and recreational landscape	BNatSchG	
striving for sustainable land-use systems		BayNatSchG
agricultural land-use according to "good practice"	BBodSchG	BayNatSchG
land-use by agriculture and forestry aren't regarded as interferences	BNatSchG	BayNatSchG
<i>tourism</i>		
allowance of recreation in suitable areas (nature, Bavaria) nature for everybody	BNatSchG	Bav. Constitut
development, figuration and conservation of recreational areas (creation of hiking trails and recreation parks, Bavaria)	BNatSchG	Bav. Constitut.
warranty of accessibility to mountains, rivers, seas and other beautiful landscapes for the general public		Bav. Constitut
<i>environmental and nature protection</i>		
protection of natural basics	Basic Law, BNatSchG	Bav. Constitut, BayNatSchG
protection, care and development of nature and landscape	BNatSchG	BayNatSchG
conservation of natural diversity, peculiarity and beauty	BNatSchG	BayNatSchG
conservation (and long-lasting improvement, Bavaria) of natural household's capacity	BNatSchG	Bav. Constitut
caring handling of nature and landscape	BNatSchG	Bav. Constitut
special protection, care and development of parts of nature and landscape situated in settled areas	BNatSchG	
conservation of typical (urban and) landscape sceneries		Bav. Constitut
protection and care of monuments of nature and landscape	BNatSchG	Bav. Constitut, BayNatSchG
conservation of historical cultural landscapes	BNatSchG	
conservation of the Bavarian Alps natural diversity as a landscape of unique beauty		BayNatSchG

sparing usage of natural goods (sustainable use, Bavaria)	BNatSchG	Bav. Constitut. BayNatSchG
conservation of natural goods' usability	BNatSchG	
avoidance or compensation of damages to the natural household	BNatSchG	BayNatSchG
restoration and compensation of damages	BNatSchG	Bav. Constitut, BayNatSchG
sparing usage of energy		Bav. Constitut
conservation of the soil	BNatSchG, BbodSchG	BayBodSchG, BayBodSchVwV
conservation of vegetation	BNatSchG	BayNatSchG
conservation / multiplication of watercourses	BNatSchG	
protection of lakes and rivers; prevention of avoidable damages	WHG	BayWG
protection from / precaution against pollution	BImSchG	BayImSchG
conservation and development of biological diversity	BNatSchG	BayNatSchG
protection of forests	BNatSchG	Bav. Constitut
conservation of species and their habitats	BNatSchG	Bav. Constitut, BayNatSchG
creation of habitat networks		BayNatSchG
conservation and protection of areas of common importance and of the European Bird Protection areas	BNatSchG	BayNatSchG

## Overview

	<i>national level</i>	<i>Land-level</i>
<i>legislation competency</i>	framework legislation	concretisation
<i>number of objectives<sup>1</sup></i>	27 / 22 / 5	34 / 22 / 12
<i>main focus</i>	environmental, nature protection (21)	environmental, nature protection (21)
<i>additional focus</i>	<ul style="list-style-type: none"> <li>• agriculture, forestry (3)</li> <li>• tourism (2)</li> </ul>	<ul style="list-style-type: none"> <li>• settlement (5)</li> <li>• agriculture &amp; forestry (3)</li> <li>• tourism (3)</li> </ul>
<i>objectives' orientation</i>	Sectoral / cross-section	Sectoral / cross-section
<i>objective concreteness</i>	general / partially specific	general / Land-specific
<i>implemetation level</i>	Land, planning region, municipality	Land, planning region, municipality
<i>most important act(s)</i>	BNatSchG	BayNatSchG

<sup>1</sup> total / equal on both levels / exclusive on one level

<sup>2</sup> only policy subjects with more than one sectoral objectives mentioned

**General character:** Nature protection as a policy subject is characterised by the framework legislation set up by the Federal Nature Protection Act which is concretised on the Land-level by the Bavarian Nature Protection Act.

**Sectoral aspects of objectives:** The overall majority of objectives is clearly concerned with sectoral aspects of nature protection sensu strictu. Besides that there are several aims regarding agriculture and forestry and tourism on both levels whereas settlement issues are only being dealt with on Land-level. In addition there are several agricultural objectives (aiming at

sustainable and environmentally friendly land-use according to “good practice principles”) as well as an emphasis on recreational demands. Settlement objectives require landscape compatible development with regards to the specific conditions and the grown settlement structures.

**Priorities of objectives:** On the one hand, conservation of nature is obviously the main concern, on the other hand, development of nature is parallelly emphasised – but only in more general objectives. Concrete objectives do hardly mention “development” but strongly stress the conservation of the biotic and abiotic environment. Conservation is also the main aspect in all the objectives dealing with settlement, agriculture and forestry and recreation. Development intentions are only mentioned in order to provide recreational facilities.

**Instruments and implementation:** Most of the instruments linked are planning and financial instruments. As far as planning is concerned there is a strong connection to spatial plans to be set up according to BROG and BayLplG. The sectoral nature protection plans correspond exactly with the spatial planning hierarchy of Land, Planning Region and municipality. For each level a spatial plan including the sectoral nature protection plan has to be set up (LEP including Landscape Programme, Regional Plan including Landschaftsrahmenprogramm, etc.). Responsible for planning is the Bavarian Ministry for Land Development and Environmental Affairs on Land-level, the Regional Planning Associations together with the District Governments on the level of Planning Regions and the municipalities on communal level. The Ministry also handles the financial instruments, in several cases together with the District Governments, the Landkreise and/or municipalities.

**Relevance of “landscape” / relation RD/CL:** “Landscape” is mentioned many times within this policy subject due to common usage of the terms “nature and landscape” in German nature law. Landscape is mainly referred to with a protective and conservative intention but in general objectives the aspect of development is additionally mentioned. But on Land-level these development aspects are not concretised in further detail and therefore remain on an overall and superordinate level. In contrast the conservation objectives are more detailed and adjusted to the Bavarian situation in the frame of the BayLplG. The term landscape is additionally mentioned explicitly in each other sector, from settlement to agriculture, whereby “cultural landscape” is only cited in the BNatSchG referring to “the importance of agriculture and forestry for the conservation of cultural and recreational landscape” – which is a very important fact emphasising the crucial relation between landscape protection and land-use.

## 8. AGRICULTURE

The Agriculture Law was set up in 1955 in the light of the specific post-war situation and beginning structural change in agriculture and has since then never been updated so that this law is totally antiquated – the discussion about the need of a new version is in progress but with concrete results out of sight. Therefore, the most important binding document on national level is the Agrarian Structural Law (Gesetz über die Gemeinschaftsaufgabe “Verbesserung der

Agrarstruktur und des Küstenschutzes”) from 1997. The instrument linked is the so called Common Framework Plan (Gemeinsamer Rahmenplan) which contains measures and budgets to implement the Act’s objectives. The Bundesländer are responsible for executing the Common Framework Plan. The Agenda 2000 (VO (EG) Nr. 1257/1999) is being implemented on the level of the Bundesländer in the frame of the so called Development Plan for Rural Areas (Plan zur Förderung der Entwicklung des ländlichen Raumes in Bayern) including all the agrarian support programmes like Cultural Landscape Programme, Nature Protection Contractual Programme etc. Besides these laws a large number of acts focussing on specific aspects of agriculture are in force (e.g. Plant Protection Act etc.) which have not been considered as relevant for REGALP.

In Germany the agricultural and forestry affairs are always located within one ministry and are in most cases referred to as closely related issues. Splitting them into two separate policy subjects therefore causes problems because both terms are in several cases mentioned together, especially in agricultural law. In order to avoid these problems, the following analyses does not contain the section “agriculture and forestry” but two separate sections. The fact that forestry objectives are mentioned in several cases in the frame of acts which seem to be agricultural sectoral documents at first glance makes it necessary to mention these objectives in the forestry overview (cf. 9.). The forestry objectives connected have been put in brackets and *inverse letters* in this section.

Binding documents – objectives	Federation	Bavaria
<i>spatial planning, regional development</i>		
development of rural areas, improvement of rural infrastructure		Prog. 2000
<i>settlement and housing</i>		
<i>transportation</i>		
provision of new ways and roads	FlurbG	
<i>economy</i>		
<i>agriculture</i>		
increase of productivity	LwG	
improvement of agricultural structures	Basic AgrStrG, Law,	Prog.2000
land consolidation of split and inefficiently formed fields with special consideration of the <b>landscape</b> structure	FlurbG	
measures of designing <b>landscape</b>	FlurbG	
avoidance of alpine pastures lying fallow; avoidance of giving up cultivation facilities		AlmG
provision of a productive agriculture ( <i>and forestry</i> ) oriented towards future demands	AgrStrG	
conservation of agriculture ( <i>and forestry</i> )		LwFöG
improvement of processing and working conditions in agriculture ( <i>and forestry</i> )	AgrStrG, FlurbG	
<i>forestry</i>		
<i>forestry objectives are mentioned in section “forestry” (cf. 9)</i>		
<i>tourism</i>		
<i>environmental and nature protection</i>		
conservation of a sustainable productive natural household	AgrStrG	

conservation of rural areas as cultural landscape		LwFöG, 2000	Prog.
rehabilitation, conservation, care and development of the landscape by agriculture and forestry		LwFöG	
environmental and nature protecting measures (multifunctional agriculture)		Prog.2000	

## Overview

	<i>national level</i>	<i>Land-level</i>
<i>legislation competency</i>	concurrent legislation	concurrent leg. / concretisation
<i>number of objectives<sup>1</sup></i>	8 / 1 / 7	7 / 1 / 6
<i>main focus</i>	<ul style="list-style-type: none"> <li>• agriculture (6)</li> </ul>	<ul style="list-style-type: none"> <li>• agriculture (3)</li> <li>• environm.&amp;nature protection (3)</li> </ul>
<i>note!</i>		<i>the majority of agriculture Land-level objectives is layed down in the linked instruments (KULAP etc.) -&gt; low number of level 2 objectives mentioned here!</i>
<i>additional focus<sup>2</sup></i>		
<i>objectives' orientation</i>	strongly sectoral	sectoral, additional consideration of environmental demands
<i>objective concreteness</i>	general	general / Land-specific
<i>implemetation level</i>	Land, municipality	Land
<i>most important act(s)</i>	AgrStrG	Programm 2000, LwFöG

<sup>1</sup> total / equal on both levels / exclusive on one level

<sup>2</sup> only policy subjects with more than one sectoral objectives mentioned

**General character:** The REGALP issue concerning landscape in a wider sense has limited the list of selected agricultural acts selected. The huge number of binding documents dealing with highly specific matters like plant protection, animal health etc. has not been taken into account. The Federal Agriculture Act from 1955 states general objectives which were actual after World War II but aren't any more at the present time. Therefore the Agricultural Structure Law linked to the Common Task of Federation and Länder ("improving the agricultural structures") is the most important act on national level.

**Sectoral aspects of objectives:** As stated in the table above the main objectives are mentioned in the instruments linked to the acts so that the overview given may lead to the false conclusion that there is only a relative little number of objectives and that on Land-level there are as many objectives for agriculture as for environmental and nature protection. There is of course an additional focus on environmentally friendly and landscape compatible agriculture (which became more and more important during the last decade) but the main relevance within the agricultural acts selected is with sectoral agricultural issues.

**Priorities of objectives:** The main intention is in general the conservation of agriculture as an economic branch and especially the improvement of economical structures, working and processing conditions. There is an additional emphasis on the intention of agricultural development in line with demands of environmental and nature protection.

**Instruments and implementation:** The instruments linked are above all financial instruments and the obligation for land utilisation according to “good practise” principles (which have been postulated in detail in spring 2002 in the frame of specific guidelines). The responsibility for the financial instruments lies within the resort of the Bavarian Ministry for Agriculture and the Agricultural Agencies on District level. The funds of the European Union play a major role. The financial instruments of highest importance are the Bavarian Landscape Programme (KULAP) and the Nature Conservation Contractual Programme (Vertragsnaturschutzprogramm) which are being applied in a substantial part of the agricultural areas of the Bavarian alpine space.

**Relevance of “landscape” / relation RD/CL:** Landscape should on the one hand be conserved and protected and on the other hand be developed and designed. As landscape is regarded as the fundamental basis of agricultural productivity, this basis has to be conserved. Such a conservation can, according to the objectives, only be provided by agricultural land utilisation. Therefore a strong interrelation between the development and conservation can be stated: conservation of agriculture as an economic branch respectively of (cultural) landscape is only possible by improvement of agricultural structures and conditions – but always strongly regarding the natural situation as the basis of protection.

## 9. FORESTRY

(originally included in the policy subject “agriculture and forestry”, now treated as a separate policy subject)

As regards the forestry sector there is again the national law which is being concretised by the Bavarian law (Federal / Bavarian Forestry Act, Federal / Bavarian Forestry Hunting Act, cf. matrix). Important instruments connected are the forestry plans which are set up for the level of Planning Regions and below.

In Germany the agricultural and forestry affairs are always located within one ministry and are in most cases referred to as closely related issues. Splitting them into two separate policy subjects therefore causes problems because both terms are in several cases mentioned together, especially in agricultural law. In order to avoid these problems, the following analyses does not contain the section “agriculture and forestry” but two separate sections. The fact that forestry objectives are mentioned in several cases in the frame of acts which seem to be agricultural sectoral documents at first glance makes it necessary to mention these objectives in this section once again. The agricultural objectives connected have been put in brackets and *inverse letters*.

Binding documents – objectives	Federation	Bavaria
<i>spatial planning, regional development</i>		
<i>settlement and housing</i>		
<i>transportation</i>		
<i>economy</i>		
<i>agriculture</i>		
<i>the sectoral forestry acts BWaldG and BayWaldG do not mention any agricultural objectives at all</i>		
<i>forestry</i>		
conservation of forests (and strengthening, Bavaria)	BWaldG	BayWaldG
sustainable conservation of good practice cultivation	BWaldG	
augmentation of forests if necessary	BWaldG	BayWaldG, Prog. 2000
promotion of forestry	BWaldG	
forestry measures		Prog. 2000
conservation of forest functions		BayWaldG
conservation of appropriate population of game adjusted to the ecological situation	BJagdG	BayJagdG
augmentation of forests if necessary		Prog. 2000
forestry measures		Prog. 2000
provision of a productive ( <i>agriculture and</i> ) forestry oriented towards future demands	AgrStrG	
conservation of ( <i>agriculture and</i> ) forestry		LwFöG
improvement of processing and working conditions in ( <i>agriculture and</i> ) forestry	AgrStrG, FlurbG	
<i>tourism</i>		
<i>environmental and nature protection</i>		

## Overview

	<i>national level</i>	<i>Land-level</i>
<i>legislation competency</i>	framework	concretisation.
<i>number of objectives<sup>1</sup></i>	7 / 3 / 4	8 / 3 / 5
<i>main focus</i>	• forestry (7)	• forestry (9)
<i>additional focus<sup>2</sup></i>		
<i>objectives' orientation</i>	strongly sectoral	strongly sectoral
<i>objective concreteness</i>	general	general / Land-specific
<i>implemetation level</i>	Land, Planning Regions, municipalities	Land, Planning Regions, municipalities
<i>most important act(s)</i>	BWaldG, AgrStrG	BayWaldG, Programm 2000

<sup>1</sup> total / equal on both levels / exclusive on one level

<sup>2</sup> only policy subjects with more than one sectoral objectives mentioned

**General character:** Forestry as has to be considered as a separate policy subject in the German political proceedings despite of the fact that in the frame of laws forestry is always closely linked with agriculture. In order to adapt to this special situation all objectives mentioned in agricultural acts but dealing with forestry have been taken over into the subject forestry. (objectives mentioned within the Agriculture Structure Act, the Rural Development Plan of Bavaria and the Bavarian Agriculture Promotion Act). Besides from these peculiarity, forestry law is characterised in general by the framework legislation set up by the Federal Forestry Act which is concretised on the Land-level by the Bavarian Forestry Act.

**Sectoral aspects of objectives:** Every objective mentioned deals with forestry issues.

**Priorities of objectives:** The overall aim is the conservation of forestry as an economic branch, the forests and their different functions as well as their protection from negative impacts.

**Instruments and implementation:** Instruments linked to the acts are plans, financial instruments and commandments. The Bavarian Ministry for Agriculture and Forestry as well as the subordinate Forestry Agencies on Land- and Landkreis-level are responsible for implementing the instruments.

**Relevance of “landscape” / relation RD/CL:** There aren’t any explicit references to “landscape”. Even from implicit intentions of the objectives statements on a relation between cultural landscape and regional development are hardly possible.

## 10. TRANSPORTATION

Binding documents – objectives	Federation	Bavaria
<i>spatial planning, regional development</i>		
<i>settlement and housing</i>		
<i>transportation</i>		
building, maintenance, extension and improvement of (federal) major roads according to transportation	BFStrG, FStrAusbauG	BayStrWG
protective measures along federal major roads against natural dangers	BFStrG	BayStrWG
<i>economy</i>		
<i>agriculture, forestry</i>		
protection, care and creation of forests with protective function	BFStrG	
<i>tourism</i>		
<i>environmental and nature protection</i>		
road building and maintenance according to requirements with simultaneous saving of natural household and <b>landscape</b> scenery		BayStrWG

### Overview

	<i>national level</i>	<i>Land-level</i>
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<i>legislation competency</i>	concurrent legislation	
<i>number of objectives</i> <sup>1</sup>	3 / 2 / 1	3 / 2 / 1
<i>main focus</i>	transportation (2)	transportation (2)
<i>additional focus</i>		
<i>note!</i>		<i>the majority of objectives on Land-level is concerning aspectson subordinate levels (Landkreis, municipality) which are not mentioned in the matrix; additionally most details are laid down in the instruments linked ( Bundesverkehrswegeplan etc.) -&gt; low number of objectives!</i>
<i>objectives' orientation</i>	sectoral	sectoral
<i>objective concreteness</i>	general	general, Land-specific
<i>implemetation level</i>	Federation, Land	Federation, Land, Landkreis
<i>most important act(s)</i>	BFStrG	BayStrWG

<sup>1</sup> total / equal on both levels / exclusive on one level

<sup>2</sup> only policy subjects with more than one sectoral objectives mentioned

**General character:** Transportation is according to the Basic Law subjected to concurrent legislation; in political reality the Federation has fully made use of its privilege of superordinate legislation and enacted Federal laws which are concretised on Land-level. Most details are fixed on national level in the frame of the planning instruments linked to the acts. On Land-level above all issues concerning levels subordinate to the Land are being dealt with.

**Sectoral aspects of objectives:** The objectives are clearly oriented to specific transportation issues. Other objectives are meant to safeguard transportation infrastructure from natural disasters and to adjust constructions to the natural situation.

**Priorities of objectives:** The main concern is to ensure the provison and maintenance of transportation infrastructures meeting society's demands in accordance with environmental and nature protection aspects – wherby the construction and extension of infrastructures clearly is privileged.

**Instruments and implementation:** The most important instrument are planning instruments combined with financial instruments in the frame of investment programmes (Bundesverkehrswegeplan etc.). The responsibility is located at the Federal Ministry for Transportation, Construction Trade and Housing. The Bavarian Ministry for Land Development and Environmental Affairs is bound to the Federal provisons and obliged for maintenance and extension of traffic infrastructure of Land-level responsibility; additionally the Landkreise and the municipalities are responsible for County resp. communal roads.

**Relevance of “landscape” / relation RD/CL:** Transportation objectives are clearly dominated by development intentions wherby the development is obliged to be enacted according to environmental and nature protection demands.

## 11. TOURISM

In Germany, Tourism policy does neither represent a single public policy nor a separate sectoral policy. Tourism issues are referring above all to economic, transportation and regional development policies as well as to environmental policies. The objectives concerning tourism have therefore been cited and analysed within the corresponding sectoral policies (cf. matrix). Thereby, the binding documents in the areas of nature and environmental protection on the one hand and spatial planning and regional development feature objectives mentioning tourism explicitly. Because of the lack of concrete tourism law an analysis for this policy could not be provided.

As far as the instruments for implementation are concerned, besides the different planning instruments and different financial promotion programmes (headed by the Ministries of Economy on national and Land-level), the Joint Responsibility for Bund and Länder according to §91 Constitution has to be mentioned. As the aim of this Joint Responsibility (“improving the regional economic structure”) is apparently cross-section oriented and does above all refer to regional development, it has been mentioned in the policy subject spatial planning and regional development.

## 12. SUMMARY AND CONCLUSIONS

The intention of WP1 is to examine the relevance of the landscape issue in regional development policies on EU and national level whereby this report presents the results for the Germany. Dealing with the term “landscape” in the broad sense of the REGALP project definition leads first of all to the general result that in German legislation and administration, the landscape issue reveals a substantial relevance according to the large number of objectives and the instruments linked concerning landscape. In order to produce applicable results, in this case extracting the most important legal documents and instruments relevant for the cultural landscape change and regional development, the policy screening had to be carried out in a quite pragmatic way by relying on professional experience.

This proceeding showed the following policy subjects to be relevant: spatial planning, settlement and housing, agriculture and forestry, environmental and nature protection as well as transportation. Comparing these policy fields with the REGALP partners’ political systems two German peculiarities have to be mentioned: First, regional planning is in Germany integrated into spatial planning policy whereas it is regarded as a separate policy subject in other countries. Second, tourism policy does not exist in Germany as a separate field either.

At this stage of work, the relevance of the landscape issue in these different policy subjects is impossible to evaluate in detail – further analyses will be made in the frame of WP3 – but

general results can already be derived. The main intentions of the policy subjects examined are of course of different kind. From subjects covered by framework legislation, like spatial planning and nature protection, objectives concerning landscape can quite easily be extracted and be classified on hierarchical levels. These levels also represent the hierarchy of administration and implementation of instruments linked so that the overall structure of these fields enables clear screening results shown in the matrix. Within these both subjects the landscape is of high relevance – whereby spatial planning is more concerned with co-ordination of interests and the emphasis on development components but with strong consideration of nature and landscape protection demands, and nature protection puts the emphasis on conservation (interestingly aspects of nature and landscape development are only mentioned in general terms, the implementation seems to be task of the instruments linked).

Agriculture, forestry, settlement and transportation can be regarded as more or less sectoral fields. They feature the landscape issues as an aspect to be considered and to spare from negative impacts as far as possible – but the main objective is in each case to improve the sectors interests by development in some way. Herby the special role of agricultural law has to be stated which explicitly stresses the crucial relation between nature and landscape conservation and agricultural land utilisation. The RD/CL- relation isn't as obvious in the other policy subjects as in the field of agriculture. A general outcome of the screening concerning these four “sectoral” policy subjects is that their legislative and administrative structure is not as clearly hierarchically ordered on levels as it is the case in spatial planning and nature conservation. The partially (extremely) difficult connections between EU, Federation, Land- and even subordinate levels cause complications in reading the matrix and understanding the interdependencies.

With regards to the interrelation between policy subjects and public policies it is obvious that the different subjects are located within almost the same resorts of ministries on national and Land-level. Agriculture and forestry are covered by a Federal and a Bavarian ministry. Spatial planning and nature protection are divided upon two separate ministries on national level but within the scope of one ministry on Bavarian level. Only the responsibility for construction, which is located at the Federal Ministry of Transportation, Construction and Housing on national level, is assigned to the State Ministry of the Interior in Bavaria. Thus, one can observe in general almost equal responsibility structures on national and Land-level regarding the aggregation of policy subjects in ministries' resorts. The administrative interdependencies can be derived from the legislation types (framework etc), which have already been described above.

Comparing the different policy subjects shows that landscape is referred to with two different intentions in general – on the one hand, an aspect of protection and conservation can be found, on the other hand, there is an emphasis on development. All the legal documents contain conservation objectives whereby this does not mean that they always have the priority. The latter is the case in the frame of Nature Protection Acts, which is not astonishing, but the Spatial Planning Acts provide a strong emphasis on nature protection, too, although spatial planning seems to privilege development components. Yet there is a distinct difference between these two approaches of conservation and development. Objectives aiming at protection in most cases

mention “landscape” or “nature and landscape” etc. explicitly while the development objectives refer in general to either dimensions like “space”, “area” or “region” or to the economic sectors (agriculture, forestry etc.) or infrastructure. This leads to the conclusion that the analyses of the relation between development and landscape is – at least in Germany – dominated by the relation between economical and structural development on the one hand and conservation of nature and landscape on the other. This finding seems to be an important input for WP3.

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