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**Modernising Federalism**

Towards Convergence in the  
Organisation of Intergovernmental  
Relations?

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# **Modernising Federalism. Towards Convergence in the Organisation of Intergovernmental Relations?**

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## **Abstract**

There have been attempts to reform intergovernmental relations in most advanced federal states during the last 15 years. These reforms were only in part inspired by motives of federal member states to gain more autonomy or by federal governments to increase their guiding capacities. Though these motives have played a role, the secular trend towards the modernisation of the public sector has dominated most of the reform discussion of federal structures and intergovernmental relations. In this article it is intended to demonstrate – by comparing five federal countries – Austria, Australia, Canada, Germany, and Switzerland – to what extent reforms of intergovernmental relations have been influenced by notions of efficiency and accountability. In addition, it is asked whether, given the relatively coherent set of beliefs in new public management, one can observe convergence towards a similar model of organising intergovernmental relations. Though modernising federalism has indeed been a central motive of reform in all federal countries, this has not resulted in an uniform model. There are differences in the degree of modernisation and in how efficiency and accountability have been transformed into the organisation of intergovernmental relations.

Keywords : Federalism, New Public Management, Modernisation, Reforms, Comparative Public Policy

## **Résumé**

Il y a eu plusieurs tentatives de réforme des relations intergouvernementales dans la plupart des Etats fédéraux avancés durant les 15 dernières années. Ces réformes ont été seulement en partie inspirées par des demandes des Etats fédérés d'augmenter leur autonomie ou par des gouvernements fédéraux désirant améliorer leur capacité à diriger. Bien que ces motifs aient joué un rôle, le trend séculaire vers la modernisation du secteur public a dominé la plupart des discussions sur la réforme des structures fédérales et des relations intergouvernementales. Dans cet article, nous essayons de démontrer à travers une comparaison de cinq Etats fédéraux – Autriche, Australie, Canada, Allemagne, et Suisse – dans quelle mesure les réformes des relations intergouvernementales ont été influencées par des notions d'efficacité et de responsabilité. De plus, nous nous posons la question de savoir si, étant donné la relative cohérence des croyances dans la nouvelle gestion publique, on peut observer une convergence vers un modèle similaire

d'organisation des relations intergouvernementales. Bien que la modernisation du fédéralisme ait été un motif central de réforme dans tous les pays fédéraux, cela ne s'est pas traduit par une convergence vers un modèle uniforme. Il existe des différences dans le degré de modernisation et dans la manière dont l'efficacité et la responsabilité ont été transformées dans l'organisation de relations intergouvernementales.

Mots-clefs : Fédéralisme, Nouvelle gestion publique, Modernisation, Réformes, Politiques publiques comparées

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# 1. Introduction

Intergovernmental relations have been under strain in all federal countries of the OECD during the last fifteen years or so because of austerity policies, budget deficits, globalisation pressures and the increasing relevance of international (and supranational) treaties. Austerity policies often resulted in a reduction of federal payments to states in need thereby creating stress for states how to compensate for these losses of income; budget deficits at the level of states meant a constant threat to stabilisation policies of federal governments; globalisation strengthened the economic importance of the region and weakened the role of the federal government while the increasing numbers of international or supranational treaties had the opposite effect: they made states subject to decisions that the federal government had taken on the international or supranational level without giving states "voice" to intervene. In each case intergovernmental relations were under pressure as states endeavoured to avoid a "centralist drift" while federal governments had to pay attention to demands for a fundamental re-shifting of powers to the lower levels of government.

At the same time, though, a questioning – though not only in federal countries – of the "efficiency" of governmental structure and agencies set in, which was nourished by different theoretical strands. Influenced by public choice theory and managerial sciences, "new public management" became the predominant policy rationale behind a global wave of modernising the public sector (Pollit and Bouckaert 2000; Pollit and Bouckaert 2003). Public choice theory applied to federalism in the form of the "economic theory of federalism" (e.g. (Tiebout 1956; Olson 1969; Walsh 1992; Oates 1998), infiltrated discussions about how to optimise existing federal structures in terms of efficiency.

Though most political scientists are aware that the new policy rationale of "modernisation" brought fundamental changes to the delivery of public services and the organisation of public bureaucracy, there are few studies in a comparative perspective that endeavour to analyse to what extent this has changed the working of federalism. The influence of "efficiency" and "accountability" – as core notions of the turn towards a modernisation of the public sector – or, in other words, of the "modernisation project" on intergovernmental relations, is certainly dealt with in individual country studies<sup>1</sup> but there is to my knowledge no general comparative overview of the kind of reforms linked to the modernisation project nor of the implications this has had for intergovernmental relations.

Such an overview is important, however, because of at least two reasons: First of all, it is interesting to know *how* "efficiency" and "accountability" have affected *intergovernmental relations*. One can demonstrate that for example the pursuit of "efficiency" may result in changes in existing relationships between territorial governments and interfere into the "centralist-decentralist" drift emerging in federal relations. Efficiency seems to be neutral with regard to the distribution of territorial powers, but, as I will demonstrate in the following section, it is not always. Therefore, an assessment of how "efficiency" was integrated into the discourse of federal reforms seems pertinent. Second, it can be suggested that, if the modernisation project sets through in all federal countries, that is if efficiency and accountability become the dominant discourse in federal reforms, this may lead to *convergent federal structures*. Can we therefore expect that existing distinctions,

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<sup>1</sup> See for example Painter (1996) for Australia; Wollmann (2001) for Germany; Peters (2001) for the USA, Cameron and Simeon (2002) for Canada; a comparison between Canada and Australia is done by Brown (2002).

usually summarised under headings “dual” or “power-separation” (Wheare 1967) on the one hand and “cooperative” or “power-sharing” (Elazar 1962) on the other (see also (Börzel and Hosli 2003), have lost or will lose their importance in the near future?

My intention in this article is therefore twofold: First, I want to fill in a gap in our empirical knowledge on recent reforms of intergovernmental relations in federal states by describing to what extent and in what way the “modernisation” project has influenced these reforms in a number of federal countries, i.e. Austria, Switzerland, Germany, Canada, and Germany, and how this has changed the organisation of intergovernmental relations. Second, it will be analysed if reforms have led or will lead to a common model of intergovernmental relations or not.

The next section 2 will demonstrate that the modernisation project found enough “fertile ground” in federal countries in order to become a viable option of reform. Intergovernmental relations in all types of federal countries were criticised because of apparent “inefficiencies”. It will also be shown that reforms suggested according to the logic of the modernisation project had consequences for the existing intergovernmental relations. Section 3 will discuss the reform attempts and reforms taken in five federal countries. Chapter 4 answers the two research questions by drawing lessons based on the comparison of the five cases.

## **2. The Modernisation of the public sector as a response to federal deficiencies**

The public sector reforms which were introduced world-wide (Kettl 2000; Pollit and Bouckaert 2000) following the turn to neoliberal policies, new public management ideas and, later, notions of “good governance” (OECD 1997; OECD 2004), which I summarise here under the label of “modernisation”, were reforms that attacked – in a nutshell – various “gaps” (Jann 1998): above all a “*legitimacy gap*” which took into doubt that the public administration, organised in the traditional hierarchical “command-and-control” mode, was really worth its money. Instead, public bureaucrats were criticised to continuously expand their agencies while wasting public resources without acting effectively. The reasons for this were seen, as developed in early contributions of public choice theory (Niskanen 1971), in an “*efficiency gap*”, i.e. the lack of incentives to use money in an efficient way. In addition, a “*management gap*” was diagnosed, indicating that public bureaucracy lacked management instruments to flexibly react to a changing environment. Finally, a “*strategy gap*” indicated the missing of medium- and long term perspectives and priorities in public service delivery. This diagnosis led to new demands with regard to the organisation and working of public bureaucracy, to the claim of “re-inventing government” (Osborne and Gaebler 1992). Again in a nutshell the main lines were the introduction of market mechanisms into the protected world of the public bureaucracy by privatisation of public services, outsourcing and the establishment of “quasi-markets”. A stronger client orientation was supposed to overcome the distance between citizens and public bureaucracy. In this sense public bureaucrats should also pay stronger attention to the quality of their services. “Open government” became a synonym for more transparency of public decisions and activities for citizens, more accessibility of the bureaucracy for clients and a stronger effort to establish consultation with stakeholders (OECD 2005). The “command-and-control” mode of bureaucratic governance was replaced by a “principal-agent” mode of governance, implying a tendency towards delegation (and decentralisation). of executive tasks to agencies with a considerable operational autonomy, i.e. with global budgets and the right to decide freely on how to execute tasks. The main strategies were, however, decided on the higher

political levels and contracts were used to make sure that these strategies were respected by the operating agencies. Operational autonomy, contracts and ex post evaluation were measures to increase the performance of the public bureaucracy and to increase the accountability of managers. The development of medium- and long-term strategies became a key activity, above all because only the higher political levels were able to take in a "whole-of-government" perspective that could unite the otherwise fragmented policies of a multitude of agencies. Only with the overall system in mind, the OECD reminds, effective adjustments to a changing environment becomes possible (OECD 2005).

These modernisation ideas infiltrated debates on federal structures in general and intergovernmental relations in particular as one finds everywhere critical remarks about the effectiveness and efficiency of federal arrangements since the 1970s and 1980s. I see four main areas that were susceptible to reform in federal countries: the distribution of competence property rights, the distribution of revenue property rights; strategic guidance; and democratic accountability. In all four areas, federal countries were in conflict with basic ideas of the modernisation project. Remedies for inefficiencies can be deduced from the efficiency paradigm that have, however, consequences on the territorial distribution of federal states. I will discuss these points briefly for each area.

### *Competence property rights*

Policies in federal countries are often badly coordinated because of unclear or concurrent competences, which results in the duplication of tasks, negative spill-over and, hence, inefficient use of public money. Given the fact that in most federal states concurrent areas – and therefore the necessity to cooperate – have increased during the second half of the last century, the discussion of the territorial distribution of competence rights is widespread. The inefficiencies – duplication of tasks, blurring of responsibilities because of unclear lines of demarcation etc. – demonstrates a clear conflict with basic principles of the modernisation project like making actors accountable for their actions; the imperative of transparency; or the general requirement of a strong and efficient performance. The remedy is evident: it needs a clear demarcation and disentanglement of competence areas. To introduce such a remedy means important changes in the federal structure: While most federal states – despite of different traditions or types – have reduced areas of competence that are solely attributed to one territorial authority level and made concurrent areas the main group of competence areas, the solution according to the belief system of the modernisation project suggests to favour a stronger "dual" structure in which the number of concurrent areas will be significantly reduced. This has advantages and disadvantages for the two main players in federalism, the central government and the states: for the states this would mean that they would gain autonomy they had most of time lost due to general tendencies of centralisation and harmonisation. On the other hand, such autonomy in competence areas also entails higher administrative costs and more responsibilities. For the federal government such a demarcation of areas is ambiguous: there are advantages, depending on the type of federal state, because the federal government will be free to determine autonomously the policies in own areas but it will lose influence in other areas. Given the general function of the central government to take care of harmonisation and coherence in policy-making, such a tendency to disentangle competence property rights may also have disadvantages for the federal government.

Moreover, a demarcation of authority areas will not result in a complete abolition of concurrent areas. Such areas will remain necessary in case a separation will result in more inefficiency. The modernisation project proposes in this case a solution according to ideas of "principal-agent" theory. Clear accountability must prevail and blurred responsibilities must be avoided. At the same time, the existing cooperation



in such areas makes the management of these areas rather complicated and leads more to collusion than to an efficient management (Brown 2002: 64). A division of labour, in which the central government becomes responsible for general framework policies and where the states would become executing agencies with considerable operational autonomy, seems therefore a better solution than the existing cooperative arrangements ("steer and row"; Osborne and Gaebler 1992). In such type of intergovernmental relations, the role of the central government would be strengthened because it would become the agenda and framework setter determining to a large degree – but in discussion with the states – what should be done. The states would accept the position of an agent with less formal powers in decision-making but they would have considerable liberty in working out the framework, which improves the possibility to develop a policy of their own.

### *Revenue property rights*

Another tendency in federal states has been the transfer of more and more property rights in the extraction of revenues to the central level resulting in what is called "vertical fiscal imbalance" (VFI). This means states must carry out the majority of tasks in the federal system but are lacking adequate financial resources of their own to pay for these tasks. It is then the central government that transfers money in various ways to compensate the states for their efforts. In addition, most central governments are also responsible for the organisation and – in part financing – of equalisation measures that equilibrate forces within a federal country. VFI are attacked by the "economic theory of federalism" because it strengthens tendencies of "rent-seeking", "over-fishing" of resources and irresponsible behaviour of states because the central government can bail them out (Walsh 1992). The central government can abuse this situation in its favour by using money with conditions attached to interfere with the politics of the state. The performance, accountability and responsibility, and efficient use of public money is at stake in federal systems with such an asymmetrical distribution of revenues. The remedy proposed by the "economic theory of federalism" is to decentralise resources and give states enough tax autonomy to pay its services on its own. Within a policy field both taxing and spending rights should be concentrated on the same territorial level in order to raise accountable spending behaviour and to avoid negative spill-over effects. This is the so-called "*connectivity principle*" or the principle of "fiscal equivalence" (Olson 1969). The policy consequence would be a decentralisation of property rights in taxing powers with a much stronger position of the states than before. The central government would lose its discrete powers in guiding state action in quite a number of areas by a policy of "sticks and carrots". Its role would be clearly reduced. Such a redistribution of revenue property rights should cause considerable debate.

### *Strategy-building*

Whatever federal type we choose, one finds problems in medium- and long-term strategy building. In the case of the "power separation"-type such problems exist because of the tendency to opt for unilateral policies on each level; in the "power-sharing" type the development of optimal and long-term strategies is difficult because of "joint decision traps" that result in the acceptance of policies with the "lowest denominator" instead of problem-solving policies (Scharpf 1999). In many ways, the lack of such strategic capacities becomes a serious disadvantage at a time of a "fast-changing policy environment" when "the need to strengthen the coherence of government action has never been greater" (OECD 1995): 73). The modernisation project proposes instead a stronger role of the central government in developing a coherent framework, to improve the flow of information from the lower levels of government to the centre as well as to integrate "agents" in the formulation of strategic goals. Only if the states are accepting the general framework, they can be held responsible for the execution of strategic guidelines.

The central government finally has the task to monitor the outcomes of the policies. Strategy-building according to the modernisation project refers therefore to an encompassing view on policy development in several areas. The main shift in thinking is that the central government does not anymore try to interfere on the state level but that coherence is guaranteed by commonly developed policies on the central level and monitoring.

### *Democratic accountability*

In many federations we find a tension between democratic accountability of policy-makers and trends toward collusion in the making of joint federal policies, often referred to by the notion of "executive federalism" (Watts 1989). The parliament is seldom able to guarantee the democratic control of decisions taken in the context of intergovernmental relations and citizens are seldom informed or have possibilities to participate in the negotiation process. This in conflict not only with the principle of transparency and accountability inherent to the notion of efficiency but also in particular with more recent notions of participatory democracy put forward in the "good government" literature. Modernisation, Pollitt and Bouckaert observe (2000: 176), means to "engage citizens and service-users in a variety of participatory processes". A remedy would therefore be to make stakeholders participate in policy formulation in the context of intergovernmental relations and to develop a much more active information policy towards the public.

The following table 1 resumes in a nutshell the different points:

**TABLE 1: Areas of inefficiency in federal states and remedies proposed by the modernisation project**

<i>Area</i>	<i>Inefficiencies in federalism</i>	<i>Conflict with modernisation project</i>	<i>Remedies proposed by modernisation project</i>	<i>Consequences for intergovernmental relations</i>
Competences	Unclear, blurred and overlapping competences	Accountability Transparency Performance Inefficient use of resources	Demarcation; disentanglement; for concurrent areas: "steer and row"	Towards a dual structure; more freedom and autonomy for states; less decision constraints for central government ; In concurrent areas: principal-agent relationship: conflict with identity of states?
Revenues	Rent-seeking; overfishing, bailing out	Performance Accountability Inefficient use of money	"Connectivity" Tax autonomy of states	Decentralisation; stronger states, fundamental redistribution of powers
Strategy-building	Lack of medium- to long term strategy building; lack of cohesion	Coherence Rational policies based on information and control	More information for central government; stronger role of central government in developing strategies; Control function of central government; Coordination in policy formulation	More "leadership" of central government but less intervention on level of states; more involvement of states in general policies but more obligations to execute;
Democratic accountability	Executive federalism under closed doors not democratically controlled	Transparency Accountability Open government	More information to public; Involvement stakeholders; open doors	End of secretive bargaining; integration of public as player.

### 3. Country studies

All country studies are subdivided in a brief introduction into the structure of the federal country; which problems were highlighted in the discussions; recent experiences with new public management in order to illustrate to what extent the modernisation of the public sector has played a role in the country; and reform discussions and reforms.

#### 3.1 Austria

##### *Structure*

Austria is a federal state with a strong dominance of the federal government and parliament and a very centralised party system. Anti-federalist forces traditionally prevail (Erk 2004). As there are no obvious veto-points for the "Länder" on the national level, it seems as if the federal system would be directed top-down. If one looks at financial relationships, this is confirmed for 85% of resources are managed by the central government, which is one of the highest rates of all federal countries

(see also (Watts 1999)). The Länder come only into play when implementation of federal laws is concerned. However, there are informal ties between the two territorial levels, which give the Länder some indirect influence on federal decision-making (Obinger 2004).

### *Problems*

Despite this rather top-down picture of Austrian federalism, intergovernmental relations are rather complicated and it is generally admitted that federal arrangements can be improved:

- One of the foremost reasons to start debate on the revision of the Constitution in 2003 was the objective to deal with an inefficient distribution of competences between the three territorial levels (Dachs 2003). Few people, it seems, have an overview of the many detailed regulations. It is generally estimated that a revision could result in 3 billion Euro savings a year (Österreich-Konvent 2005).
- A second point is linked to fiscal relations. Austria suffers, as many other federal countries, of the problem of "overfishing". As the Länder get most of their financial resources from the federal government, they do not really feel responsible to use the money in an efficient way. It is also often stated that duplication of policies and waste of resources occur (Fiedler 2004).

### *New public management*

- New public management ideas have infiltrated Austria at least since the end of the 80s. Several administrative reforms were introduced which were inspired by the American model, one in 1988, the other in 1997. While the first one was above all dedicated to a "rationalisation" of administration, the second introduced the "service state" which was supposed to replace the sovereign state. New criteria for evaluation were introduced, controlling procedures enhanced and e-government developed. The major objective of these reforms was to reduce the costs of administration and to increase efficiency. As Hammerschmid notices (Hammerschmid 2004), however, even after these reforms had been implemented, overregulation remained a problem, federal problems were not solved and good working incentives for a better performance were still lacking.
- This may explain that in the beginning of the new century one finds a new impetus for reform that includes both the federal government and the Länder. In 2001, an administrative reform package was adopted, which was supposed to result in considerable savings. Among the measures employed we find a deregulation program. In 2003, another reform program followed which was meant to bring together all the different reform attempts and employ more explicitly new public management measures, a modernisation of the administration, and the introduction of management concepts. These measures were also implemented on the level of the Länder and the communes.

### *Reforms*

A preparatory constitutional committee, the "Austria-Konvent", set up in 2003, was supposed to deal with constitutional questions in general and with inefficiencies in federal arrangements in particular (see the Web-Page of the Österreich-Konvent: [www.konvent.gv.at](http://www.konvent.gv.at)). The revision of competence distribution was particularly stressed. In 2005, the recommendations of this committee were published with a number of reform items for the organisation of federalism but there are few chances at the moment that these recommendations will be transformed in constitutional amendments given the two-third majority this would need in federal parliament. Nevertheless, it is useful to look into the discussions that have taken

place in the different sub-committees of the "Konvent" and see what ideas and conflict or consensus have emerged on the reform of federalism (see Österreich-Konvent 2005).

The foremost motive for the reform discussions in the "Konvent" was not the growing self-consciousness of the Länder demanding a stronger "competitive" orientation of Austrian federalism though some Länder claimed more competences and power.<sup>2</sup> The real preoccupation of all territorial actors, however, was the financial situation of the country. New public management ideas gave recipes at hand how to overcome inefficiencies of federal arrangements. There was a common understanding between the two tiers of government that macroeconomic coordination between the central government and lower governments was needed and that austerity measures should be implemented. One finds evidence of this consensus as early as 1997 in a state agreement on austerity measures in the health sector and again in an agreement to coordinate budgetary policies in 1999 as well as in the new fiscal equalisation scheme in 2001 which obliged the Länder to assist the central government in its austerity policies (Obinger 2005). There was also unanimity that the existing *distribution of competences* was inefficient and that transparency was lacking. It was said that there were too many different matters and too many – often overlapping – competences. The objectives were, therefore, to reduce the number of competence areas, to make decisions on competence distribution more flexible, to simplify the demarcation of areas and to take into account the European Union jurisdiction. The "Konvent" made concrete propositions how to allocate competences to the different territorial tiers.

The principle of "fiscal equivalence" or "connectivity" was discussed and accepted. In general, this was recognised as a more efficient way to use public resources. But it was not easy to find a financial solution about how to reform exactly the existing system of revenue distribution. There was opposition against more tax autonomy of the Länder, which, it was said, would go against the prevailing harmonisation principle and the objective of an economic integrated union and above all against the political objectives of the European Union. Other arguments against this proposition were the need for more instead of less bureaucracy in order to manage tax autonomy on the level of the Länder. There was also the concern that economically weaker regions would loose in this process. A proposition of compromise was to at least give the Länder the right to levy additional tax rates within certain margins to make the principle of fiscal equivalence possible. Another interesting discussion, based on new public management insights, was to distinguish between strategic and operative aspects and to allocate each aspect to a different territorial tier.

Furthermore, it was proposed to introduce new public management methods in public accounting on all government levels and to give the federal government the authority to introduce a harmonised accounting practice. Regular evaluations and a better guidance of performance by strategic objectives and measurable indicators were proposed. There was some opposition though on this point as some Länder already used this and wanted to keep their own system.

During the discussions one notices that the Länder were not really eager to obtain more competences and rights when the redistribution of financial resources were discussed in the Convent. More tax property rights were not really attractive for

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<sup>2</sup> Three such claims were pronounced in the reform discourse: First, the Länder should have stronger powers because they were insufficiently protected by the first chamber, the "Federal Council". This claim was without result. Second, Länder should receive a stronger role in international matters. In this the claims were successful. Finally, equalisation payments were attacked. Until now the central government is free to decide on equalisation payments. A strong group in the "Konvent" demanded in vain a prior approval of the Länder in this matter.

Länder representatives, often because of additional administrative costs linked to such a transfer of powers. This indicates that there were no strong decentralising projects defended by the states as an alternative vision to the existing top-down federalism.

## **3.2 Germany**

### *Structure*

German federalism is in many ways similar to Austria, above all with regard to its unitary outlook. As in Austria, revenues are levied on the central level and redistributed among the Länder according to constitutionally fixed formula. The main difference with Austria, though, is the strong veto-power of the Federal Council composed of representatives of the Länder governments and the many joint intergovernmental bodies that are needed to implement federal policies. In addition we find a clear functional division of powers as in Austria: The "right to decide" (Braun 2000; Keman 2001) is ascribed to the federal level while the "right to act" is given to the Länder. This functional division is at the heart of Germany's well-known "cooperative federalism", which is the most formalised among the federal states. The combination of interdependencies based on functional division and the strong veto-power of Länder governments in the Federal Council as well as of the Länder administration in the various implementation bodies responsible for joint tasks, has led to the famous "joint decision trap", which is a game constellation that strongly favours the status quo (Scharpf 1988).

### *Problems*

This particular institutional framework has given rise to criticism since the mid-1970s, in particular with regard to suboptimal and inefficient policy outcomes. Incremental and status quo policies characterise German policy-making. Redistributive policies and structural reforms become a major problem (Scharpf 1976). As in Austria, a strong sense of solidarity and "equal living conditions" frames most discussions on the distribution of revenues. Equalisation procedures strive for an almost 100% equal level of all Länder. Taxes are harmonised. While this system lends itself to waste and inefficient use of money – aggravated by the guarantee of the federal government to assist Länder in a situation of emergency – , it also does not give any incentives to the Länder to improve their situation. During the last 20 years, the rich Länder have, in addition, complained about the disincentives for economic growth: if most of the excess resources in the rich Länder are skimmed off and given to the poor Länder, there remains few motivation to strengthen the economic power in the rich Länder. The problem of "overfishing" exists as in Austria: decisions are disconnected from financial responsibility (Spahn and Föttinger 1997; Seidel and Vesper 1999; Adelberger 2001).

This is the background for the new reform élan unfolding since 2003. When the economic situation aggravated in the beginning of this century, the federal structure – the veto-power of opposition parties in the Federal Council, the disincentives for economic efficiency and the incrementalism caused by the entanglement of competences – was more and more seen as the culprit (Thaysen 2004). Another continuous problem of German federalism was forcefully raised by a "Federal Convent of the Parliaments of the Länder" that in 2003 had recommended stronger and more democratic reforms of federal arrangements that were too secretive and elite-based. These pressures led to the set-up of a "Federal Committee" ("Kommission von Bundestag und Bundesrat zur Modernisierung der bundesstaatlichen Ordnung"). with the task to prepare a constitutional reform of federal arrangements. In the task description of the Federal Committee it is said

that a "*modernisation of the existing order*" should be achieved in order to make the federal government and the Länder governments more capable to act and to make responsibilities clearer "in order to fulfil public tasks more efficiently" (see the Web-Site of the Bundesrat for documentation: [www.bundesrat.de](http://www.bundesrat.de)) and (Batt 2006).

### *New public management*

With respect to new public management, Germany is often considered as being a late-comer. Wollmann (Wollmann 2001) demonstrates, however, that this can easily be explained by its typical administrative organisational structure which, in contrast to Anglo-Saxon countries, already entailed the "principal-agent" structure emphasised in the new public management model, exactly because of the functional division of powers between the federal and the Länder level. In addition, Germany had introduced quite a number of administrative reforms already in the 1970s, which seemed to work quite well. Since the early 1990s, however, this situation changed, most of the time because of the economic pressure and a loss of confidence in the administrative German system, and variants of new public management reforms were introduced, above all on the Länder and local level. On the federal level, reforms started only at the end of the 1990s. Modern management was supposed to be introduced and in general a "high performing, cost-efficient and transparent administration" was envisaged. So, when the new century started, new public management had become a well-known concept on all territorial levels and most administrations had had some experiences with reform measures.

### *Reforms*

The "Federal Committee", set up in 2003, did not yet lead to the constitutional reforms envisaged. However, the discussion within the Committee and the compromises on some topics formulated, give a very good overview of the discussion on modernising federalism in Germany (see the documentation on the Web-Site of the Bundesrat). The recent creation of a "grand coalition" in November 2005 intends, moreover, to realise most of the propositions made in this Committee. Given its two-third majority, one can foresee that the reforms will be adopted until the beginning of 2007.

General and substantial discussions on the essentials of German federalism were not held. The focus of the reform agenda was quickly put on the *disentanglement of competences* and the *reallocation of property rights* in policy areas. As in Austria there was a consensus among policy-makers in the Committee to reduce the number of concurrent policy areas. Though ideas of "competitive federalism" were well alive in the German discussion (Braun 1996; Ottnad and Linnartz 1997; Männle 1998; Meier-Walser and Hirscher 1999; Sturm 2005), this did not mean a radical overhaul of the system. As in Austria, most policy-makers wanted equal starting conditions for the Länder and the solidarity motive remained predominant. The idea of market-like competition with the risk of being a loser in this competition found no majority in the Committee, above all because of the resistance of the smaller and poorer Länder. A certain reallocation of property rights was, however, feasible mostly because of a package deal between the federal government and the Länder: the federal government wanted less opposition in the Federal Council and needed to reduce the competences of the Länder in as much legislative areas as possible. The rich Länder wanted more autonomy in legislative matters and demanded the right to deviate from federal law under certain conditions. In the end a compromise was found which, as said, is now integrated within the legislative proposal of the grand coalition: the Länder approve to reduce the number of co-decision areas in the Federal Council and will obtain the possibility to not implement

in all instances federal law.<sup>3</sup> The framework legislation will be abolished and the Länder will receive the responsibility for state employees. The critical point in the Committee was education where the social-democratic and green federal government did not want to make concessions while the Christian-democratic ruled Länder insisted on more competences in this area in exchange for less co-decision making areas. This point resulted in the failure of the Committee. In the legislative proposal the Länder now have received more autonomy in university matters while the influence of the central government was curtailed.

As in Austria, a major problem for reform was and is the practical impossibility to revise the financial relations. A real and substantial disentanglement of competences would also have needed to refer more tax authority to the Länder and revise existing equalisation arrangements. Concessions in this area were, however, minor. First of all, an encompassing equalisation agreement, above all designed to protect the new Eastern Länder until 2018, was just concluded when the Federal Committee started its work. No actor wanted to break up this agreement as it had been difficult enough to find a consensus. Second, above all the smaller and poorer Länder had no interests in a stronger tax autonomy as they were not sure that they would have sufficient resources to survive in a more competitive environment without the possibility of a "bailing out" by the federal government. Therefore only minor matters – like an exchange between the vehicle tax vs. the insurance tax – were discussed. Thirdly, the federal government immediately intervened when stronger tax autonomy was mentioned and defended the position that in the age of globalisation and in the context of the European Union a national steering instrument like taxes could not be given away. There were propositions though to find a solution to finance at least those areas that were relegated to the Länder: it was agreed to give the Länder direct grants to compensate for the additional costs. Later on these grants were supposed to be transformed into unconditional grants. Again, a complete transfer of tax competences for this purpose was out of question. In the new legislative proposal the discussion on financial reforms is postponed until the first phase of the reform with regard to competences is concluded. In fact, the liberal party, which is represented in a number of Länder governments and whose consent is needed to have the two-third majority in the Bundesrat, has clearly announced that it will only approve phase one if indeed there will also be fundamental financial reforms. Until now, the contents of such a project are not yet elaborated.

### **3.3 Switzerland**

#### *Structure*

Switzerland possesses a decentralised federal structure though we find a strong component of cooperative federalism (Wildblood 1993; Linder 1994; Wälti 1996; Vatter and Wälti 2003). The federal government plays a strong role in the financing of public services in cantons and has been – until recently – the political institution sole responsible for equalising regional differences to some degree. On the other hand, the resources of the federal government are much more restricted than in most other federal states and they are, in addition, only temporarily granted (Braun 2003b). The cantons have until now considerable discretion how to organise their tax system though the federal government obtained authority in the 1990s to harmonise some components of the tax system (Künkler 2003).

Cooperation is less formal than in Germany and the 26 cantons do not have a direct representation as governments on the federal level. The first chamber, the Council

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<sup>3</sup> In the reform proposal which is now debated in parliament these areas are for example environmental protection, access to universities and university diploma's, and regional planning (Frankfurter Allgemeine Zeitung, 7<sup>th</sup> of March, 2006).



of States, is elected by the people in each canton and seems to function more in the sense of a party parliament than a territorial parliament (Linder 1994; Kriesi 1995; Vatter 2006). This does not mean that cantons have no influence whatsoever. They have voice in the pre-parliamentary hearings and in the implementation process there are negotiations with the cantons in inter-cantonal coordination committees. In many areas the functional division of powers is comparable to Austria and Germany: the cantons are most of the time responsible for the implementation of federal laws. However, there seems to be more leeway in implementation than in Austria and Germany as implementation laws in cantons can deviate considerably from federal laws (Linder and Vatter 2001; Braun 2003a).

### *Problems*

The main motive for reform discussions in Switzerland was inefficiencies of the existing system of competences and finances. On the one hand, we find an obvious failure to fulfil one of the main objectives of equalisation arrangements, i.e. the reduction of economic disparities between cantons (Seidel and Vesper 1999). Above all the linkage between conditional grants as a steering mechanism of the central government in policy matters and equalisation motives have been severely criticised. The conditional grants system as such was seen as counter-productive as its structure favoured more the richer cantons than the poor ones for the simple reason that these grants were in general matching grants and poor cantons were often not able to match the federal money. Moreover, income and spending behaviour at the level of cantons were not sufficiently connected because of the strong role of the central government in the financing of cantonal policies. Finally, it was criticised that the system had become too entangled, that responsibilities were blurred and that centralisation had "creeped" in the otherwise quite decentralised federalism (Dafflon 2004a; Dafflon 2004b).

### *New public management*

In Switzerland, new public management reforms started in the mid-1990s. This is relatively late and can be explained, as in Germany, by the functional division of powers that already included some elements of new public management. Federalism allowed an introduction of new public management reforms with a "variable geometry". A number of cantons advanced relatively quickly while the federal level has been relatively slow (Rieder and Lehmann 2002; Mooser and Kettiger 2004). The federal structure has also resulted in a wide variety of the kind of models that were used. Common objectives of reforms mentioned in the reform discourse were: better performance; more cost-efficiency; decentralisation (separation of steering and rowing); more flexibility, guidance, and transparency; a stronger client orientation; and learning and innovation. Marketisation and a radical output-orientation did not belong to the reform discourse in Switzerland and there is an obvious reluctance to use outsourcing or to mix the private and public sector in the delivery of public services.

Though new public management might not have led to as radical reforms as in the Anglo-Saxon countries, a fundamental shift in administrative culture has occurred and one finds everywhere a new consciousness about the use of scarce resources, what kind of services are delivered with what efficiency and how to better serve clients.

### *Reforms*

The major difference with Austria and Germany is that Switzerland has been able to introduce two fundamental legislative projects of federal reforms. One was a major *revision of the Constitution* in 1999, which served mainly to simplify the Constitution but there have been amendments that concerned directly intergovernmental relations. Both "solidarity" as an obligatory rule of behaviour and "autonomy" of cantons to be recognised by the central government were

strengthened (see for this (Fleiner 2002). New institutions for cooperation and "shared rule" were introduced. The second one was the adoption of a *new fiscal arrangement* (NFA; "Neuer Finanzausgleich") which, however, entailed a complete revision of both competences and financial arrangements in Swiss federalism. It took 10 years of negotiation and bargaining before finally the reform was accepted in 2004 by a referendum. Switzerland is therefore a federal country, which has successfully brought its revisions to an end and more so than in the two preceding countries the reforms are clearly based on new public management ideas. Many of the reform ideas in federalism have first been developed by economists (Frey, Dafflon et al. 1994) and economists served all the time during the reform process as experts (Frey 2001).

There were two parts of the reform, one for the revision of competences and the other for a reform of equalisation payments (see for this Dafflon 2004a). Only the first part will be dealt with in this article. The objective was to achieve a *clear-cut demarcation of responsibilities*. The compromises found at the end reveal the spirit of new public management: The most important objective was to reduce the number of joint tasks. In fact, a reduction of 40% of such joint tasks was agreed upon. They were most of the time transferred to the cantons. Only 6 policy areas now remain under the sole responsibility of the federal government. In order to finance this transfer of tasks to the cantons, the federal government is obliged to pay not conditional but block grants to the cantons. However, in those areas where interdependencies are evident and where non-coordination would have been counter-effective because of possible negative externalities, spill-over effects and free-rider behaviour, a new category of competences was introduced forcing cantons to organise inter-cantonal cooperation and financing. It was even agreed upon that inter-cantonal bodies that regulated such areas could obtain legislative rights to be able to react more flexibly and to avoid otherwise a more centralist intervention by the federal government. In other 16 policy areas where it was unreasonable to dissolve the joint arrangements between the central government and cantons, competences were more clearly redistributed along the lines of new public management: the federal government obtained the competence to "decide" (strategic rights). while the cantons were free to use their operational discretion to execute federal laws. Examples are forestry and environmental projects. The money to be transferred to the cantons will no longer be a matching grant based on input measurement but will be based on "success", related to the result. "Instead of single projects, coherent pluriannual programs should be cofinanced" (Seidel and Vesper 1999: 26). These projects are to be negotiated between the federal government and each canton, set up in a contract-like fashion and with evaluation procedures stipulated in the contract. This financing is now clearly separated from equalisation considerations and only directed to the accomplishment of the agreed objectives. In addition, any financing is temporary.

### **3.4 Canada**

#### *Structure*

Canada is certainly one of the most decentralised federal states in the world. This has not always been the case. The federal government had a very strong position until the 1950s. From the 1960s onwards, however, the confrontation with Quebec and a growing emancipation of other provinces led to a policy of decentralisation and devolution. During this period, a "patchwork federalism" is born with various financial arrangements and a variety of ways to distribute competences between the central government and the provinces. Though the federal government remains a key actor in financing above all welfare developments (health, education, social assistance), the provinces have gradually received a remarkable discretion in finding their own resources by way of tax surcharges or the introduction of new taxes (Braun 2003). But even with this "unfettered access to revenues" there is a

strong dependence on federal government money though the degree of dependence varies between provinces. The degree of conditionality of federal grants has decreased since the 1970s so that today one can say that it is among the lowest in OECD federal countries (Watts 1999). This means that there is relatively little hierarchy in the financing system. In such a decentralised federation, the strife for more autonomy of lower governments is, of course, less strong than in the other federations. Decentralisation is already widely accomplished.

### *Problems*

There were two problems in Canada in the 1990s: One was the still existing lack of economic harmonisation resulting from the strong decentralised federal structure. This problem has been settled in a treaty on economic union in 1994 (the "Agreement on Internal Trade" (AIT) which was supposed to also result into more economic efficiency (Brown 2002). The second problem of Canadian federalism in the 1990s was the growing vertical fiscal imbalance between the central government and provinces (Lazar 2000a; Commission 2001; Boadway 2004). Because various federal governments since the 1980s had decided to unilaterally reduce cash transfer to provinces for a number of welfare programmes as well as to reorganise the grant system by introducing the "Canada Health and Social Transfer" (CHST) system<sup>4</sup> in 1996, the provinces had to spend more out of their own pockets with only a limited room – given economic circumstances – to raise new revenues by the introduction of new taxes or by augmenting surcharges on federal taxes (Braun 2002; (Lazar 2000b). It was this situation, which stimulated efforts of collective action by the provinces with the aim to, first, keep the federal government in the financing of welfare expenditures and install a new overall consensus on the need to maintain the welfare state and, second, to stabilise financial flows from the central government. The result was the "Social Union Framework Agreement" (SUFA) in 1999. The SUFA is the milestone of a new way of organising intergovernmental relationships on the base of "collaborative federalism" (Cameron and Simeon 2002) and in many ways it can also be seen as an agreement in which new public management ideas have played a role.

### *New Public Management*

Though being for the major part an Anglo-Saxon country, Canada was more hesitant in adopting new public management than for example Australia though one finds the diffusion of such ideas in the public administration during the 1980s under the conservative prime minister Mulroney. Mulroney defended neo-liberal policies and a downsizing of the state which included deregulation (Brown 2002: 121). He used an anti-bureaucratic rhetoric (Pollitt and Bouckaert 2000). Under his government a number of small-scale initiatives and reforms were introduced which were inspired by new public management but without demonstrating a coherent reform agenda in this respect (ibid: 210). This has never changed: new public management was not a sweeping reform movement, carried by intellectuals and political entrepreneurs but rather a gradual development of some ideas sifting through and influencing the working of the public administration. There were strong pressures though to include stakeholders in policy formulation because there was a strong dissatisfaction with the functioning of governments in general.

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<sup>4</sup> Which united two former welfare programmes on health, education and welfare, introduced a block grant system and reduced the resources transferred to provinces to a considerable degree.

The Liberal government after Mulroney was, in addition, even less inclined towards “big bang” reforms inspired by new public management ideas. In this way a quite idiosyncratic Canadian model of modernising public sector services evolved which allows for wide variation and flexibility in implementing the model. A grand design has never been developed. But despite of this, general hesitance to embrace new public management, efficiency, transparency, and accountability became prominent notions in the federal reform discourse on the SUFA.

### *Reforms*

Modernisation of federalism has played a role in the reform discourse of Canada throughout the 1990s: There were constant attempts, above all by the central government to overcome problems of duplication in concurrent policy areas. Labour force training, for example, should either become subject to a form of co-management or be devolved. The provinces had the right to choose. In environmental policy, the federal government gave most competences to the provinces because they had better, more direct and local information. The introduction of the AIT in 1994 is another case in point: One can see this arrangement as the first result of the new collaborative spirit based on a consensus among the territorial actors about the objectives of liberalisation and deregulation. It was also supposed to make an end to the “thrust and riposte” policy so characteristic in Canadian federalism (Painter 1991; Braun, Bullinger et al. 2001). The AIT was the first attempt to introduce a stable, rule-based system of cooperation aiming to reduce uncertainty and ad-hocery in intergovernmental relations and improving the economic efficiency of economic policies (Brown 2002). Also, the introduction of the CHST in 1996 was designed as a measure of better economic efficiency. The previous cost-sharing programmes were incentives for provinces to spend as much as possible and were, hence, inefficient.

Finally, the SUFA was seen as an effective way to organise the concurrent areas of social policy. Together with the AIT, the agreement indicates a new mode of intergovernmental relations based on collaboration. Collaboration emerged as the magic formula – within, of course, the framework of a well-designed process management – to overcome inefficiencies in the system, like, for example, situations where federal and provincial policies worked at cross-purposes and resulted in thwarting and undercutting one another. In general, situations of duplication and waste should be avoided by such cooperation. To achieve collaborative federalism, the federal government had to agree to limit its own authority in these areas and accept the co-determination of the provinces in social policy matters (Cameron and Simeon 2002). The provinces also insisted on new arrangements for dispute settlement that could minimise the degree of conflict in the intergovernmental arena. Such settlements should be “simple, efficient, effective and allow for a maximum flexibility of governments”.

Efficiency was one of the catchwords of the SUFA: the search for best practices, the use of performance indicators and of monitoring were explicitly introduced. Information-sharing, the development of indicators and joint planning on the base of these data were means to raise the performance in service delivery (Théret 2001). More than any other of the federal countries, Canada has also stressed the democratic accountability of intergovernmental relations. To make governments more accountable and open for the public, not only stakeholders should be integrated into working groups at the different level of ministry councils, but also the information flow from governments to citizens should be ameliorated (Lazar 2000b). Finally, a procedure for citizens to appeal was introduced. The SUFA as such was conceived for 4 years renewable. The evaluation in 2003 was positive

though it was recognised that there was still potential to ameliorate the working of the system.<sup>5</sup>

### **3.5 Australia**

#### *Structure*

Australia is often seen as one of the most centralised federations. In fact, this hardly expresses the complex reality of Australian federalism. Though the federal government has received in the course of the last century a dominant position in all financial matters (mostly by managing all growth taxes) and is involved in most policy areas, it can by no means rule alone. Australian federalism is in its structure a "concurrent federalism" (Galligan 1995; (Keating and Wanna 2000). This means that in most matters of public policy, authorities are shared between both levels. Given the strong vertical fiscal imbalances in the Australian federation (Dollery 2002), the federal government has the means to influence the position of the states in these areas and "buy" the consent to federal policies but such a strategy is hampered partly by the strong equalisation system. Economic and social differences between the states are equalised to a degree one finds in no other federal state (McLean 2002). A semi-independent body, the Commonwealth Grants Committee (CGC), is responsible for the development of the equalisation formula and in general for the monitoring of the development in this area (Commonwealth 1995). While general federal grants are used for the equalisation procedure, special grants distributed to individual states by the federal government, are also taken into account when calculating the surplus and deficits of each state. This reduces the incentive of the federal government to use "divide-et-impera" strategies and of the states to use rent-seeking (Garnaut and FitzGerald 2002). The states are, in addition, well protected in several important areas relevant for economic policy-making and – as in Canada – they have the main authority in health and education, the most expensive welfare areas.

#### *Problems*

The concurrent structure of Australian federalism does most of the time not allow for unilateral strategies but necessitates some form of coordination. For a long time, this coordination was organised in the form of "adversarial federalism" (Painter 1998): actors were aware of the implications of their policies on the federal government and other states but – at least at the top level – there was no institutionalised cooperation that could develop a common strategy to solve problems. The result of this intergovernmental structure was often duplication in the policy-making of territorial tiers and, hence, waste of resources. And, above all, this form of coordination proved inefficient when in the 1980s the trade balance deteriorated substantially and it became obvious that Australia was still plagued by substantial trade barriers within the country, differences in the regulation of economic matters etc. In short, the "economic union" had to be strengthened in order to make Australia competitive on the world market (Brown 2002). It was this problem of competitiveness, together with increasing financial problems of the

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<sup>5</sup> This arrangement led to changes visible for example in a compromise on health care in 2000, when all actors agreed on common objectives (above all to avoid overlap and duplication), a monitoring by third parties and clear performance measurement. In two other settlements in 2003 (early childhood development and national child benefit). objectives were commonly agreed upon while provinces had sufficient discretion to determine how to implement these objectives. There was extensive discussion on problems, the parameters of programs, the kind of funding and monitoring measures.

states, which launched a major debate on the structure of federalism and its failure to organise a coordinated response to the new challenges. This debate was, at least in the beginning, accompanied by a stronger and more aggressive stance of states for more financial autonomy, not only to overcome the budgetary problem, but also to indicate that there was a growing consciousness of the states in the age of globalisation of their own identity and interests. The reform movement was nurtured by new public management ideas that were quickly dispersed among top bureaucrats and policy-makers and which drew the attention to unnecessary duplication of tasks and a waste of public money (Davis and Rhodes 2000).

### *New public management*

Australia belongs to the forerunners in the adoption of new public management ideas (Pollitt and Bouckaert 2000). Already in 1984 a Public Service Reform Act was introduced that reorganised the career structures in the public administration from the politically neutral Westminster mode to a structure where partisan affiliation became more important. Career structures became more flexible and contract mechanisms were introduced. The aim of these reforms was to have more direct means of directing the public service and having greater political control (ibid: 201). On the federal level we find a major restructuring of central departments at the end of the 1980s, the beginning of the sale of public sector assets and other initiatives in the 1990s concerning the senior public service and financial management.

Overall, the implementation of new public management ideas, or in Australian parlance "economic rationalism", has been successful (though it often went slowly), among others because reform attempts were centralised and all territorial actors played together. In contrast to the European continent, "marketisation" and "minimization" (Pollitt and Bouckaert 2000: 176-78). have played a substantial role in the adoption of new public management ideas in Australia.

### *Reforms*

The objectives of a more integrated economic union, a re-balancing of the vertical fiscal imbalances, and the reform of the federal structure with the aim to raise economic efficiency and competitiveness have been the entry points of the reforms that took place in the first part of the 1990s.

When the "window of opportunity" opened at the end of the 1980s and a favourable constellation of actors in the federal government and state governments emerged, there was a consensus between all actors to attack all three points (Painter 1998). Even a reform of the revenue system seemed not out of reach. The federal government was quite willing to abstain from its prerogatives in this field in order to be able to solve the urgent problem of competitiveness, which seemed to be solvable only by the liberalisation of trade relations within the country. This window of opportunity closed shortly after when a new federal prime minister took office. The reorganisation of financial relations was put off the agenda. The reforms introduced in the beginning of the 1990s concerned therefore above all the competitiveness of the country and it is the "*National Competition Policy*", which is usually considered the decisive step towards the productivity surge and increase of economic growth Australia has experienced since then (Productivity 2005).

The most important move probably was that top politicians on both tiers of government realised that one of the main lessons of new public management, the centralisation of strategic vision, was essential to achieve anything substantial in the reform process. There was, therefore, a clear tendency to revive the perishing structures of collaboration on the central level between prime ministers and to take control of the process of reform. The resulting "collaborative federalism" (Painter 1998) was characterised by the will of all territorial actors to coordinate action and to overcome partisan divide. Efficiency has been an important "focal idea"

(Weingast 1995) to arrive at this point. The rapid expansion of new public management in the whole of Australia has helped to install a "problem-orientation" of topics (Painter 1998). It was this "problem-orientation" and the "whole-of-government" perspective (Galligan 1995) which helped substantially to define a number of reforms that were conceived as efficiency-enhancing.

The reforms that have taken place have not been on the financial side or on questions of disentangling policy areas. Though a better demarcation of policy areas was discussed, there were only a few policy areas where actually concurrent policy areas were disentangled. A decisive step was that all relevant areas for competition that were for a large part under authority of the states, became a "national" policy item and were decided on the central level. This was a decisive point for the federal government, which wanted to harmonise these areas. In other areas like health and education, it turned out much more difficult to find a consensus on reforms. In the areas falling under the National Competition Policy and in environmental policy, the federal government was prepared – in exchange for the participation of states in a centrally organised policy – to recognise more variety than before and to also accept leadership from states in the formulation of policies. It became for example possible that one state took a legislative initiative and that this served as a template for all other actors including the federal government. States had also the possibility to vary in their adoption of commonly agreed framework laws when applied to their region.

Another important innovation was the delegation of tasks in these policy fields to independent agencies composed of experts and/or stakeholders. They were explicitly seen as an instrument to achieve a rationalisation of services and better outcomes (Painter 2001). One finds such agencies in the field of training, finance, food, environment, competition, railways and road (Brown 2002: 215). The input of the private sector and the public became an important element in the construction of these agencies. For Brown, these new agencies reduced the "governmental dominance of the sector" altogether. It was therefore not only a solution to run concurrent areas in a problem-solving manner – even if ministerial councils had to take final decisions in the end – but also to bring in actors in the field to have better and more information as well as motivated participation in order to develop the policy field in question.

Moreover, a large-scale shift in administrative culture occurred that had also effects on intergovernmental relations. The stressing of outcomes, benchmarking, monitoring and evaluation has also led to changes in the handling of topics related to intergovernmental relations. This has affected the grants system where one finds a shift from an input-based matching grant system to an output system. Such a system based on extensive monitoring is also found in the national competition policy.

## **4. Comparison**

What can we learn from the description of the case studies about the influence of the modernisation project on the organisation of intergovernmental relations? Are there converging trends? These questions will be answered by taking up the main areas of interest in table 1: distribution of competences, distribution of revenues, the capacity of strategy-building and democratic accountability.

### **4.1 Distribution of competences**

Reform attempts concerning the revision of competence property rights have certainly taken place in all federal countries though with different intensities and

different organisational solutions. It is also obvious that "efficiency" as the focal notion in the modernisation project has played an important role in that revision though, again, with differences between countries.

Especially with regard to this variable but also in general one can largely distinguish two groups of countries that seem to follow different paths: the group of federal countries with a strong cooperative undercurrent (Austria, Germany, Switzerland) and the two federal countries with a Westminster democracy, Australia and Canada, that have organised their intergovernmental relations for a long time in a rather "adversarial fashion" (Painter 1991).

If we first take a look at the cooperative countries, it turns out that the re-distribution of competences has been the centre of the reform discussion and that in Austria and Germany only in this area concrete measures were proposed. Second, in all three countries inefficiencies were highlighted as the main rationale for reforms. Especially in Germany and to some extent also in Switzerland the reform discourse was also influenced by a struggle about the territorial distribution of powers. In Germany, a number of strong and larger states was pushing a discourse on "competitive federalism" and wanted to seize more competences in various policy areas as well as more financial autonomy. This was on the other hand refused by the smaller and often economic weaker states which feared to be put at a disadvantage if the protecting hand of the central government would be taken away. The central government wanted above all more room for manoeuvre in its decision making powers which were curtailed by the co-decision rights of state governments in the federal chamber. A certain decentralisation of powers seemed acceptable in order to gain more freedom in decision-making powers. The result was a compromise between all territorial groups which favoured the solution of giving the states more leeway in deviating from federal law in a number of areas (see above). The notion of efficiency has certainly played a role as a compromise builder or "focal point" (Weingast 1995) to overcome the veto-power of the smaller states. Though cantons in Switzerland had successfully lobbied for a stronger protection of their autonomy in the revised constitution at the end of the 1990s, the territorial struggle was less intense as the central government did never succeed to centralise as many resources and revenues as the German central government. In addition, it was overtly favouring the efficiency rationale in the reform process and did not try to maintain a dominant position in the federal struggle. In Austria, as demonstrated above, the intensity of the territorial struggle was much less developed than in the other two countries. The modernisation project clearly played the main role in the reform discussion.

The result has been a shift from a distribution of competence rights in which concurrent areas were predominant to a more "dual" distribution in which property rights are more clearly attributed to either the states or the central government level. In Switzerland this shift has been more profound than in Germany or in Austria (where at the moment no reform has taken place).

A second point is the handling of the remaining concurrent areas. According to the logic of the modernisation project the most adequate organisational solution would be to give the central government strategic competences and the states operational autonomy in these areas (principal-agent relationship). In fact, only Switzerland has explicitly introduced this solution for the remaining 16 concurrent areas. In Germany and Austria, where reforms are still on the legislative agenda, no reforms in the handling of concurrent areas are planned. This means that especially in Germany existing "joint decision traps" will last though these traps are more limited now given the transfer of some policy areas to the states.

The two adversarial federal countries Australia and Canada have not introduced disentanglement at the same level as the cooperative countries have intended to do. Discussions about disentanglement and reforms have occasionally played a role



but remained on the background of discussions. In Canada, there was already a strong disentanglement of competences except for some of the welfare areas. Much more important has been the political will to overcome adversarial federalism as an obstacle to better organise concurrent areas. Both in Australia and Canada harmonisation imperatives in the light of globalisation problems were the trigger for such reforms. In Canada, financing problems of the welfare state also played a role. The decentralisation of competences would have been an obstacle with regard to harmonisation. This does not mean that modernisation and efficiency did not play a role in the reform discourse. On the contrary. But notions of efficiency were not seen as a means to restructure competence rights. They were used to organise the newly emerging cooperative relationships in an efficient way. Especially in Australia and to a lesser degree in Canada, the collaboration between the states and the central government was organised in such a way that immobilism could be avoided, contracts and monitoring procedures could be defined in the policy areas of relevance, independent agencies were created to rationalise discussions and integrate stakeholder etc. Collaboration satisfied both the central government and the states: for the central government it became possible to organise policy areas which had been out of control because of strong competences of the states and adversarial relationships. For the states it became possible to become a player on the central level and to avoid negative spill-overs of policies by coordination.

In adversarial federalism therefore there was only a minor trend towards a more dual structure. Most concurrent areas persisted (in Canada the number of these areas was already quite small) but became subject to "rationalised" joint control.

In sum, there are *two reform paths* in organising competence rights: cooperative federal countries opt for a restructuring in favour of a more dual organisation of competence rights inspired by the modernisation project but compatible with the different demands of territorial actors. In adversarial federal countries, the notion of efficiency is not the source of inspiration but a means to structure the emerging collaborative relationships in concurrent policy areas.

These findings demonstrate that there has been convergence to some extent – disentanglement has been a topic everywhere and has also been part of the reform attempts and reforms, even in the adversarial federal countries – but that there were different paths that cooperative and adversarial countries followed with different organisational solutions. This must be explained by the different starting conditions of countries in the two types: cooperative countries were suffering from strong economic inefficiencies and partly from immobilism and used efficiency as a rationale to overcome these negative outcomes of their system. The adversarial federal countries needed collaboration and harmonisation they had not developed earlier and used efficiency as a means to organise this collaboration.

## **4.2 Distribution of financial revenues**

One can state that the present "fiscal constitution" was debated in all federal countries and that complaints about inefficiencies formed strong incentives to reform. Only in two countries, Germany and Australia, reform discussions were also influenced by the territorial struggle for power: As already mentioned above, the more powerful German states were attacking the egalitarian equalisation system which punishes individual efforts of states to improve productivity and economic growth. A reform of the fiscal constitution was, however, immediately put off the reform agenda because the established consensus had been hard to achieve and no-one really wanted to go once again into discussions on the redistribution of revenues. In the beginning of the Australian reform process, the states attempted to reverse the strong vertical fiscal imbalances in favour of the central government and demanded more tax room. For quite some time, however, the central government refused to discuss fiscal matters. The introduction of the GST at the

end of the 1990s was not a complete turnaround of central government attitudes but became necessary after the High Court had curtailed a number of state tax revenues. There were some advantages for the states though: the GST is a growth tax and all growth taxes had been managed by the central government alone. In sharing the GST with the states, the central government accepted to strengthen the autonomy of the states to some extent as the GST could not be used with strings attached. The share of each state is fixed. The GST remains, however, a federal tax and the federal powers decide finally what to do with this tax.

In the other three countries such considerations of territorial power were on the background when financial questions were discussed. In Canada, the question was not one of more tax autonomy but how to keep the central government in the financing of welfare expenditures. In Switzerland, the states already have considerable tax autonomy. Both in Switzerland and in Austria the connectivity principle was discussed as an option to overcome existing inefficiencies of the financial arrangements. In Switzerland this led to a separation of allocation and redistribution purposes in the transfer of central government money as well as to the introduction of the connectivity principle in some policy fields which are organised according to the principle of horizontal cooperation. In Austria there was a strong group of actors favouring the connectivity principle but another discourse, the imperative of harmonisation in the light of globalisation and the European Union, prevailed. The decentralisation of some revenue property rights, necessary for the introduction of the connectivity principle, was seen as in conflict with the necessity to overcome a disparate development of tax policies at the level of the states. Similar arguments played a role in Australia and also in Germany where the central government was very reluctant even to grant the states unconditional transfers in order to compensate for the additional financial burden in the wake of the disentanglement of tasks.

As a result, there were no fundamental revisions of existing property rights in raising revenues. Only in Switzerland and Austria do we find a discussion in terms of efficiency on this point with Switzerland introducing the connectivity principle in some policy areas. This does not mean, however, that efficiency considerations were not present. The point is that such considerations did not intend to revise property rights but to focus instead on the best way to organise central government transfers to the states. The general trend was to replace conditional grants that gave the central government the possibility to grant money with conditions attached by block grants that come as a lump sum and are for the major part at the discretion of lower governments to spend. This trend fitted into the rationale of the modernisation project as it meant a reduction of the administrative burden that was linked to the use of conditional grants and it recognised the operational autonomy of the states and improved their capacity to act flexibly with regard to local problems. Block grants can also be seen as a strengthening of the position of the states vis-à-vis the central government as the degree of intervention decreased. With the exception of Austria all countries at least intended to reduce conditional grants: Germany wanted to use block grants in the long run to finance the policy areas which were planned to be decentralised; Canada introduced block grants as the main instrument in the CHST; in Switzerland block grants were an essential part of the NFA. Also Australia strengthened the role of block grants.

In addition, matching grants were discredited everywhere and less and less used because of windfall-profits and difficulties of poorer states to match the federal money.

Finally, in Switzerland, Australia and Canada central government money – either in the form of conditional or as block grants – became more and more subject to the establishment of “contracts” and regular monitoring procedures. There is a difference though in the enforcing character of monitoring procedures: In Australia

there are at least in some regulatory areas independent committees the judgment of which has consequences for the continuation of funding. In Switzerland there is no legal possibility to enforce sanctions. Another important element introduced in Switzerland, Australia, and Canada is that grant programmes are now limited in time with usually an evaluation in the end in order to give no perennial rights for subsidies. All these elements are used in order to raise efficiency in the use of public money.

To what extent do we find therefore a converging trend in the reorganisation of revenue rights and the organisation of the "fiscal constitution"? The answer is that there have been almost no revisions in the organisation of revenue rights with the exception of Switzerland and only in three countries – Switzerland, Australia and Canada – do we find genuine efforts to reorganise the transfer process along the lines of more efficiency. The only encompassing trend seems to be the growing substitution of conditional grants by block grants.

### **4.3 Strategy-building**

The question of this section is to what extent the usually quite low capacity of strategy-building and strategic coordination in federal countries has been improved in the reform process along the lines of the modernisation project.

It is useful to distinguish again between the two group of countries, cooperative and adversarial federal countries, as the problems linked to strategy-building have been different. Cooperative countries usually have difficulties to avoid a long decision-making process and immobilism because of veto-powers of actors in the cooperative decision-making process. Adversarial countries lack coherence because of often disjointed and unilateral decision-making. The remedies proposed by the modernisation project would not be different, of course, but there is a different starting position of countries in each group to introduce these recommendations.

If we start with the two adversarial federal countries, we see – and this was already discussed – that the strife for more coherence has induced policy-makers to strengthen collaboration as a means of joint strategy building. At the same time, there has been an effort to found this collaboration on terms recommended by the modernisation project: One sees for example that the role of information from the lower government levels to the central level is significantly increased; that, at least in Australia, independent agencies have been used to develop more rational strategic alternatives; that decisions approved upon are implemented in the form of contracts. The notion of principal-agent can be applied to the kind of reforms that have taken place here: though decisions are taken jointly, the role of the central government as an agenda-setter and as a monitoring agency is very important. It is the central government most of the time, which develops or proposes strategic alternatives. In this sense, then, one can state that Australia and Canada have made an effort to raise their strategic capacities.

This is also true for Switzerland in the group of cooperative federalism. In those remaining concurrent areas, the principal-agent principle was used to stress the strategic role of the central government and the executive role of the states. In Austria, the use of the principal-agent principle was discussed but not introduced until now. Germany did not use notions of principal-agent to recalibrate its decision-making procedures but lessons from modernisation played a role. As explained above, it was the separation of competences in policy areas resulting in the reduction of the number of laws with a veto-power of the states, which was the solution to raise strategic capacities of the central government. The "joint decision-trap" was not removed in the remaining concurrent areas.

Despite different starting positions, we find reform efforts in order to ameliorate strategy-building in all countries though especially Austria was not able to set

through these reforms. Within these reform efforts, efficiency ideas have played a role either directly by installing principal-agent relationships (Switzerland), or more indirectly by using a clear separation of responsibilities (Germany). or by organising rational joint collaboration (Australia and Canada). In sum, there is convergence concerning the efforts to improve strategy-building capacities at least in substance but not in form.

It is obvious that these reforms have only been possible because they were considered a "win-win"-game for the states and the central government in terms of power. In Germany the approval of the states to accept less influence in the federal chamber is part of a package deal, which also gives the states more legislative autonomy in certain policy fields. The acceptance of principal-agent relationships in Switzerland has been part of a large package deal in which cantons have obtained more autonomy in other policy fields. In Australia collaborative federalism was in the common interest of all actors being subject to deteriorating trade relationships. The states gained access to decisions on the central level while the central government could coordinate the action of all actors in sensible policy areas. In Canada the states wanted the central government to continue financing welfare expenditures and demanded new forms of collaboration. The central government was able – as in Australia – to control much better than before what actually the states would do because of the more rational set up of organising policy fields.

#### **4.4 Democratic accountability**

"Open government" and democratic accountability have often been part of reform discussions but have seldom played a dominant role and have even less resulted in real changes of the existing set-up of intergovernmental relations. However, there is obviously less legitimacy for a kind of federalism that operates behind closed doors (e.g. "executive federalism").

In Canada, "open government" has played a very prominent role in the setup of the SUFA, most of all because of preceding failures in the revision of the constitution and a general rise in importance of the civil society in the 1990s (Rocher and Smith 1995; Watts 1996). The negative consequences of a stronger collaboration in the tradition of "executive federalism", which has for a long time been an affair of closed doors, were repeatedly stressed and criticised. Therefore we find a constant preoccupation not only to integrate stakeholders but also to ameliorate the politics of information to the public, to change reporting attitudes about intergovernmental agreements etc. In Australia the attitude towards the public has not changed but there was considerable effort to integrate stakeholders in preparatory committees in various policy areas. An inter-state parliamentary committee had demanded more participation for parliaments in federal negotiations in Germany. Arguments for more transparency of federalism to the public at least accompanied the reforms of competence rights. Similar arguments were used in Switzerland and in Austria.

In sum, only in the adversarial federal countries do we find concrete institutional measures strengthening the principle of "open government". In the cooperative countries, democratic accountability was one motivating factor among others to justify the disentanglement of competences. No special measures were undertaken here.

## **5. Conclusions**

Without any doubt, notions of efficiency and accountability have inspired recent reform attempts in federal countries, however to different degrees, with different organisational results and with different success. Modernising federalism has been

on the minds of all federal policy-makers but this has not led to the emergence of one type of intergovernmental relations. On the contrary, it was demonstrated that the starting position of countries, their typical differences, above all those between a more cooperative and a more adversarial history of intergovernmental relations, structured repeatedly the kind of reforms chosen.

The two adversarial countries Australia and Canada have reacted in a quite similar way in order to reform their federal structure despite of differences in the degree of centralisation: there was less emphasis on the demarcation of competences than in cooperative countries; instead, collaboration among territorial actors was enhanced and set up in a way that responded to the main ideas of the modernisation project; competences in revenues were not revised but there was a clear tendency towards a more efficient set-up of central government transfer of financial resources; strategy-building was enhanced and democratic accountability has been part of the reforms. These countries did not follow all remedies of modernisation presented in table 1 but in each of the areas discussed there was a clear effort to improve the efficiency of intergovernmental relations.

The group of cooperative countries is less homogeneous. It is above all Switzerland, which is pursuing a much more radical reform path along the lines of efficiency than the two other countries Austria and Germany. Switzerland is partly different in its structure because of its more decentralised character visible above all in the strong tax autonomy of the states. It has also been influenced, as Australia, by economists who have pushed forward new public management reforms in intergovernmental relations. The outcome of this influence can be demonstrated in three of the four areas of interest (democratic accountability having been less of a preoccupation to economists): the disentanglement of competences has been the most far-going among the federal countries; Switzerland has been the only country that has clearly introduced the connectivity principle as part of the fiscal constitution while other reforms improving the efficiency of central government transfers have also been achieved; principal-agent ideas have structured discussions on strategy-building. Switzerland comes therefore nearest to having employed the remedies of the modernisation project.

Discussions in Austria and Germany have focused on the revision of competences though Austria had also more radical ideas for the reorganisation of financial relationships. Austria is, however, the least successful in setting through reforms until now. In Germany we may expect the adoption of reforms in 2007. The disentanglement of competences served in Germany not only to achieve more accountability and efficiency but also more transparency and more strategic capacities of the federal government. Nevertheless, it is obvious that Germany and Austria have been the countries that, until now, have realised only few or none of the remedies of the modernisation project.

Though the modernisation discourse has been around everywhere, it is clear that it was taken up in different ways and to different degrees. One factor that has certainly influenced the question how and to what degree this discourse was taken up depends without any doubt on the territorial power game. Reforms like the redistribution of competences and the improvement of strategy building were only possible if the reforms offered "win-win"-solutions to the central government and the states. The reform of financial relations was particular difficult in this sense as it touches upon the essential of territorial power. One sees therefore that fundamental reforms were not possible. However, with regard to those topics that seemed to be compatible with the existing distribution of revenues, like the reform of the grants system, there were changes in all federations. This suggests that reforms inspired by the modernisation project are restrained by the kind of solutions it can offer in terms of power: zero-sum solutions seem impossible to set through while win-win solutions are acceptable.

But even with these restrictions in mind, one can contend that the reforms inspired by the modernisation project will have a lasting effect on intergovernmental relations: The tendency to use monitoring for the execution of federal programmes and the use of federal money or to use principal-agent arrangements makes opportunism of all actors increasingly difficult and ad-hocery on both sides less probable. Both the principal and the agent are bound by such agreements. The performance orientation will improve the efficiency of federal arrangements. The granting of more autonomy and the delineation of competences will contribute to more decentralisation in the long run. On the other hand, the role of the federal government has not been diminished given the need for strategy building and an encompassing view. The federal government appears, however, less and less as a hierarchical player imposing its will top-down but more as an agenda-setter, a contractor and broker. By using the "focal point" of "efficiency" and "accountability", conflicts are also in general easier to be dealt with. This increases the chances, on the one hand, that policy decisions in power-sharing types of federalism based on the "lowest denominator" (Scharpf 1988). will become the exception rather than the rule and, on the other hand, that unilateral decisions, typical for power separation types of federalism, become banned from the list of possible options of territorial actors.

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