

**Dieter Freiburghaus**

## **Swiss Federalism, Fiscal Equalisation Reform and the Reallocation of Powers**

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### **1. Introduction**

The reform of the fiscal equalisation scheme and of the allocation of powers between the federal government and the cantons (NFA – *Neugestaltung des Finanzausgleichs und der Aufgabenverteilung zwischen Bund und Kantonen*) was one of the longest and most difficult constitutional reform processes ever undertaken in Switzerland. Since 27 articles were either amended or newly introduced in the constitution, the project was to be ratified in a mandatory referendum requiring a double majority of votes: in Switzerland and in a majority of the cantons. The people went to the polls on November 28, 2004. Sixty-four percent of the Swiss voters and a majority of 23 of the 26 cantons voted “yes”.

This clear endorsement may be surprising because this was a complex bill dealing with the essence of Swiss federalism and the highly contested reallocation of resources. It was particularly surprising because two previous constitutional reforms in Switzerland had more or less failed. As early as in the 1970s, an attempt had been made to reallocate the competences of the federal government and the cantons. However, apart from some minor adjustments, the reform failed. After that, a fundamental reform of the Federal constitution was on the political agenda for decades. Initially, there were grand plans for a whole new constitution. In the end, the nature of the reform was to be somewhat more modest and went into the direction of “updating”. In 1999, the voters and the cantons half-heartedly approved it. Now, in the case of the NFA, there was a clear yes to such a fundamental reform. How can this be explained? Drawing general conclusions from these three cases of constitutional reform in Switzerland or in other federal states would certainly

overrate the explanatory power of political science. Yet, as is generally known, if we really want to we can learn from every example.

In the following sections, the process leading to a reform of the Swiss financial equalisation scheme will be analysed, with a focus on the amendment of the constitution. Before discussing the structure, process and results of the reform, we first need place it in the general context the Swiss federalism and debate on the constitution of the past 40 years.<sup>1</sup>

## 2. The Federalism Debate in Switzerland

Economic growth and modernisation after World War II had created insecurity within Swiss society. People spoke of a “Helvetic malaise” (Imboden, 1964). The impression was widely held that the existing institutions were no longer able to deal with the new challenges. This resulted, on the one hand, in initiatives to completely revise the federal constitution and, on the other hand, in efforts to reallocate powers between the central state and the cantons. However, these two deeply entwined reform movements only led to real results at the turn of the century.

The reallocation of powers between the federal government and the cantons has been one of the most controversial issues in the debate of the Swiss federal state since it was founded in 1848 (Freiburghaus and Buchli, 2003). During the 20<sup>th</sup> century, tasks of the state grew exponentially. Many newly emerging competences were directly assigned to the federal level (national highways, nuclear power plants, environmental protection, etc.) and policy-making of both levels of government became increasingly interlocked, leading to what has been termed “cooperative federalism” and “executive federalism” (Bussman, 1986). In the 1960s, this was perceived to be a weakness of federalism, and various proposals to solve thus problem were put forward.

In 1972, the first real push towards reform was given by a parliamentary initiative (“Motion Binder”) commissioning the Federal Council to review the vertical division of competences. A study group, followed by a study commission, was set up to prepare proposals. In 1981, the Federal Council tabled the first package of measures regarding reallocation of powers, which comprised a smorgasbord of rather modest amendments. The project was met with harsh criticism because the cantons feared that the whole project was for the federal government to solve its budget problems at their expense. The

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<sup>1</sup> To understand the financial and economic aspects of the project, it is important to know that in Switzerland, all three levels of government collect their own taxes for which they can partly set the tax rate. Of the total tax revenue collected today, approx. 45 per cent goes to the federal government, 33 per cent to the cantons and 22 per cent to the municipalities.

package was undone and divided into smaller units. In the end, only a couple of proposals were implemented. A second package introduced in 1988 contained from the outset only minor corrections of the division of competences. This long and laborious process by and large missed its goals (Klöti and Nüssli, 1987).

Spurred on by the “Helvetic malaise”, in the 1960s discussions also turned to a comprehensive revision of the Federal constitution. Due to a number of partial revisions from 1874 onwards, the *Grundgesetz* had become confusing, and in many ways it no longer reflected the Constitution as it was actually lived.<sup>2</sup> Since 1967, various groups of experts worked on a fundamental formal and substantive revision, which induced a broad public discussion. During the economically turbulent 1970s, however, enthusiasm decreased. Most of the substantive proposals were rejected by hostile coalitions of interest groups, and the project seemed to be running out of steam.

In 1985, the Federal Council once again put the topic on the agenda and decided to initiate a formal review of the constitution and an “update” of the text (“Toilettage”). Other desirable substantive reforms should follow through subsequent partial revisions (including the Federal Fiscal Equalisation scheme and the distribution of competences between the federal government and the cantons). This idea took hold. In 1998, Parliament adopted the Federal Council’s respective reform proposal. One year later, the people and the cantons approved of the new constitution following a lacklustre referendum campaign. The amendments came into effect on January 1, 2000. In the course of the process, the federalism articles of the Constitution, too, were amended in a modest way (Freiburghaus, 2001).

The reform of the fiscal equalisation scheme under scrutiny here is the result of this intertwined, long-term reform process. Nonetheless, it can be considered a distinct project because it had a confined scope - the review of the fiscal equalisation scheme -, and it formed its own institutional structure.

Fiscal equalisation is a relatively recent federal responsibility that was first enshrined in the constitution in 1959. Previously, the federal government had, however, supported the Alpine cantons in particular by subsidising road construction and agriculture. In addition, the highly progressive direct federal income tax had—and still has—an indirectly equalising effect: cantons with a larger share of affluent citizens contribute more to the financing of the state than others. According to the revised version of 1959, the amount of transfers between the federal government and the cantons (subsidies, cantonal share of federal taxes) was calculated according to the fiscal capacity of the latter. This vertical equalisation with horizontal effects never produced satisfactory results and was increasingly criticised in the 1980s. The most important arguments were:

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<sup>2</sup> The Constitution of modern Switzerland dates back to 1848. A first total revision occurred in 1874.

- Three functions were to be fulfilled using one instrument: fiscal equalisation in terms of supporting the poorer cantons, providing incentives to pursue federal goals, and subsidising special burdens (in particular, those of the Alpine cantons). This made it impossible to construct a rational scheme of fiscal equalisation.
- Included in the decisive indicator, the index of fiscal capacity, were criteria such as the economic wellbeing of the cantons as well as their expenditures. Accordingly, the effects of equalisation could be partly manipulated, since a higher amount of public spending could lead to an increase in federal support.
- Since many federal grants were tied to co-financing of the cantons, the rich cantons were in a much better position to take advantage of such arrangements than the poorer cantons. As a result, fiscal equalisation sometimes had counterproductive effects.
- The special burdens of the Alpine regions were compensated for, but not those of the central and urban regions.
- With this system, the cantons became increasingly dependent on the federal government (cf. Eidgenössische Finanzverwaltung, 1991).

The reform of the fiscal equalisation scheme was thus excluded from the comprehensive revision of the federal constitution. In the two cases of reform mentioned above (reallocation of power, comprehensive revision of the federal constitution), all relevant political actors were involved from the outset, which makes political control largely impossible. In contrast, the negotiation of the NFA was restricted to a few financial experts. Only when the proposal was watertight, so to speak, did it set sail upon the stormy political seas—and survived. All in all, this NFA process took almost twenty years to the day and was extremely complex.

### **3. A “Constitutional Moment”**

One of the reasons why earlier plans to comprehensively reform federalism never succeeded were the financial details: The cantons argued that the federal government only wanted to balance its budget at their expense. From their point of view, any reform of the allocation of power could only succeed if the financial question was solved. Therefore, the reform task at hand was redefined and the agenda was rearranged: While previously the reallocation of powers was the principal aim and the actors involved had then realised that this would have major financial implications, it was now decided that the question of finances should be solved. However, in order to do this, disentangling competences became unavoidable.

It was the heavy criticism levelled at the Federal Fiscal Equalisation scheme mentioned above that worked as a catalyst for reform. It became increasingly obvious that the respective instruments fell short to achieve their goals. Therefore, both the federal government and the cantons were basically in favour of completely reviewing the fiscal equalisation system. This willingness developed continuously, but the year 1988 was decisive. At that time, the Financial Directors' Conference (*Finanzdirektorenkonferenz* - FDK)<sup>3</sup> asked the Swiss Finance Administration (*Eidgenössische Finanzverwaltung* - EVA) to prepare a "fiscal equalisation balance sheet" documenting the various cash flows between the federal government and the cantons and assessing their effectiveness.

The overall project was divided into sub-projects. Each one had its own agenda and its own procedures of negotiating, decision-making and ratification. Each sub-project was evaluated in one way or another, and only if it was perceived to be on solid ground, the reform process continued. These particular features made up a significant condition for success.

#### **4. Setting the agenda: Defining the constitutional problem**

Setting a political agenda is most often based on negotiations. The way in which the problem is defined narrows down the solutions available and, therefore, is an eminently political act. This is why the line between the phases of agenda setting and negotiation is blurred. It can be drawn at that moment when the Federal Council decided to initiate the review of the fiscal equalisation scheme and set up a respective project team. However, the team took shape during the agenda-setting phase and had some influence on the definition of the problem.

The decisive actors during the entire process were the EVA and the FDK. Later on, the cantonal Government Conference (*Konferenz der Kantonsregierungen* - KdK) also played an important role. The FDK discusses all issues of state finances and occasionally made recommendations. It represented the interests of the cantons vis-à-vis the federal government. It maintained various working groups. In the case of the NFA the working group on fiscal equalisation was particularly active. One of its sub-groups dealt with the politically and technically crucial key factors of fiscal equalisation. This means, in Swiss terms, that approximately ten people (cantonal ministers and senior civil servants) belonged to the innermost circle that dealt with this problem. All persons involved knew each other well and had worked together for many years.

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<sup>3</sup> This is the conference of cantonal finance ministers that meets regularly.

In 1988, the FDK—or rather, its working group “key factors to fiscal equalisation”—asked the Swiss Finance Administration to prepare a “fiscal equalisation balance sheet”. Various parties were interested in this clarification: the poorer cantons wanted more money, the wealthier ones did not want to pay more; the cantons wanted more federal money but less federal influence, the federal government wanted the opposite; the cantonal finance ministers wanted general grants to be channelled through their treasuries, while colleagues in other departments preferred special grants. However, no one could successfully deny to first shedding some light on finances. The result of this review was unclear. Therefore, Rawls’s “veil of ignorance”, formulated as a theoretical concept, was applied as a practical tool to establish “fairness”.

In the following years, the specialists from the Swiss Finance Administration analysed cash flows between the federal government and the cantons. In 1991, they presented their report, “A Fiscal Equalisation Balance Sheet” (Eidgenössische Finanzverwaltung, 1991). This document contained 36 pages of text and various tables in the appendix. This balance sheet confirmed everybody’s worries: lack of transparency, wrong incentives, inadequate evaluation tools, few or no equalising effects, and even a reallocation in favour of the affluent cantons. Thus, there was an urgent need for action.

Now it was again up to the FDK to take action. It commissioned its working group considering key factors to financial strength to elaborate ideas for a comprehensive review of the fiscal equalisation scheme. This group followed the recognised principles of fiscal federalism: disentangling and simplification of cash flows (and thus disentangling of powers), separation of incentives and redistributive instruments, a more objective basis for calculating financial capacities, separate equalisation of burdens and revenues, introduction of a horizontal equalisation scheme and political control of the impact of equalisation. In 1992, the working group presented its so-called “framework of guidelines”, which addressed the criticism of the existing fiscal equalisation scheme and formulated proposals for its reform (Finanzdirektorenkonferenz, 1992).

This framework of guidelines served as a point of reference for the entire project. The basic elements of reform developed there were indeed implemented in the actual reform. This success was partly achieved due to the existence of initially formulated principles which were undisputed among financial experts – and were therefore accepted by all ministers of finance. Thus, there was a shared world view of the small circle of people involved. Other interested parties were kept at a distance so far because of the highly technical nature of the matter.

In October 1992, the FDK wrote a letter to the head of the Federal Minister of Finance, in which it outlined the guidelines of a new system and asked the national government to initiate a respective reform process. “It proposes

that the Swiss Minister of Finance establishes a commission of experts and readily agrees to collaborate with equal representation.” (FDC, 1992: 14). Obviously those taking part in this kind of commission would largely be the same experts that had drawn up the guiding framework.

The Federal Council basically agreed with this kind of approach. It was, however, aware that there would be political problem later on, when the winners and the losers became visible. That is why a very solid foundation was desired. With this goal in mind, the Federal Council and the Ministers of Finance jointly commissioned four of the most eminent scholars of public finance to provide expertise on this reform. They presented their reports in March 1994. They confirmed the criticism of the existing fiscal equalisation scheme and approved of the proposals of the framework of guidelines (Frey et al., 1994). In this way it was made sure that, at least from an academic viewpoint, this project would not encounter fundamental opposition. This was a kind of “functionalist” approach: consulting experts partly led to depoliticisation.

Therefore, the framework of guidelines and the expert reports defined the problem quite precisely, yet still in financial and fairly abstract terms: it was about disentangling cash flows, assigning different instruments to different functions, reinforcing the equalising effect and making it politically manageable. Following from this was need to separate competences: This was a precondition to disentangle cash flows and for increased efficiency in order to gain resources necessary to fund greater financial equalisation without disproportionately burdening the financially strong cantons. At the same time, the cantons would gain a certain degree of autonomy, which, at least from a populist point of view, was welcome. (In reality it often seems that the cantons do not really want more autonomy.) It was evident that such a reform would require a new constitutional foundation; it was less clear, however, which amendments exactly were preferable. The experts of constitutional law were still being kept at a distance. Moreover, the abstract nature of the existing provisions still left a lot of discretion for negotiated solutions on particular issues.

As mentioned earlier, parallel to the NFA project the comprehensive revision of the Federal constitution was underway. If there had been a desire to amend other aspects of federalism, then these would have had to be dealt with in this second process, thus preventing the agenda from being overloaded. The NFA project had the aim of reorganising fiscal equalisation. However, one requirement for this was, as shown, a clearer division of competences between the federal government and the cantons—although not in terms of a fundamental reallocation of powers, but rather in terms of disentanglement and increased efficiency. With this, disentanglement had a clear aim beyond ideological battles about the principle of subsidiarity. The basic principles of Swiss federalism were not at stake, or only insofar as federalism

was to be strengthened. In any event, no-one called this goal into question, at least as long as it was expressed in abstract terms.

The project was undertaken at a time of a strained budget. Therefore, no additional money would be available at all; tax increases were completely ruled out; and a fundamental reform of the tax system was out of the question. In short, the reform was not supposed to involve any costs for either the federal government or the cantons. With this argument it was possible to ward off any respective demands at an early stage. Referenda are often lost in Switzerland -and a referendum would be inevitable - because too much is packed into a bill, which makes it rather expensive. The tendency to do so is embedded in consociational democracy as the Parliament must take into account as many interests as possible. However, in the case of a referendum, this can lead to an accumulation of opponents. Since the planned reform of federalism significantly affect economic interests, it was important not to add other issues.

## 5. Negotiations

The negotiating process consisted of three phases that were distinct both in terms of the institutional structure and the task at hand. The first phase extended from the decision by the Federal Council to initiate reform (1994), to the project team's report "Guidelines" and the respective consultation procedure (1996).<sup>4</sup> The second phase began with a new project team (1997) and ended when the team presented a comprehensive "Final Report", which was once again sent out for consultation, with the results published in March 2000. Next came the third phase during which the constitutional and legal documents were prepared. These were introduced in Parliament in November 2001; the referendum was held in 2004.

The aim of the first phase was to translate the framework of guidelines of the FDK into a concrete project to reform the fiscal equalisation scheme and

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<sup>4</sup> Consultations are a regular part of the Swiss legislative process. Draft legislation, usually with explanations, is distributed among interested organisations (cantons, parties, civil society organisations) in order to gather evidence. Other interest groups and organisations can also participate as the process is very open. The evidence is analysed by the administration and usually summarised in a report. The result is not binding for the government; however, it often leads to amendments of the proposal. In the subsequent Message to Parliament of the government the most important results of the consultation are presented. They serve to highlight and take into account all potential criticism and objections so that the proposal will succeed both in Parliament and in the referendum. This instrument is typical of a political system based on consensus and consociationalism.



to ensure the necessary support. As the name suggests, the guidelines were only the basic ideas of what was still an abstract project, and the difficulties, as we know, are in the details not yet elaborated. Therefore, there was still a “veil of ignorance”, albeit a thinner one.

The second phase was all about fleshing out the abstract principles. Now the distribution of competences and the cash flows had to be clarified. This was certainly the trickiest part of the project, since all the important interested organisations now got involved. The question was whether they could be satisfied with modest adjustments, or whether the very essence of the project would be jeopardised. The consultation process for this specified proposal clearly revealed some objections, which were largely offset by further modifications made during the third phase.

The institutional stakeholders, the FDK and the SFA, who had already set the agenda continued to lead negotiations. Both were able to provide for manpower from the secretariat of the FDK and staff from the SFA. Over time, other stakeholders got involved.

Meetings of the committees mentioned earlier were not open to the public, although, in Switzerland, it is generally not difficult to get information. The small size of the country means that “people know each other”; confidentiality is often not that important. On the other hand, there is a certain trust among insiders, which, admittedly, has suffered over the last few years. It should also be emphasised that for a long time the public showed little interest in this reform project.

Parliament, party members or interest-group representatives did not have any formal rights during the negotiations, but such processes are rarely formalised in Switzerland. Aside from the finance ministers, the senior civil servants of the departments of finance also played an important role. Financial experts were invited to provide expertise at different points. It was only with the consultation on the “guidelines” at the end of the first phase that broader public was formally given the opportunity to present their opinion. This is the usual practice in Switzerland.

### *5.1 Phase One (1994-1996): Preparing the “Guidelines”*

As mentioned above, the first phase extended from the decision by the government to initiate a review to the consultation procedure on the guidelines. The term “negotiations” cannot be understood literally here because this process was designed to reach a solution in an expert committee rather than through the usual political quarrels. The small circle of specialists described above set out to prepare a rough outline of the reform, by considering criticism of the existing fiscal equalisation scheme and the financial directors’ guiding framework. However, the technical aspect of the process cannot

clearly be separated from the political one: political interests left their marks on every stage of the process, and each participant was aware of them. The political system possesses a remarkable ability to modify a specific task according to the context. Here, the (cantonal) finance ministers initially did not get involved as representatives of cantonal interests but rather as experts on public finance (cf. Freiburghaus, 1989). This allowed them to distance themselves from the demands of their colleagues in the other departments and then to present their solution as the only technically feasible one.

The SFA and the FDK readily agreed to establish a project team that included an executive committee and five working groups. The executive committee consisted of four SFA representatives and four cantonal finance ministers who had already been heavily involved in the project before. Parity was important. It was chaired by Ulrich Gygi, director of the SFA, who reported directly to the minister of finance. The project groups were to deal with the following topics:

- disentanglement of competences and cash flows between the federal government and the cantons;
- inter-cantonal collaboration and equalisation of burdens;
- clarification of the roles of and new funding mechanisms between the federal government and the cantons;
- strengthening of the self-financing capacity of the cantons;
- a new national equalisation scheme.

These issues were defined in the agenda-setting phase, the framework of guidelines and the reports of the financial experts. They were, as it were, institutionalised by the working groups. In the course of the negotiating process, these issues were transformed only by expressing them in more specific terms (particular elements will be discussed below). These groups consisted of three to five senior federal and cantonal civil servants who were either financial experts or who were dealing with policies heavily affected by the reform, e.g. when a jointly exercised power was to be separated. Occasionally, academic experts would also take part. A project management team of three people—seconded by the SFA—oversaw the practical work.

The negotiations within the project team were characterised by Switzerland's "culture of consociationalism", which plays a central role in such committees. Since, in the end, there had to be a compromise acceptable to (almost) everyone, and since there was a whole host of veto points, it made little sense to go into the negotiations assuming an extreme and inflexible stance. Relying on this culture, negotiators signal early where compromise seems possible.

The potential lines of conflict were clear-cut and were largely centred on the issue of fiscal equalisation. On the one side, there were the representatives of the federal government who had to make sure that the project would

not cause additional burdens for the Federal Treasury and that Parliament would continue to be able to control cash flows. The federal government was interested in horizontal equalisation among the cantons. On the other side, the cantons, in turn, were less enthusiastic. It would have been possible to leave horizontal financial equalisation within the cash flows between the federal government and the cantons, but then the important aim of simplification and transparency would not have been achieved. The cantons thus had the common goals of a continuing responsibility of the federal government for the fiscal equalisation scheme and of obtaining as much money as possible from it. Another cleavage manifested itself between the financially strong and financially weak cantons: the former wanted as little equalisation as possible, as this would be at their expense in one way or another, while the latter wanted substantial redistribution. However, the abstract nature of the discussion during this phase made it possible to confine these conflicts. Each party was always careful to keep or introduce instruments that could come in useful later on.

Yet, the new fiscal equalisation scheme was also dependent on the disentanglement of powers, as mentioned earlier. As long as this was discussed in abstract terms (“clarity”, “simplicity”, “stronger federalism”, etc.), everyone agreed. That the actual implementation of aim would be difficult was well known from past experience. What turned out to be a particularly tricky problem were externalities of tasks fulfilled by the larger, central cantons, from which the smaller and peripheral cantons often benefited. The central cantons insisted on a stronger and legally binding financial participation of all beneficiaries. Another conflict arose between the central and the Alpine cantons, with both claiming special burdens. While the Alpine cantons had ample experience in jointly pushing their demands, the central cantons were not yet used to act accordingly. Also, the role of the cities in this process was still unclear, although they were particularly relevant in the more populated cantons.

The formal result was the report entitled “Guidelines” (“*Grundzüge*”), dated February 1, 1996 (Grundzüge, 1996). The document included 66 pages of text and a few appendices. The main results may be summarised as follows:

- The report emphasised the comprehensive nature of the planned reforms: federalism was to be strengthened and revitalised, through a clear separation of powers according to the principle of subsidiarity and through fiscal equalisation determined to strengthen the financially weak cantons and compensate individual cantons for special burdens.
- All in all, the “self-financing capacity” of the cantons was to be strengthened. They should be enabled to finance more responsibilities from their “own” funds, i.e. their own revenue as well as general grants.
- The separation of powers was supposed to increase efficiency, and this

would which would free up additional funds for fiscal equalisation. The potential savings were estimated to be 3 billion Swiss francs. This estimate had no reliable basis; however, it provided the means—at least in the minds of the actors involved—for compensating the “losers”, thus turning a zero sum game into a positive sum game.

- Fifty areas of joint policy-making were to be scrutinised more closely. Of these, 21 were to fall exclusively within the jurisdiction of the cantons and 8 within that of the federal government. In these areas, the existing earmarked transfers were to be discontinued. When complete disentanglement of powers was not possible, a functional division of competence would take place. This meant that the federal government was to limit itself to framework legislation. Furthermore, instruments of New Public Management were to be implemented (contract management, global budgets, etc.).
- In the past, the differences in financial strength and burdens of the cantons were equalised by the same instruments. They were now to be separated.
- The economic strength of the cantons varied considerably and so did, as a result, the potential tax revenue. By means of “resource equalisation”, a politically defined harmonisation and a minimum level of resources was to be achieved. A “financial capacity index” that could not be manipulated was to form the fundament of calculation, based on the potential tax revenue determined according to standardised criteria.
- The equalisation of resources, on the other hand, was to be achieved through two instruments: the financial capacity of the cantons was to be harmonised through transfers from the wealthier to the poorer cantons. If this did not amount to a previously defined minimum level of resources, the federal government was to fund the rest. The main parameters had not yet been determined at this point; however, the models calculated in the “Guidelines” assumed a minimal fiscal base for each Canton of 87 per cent of the average level.
- The cantons bearing a particular burden, such as road construction in the Alpine cantons, were to be supported through grants by the federal government.
- Specific burdens were also borne by the densely-populated central cantons. They provided services, like universities, hospitals, public transport, which were used by people from neighbouring cantons. Such tasks were to be fulfilled in inter-cantonal collaboration with burden sharing. All cantons were to be compelled to do this (obligatory contracting).

At this stage of the process the result was not particularly controversial within the project team. Each representative saw its interests temporarily protected. Usually, only quite detailed constitutional or legislative projects are subjected to consultation. In this case this procedure was already used for

the “Guidelines”. In this way, the project was put to its first political test so that the actors involved could more easily anticipate potential objections. Over 50 cantonal governments, political parties and civil society organisations were invited to participate, while another 70 interested organisations or groups presented opinions on their own initiative, which was also taken into account in the analysis. Comprising only 40 pages of text, the report on the results of the consultation procedure (Eidgenössisches Finanzdepartement, 1996) was comparatively brief. Those consulted largely approved of the concept. Only the federalism sceptics of the Social Democratic Party were unhappy with the way things were going: they wanted as many powers as possible to be transferred to the federal government and they argued against higher funding for the cantons. Others primarily presented arguments that served to protect their vested interests. With regard to separation of specific powers, those actors, such as lobbying organisations on the federal level, raised their voice who had hitherto been rather influential in a policy field and now feared to lose influence. It was already evident that the greatest resistance would come from this side.

Inter-cantonal collaboration with sharing of burdens was approved. However, the high degree of complexity of such arrangements was criticised. The peripheral cantons emphasised their services for the central ones (like recreation). As could be expected, obligatory contracting was disputed by the smaller cantons. Even the equalisation scheme was in principle met with approval, although the affluent cantons warned against too high burdens. Various sides criticised the proposed index of resources: the poorer cantons argued that the envisaged equalising effect would be too weak. The agglomerations underlined the special burdens they had to bear (such as coping with problematic groups of society). All in all, no one was surprised by the results of the consultation procedure, and those engaged in the project could live with them. Yet, it was now important to get on board those forces that would be pivotal in the referendum.

### *5.2 Phase 2 (1997-2000): Fleshing out the “Guidelines” and the Final Report of the Project Team*

In 1996, the team of financial experts could, by and large, agree on a revised fiscal equalisation scheme and the redistribution of powers. However, during the consultation procedure it had become obvious that the “Guidelines” could not simply be translated into legislation because too many objections had been raised. In addition, the “Guidelines” had deliberately left open a number of details so that later a broader consensus could be reached through concessions. In addition, it was obvious that this project would lead to far-reaching constitutional amendments that would have to be approved of by voters and

cantons in the obligatory referendum. Therefore, at least half of the cantons had to be won over. Therefore, get a greater variety of stakeholders had to be involved in the imminent phase of specification. It was only in this phase that bargaining became dominant. Thus, the project inevitably ran the risk of losing its clear-cut profile.

This phase was very much organised like the previous one. First a reorganised project team fleshed out the “Guidelines”. On March 31, 1999, this team presented a 250-page “Final Report” to the Federal Council. Next, the government initiated another consultation procedure, this time, with more than 150 participants. The opinions presented were analyzed and summarised by the Finance Administration, resulting in probably the most comprehensive consultation report ever: published on March 31, 2000, it comprised more than 250 pages.

The new project team invited a greater number of stakeholders to take part, especially experts from the policy fields affected by the separation of powers. However, the basic structure remained the same: At the top was a political steering committee made up of three representatives each from the federal government and the cantons. On the Federal side these were the Minister of Finance, the Minister of the Interior and the Minister of Foreign Affairs. On the side of the cantons, the president of the FDK, the president of the KDK and another representative took part. This steering committee supervised the project, assigned tasks to the working groups, assessed interim results, provided new momentum and finally summarised the results for the Federal Council. It also made decisions on issues the working groups could not agree on.

The practical work in the project was supervised by a (subordinate) executive committee, the membership structure of which, too, was based on parity. It was chaired by the director of the FDK, while six more federal representatives came from the departments and ministries affected. The cantons delegated three FDK representatives and four more representatives from other ministries. In addition, there were also five representatives with observer status (the Federal Chancellery, the municipalities, the KDK, among others). Management on a day-to-day basis lay in the hands of a project management team consisting of four individuals—three from the SFA and one from one of the cantons. Work in detail was assigned to eight project groups with equal numbers of federal and cantonal representatives, respectively. These were mostly higher-ranking civil servants from the departments affected. Three groups dealt with cross-cutting issues (subsidiarity and new forms of funding between the federal government and the cantons, inter-cantonal collaboration, financial equalisation in a narrow sense) and five dealt with specific policies (social welfare/social policy, transportation and energy, education, the environment/forestry/agriculture/housing, justice, and security). Later on, another working group responsible for the overall balance

of fiscal equalisation was set up. These (small) working groups collaborated with federal and cantonal departments, called in outside experts and consulted with interested parties.

The basic aim was to transform the reform as defined by the “Guidelines” into draft legislation. This had various implications: First, a large number of parameters could now be adjusted. Moreover, it was now time for calculating the (financial) impact of different configurations on various budgets (federal government and 26 cantons) and policies. At the same time, it was clear that the result had to be widely acceptable even if this would include compromises regarding some of the principles. The work of those groups dealing with the disentanglement of powers was particularly difficult because it often entailed a fundamental reform of the existing structure of jurisdiction. This would meet with opposition from the affected stakeholders. Finally, legal experts had to transform the whole project into constitutional and legislative amendments. Surprisingly, all this was accomplished within two years.

Since the minutes are not publicly available, it is not possible to trace the behaviour of actors and the dynamics of the process in detail. In general, the same lines of conflict existed as during the initial phase, except that discussions no longer focused on principles, but rather on specific changes in terms of competences and cash flows—and that negotiations no longer just included financial experts, but a large number of stakeholders. Now that a wide range of policies was under consideration. As a consequence, the FDK as main representative of cantonal interests somewhat lost influence with the Government Conference becoming a new important stakeholder and coordinator. Below are a few of the most important conflicts documented by the changes in the project.

- Separation of powers proved to be extremely difficult, since affected actors who opposed a fundamental change had formed networks based on the existing interlocked structures. They included lobby groups operating at the federal level, and the cantonal authorities that wanted to continue to be funded directly by the federal government.
- In particular policy fields, lobby groups claimed that it would be intolerable if standards would vary from Canton to Canton, with different services provided (such as those for the disabled). They felt that the cantons wanted to save money at the expense of vulnerable groups. The spectre of “1000 wheelchair users on the *Bundesplatz*” was conjured up. This argument also corresponded to the general position of the Social Democrats and gave it additional weight.
- Up to this point, the plan had been to compensate the special burdens of the Alpine regions. In the meantime, however, the urban areas had successfully claimed that they, too, had special burdens to bear, in particular with respect to particular population groups concentrated in urban areas

(the unemployed, asylum seekers, alcoholics, etc.). These burdens also had to be compensated for.

The formal and substantial result of these negotiations was the 1999 document titled “The New Fiscal Equalisation Scheme between the federal government and the cantons”. Below are outlined the most important substantial proposals, especially those that deviate from the “Guidelines”.

- Now, 15 competences were to be assigned to the cantons and six to the federal government, while 17 areas were to be partially disentangled. For the reasons outlined above, the disentanglement was not as far-reaching as originally planned.
- Sixteen powers were to remain shared; however, new forms of intergovernmental coordination and compensation were to be tested (such as New Public Management, contracts, general grants, etc.).
- Nine competences were to be exercised through inter-cantonal collaboration with sharing of burdens. The federal government would be able to declare such agreements as generally binding, i.e., it should be able to force the cantons into compliance (obligatory contracting). The respective procedural hurdles, however, were set quite high. Furthermore, it was suggested that this kind of federal law should override cantonal law.
- The fiscal equalisation scheme was largely designed as outlined in the “Guidelines”. Nine hundred million Swiss francs were to be redistributed among the cantons; the cornerstones for the equalisation mechanism, however, were to be determined by Parliament.
- Alpine cantons as well as urban cantons were to benefit from the compensation of burdens. The former fall under “geographic-topographic” scheme, while the latter fall under “social-demographic” scheme.

The entire package was expected to increase efficiency worth 2 – 2.5 billion Swiss francs without cutting public services. The document also contained tables with calculations demonstrating what each Canton could expect in terms of finances. Only five cantons would see increasing burdens (net contributors). The increase varied from 11 francs per capita in the canton of Waadt to 172 francs per capita in the canton of Basel-City.

The appendix included a legislative proposal for the amendment of the constitution (eight new or substantially amended articles and a few other modifications regarding the fiscal equalisation scheme in a narrower sense, 22 new or amended constitutional articles relating to reallocation of powers). In addition, the appendix included a first proposal for federal legislation on fiscal equalisation as well as a template for an inter-cantonal framework agreement on collaboration and the respective burden sharing.

This much more detailed project was now again be subjected to a comprehensive consultation procedure. This time, 58 “official participants” were contacted and another approximately 160 interested parties presented opin-



ions on their own initiative. In principal, the project was still largely approved. With a few exceptions, there was no criticism on the basic elements. Disputes continued along the lines that had already become evident in the consultation procedures on the “Guidelines”. However, some additional significant objections were raised:

- The social welfare organisations were firmly opposed to giving more power to the cantons in social policy.
- Fundamental political criticism focused on inter-cantonal collaboration. It was argued that this would lead to cumbersome, complicated, potentially undemocratic governance at the expense of the parliaments. Moreover, the federal government was denied the right to force the cantons into joint decision-making.
- The left-wing parties and organisations preferred tax harmonisation over the envisaged equalisation of resources.
- The financial and statistical bases of the “resources index” were also criticised. For some, the impact of equalisation was too high, for others, too low.
- The symmetrical design of burden equalisation (for Alpine and urban cantons) proved to be clever, as most of the cantons could now expect subsidies under one or the other heading. Of course, criticism was levelled at the indicators to be used, with each Canton trying to pull the blanket over to its side.

In summary, the consultation procedure proved that the project was still on the right track and that major amendments would not be necessary. It also revealed the core elements that would potentially meet with serious opposition. Yet, in this phase of adjusting and fine-tuning, the initial abstract principles remained valid and they now indicated where modifications could easily be made and where they would threaten the substance. Furthermore, it was useful that the various elements were closely linked and almost impossible to separate, so that individual parts could not be broken off from the whole.

### *5.3 Phase 3 (2000-2001): Preparing the legislative proposals and the message to Parliament*

All in all, the final report by the project team of the second phase served as the basis for the final proposals. It was worthwhile, however, to take into account the important objections raised by the participants during the consultation procedure and the reflections of the financial experts. Still, the number of actors involved was limited. Yet, the various positions were now known, and an attempt had to be made both to save the essence of the project and to

make concessions to “dangerous” interest groups. The executive committee proved to be too cumbersome and was now replaced by a “*Petit Comité*” which also included the increasingly important cities. In Switzerland, “*Petit Comité*” generally means that key decision makers resolve controversial points behind closed doors. The existing working groups were reorganised and focused on the remaining, controversial points. In addition, ten more expert reports on various sensitive issues were commissioned (cf. the lists in Bundesrat, 2001: 2550-2551).

The formal result was the “Message to Parliament” on the reform of the fiscal equalisation scheme and the allocation of powers between the federal government and the cantons from November 14, 2001 (Bundesrat, 2001). This 270-page document not only retraced the entire process to date, but also explained the basic principles as well as the details of the reform right up to the individual constitutional and legislative articles complete with tables and calculations.

These results need not be presented in detail, as they correspond to a large extent to the “Final Report”. Here are a few of the most important developments:

- The index of resources, essential for equalisation, was revised once again and improved. Quantitatively, only estimates were possible, since not all basic statistical elements were available at the time to carry out the calculation. The complexity of this formula was now so high that every canton could find a little screw to turn in its favour.
- The equalisation scheme continued to consist of a horizontal component (between cantons) and a vertical component (between the federal government and the cantons). While until then both sides had contributed an equal share, the federal government was now to bear the heavier burden. The main parameters were to be set and modified by parliament. Thus, it was not yet clear which canton would finally win or lose. So there was still a “veil of ignorance” that would later be lifted by the members of parliament. With this, the MPs gained an essential power, which certainly helped to win them over to the project.
- The indexes for equalising burdens of the Alpine and urban cantons were comprehensively revised to respond to various objections. Here, too, there were many screws that could be turned.
- As regards the separation of powers and criticism relating to it, only one example of a compromise shall be given: while individual services for the disabled were to fall to the federal government (Disability Insurance), the residences and facilities affected (collective services) would be transferred to the cantons. To prevent them from “saving money off the backs of the disabled”, the federal government was to determine detailed objectives for such facilities. In doing so, the democratically constituted cantons were denied the ability to continue to implement these

policies independently. However, the lobby groups for the disabled were simply too powerful to insist on a clearer division of competences.

- Despite the criticism of the participants of the consultation procedure, the Message insisted that the federal government should be able to impose horizontal collaboration and sharing of expenditures on defiant cantons. The federal government had to take into account the requests from the central cantons, which complained about the free-riding tactics of the others. But the hurdles for this kind of federal coercion were now very high and opponents could hope that it would never be applied—which is the case until today.
- Compensation of special hardship (“*Härteausgleich*”) was something new for the poorer cantons, which, despite all the changes, would now receive less money than before—indeed, because they had profited from the old system. Now, 430 million Swiss francs a year were estimated, with two-thirds funded by the federal government and one-third by the cantons. This was to be for a limited time only, and parliament would periodically decide how to go on.

As a consequence of these modifications, not much remained of the increased efficiency envisaged earlier. Had it actually ever existed, it was now used up and spent to buy consent.

## 6. Ratification

The NFA was approved of in two steps: first, both Houses of Parliament had to vote in favour of it. Then the (mandatory) vote by the people and the cantons followed.

### 6.1 Parliamentary decision

The “federal resolution on financial equalisation reform and the reallocation of powers of November 2001, the “Message” mentioned earlier and the proposal on fiscal equalisation was debated in both houses of the federal parliament and passed by the Council of States in 2002 and the National Council in 2003. The bill led to intense debate in both Councils—initially within the respective committees, then in the plenums. The overall project was mostly deemed positive, both its attempt to strengthen federalism and the designated instruments. After various disagreements between the chambers were resolved, the final vote was held on October 3, 2003: the National Council voted 126 to 54 in favour, while the Council of States voted 38 to 2 in fa-

vour. The nays came from the Left-wing/Green camp and from the cantons that would become net contributors. In the National Council, the leftists moved for having the entire field of social policy excluded from the bill but without success. On the issue of horizontal financial equalisation, the front-line ran right through the conservative camp: parts of the People's Party and the Liberals found that the burden placed on the financially strong cantons was too high.

Both chambers discussed various changes and some were adopted. After the disagreements between the chambers were resolved, two substantial amendments remained:

- The conditions under which an accord between cantons can be declared universally binding were made more restrictive: the areas in which this was to be possible were listed, and parliament retained the right to decide, which in the original government bill would have been the responsibility of the Federal Council.
- The protection of the financially strong cantons against "plundering" was reinforced by the argument of the importance of inter-cantonal tax competition. The bill had provided for the payments of the net-contributor cantons into the equalisation scheme to be approximately as high as those of the federal government. The former were now limited to 80 percent of the latter.

In the end, the separation of powers turned out to be much less extreme than it had been hoped for at the beginning; it was, as shown, smoothed in the course of the process. Of the previously shared competences, six were assigned to the federal government and ten to the cantons; nine competences were to be exercised through inter-cantonal cooperation. Moreover, there are 17 competences that are exercised jointly by the federal government and the cantons.

The long negotiations involving all the important interest groups bore fruit: no one was able to form a majority or a strong minority in parliament that could fundamentally fight the reform. But then came the decisive step: the referendum.

## *6.2 The referendum*

In the introduction, the question was raised why such a complex draft finally overcame the hurdle of the referendum so elegantly. The process as such provides some aspects of the answer: the patient search for acceptable compromise. Before taking a closer look at the referendum, some general information on direct democracy in Switzerland seems to be necessary.

The referendum is the most important right of political self-

determination of the people of Switzerland. Fifty thousand eligible voters can initiate a referendum on a bill passed by Parliament. If the referendum takes place, only a simple majority of yes votes is sufficient to pass a law. To amend the federal constitution, a referendum is mandatory. In this case a double majority of cantons and voters is required. A canton vote is the majority of popular votes in the respective canton. This means, among other things, that a majority of smaller cantons with a minority of the population can reject an amendment bill, even if the majority of the population throughout the country approves of it. This way, minorities are protected in Swiss federalism.

Direct democracy has been practiced for a long time. The mandatory constitutional referendum has existed since the founding of the federal state in 1848, while the optional legislative referendum was introduced in 1874. At the time, 30,000 eligible voters could resort to a referendum; today there have to be 50,000. Since then, however, the population has more than doubled, and in 1971 women, too, got the right to vote. Therefore, it has become easier to resort to a referendum. The number of optional referendums has increased significantly; nowadays, there are between two and three every year at the federal level. Over time, the popular rights have continuously been expanded, such as the right to initiate a partial revision of the constitution of 1891 or the state treaty referendum of 1921.

These instruments of direct democracy have reshaped the political system of Switzerland. All legislative procedures and constitutional reforms take place, so to speak, in the shadow of the referendum. Therefore, the whole legislative process - from the first administrative review to the readings in parliament - always is not only about the goals of a bill and how to achieve them but also about whether or not there will be a referendum later on and what its chances would be. The most important effect of the popular rights lies in their indirect effect on the process of constitutional negotiation.

Referendum democracy in particular has three effects: Firstly, high-flying, far-reaching, reform bills full of abstract ideas and ideals will have few chances to be accepted in a referendum. Pragmatism, small steps and the art of the possible characterise the political process. The system of permanent all-party government reinforces this trend towards incrementalism. Secondly, all interest groups that potentially are capable to resort to a referendum and to win a campaign are included in the political processes at an early stage. They take part in expert groups and are invited to provide input into the consultations. Thirdly, these interests do not only take part in negotiations, these interests are to be considered substantially. If any groups, even small ones, feel disadvantaged, the bill is likely to fail. People feel a certain solidarity with minorities that are fighting for their rights. This is why it is often necessary to bring those groups over to the winning side through concessions. As a consequence, lawmaking in Switzerland requires the art of reaching com-

promises in protracted negotiating processes.

Yet, does this not lead to seemingly endless processes? Are reforms not forever procrastinated? As a matter of fact, the processes are indeed very long. The NFA reform took almost twenty years. However, moving slowly does have its advantages, since it gives civil society the time to solve problems in autonomy, thus reducing state intervention. In addition, moving slowly in politics has advantages for the economy, since investors know what to expect. If, therefore, liberalism and conservatism enjoy a stronger position in Switzerland than elsewhere, it is because they are protected institutionally.

But does the need to include all interest groups not inevitably inflate the state sector and public spending? Apparently not, as is revealed by a comparison of Switzerland's public expenditure quota with that of other countries. All Swiss stakeholders know that if something costs Swiss taxpayers a lot more in the end, the project will fail at the referendum stage. This instils a strong sense of discipline. The Swiss do not like paying taxes and that is why they have included tax rates in the constitution: increases are only possible with a double majority of the people and the cantons. For this reason, efficiency was an important issue in the NFA process.

Yet, do not many constitutional initiatives destabilise the political system? Absolutely not, since usually the people agree to proposals made by parliament and the government—exactly because government and parliament try to anticipate what the people want. In order to avoid a referendum, during the preparation of bills and the readings in parliamentary compromises are made until roughly 80 per cent of the MPs feel they can support the bill. Since 1848, there have been 175 popular initiatives for constitutional amendments. These were rejected in 90 per cent of the cases. During the same period, there were 379 mandatory and optional referendums. In two-thirds of all cases, the parliamentary proposal was approved of. The popular trust in the authorities is therefore intact.

Just as everywhere else, people do not govern themselves in Switzerland; they leave the real work to the political elite. However, the people retain an almost unrestricted right to object; they are the final authority, the sovereign. And, as mentioned earlier, this right has serious implications even if it is not used. The *vox populi* does not make it easy for decision-makers but it is very useful for the system: direct democracy hardly alienates those governed from those governing. It creates a kind of pre-stabilised legitimacy.

All of this was evident during the referendum on the NFA. The federal decision had to be submitted to the people and the cantons since was a constitutional amendment. People went to the polls on November 28, 2004. After an overwhelming majority in the two houses of parliament had approved of the bill, and only the canton of Zug was officially against it, it appeared that its adoption was guaranteed. However, there were two complications: On May 16, 2004, the people had rejected a complex financial package, on

which—for the first time in history—the cantons had successfully resorted to a referendum. This was taken to be a bad omen for the NFA bill. The Federal Minister of Finance appointed thus a distinguished expert and federalist as a “delegate for cantonal financial matters” to the Finance Administration to provide the cantons with an additional voice. The Social Democrats spoke out against the proposal but hardly cared to organise a convincing no-campaign. Heavy opposition arose only from associations of disabled and social welfare organisations, who raised the spectre of social exclusion.

As usual, the bill was presented to the Swiss in the so-called “*Bundesbüchlein*” (“federal booklet”), a brochure summarising the bill, the government’s position and that of parliament, as well as the most important arguments against it as presented by the opponents. Only seven pages long, it introduced this comprehensive package to the people. The 27 constitutional amendments were attached. The referendum campaign was lacklustre, the turnout at 35.5 percent was low. This, however, meant that it was mostly politically informed and interested voters convinced by the arguments provided who went to the polls. The reform benefited from this. The bill was approved of with over 64 per cent of the votes. Only three of the six cantons burdened as net contributors in fiscal equalisation voted against it (Schwyz, Zug and Nidwalden).

An analysis of the vote showed that a majority of people casting a vote had confidence in the bill as it had been prepared by parliament and the government. Even a majority of generally left-wing voters voted yes. Age, education, gender, language and residence (urban/rural) hardly played any role, which was a great success. The no-votes were higher in the net contributor cantons and by people who followed the arguments of the associations of disabled. The amendments to the federal structure (strengthening horizontal collaboration) had hardly any impact, neither positive nor negative. The principle of a stronger equalisation between “rich” and “poor” was mostly approved.

## **7. Evolution after the referendum**

The reform led to changes to many federal laws and regulations. Hardly any policy was left untouched. This, of course, also applied to the cantons. If the amendments to federal laws had been lumped together with the constitutional amendments to form a single package, this would have demanded too much from citizens, which often leads to rejection. Yet, if it had not been done, people would have run the risk of selling a “pig in a poke”, i.e., of leaving the people in the dark. This could also have led to failure.

How to deal with this dilemma? First, only the constitutional amend-

ments and the new fiscal equalisation scheme were subjected to the referendum, but at the same time, future legislative reforms were outlined. This was a tightrope walk, but a successful one: two years later there still had not been a single referendum on the implementation legislation. Another year later the third legislative package came along dealing with the detailed terms of resource and burden equalisation. Up to this point the definite numbers were not yet fixed, but now it now came down to francs and centimes each canton would receive and pay. Yet, even then, there was no call for a referendum; the political caravan had already moved on. On January 1, 2008, the reform came into effect. There are, in fact, ongoing disputes, especially from the net contributors and the urban centres, but for the time being it can be warded off with the argument that it is still too early to assess the results. In addition, it is argued that there are some parameters that could be adjusted by political decision. However, no fundamental challenge to the new system has yet been made.

## **8. Reasons for the successful implementation of the NFA**

How can the clear majority of the people and the cantons in favour of this very ambitious federalism reform be explained? Was there a positive climate for a reform in 2004? Was the state coffer overflowing? Did the people dare a giant leap forward? Did Switzerland even have a charismatic finance minister? None of these reasons apply. The conditions for success are to be found in the practice of everyday politics and in the characteristics of the political institutions in Switzerland. Much has already been said, therefore, the explanation will be summarised in ten points:

1. From past experiences, Swiss politicians had learned the lesson that federalism reforms trying to avoid financial issues are doomed to fail. Therefore, this time the bull was grabbed by the horns and money became the central issue. The redistribution of competences was no longer the point of the exercise but rather a necessary prerequisite for a new form of fiscal equalisation. In this way, a fundamental discussion about which level was responsible for what could be avoided and, at the same time, the agenda was simplified. Other and more comprehensive issues of federalism were referred to the total revision of the federal constitution. What was new and unfamiliar, was the power of the federal level to coerce cantons into cooperation with horizontal burden sharing; although high hurdles ensured that this instrument was not taken too seriously.
2. The need and urgency to completely revise the existing fiscal equalisation scheme were undisputed because its weaknesses were obvious. The



federal government and the cantons were caught up in a tangle of fees, allotments and subsidies. The lines between incentives and redistribution were blurred. In the end, it was hard to determine who exactly was benefiting, and sometimes it even appeared to be the financially strong cantons. The cantons could manipulate the mechanism through their own financial policies. In addition, the disparity between the cantons had increased over the years. The tax burden in the financially weak cantons continued to increase, the affluent cantons lowered their tax rates, and therefore, the call for substantial tax harmonisation became increasingly louder. The liberal and conservative parties did all to avoid this solution. Therefore, there was no opposition to reform as such from either the Left or the Right, as each side could hope for some advantage.

3. The debate focussed on a few central ideas on the reform of fiscal equalisation: clarity and simplicity, separation of powers and cash flows, objective determination of fiscal capacity, separation of general equalisation and compensation for special burdens as well as more autonomy for both levels of government. These principles were supported both by experts and federal and cantonal finance ministers. Or more precisely: the finance ministers agreed on these principles and allowed eminent professors of economy to confirm that they were the right. Therefore, who could object?
4. Rawls's "veil of ignorance" was used to ensure fairness. The above-mentioned principles were agreed upon early in the process, when no one could yet know the impact they would have on the individual actors. An additional safeguard was applied: to allay fears and to ward off any envy, the new fiscal equalisation was to be cost-neutral—on the one hand for the federal government and, on the other hand, for all the cantons. This way, the rug was pulled out from under the killer argument of tax increases.
5. Translating these central ideas into actual policy occurred in four phases and, as in mountain climbing, step after step, with fixation of intermediary result. Each of these steps took one or two years, and each time, the project team and thus the number of participants grew in size. In the final phase, over 100 experts took part in the effort. Many consultations were held with roughly 200 contributions each. They indicated general approval but also made it clear where serious resistance could be found. This could then be taken into account when the central ideas were fleshed out.
6. How was it possible to bring the central ideas, the inner logic, through this political process largely unscathed? This required institutional protection. From the beginning, there was a core group consisting of the Federal Minister of Finance and some of his senior civil servants on the one side and the finance ministers of the influential cantons on the other.

This “Council of Elders” with equal representation played a decisive role in the ever-growing project team and served as a political steering committee. As experts in state finances, its members constituted an “epistemic community” against which financial laypersons would have had difficulty arguing. In addition, the cantonal finance ministers had their own vested interest in reform: more unconditional funding from the federal government meant that it was to be included in their budgets.

7. Nonetheless, there were losers or groups that presented themselves as such. In order to get a majority, some of them had to be brought on board. Three examples shall be given: 1) the disabled were accommodated in that the federal government continued to determine minimum requirements for facilities. 2) Alpine regions were no longer the only ones compensated for special burdens, but also the urban centres. 3) hardship compensation ensured approval of those cantons who found themselves in a worse situation under the new formula. In all three instances, the resistance of powerful opponents was reduced or broken.
8. Most of these concessions cost money, although cost-neutrality had been promised. So where to get the money from? The clearer separation of powers would make public services more efficient and thereby less expensive. According to estimates, between two and three billion Swiss francs could be saved. This (fictitious) money could then be used to buy off potential opponents. The plan worked out, and cost-neutrality could be achieved.
9. When this carefully composed package was introduced in parliament, it had to be protected from being undone. To do this, members of parliament had to be given the opportunity to decide on a few crucial parameters, like the level of equalisation among the cantons, the contribution of the federal government in order to guarantee a minimum budget for the poorer cantons, or the size of the special funds. These issues were, and would be decided in the future, by parliament. It was satisfied and approved.
10. Since tax-payers had not been burdened, since ten cantons became net contributors and 16 net recipients, since the three major middle-class parties as well as the federal business association “Économie Suisse” agreed, the negotiation process was followed by a low-key referendum campaign resulting in a low turnout and a clear positive vote. Only the net contributors Zug, Schwyz and Nidwalden said “No”. Sympathy for these “rich” cantons was limited.

So how can the project’s success be explained? There are, as shown, many reasons. However, what was crucial was a long, carefully planned process in which, on the one hand, the fundamental principles could be maintained while, on the other hand, a majority could be won through concessions. The design of this process seemed to be “intelligent”, but no one designed or

directed it. A small group of members of government, civil servants and experts simultaneously played the roles of father, midwife and godfather, and accompanied the child until it had grown up. These people had known each other for a long time, had often worked together before and shared similar views on the state, society and finances. They had political experience at all levels of government and knew the peculiarities and moods of the people. Keeping this kind of committee small enough to be able to work informally and still make it more or less representative belongs to the highest art of Swiss cooperation: the Social Democrat from French Switzerland must be part of the group just like the Catholic from Central Switzerland and the Liberal from Thurgau. Therefore, few *virī probati* are chosen who each wear several hats at once, so that everyone feels represented. It may be a privilege of a small country to entrust some of its problems to committees that operate like a school reunion.

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