

## 2.4 The Government

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## 1 Governmental Functions

Government and governance are ambiguous notions with numerous meanings. In both Anglo-Saxon (Campbell/Peters 1988) and Germanophone countries (Ellwein 1976), a clear conceptual distinction between these two terms is now generally accepted. The *broader term*, governance, refers to the performance of political tasks in general. This is the concept underpinning the field of comparative government, which focuses on the interplay between all political institutions, including political bodies other than the executive, and semi-public institutions, if relevant to the decision-making process.

The present chapter, however, deals mainly with government in the *narrow sense* of the term, that is, with one particular institution of the political system. While originally, governments fulfilled mainly executive tasks, nowadays governmental functions are more diverse and defined in many different ways according to various political systems.

While the task of governing (in the narrow sense) has always and everywhere been very demanding, in a country as diverse as Switzerland, it is still more difficult to fulfil governmental functions. The *Federal Council*, which is in charge of this task, has been composed of only seven members ever since the foundation of the federal state in 1848. Each year, a different member acts as President of the Federation (*Bundespräsident*), who enjoys no political privileges, however.

According to Article 174 of the constitution, the "Federal Council is the supreme governing and executive agency of the Federation". Thus, in addition to the traditional task of implementation, it is to a large extent responsible for the political leadership of the country (see Jenny 1988). Articles 180-187 of the constitution enumerate several of the Federal Council's duties. The Federal Council determines the aims and means of its governmental policy and informs the public of its activity fully and in good time. Furthermore it is responsible for implementing federal laws and ordinances as well as the rulings of the Federal Supreme Court. Moreover, the Federal Council represents Switzerland abroad, it takes measures to preserve the external security, the independence and the neutrality of the country and takes measures to safeguard internal security. Similarly, it has the task of safeguarding the country's internal order. The Federal Council is further responsible for the relations between the Federation and the cantons. Finally, it is in charge of managing the administration and the finances of the Federation. The government thus enjoys far-reaching powers even though its decisions are contingent on the approval of parliament, the people and the cantons.

The 1997 Law on the Organisation of Government and Administration (*Regierungs- und Verwaltungsorganisationsgesetz [RVOG]*) (SR 172.010) specifies

the government's tasks. Its primary duty is not to implement but to govern. This priority, set forth in Article 6 of this law, implies that the Federal Council must:

- determine the means and ends of governmental policies;
- take all the necessary measures enabling the government to fulfil its duties at all times;
- further national unity and cohesion;
- protect federalist diversity;
- support other state agencies in their efforts to fulfil their constitutionally mandated duties effectively and punctually.

The Federal Council's second task is to participate in the *legislative process*. Article 7 of the RVOG states that the Federal Council is responsible for "conducting the procedures prior to the legislative process, for submitting proposals for constitutional amendments, federal laws and ordinances, as well as for issuing decrees in so far as it is authorised by the constitution or the law."

The third function of the Federal Council is to *lead* the federal administration. According to Article 8 of the RVOG, the government shall "determine and continuously adapt the organisation of the federal administration" in order to improve the "federal administration's efficiency and its capacity for innovation". Finally, the Federal Council is responsible for "permanent and systematic supervision of the federal administration".

The actual task of *implementation* is only mentioned as the fourth function in the RVOG. The Federal Council is in charge of "implementing the decrees and decisions of the Federal Assembly" and is responsible for administrative jurisdiction. Finally, the Federal Council has the duty to communicate with and inform the public. Articles 10 and 11 of the RVOG state that the Federal Council shall "continuously and promptly provide information to the Federal Assembly; the cantons and the public on its assessments of the situation, its decisions and projects". In turn, the Federal Council must keep informed "about the opinions and concerns voiced in the public debate."

From a *political science perspective*, the government's duty of exercising political leadership can be divided into four different functions:

- The Federal Council fulfils the function of political planning (Klöti 1986, 1990; Lanz 1997) by staying fully informed about all developments inside as well as outside the country through an adequate system of information. With the help of an extensive network of experts, the government continuously assesses the situation, defines the goals of state action and, if necessary, adapts these to changing circumstances. Finally, it develops new measures and programmes if these appear necessary.
- *Coordination* implies the harmonisation of different activities in view of a common goal (Hanf/Scharpf 1978; Klöti 1986, 1988). This concerns first

and foremost *horizontal* coordination of the activities of the seven departments and the roughly 70 federal offices. A particularly difficult task in a federal state is *vertical* coordination of governmental activities between the three state levels (see Schenkel/Serdült in this volume). Similarly, it is necessary to coordinate and harmonise the activities of various private actors, such as political parties, interest groups and other organisations.

- Nowadays, the government is increasingly confronted with the task of *representation*. Domestically, representation has become more important as a consequence of the growing problems of integration within a multicultural society. In the light of deepening European integration and increasing internationalisation, representation at the external level has also become a priority task of the government.

- Finally, the task of providing *information* has grown in significance. Given the increasing complexity of the political system, it is essential that all politically relevant actors, and especially the public, be well-informed about the ideas, intentions and projects of the government.

## 2 The Governmental System

In Switzerland, a unique system of government has developed in order to fulfil these tasks. The main characteristics of this system include a particular electoral procedure and the principle of concordance. The government plays a central role within the political system, even though its powers are very restricted.

### *The electoral procedure*

Article 175 Paragraphs 2 and 3 of the constitution states that "the members of the Federal Council shall be elected by the Federal Assembly for four years from among all Swiss citizens eligible for the National Council." Switzerland does not have a parliamentary system in the strict sense, since the Federal Council is elected for a period of four years and cannot be dismissed during its term by a vote of no confidence. Moreover, the seven members of the Federal Council are elected separately. Thus, despite the collegial principle (discussed in the following section), the Federal Council does not have a collective responsibility *vis-à-vis* the Federal Assembly. As a consequence, and given the fact that the members of the Federal Council can count on being re-elected if they wish, the Swiss government tends to be very stable. In the 20th century, not a single Federal Councillor soliciting another term of office failed to be re-elected.<sup>1</sup> Voluntary resignations, for example after electoral defeats, form the exception. Since the introduction of the so-called magic formula in 1959, there have been only four premature or not entirely voluntary resignations (Max Weber 1953; Paul Chaudet in 1964;

Pierre Aubert in 1987; and Elisabeth Kopp in 1989). The average term of office is therefore relatively long; since the foundation of the federal state, it has been almost 8 years (Alermann 1991; Blondel 1995).

Article 175 of the Constitution also establishes that the Swiss government is not directly elected by the people, as it is in classical presidential systems and in Swiss cantons. Rather, the United Federal Assembly (i.e. both houses of parliament together) serves as the *electoral body*. The reason for this provision is that the parliament is in a better position to grant the different minorities, regions and groups equal representation in the government than are voters in popular elections. Attempts to shift to a system of popular elections for the Federal Council have failed regularly.<sup>2</sup> In 1998, some SVP circles in Zurich once again sought to introduce such a system, but their project was contested even within the party itself.

Finally, it should be noted that Federal Councillors are not elected jointly but individually. The order of their re-election depends on the length of their term; for new members, the term of their predecessor counts. In order to be elected, a candidate must obtain an absolute majority of votes in the Federal Assembly (Regulations governing the United Federal Assembly, SR 171.1.2). Several rounds are often necessary. Due to this procedure, elections are often strongly personalised. The nomination of candidates can lead to fierce disputes within the parties. The parliamentary groups have the right to propose candidates, but it is far from certain that their nominees will actually be elected by the Federal Assembly. In practice, it is not uncommon that outsiders eventually prevail over official candidates. For instance, in 1959, the moderate Hanspeter Tschudi was elected instead of Walther Binggolf. In 1973, the three newly elected Federal Councillors (Chevallaz, FDP; Hürlimann, CVP; Ritschard, SP) were given preference over the official but contested candidates. Similarly, in 1983, the bourgeois parties refused to vote for the official candidate of the SR, Lilian Uehring, and instead gave their votes to Otto Stich. Finally, in 1993, Francis Marthey, who had also been elected against the will of his party (the SP), withdrew. Subsequently, the Federal Assembly elected the new socialist candidate, Ruth Dreifuss, while the original candidate, Christiane Brunner, dropped out of the race. With more intensive media coverage, less contested elections can also be transformed into fierce disputes between candidates, thus adding some colour to everyday political life in Berne.

### *The system of concordance and the magic formula*

The system of concordance is an important feature of Swiss political culture. It is a crucial element of a *consensus democracy*, which, following the terminology of Lijphart (1984), is to be distinguished from a majoritarian democracy. Under the model of consensus democracy, conflicts are resolved not on the basis of narrow

and shifting majorities, but rather through negotiations leading to a clear majority or even total consensus. While the ideal outcome would be unanimity, in most cases, a solid agreement between all important groups is reached (Papadopoulos 1997). In principle, the achievement of such an agreement is facilitated by two different *mechanisms*:

- The first mechanism follows from the principle of proportionality. According to this principle, political bodies should be composed of representatives from all important groups. These should be represented on the basis of their relative size within the population. If proportionality is not a compulsory element of the electoral procedure, it should be respected on a voluntary basis.
- Numerous authors also see the corporatism inherent in the role played by interest groups in the political system as an example of concordance. The main reason is that also within neo-corporatist arrangements between interest groups and state agencies (especially the administration), consensual solutions are negotiated. This view is contested, however, since corporatism is a centralising form of organisation, which thus tends to exclude marginal groups with limited political resources from negotiations and political representation (Armingeon 1997). The dominant theories of political science explain the Swiss system of concordance mainly with reference to *institutional constraints*. Three institutional elements have contributed to the system of concordance in its present form.
- First, the institution of direct democracy has been a crucial factor. Direct democracy implies that government policy can be constantly challenged by the people and the cantons by means of initiatives and referenda. In order to prevent those groups capable of launching a referendum from voicing their concerns only after a parliamentary decision has been taken, they have been gradually incorporated into the political decision-making process. Thus, they have the possibility to express their opinion at an earlier stage. The general aim of this system is to further the integration of important political actors and to render policy-making more efficient (see Linder, Chapter 2.1, in this volume).
- The second institutional element reinforcing the system of concordance is the proportionality rule for elections. In larger cantons, it ensures that several political parties enjoy political representation. This has given rise to a multi-party system in which it is technically impossible for a single party to achieve an absolute majority (see Wernli in this volume).
- Federalism is the third institutional element that is closely related to the system of concordance. Because of Switzerland's linguistic and religious diversity, mechanisms were put into place early on in order to achieve a balance between the different regions of the country. Subsequently, this institutional mechanism served as a model for conflict resolution in other areas (see Vatter in this volume).

The most important aspects of Swiss concordance democracy concern the *formation of government* as well as its *mode of operation*. In this respect, the system of concordance comprises three elements (Keman 1996). First, since the government is based on a coalition, cooperative behaviour is a necessity. Secondly, minorities must be adequately represented in the government. Finally, a rigorous application of the proportionality rule should ensure that the composition of the government closely mirrors society.

For obvious reasons, the composition of the Federal Council has been the most salient aspect of the system of concordance. Since 1959, not only are the most important groups granted proportional representation in the government, but the *magic formula* (see Reber 1979 on its development) further ensures that the four biggest parties are represented in the Federal Council according to their share of voters. The Social Democrats (SPS), the Radicals (FDP) and the Christian Democrats (CVP) each hold two seats, while the Swiss Peoples' Party (SVP) has one seat. With this arrangement, roughly three-fourths of the voters are represented in the government. After thirty years, the Swiss public is now so accustomed to this formula that it is sometimes mistaken for a constitutional rule or equated with concordance democracy as such. Nevertheless, it must be emphasised that the magic formula is optional only, and that it can be challenged in every election. Its resilience is primarily due to the system of direct democracy, which requires a multi-party government (Neidhart 1970). Under the given distribution of votes, no other formula would have been politically viable. Finally, this formula fits well with the other elements of concordance democracy.

Nevertheless, this has not prevented the magic formula from being *criticised* and questioned from various sides (Germain 1994). Authors from the left have accused it for its lack of transparency and its inability to produce forward-looking solutions. They have also argued that the magic formula serves to veil the power of the bourgeois oligarchy, or that the participation of the SPS in the Federal Council hampers the party's dynamism and prevents it from extending its electoral base (Brassel et al. 1984). From the other end of the political spectrum, bourgeois and business-friendly circles have deployed mainly the Federal Council's limited potential for innovation and, as a consequence, the restriction of its freedom of action (Borner et al. 1990: 72f; Wittmann 1985: 160-165). The attempt of a section of the Zurich Radicals to abolish the magic formula clearly failed during the election of Otto Stich (APS 1995: 31-2), and Geneva's experiment with a purely bourgeois government had to be abandoned after only one term (NZZ of 13 October 1997, Nr. 237: 9). Encouraged by the massive wins in the 1999 election, the Swiss Peoples' Party claimed a second seat in the government, first at the expense of the Christian Democrats then of the Social Democrats. Christoph Blocher, national councillor, did not succeed however

(APS 1999: 38-39). Thus, there are good chances that the magic formula at the level of the Federal Council will last for years to come. This is all the more likely given that comparative analyses (Armingeon 1996; Lehner/Nordhauser/Janz 1988) have shown that governmental policies in concordance systems are not less successful than, nor actually different from, governmental policies in purely competitive systems.

The system of concordance not only requires that the political parties be proportionally represented in the Federal Council. Elections to the Federal Council are also subject to various other rules and *restrictions*. The oldest and only selection criterion mentioned in the constitution, was that a candidate must have a *genuine link to a canton*. According to Article 96 of the constitution of 1874, "not more than one member may be elected from the same canton". This provision was intended to prevent a hegemony of the large cantons. The close link to cantonal origin was abandoned in a referendum in 1999. The new Constitution (art. 175/4) says only that "the various regions and language communities must be equitably represented in the Federal Council". Legally less binding, the new provision still has the same intention. It reinforces the informal rule that the composition of the Federal Council shall be regionally balanced. The aim of this rule is to grant the large regions adequate representation in the Federal Council. While the three largest cantons, Zurich, Berne and Vaud, have almost always been represented in the government, there are five small cantons and half-cantons (Schwyz, Schaffhausen, Jura, Uri, Nidwalden) which have to date never had a representative in the Federal Council. Since 1848, the most underrepresented cantons have been Geneva and Zurich, the latter because of its size, despite being almost permanently represented. The cantons of Vaud and Neuchâtel, by contrast, have been the most over-represented cantons (Altermatt 1991).

Closely related to the criterion of cantonal and regional affiliation is that of *language*. It is an unwritten rule that at least two of the seven members of the Federal Council shall come from outside the German-speaking regions. Traditionally, as well as from 1987 to the end of the 1990s, the Federal Council has been composed of four Germanophones, two French-speaking and one Italian-speaking members. The native language of the Federal Councilors is also of importance in that it influences the working language within the ministries. Thus, the slight over-representation of the linguistic minorities helps to ensure a balanced representation of the different linguistic groups within the federal administration (Kloti 1972; Urio 1989).

Well into the 20th century, *religion* was a decisive selection criterion. Until 1891, Catholics were not represented in the Federal Council. Presently, however, religion plays only a marginal role in selecting the members of the government:

By contrast, since the introduction of female suffrage at the federal level in 1971, gender has become an important criterion as women advance their legitimate claim to equal representation. The first female member was elected to the Federal Council in 1984. Until 1998, however, not more than one seat was held by a woman, even though women voiced their claim to an additional mandate in every election. Since the election of Ruth Metzler in 1999, there are two women in office. Parity is still not reached, however. The question of gender will continue to lead to discussions in the near future.

The members of the Federal Council must meet very demanding *requirements* in terms of professional qualification, personal character, leadership qualities and social background. In a small country like Switzerland, the number of suitable candidates will thus be small, and the numerous criteria of representation further restrict the range of possible candidates. However, in order to safeguard the legitimacy and broad popular support of the government, these criteria cannot easily be dispensed of. In any case, the rather complex selection procedure has, in a majority of cases, brought forth very capable personalities.

#### *The position of the Federal Council within the political system*

From a functional perspective, the Federal Council is the highest authority within the system of governance, charged with the tasks of political planning, coordination and implementation. Since the Federal Council is elected for a fixed term of four years and cannot be dismissed through a vote of no confidence, it holds a strong position vis-à-vis the parliament. Even though the role of the Federal Assembly has been reinforced through internal reforms, its level of power is still lagging far behind that of the government and the administration in terms of access to information. From an institutional perspective, the Federal Council is thus a powerful actor. But what about its actual impact on the political decision-making process?

According to two textbooks on political decision-making processes at the federal level (Kloti 1984: 318-319; Linder 1987: 26), the Federal Council clearly plays the most important role within the political system (see also Sciarini in this volume). At no point does the decision-making process bypass the government. The Federal Council plays a crucial role from the moment when a problem is put on the political agenda, be it by initiating new decision-making processes, or by acting as a gatekeeper who weakens or delays parliamentary proposals or popular initiatives.

During the so-called *pre-parliamentary consultation procedure*, the Federal Council can freely appoint experts, and, at all moments, raise the questions it considers important. The comments collected in the course of this procedure are evaluated according to criteria established by the Federal Council. Finally, the

Federal Council is responsible for drafting the proposal that is submitted to the parliament, to which it presents its arguments in the form of a so-called message (*Botschaft*).

The parliament has the possibility of rejecting, amending or completely rewriting the proposals of the Federal Council (see the Chapter by Lüthi in this volume). This means that the parliament has a *de facto* veto right. This right is not as absolute as it seems, however, since at least one of the Federal Councilors as well as some top administrators take part in the work of the parliamentary committees. The Federal Council can thus significantly influence the work of these bodies. Moreover, given its right to speak in front of the Federal Assembly, and given the information asymmetry between the Federal Council and the parliament, the government is in a good position to defend and push through its interests.

The Federal Council's sphere of influence is restricted by the instruments of *direct democracy* (see Linder, Chapter 2.1, in this volume). In its preparatory work, the government must constantly keep in mind that a referendum might be launched against its proposals. This considerably limits the Federal Council's (as well as the parliament's) room for manoeuvre. It must be emphasised, however, that even during this phase, the Federal Council has several tactical options at its disposal. It can, for instance, freely choose the dates for popular votes, or skilfully assemble different bills into packages. Moreover, during campaigns, the Federal Council has the right to make its arguments known to the public in the form of a brochure, the so-called federal booklet (*Bundesheftchen*). In recent years, the members of the Federal Council have tended to participate more often and more effectively in voting campaigns.

In its task of *specifying legal norms*, the Federal Council has a rather free hand. It can issue regulations for implementation in the form of binding decrees. Since laws often leave controversial issues unresolved, their clarification and specification can be of considerable importance (see Report 1995).

*Implementation* of political programmes basically falls into the executive's sphere of responsibility (see Kissling-Näf/Wälti in this volume). In the Swiss case, however, this must be qualified, since in most cases the cantons are responsible for implementing federal law. The Federal Council supervises the cantons in their implementation activities, but it cannot prevent federal law from being implemented differently from one canton to the next. Thus, the Federal Council's influence is restricted precisely where, according to the classical conception, it should be unlimited.

Overall, it can be argued that, while the Federal Council is unable to exercise unlimited control in any phase of the decision-making process, it always retains the possibility of exerting some influence. The Swiss government should thus not

be seen as the undisputed leader of a complex administrative structure; it does not exercise its power in a top-down fashion. Rather, it is more appropriate to view the Federal Council as a "forum for settling disputes" (Kriesi 1980: 675). It is an agency that pulls the strings at the centre of a complex web, negotiates, takes initiatives, seeks consensus and mediates between different positions. In other words, the Federal Council governs mainly by influencing processes and by mediation.

### 3. Internal Organisation

In order to fulfil the above-mentioned governmental functions, the Federal Council has been given a unique organisational structure. Its most important principles are laid down in the Constitution (Article 177) and include the following: the collegial principle, the ministerial system and the principle of delegation.

#### *The collegial principle*

The principle of collegiality can be seen as one of the most important characteristics of the Swiss system of governance. The legal definition (see de Pretto 1988) of this principle is rather rudimentary. The constitution (article 177 paragraph 1) merely declares that "the Federal Council shall take its decisions as a collegial body". In the RVOG, there are only a few additional provisions. For instance, Article 26 establishes that "the collective responsibilities of the Federal Council take precedence over the obligations of its individual members". Another reference to the collegial principle is contained in the provision that each member of the Federal Council has one vote, so that in principle, all members – including the president – are equal. Moreover, the president is appointed for only one year, and his or her very few prerogatives – presiding over the government's sessions and representing the country internationally – are thus limited in time, which prevents the consolidation of a presidential political power.

From a *political* perspective, the principle of collegiality has become more complex in recent times due to some institutional changes. For instance, it is not sufficient for all members to merely take part in the decision-making process, and for individual members to abstain from taking decisions on behalf of the college. Rather, decisions must be taken by means of joint deliberation, whereby even details are subject to negotiation between the Federal Councilors. In principle, the aim is to reach consensus or unanimity – after all positions have been taken into account. The majority principle should only be resorted to in exceptional cases in order to alleviate tensions or break deadlocks. Once a decision has been taken, it must be backed by all members of government, even if they were overruled within the Federal Council. A Federal Councilor who has been overruled within the college is usually obliged to defend the position of the

majority publicly, which is especially important in those areas for which his or her ministry is responsible. It is commonly understood that the principle of collegiality also requires that decisions and negotiations be treated confidentially. Finally, it is worth mentioning that the Federal Council is often considered a "self-steering" agency, which can fulfil its tasks without presidential leadership.

As long as the collegial system works, it has various advantages. First, it prevents the accumulation of power. It is effective in countering attempts by individuals or groups to achieve a dominant position. The members of the collective mutually control one another and keep each other in check. Second, in line with the ideas of pluralism and proportionality, the collegial system ensures that the most diverse regional, cultural, party-political and group-specific interests be equally represented within the government, a characteristic which enhances its legitimacy. Third, it improves the quality of decisions, since these are based on the knowledge, expertise and experience of several individuals. Fourth, the collegial system facilitates coordination, since all information is exchanged at the government level. Finally, it guarantees the stability and continuity of the government, which at the same time enhances its capacity for exercising effective political leadership (Message 1975: 14-16).

In times when the government is permanently overburdened, however, these advantages can easily turn into *disadvantages*. Instead of preventing the concentration of power, the collegial system might lead to mutual blockage and even to deadlock. Instead of being responsive to different tendencies within society, the government might restrict its focus to the positions of the ministries and the administration. This will reduce the quality of decisions and increase the potential of conflict. The search for good and pragmatic solutions becomes more difficult, as the actors involved refuse to take into account the interests of their interlocutors or of other political parties. Moreover, the coordination of different activities might become even more problematic if the Federal Council confines itself to negative coordination, that is, if each member of the government sees as his or her primary goal the protection of his or her individual sphere of interest. As a consequence, balanced solutions cannot be achieved, since only those proposals that do not interfere with the domain of another ministry will have a chance of being adopted. This makes it difficult to adopt forward-looking policies, consolidates existing routines, enhances the influence of the administration on governmental policy, and leads to more incrementalism or even to a total deadlock of the government (see Klöti 1993).

#### *The ministerial system, delegation and internal organisation*

The basic feature of the ministerial system is that different ministries are responsible for different issue areas. In Switzerland, the duties of the Federal Council are divided among the seven departments. In addition, the principle of delegation makes it pos-

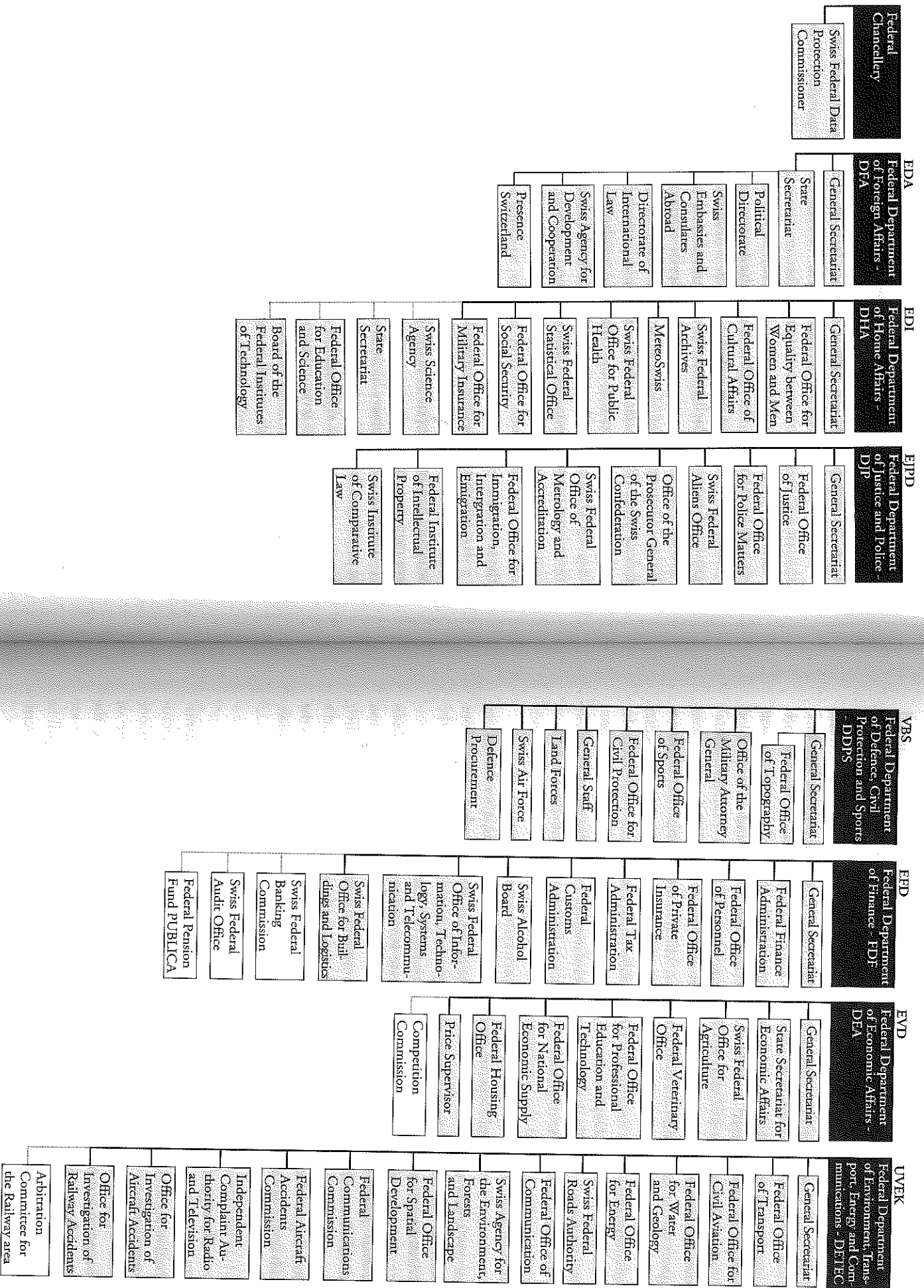
sible to delegate responsibility for certain tasks to individual departments on the basis of federal laws. Because of the ministerial system and the principle of delegation, the individual ministries can deal independently with certain issues. Moreover, the departments can further delegate tasks to the administrative offices.

As a result of the continuous expansion of the Federation's responsibilities over the last 150 years, the administration has become more *differentiated*, both horizontally and vertically (Klöti 1987). Vertically, no less than seven hierarchical levels have been created. The highest unit is the department (*Departement*), which is headed by a member of the Federal Council. Within some departments, so-called groups (*Gruppen*), which are under the leadership of a secretary of state, constitute the next level (for instance, the Group for Science and Research within the Federal Department of Home Affairs – DHA). The most important unit is the federal office (*Bundesamt*), which is the third hierarchical level, and is headed by a director. Large offices (e.g. the Office of Agriculture) are composed of divisions (e.g. the Division for Plant Cultivation) and subdivisions (e.g. Exploitation). In these large organisations, the classical section (*Section*), led by a head of section, represents only the sixth level, while in smaller units, the section is directly subordinate to the department. In large sections, so-called services (*Dienststelle*) form the seventh level.

It is obvious that within a seven-layer hierarchy, task delegation can span over many levels and that official channels to the top can be very long. Moreover, this structure hardly corresponds to the "flax" hierarchy model, as advocated by modern management theories.

The relatively expansive hierarchy of the Swiss system of government is at least in part due to the fact that the limited number of Federal Councillors does not allow for stronger *horizontal differentiation* at the highest level. All federal tasks must be distributed among the seven ministries. The following organisational chart shows that on 1 January 2001, the federal administration comprised 70 federal offices, seven secretary-generals, as well as various commandos (*Kommandos*), supervisory committees and staff units. It is also worth mentioning – as long as they were not privatised – the large public enterprises of the Federation, especially the Swiss Federal Railways (SBB), the postal service, and Swisscom (telecommunications).

Since the highest level of the hierarchy is very narrow, some ministries have to deal with a broad range of issues. Only the responsibilities of the Federal Department of Finance – FDF and the Federal Department of Foreign Affairs – DFA correspond to the classical tasks of such ministries. However, the fact that the secretariat of the Federal Banking Commission (*Eidgenössische Bankenkommission*) is part of the EFD is difficult to reconcile with the principle of the division of powers. The Finance Committees and the Finance Delegation of the Federal Assembly have been incorporated into the Services of Parliament. Another peculiarity is





that in Switzerland, the Federal Department of Economic Affairs – DEA, instead of the DEA, is responsible for foreign trade policy. The former is thus a very powerful department. Given its responsibilities in the fields of economics, labour, agriculture, housing, education, technology, as well as trade-cycle and structural policies, it covers both the domestic economy and foreign economic relations. Even the former Department of Defence – EMD no longer deals exclusively with questions of national defence. In the context of the reform of the army, it was reorganised and merged with Civil Protection and Sports, and is now called “Federal Department of Defence, Civil Protection and Sports – DDPS”. Moreover, the former Department of Transport and Energy – EVED has also been given new tasks. In addition to its core areas, which in most comparable countries are divided among two ministries, it is responsible for communication, the media, environmental issues and for the large public enterprises of the Federation. Its new name, “Federal Department of Environment, Transport, Energy and Communications – DETEC” reflects this accumulation of rather diverse tasks. Similarly, the Department of Justice and Police – DJP has expanded its sphere of responsibility beyond the judicial system and the police. It now also deals with immigration and refugee policy, the insurance system and surveying.

Finally, the Federal Department of Home Affairs – DHA is, after the reform of 1999, now responsible for a broad range of issues, such as culture, education, science, the health system, social security, statistics, the Federal Archives, the MetroSwiss, as well as the two Federal Institutes of Technology.

This division of responsibilities can create *leadership problems within the individual departments*. As the ministers are forced to handle too many and too diverse issues simultaneously, it is not uncommon that they delegate some of their responsibilities to high officials within their departments. On the other hand, the low degree of horizontal differentiation at the highest level of government has the advantage of solving coordination problems within individual ministries, which, in turn, reduces the workload of the Federal Council as a whole.

#### *The organisation of decision-making procedures*

The preceding discussion has shown that the Swiss governmental and administrative apparatus is highly complex and heterogeneous. Just as other macro-organisations, it is characterised by multi-layered interactions and decision-making processes. As governmental policies are perceived as a result of bargaining processes within the administration, it is necessary to analyse the procedures through which the diverging interests within the bureaucracy are merged into common strategies. Therefore, the last step of this analysis will be an examination of the complex decision-making processes within the government and the administration.

Prior to the collective decisions of the Federal Council, proposals go through lengthy consultation procedures open to all interested actors. The more important decisions must pass through two such procedures (Federal Department of Justice and Police – DJP 1995).

First, there is a preliminary procedure within the administration, consisting of *inter-ministerial consultations at the level of the federal departments*. Before a proposal is submitted to the Federal Council, the department in charge must consult with all other departments whose interests are at stake. At this stage, the Federal Chancellor, the Federal Office of Justice and the Federal Finance Administration play an important role. The Federal Chancellor examines whether proposed bills are sufficiently clear, respect the technical guidelines for legislation and terminology requirements. The Justice Office focuses on substantive legal matters, and the financial administration on the financial and human resources necessary to implement each bill. Depending on the subject matter, other departments may also play an important role. This preliminary procedure usually lasts for about two months. If important details can be clarified and compromises between conflicting interests reached, this is a worthwhile investment.

After the departments have been consulted, the so-called *co-reporting procedure (Mitberichtsverfahren)* is initiated. The Federal Chancellor takes the first step by submitting the proposal of the department in charge to all other departments. The departments particularly concerned are invited to submit a report, while other departments may express opinions as well. Resulting reports are sent out to all departments, and the department having drafted the original proposal can respond to them. The reporting departments, in turn, can comment on the response given by the department in charge. This written exchange between different departments organised by the Federal Chancellor makes it possible to eliminate, or at least to clarify, the most important differences prior to the actual meeting of the Federal Council. The Federal Council can then concentrate on remaining differences and come to conclusions on issues that are still disputed. Usually, either the preliminary procedure or the co-reporting procedure lead to an agreement. In most of the 3000 decision-making processes, either the preliminary procedure or the co-reporting-procedure leads to an agreement.

The decision-making process within the Federal Council can be qualified as efficient. In general, it results in consensual decisions enjoying broad support. It has two shortcomings, however. First, the departments and offices that are not directly implicated tend to show little interest in proposals of responsible ministries. Consequently, the decision-making process is reduced to an exchange between the department in charge and the other departments directly concerned, usually the Department of Finance, the Department of Justice and Police and, increasingly, the Federal Department of Foreign Affairs. Second, the

preliminary procedure and the co-reporting procedure do not allow for positive coordination. The main role is played by the department in charge, and the other agencies take account of its proposals only in so far as their interests are directly affected. The co-reporting procedure does not allow for centralised coordination and harmonisation of the different offices' activities. The preparatory processes within the government and the administration therefore often increase the departmentalism already plaguing the Federal Council despite the collegial system. In order to counteract this tendency, the Federal Council has recently installed a system of meetings and closed sessions during which current problems are discussed in a truly collegial manner prior to the actual decision-making process.

#### 4 Reform Proposals

##### *The limits of governmental capacity*

The Swiss system of government has worked successfully from the foundation of the federal state in 1848 until well into the second half of the 20th century. It held together a pluralist and federalist nation, led Switzerland safely through two World Wars, and turned it into one of the most prosperous countries in the world.

However, during the last third of the 20th century, this system has been subject to increasing *criticism* regarding its limited potential for innovation and adaptation, as well as the lack of coherence and foresight of governmental policy. The roots of these problems are seen mainly in growing departmentalism and the increasing overload of the Federal Council, preventing the government from effectively exercising its role of political leadership.

The *reasons* for these growing problems were summarised by the "Working Group on Federal Leadership Structures" (AGFB), which also developed proposals for reform on behalf of the government (Zwischenbericht 1991).

First, the *tasks* of the government and the administration at the federal level have grown considerably in *quantitative* terms. The increase in public expenditure is indicative of this trend. Expenditure at the federal level rose from 1.5 billion francs in 1950 to more than 50 billion francs at the beginning of the new century. During this same period, the number of employees of the ministries (excluding customs administration and public enterprises) increased from 16'473 to more than 30'000. Even though it is difficult to quantify legislative activity, it can be noted that, in 1997, the Systematic Collection of Federal Laws (*Systematische Sammlung des Bundesrechts*) (excluding the even faster-growing treaty law) comprised roughly twice as many pages as in 1948.

Second, government and administration have become active in new areas and are therefore confronted with many *new and difficult* problems. Since the 1950s, entirely new responsibilities have been attributed to the Federation in

fields such as policies to prevent economic fluctuations, regional planning, development policy, environmental protection, and media policy. Refugee and immigration policy has taken on new dimensions, and in the areas of labour market policy and social security, unresolved problems linger. In traditionally cantonal areas of competence, such as education or health policy, the Federation is confronted with new coordination tasks. The complexity of problems has also increased because measures and programmes developed within one policy field increasingly have effects in other fields and thus can no longer be dealt with as though they were an isolated issue. The need for coordination and cooperation has grown significantly.

Finally, almost all of Switzerland's challenges nowadays have an *international dimension*. Foreign policy is no longer the exclusive domain of the Federal Department of Foreign Affairs – DFA or of the DDPS. None of the departments can effectively solve problems without international co-operation. Accordingly, the volume of inter-state contracts and multilateral negotiations has increased considerably in all areas, despite Switzerland's non-membership in the European Union. In fact, bilateral negotiations require even greater efforts and put the Federal Council under even more pressure than would result from participation in the decision-making bodies of the EU or the EEA.

In general, the strain on government and administration has increased considerably. The Federal Council is overburdened and thus less capable of conducting a balanced and forward-looking policy while at the same time mastering short-term crises quickly and efficiently.

##### *Attempts at reform*

At the end of the 1980s, new attempts at reforming the government were made in order to tackle the problems discussed above. It should be recalled, however, that the reform of government and administration has always been a preoccupation of Swiss politics. Since the Second World War, several expert committees, mandated by the parliament, have sought ways to find ways in which to reduce the workload of the Federal Council. The Federal Council, for its part, has always eschewed real governmental reforms (see Furrer 1986; Klövi 1990). This is also true of the reform projects of the 1960s and 1970s. At that time, following the two expert reports by Horgler (1967) and Huber (1971), the Federal Chancellery was considerably enlarged and transformed into a modern consultation body subordinate to the Federal Council. However, the other elements of these reform projects, such as the allocation of personal collaborators to the members of the Federal Council, the creation of secretary of state positions within the Federal Department of Foreign Affairs – DFA, the setting up of "groups" in larger ministries, and the redistribution of certain offices did not go beyond the administration and thus did not seriously challenge the prevailing structure of the government.

The parliamentary motions of National Councillor Peurière (FDP, Geneva) and Councillor of State Rhinow (FDP, Basle-Country) triggered a more fundamental discussion. In response to these initiatives, the "Working Group on Federal Leadership Structures" was set up and instructed to "examine the federal system of government and its structure of leadership, and to elaborate future scenarios (models)" (Zwischenbericht 1991: 2). The AGFB developed *five reform models*, around which future discussions on reform are likely to revolve.

- According to model A, the ministers' tasks would be divided among two persons, a Federal Councillor, who would be responsible for political leadership, and a *ministerial director* (*Departementsdirektor*), who would head the administration and act as chief of staff. The latter would also serve as the deputy of the Federal Councillor, except with regard to governmental functions.

- Model B proposes an *increase in the number of Federal Councillors*. In order to maintain coherence and ensure effective leadership of a larger collegiate body, the position of the President of the Federation would be upgraded by extending the term of office, by increasing the presidential powers and by creating a presidential ministry. Moreover, an additional eight to ten specialised ministries would be set up.

- In model C, the executive would be divided into *two levels*. The task of governing in the narrow sense would be fulfilled collectively by a cabinet, composed of five to seven members. This body would not be divided into different ministries and would deal with political questions at the strategic level. At the second, operative-tactical level, an administrative cabinet composed of 11 to 18 ministers would report to the Federal Council.

- Model D is based on the most important features of a *parliamentary system*. The head of state would be responsible for the general orientation of governmental policy. An unspecified number of ministers (the report suggests between eleven and 18) would form the cabinet. The ministers would enjoy considerable decision-making powers within their sphere of responsibility. After each parliamentary election, a new government would be formed. It would be checked by a parliamentary opposition through the possibility of a vote of no confidence.

- The last model foresees a *presidential system of government* following the example of the U.S.A. The president, to be elected by directly the people for a fixed term, would be fully responsible for governing the country. The cabinet's function, size and importance would vary depending on the president's style of governing; ministers would be responsible to the president only who could dismiss them individually at any moment. The parliament would be strictly

separated from the government in terms of organisation and personnel. Even though there would be a clear division of powers between the two bodies, their spheres of action would nevertheless be intimately connected and mutually adjusted through a system of "checks and balances".

#### *Reform processes*

By the end of the 20th century, none of the models developed by the AGFB have been *put into practice*. The parliamentary and presidential models were dismissed at an early stage of the reform processes (APS 1992: 33f, 1993: 36). The RVOG, which foresaw the introduction of state secretaries, was defeated in a popular referendum in 1995. Thus, plans to move towards a two-level government could not be realised (APS 1996: 35).

The first step of the constitutional reform was confined to adapting the constitution's most important sections on fundamental rights to current practices. However, the Federal Council did not attribute much importance to the reform of the government and postponed it until the 21st century.

Thus, the comprehensive reform of the government, as planned during the 1990s, has once again been reduced to a mere *reform of the administration*. After an initial failure, the RVOG entered into force in March 1997 without being challenged by a referendum. This new law extends the organisational powers of the Federal Council and gives a green light for experiments with New Public Management at the federal level. It provides a good basis for modern management of the administration as well as for the reorganisation of offices.

Finally, the parliament was calling for a reform of *the political leadership of the state* (*Staatsleitungsreform*). Reflections of the Political Committee of the Federal Assembly, partly inspired by parliamentary expert committees (Bericht 1995), formed the basis for this project. It aimed at redefining the relationship between the parliament and the government by addressing such issues as the definition of legal acts and the attribution of additional powers to the parliament. Such powers would have enabled the parliament to intervene in the Federal Council's sphere of responsibility, for instance by issuing decrees. There were also proposals to reorganise the elections to the Federal Council. In this regard, the issue of direct elections is likely to gain in importance. Finally, it can be expected that the discussion on different possible models of government will be taken up again. However, this debate will be confined to two models, namely to that of an enlarged Federal Council combined with a stronger presidency, and to that of a two-level government.

## 5 Prospects

During much of the post-war period, Switzerland was considered one of the best-governed countries in the world. The system of concordance, the magic formula of 1959, the principle of collegiality, federalism and direct democracy were seen as important institutional factors contributing to successful government. The economy grew steadily, unemployment was at record low levels, the social welfare system expanded, and the country successfully integrated its various minorities.

The 1990s marked a decisive change. The economy stagnated, unemployment rose to unprecedented levels, Switzerland stumbled into a major fiscal crisis, and the financial viability of the social welfare system was seriously questioned. At the international level, it turned out to be extremely difficult to clarify Switzerland's policy towards the European Union, a factor that severely strained the relationship between the different linguistic groups within the country. Moreover, Switzerland suffered from growing international isolation, and its reputation on the international scene began to suffer, not least because of the criticism of Switzerland's role during the Second World War. Since the early 1990s, satisfaction with how the country is governed has declined, and so has confidence in the Federal Council (Hardmeier 1997).

Under these circumstances, the need to reform the Swiss government seems obvious. Such reforms need not take on a revolutionary character. As far as the composition of the government is concerned, the rigid requirements for recruitment in terms of language, regional origin, gender, and political career could be relaxed without a constitutional amendment. Even the party-political proportionality rule might be modified without having to renounce the numerous advantages of the system of concordance. The political will of the parliament and the political parties would be sufficient to achieve reforms of this kind.

However, a more fundamental reform of the government will require greater efforts. The enlargement of the Federal Council and a stronger presidency would be the least far-reaching modifications of the present system. The creation of a two-level government according to model C perhaps with additional subdivisions would liberate the Federal Council from issues of lesser importance. It would, however, also lead to a shift in political power from the parliament to the administration. Even though such a development is in line with the precepts of New Public Management (see Haldemann 1995; Schedler 1995), it is not unproblematic from a democratic perspective.

The reform of the Swiss government, as it has been planned and advocated on numerous occasions by expert committees since the Second World War, will remain a difficult task. First, memories of the success of the traditional system will persist well into the future and dampen the impetus for reform. Second, those

who profit from the current system have a strong interest in its preservation. It is also impossible to claim with certainty that new institutional structures will lead to significantly better policies. Finally, it must be emphasised that no fundamental reform of the government will get off the ground if it is not supported by the Federal Council in office. Against the explicit will of the government, any serious reform project is doomed to failure. The descriptions of the structures and processes of the government and the administration provided in this chapter are therefore likely to remain valid well into the 21st century.

### Notes

- 1 There were two such cases in the 19th century.
- 2 Popular elections to the Federal Council were rejected twice, in both cases by a clear majority (1900 and 1942). Parliamentary proposals failed in 1865, 1872 and 1993.

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