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Vertical Influence or Horizontal Coordination?

The Purpose of Intergovernmental Councils in Switzerland

Johanna Schnabel & Sean Mueller

Abstract

In 1993, the Swiss cantons established the Conference of Cantonal Governments (KdK). While the literature on Swiss federalism generally acknowledges the important role of the KdK, little is known about its specific purpose, in particular compared to other, older intergovernmental councils operating in Switzerland. We therefore investigate the purpose of the KdK and contrast it with two other intercantonal conferences with nationwide scope, namely those on education and finance. To do so, we trace two of the most important federal reform processes of the last decade: the latest renewal of fiscal equalisation and educational harmonisation. We find a division of labour between the KdK and policy-specific councils. While the former aims at vertical political influence, the latter primarily engage in genuine horizontal policy coordination. This flexible and smooth interplay of the two types of councils has contributed to further strengthening the political role of the cantons in the Swiss federation.

Keywords

Switzerland, federalism, intergovernmental councils, Conference of Cantonal Governments, intergovernmental relations

Introduction

In Switzerland, intergovernmental councils (IGC) – called intercantonal conferences – are numerous and long-established. Their importance in a politically, culturally, geographically, and economically fragmented system such as the Swiss federation with its 26 cantons, four language communities, and an increasing urban-rural divide is generally acknowledged (e.g. Bochsler 2009; Bochsler & Sciarini 2006; Bolleyer 2009; Meyer 2006; Pfisterer 2015; Strebel 2014; Wasserfallen 2015). However, the following question has not been answered so far: What exactly is the purpose of these conferences? Knowing that matters for at least three reasons: Swiss IGCs are increasingly active, e.g. through drafting legislative proposals, yet no systematic assessment of their actual political effects exist; they are increasingly visible, e.g. during referendum campaigns, yet we do not know what different functions they serve; and as purely horizontal organisations, they are the ultimate expression of cantonal self-rule, yet by coordinating and reconciling different cantonal interests they also serve to concentrate power in a single, centralised organisation.

To understand the purpose of Swiss IGCs, we will analyse and compare the activities of three conferences: the Conference of Cantonal Governments (*Konferenz der Kantonsregierungen*, KdK), the Conference of Finance Ministers (*Konferenz der kantonalen Finanzdirektorinnen und Finanzdirektoren*, FDK), and the Conference of Education Ministers (*Schweizerische Konferenz der kantonalen Erziehungsdirektoren*, EDK)¹. Purpose is conceptualised as in the introduction to this special issue (Behnke & Mueller, this issue). Particular attention will be given to the KdK, founded in 1993 to enable the cantons to speak with one voice when addressing the federal government. In terms of research design, we qualitatively analyse two of the most important policy processes of the last decade (cf. also Sciarini et al. 2015): the renewal of fiscal equalisation (2014-16) and the harmonisation of basic and secondary education (2004-16). To examine the actual role that the KdK, FDK, and EDK played in these processes, we rely on communiqués and reports published on their websites, interviews with council staff,

¹ All three have different names and acronyms in the other national languages, e.g. *Conférence des gouvernements cantonaux* (CdC), *Conférence des directrices et directeurs cantonaux des finances* (CDF), and *Conférence suisse des directeurs cantonaux de l'instruction publique* (CPID), in French. For ease of reading, we use the German acronyms throughout.

official documents provided by the federal authorities, newspaper articles, and secondary literature.

Our main argument is that a division of labour has emerged between the KdK, on the one hand, and policy-specific councils, on the other. This division of labour is reflected in different purposes of the two types of councils, i.e. in different motivations and directions of activity. The KdK helps the cantons to coordinate their positions on matters on the agenda of the federal government, which the cantons seek to influence in their favour. These matters most often cut across several policy areas. The policy-specific councils, in turn, engage in horizontal policy coordination, mostly to keep the federal government away and protect their autonomy. They tend to deal with issues that clearly belong to a specific policy. We thus conclude that *different* IGCs have the *different* purposes and that not all Swiss IGCs seek to influence the federal government to the same degree. Moreover, we find that the purpose of an IGC is a function of the type of policy area in which it operates, namely the degree of decentralisation and vertical interdependence of that area.

The first section further elaborates on the need for IGCs in Swiss federalism and highlights our theoretical interest in their purpose. It then describes the current system of Swiss IGCs to contextualise the KdK and the policy-specific conferences. Section 2 illustrates the division of labour between the KdK and other, policy-specific councils by taking a closer look at the renewal of fiscal equalisation and educational harmonisation. We then discuss our main findings and conclude with an overall assessment of the purpose of Swiss IGCs in relation to Swiss federalism.

1 Intergovernmental Councils in the Swiss Federation

1.1 IGCs in the context of cooperative and decentralised federalism

In the Swiss federation, the cantons enjoy a high degree of legislative and fiscal autonomy (self-rule), which makes Switzerland a decentralised federation. Given the administrative nature of Swiss federalism, they are also responsible for the implementation of federal laws. At the same time, the cantons are granted multiple means to partake in federal decision-making (cf. e.g. Vatter, 2005; Linder, 2012; Mueller and Mazzoleni, 2016). Among these, federal consultations (*Vernehmlassungen*) are the main formal way in which the cantons can

address the federal government – even though they must compete with other organised interests such as business organisations, trade unions, churches, parties, or even cities (Vatter, 2016: 465). The lack of a German-style representation of subnational governments at the federal level, however, was one of the reasons why the KdK was founded in 1993 and not by chance are most IGCs seated in the “House of Cantons” in Berne, which some even call the *real senate*.

Switzerland is also a typical example of cooperative federalism (Börzel & Hosli 2003) in which (federal) policy-making is the result of repeated federal-cantonal interactions (Linder & Vatter, 2001). It is precisely at the crossroads of cooperative federalism and the decentralised state structure that the (potential) purposes of intergovernmental councils materialise. The intercantonal conferences can serve the cantons to protect their existing autonomy against federal encroachment (Bednar 2009). At the same time, intergovernmental councils may also enable the cantons to influence federal decision-making in a specific direction.

The need for IGCs is amplified by high degrees of fragmentation and interdependence. *Fragmentation* refers to the high number of cantonal polities (26) and their small average size (BFS, 2016). On top of this are linguistic and religious divides as well as socio-economic and geographic differences between the progressive cities and the conservative countryside. In contrast to Australia or Canada (see Simmons and Fenna & Phillimore, this issue), however, this diversity has contributed to strengthening collective action instead of obstructing it. In fact, there is intense coordination among cantons, ranging from the mere exchange of opinions and best practices to more formalised cooperation in the form of intercantonal treaties (Bochsler and Sciarini, 2006: 29; Bolleyer, 2006) between two, several or all 26 cantons.

Interdependence, in turn, refers to mutual dependencies of the federal and cantonal levels (cf. also Bolleyer et al., 2014). There are policy areas where both levels are active, for example taxation. In others, the cantons implement federal legislation (e.g. healthcare, civil and criminal law), and even some almost exclusively cantonal domains (e.g. primary education or culture) are subject to certain federal rules. This interdependence can provoke conflicts between the two levels of government. Conflicting views of the federal and cantonal governments have indeed led to the biggest showdown to date, namely the successful use of the cantonal referendum in 2004 (Fischer, 2006; Braun, 2004): Given the detrimental knock-

on effects of a reform of direct taxation decided at the federal level, the cantons – for the first time ever – used their right to bring a federal law before the people. Thus, instead of suffering a financial loss, in winning the referendum the cantons recorded a political victory. What is more, the political-administrative coordination among cantonal authorities needed to lodge their complaint on time (at least eight cantons must demand a referendum within 100 days) was undertaken by the KdK, proving for the first time its practical usefulness (Fischer, 2006).

However, the literature on Swiss federalism only scarcely deals with intergovernmental councils. Among the few existing works on Swiss IGCs, many address the impact of intergovernmental councils, agreements, and regionalisation on the democratic character of Swiss federalism (e.g. Blatter, 2010; Moeckli, 2009; Frenkel, 1986). More generally, legal and public administration studies (such as Affolter, 2008; Wehrli, 1998; Gerotto, 2003; Wili, 1988) rarely discuss the KdK or other IGCs because they are located outside the formal framework of Swiss federalism.² One exception is Meyer (2006), who has gathered information on the status and formal rules of operation of all national conferences from a legal perspective. And while Trees (2005) has analysed interactions between the different councils both on the national and regional level, his interest lay with administrative forms of cooperation only.

The only two scholars who have looked at Swiss IGCs using a political science perspective are Bolleyer (2006; 2009) and Wasserfallen (2015). The former has shown that Swiss councils are highly institutionalised due to voluntary power-sharing mechanisms in cantonal executives. Bolleyer (2009: 154) has also shown that Swiss councils tend to be medium to strongly integrated, meaning that councils coordinate with each other “to maintain a strong position towards the federal government”. Wasserfallen (2015) also finds that intercantonal coordination has strengthened the position of cantons vis-à-vis the federal government, which is a first indication that the purpose of at least some Swiss IGCs consists in influencing federal decision-making. Moreover, he contends that intercantonal coordination strengthens the problem-solving capacity of Swiss federalism in general, and that it has softened tax competition (p. 551).

Both the increase in intercantonal activity – via treaties, the establishment of the KdK, the House of Cantons, and the cantonal referendum – and the existing literature emphasise the

² Auer (2016: 328) even goes as far as to call the KdK “a monster” because of its thin legal basis.

importance of IGCs for the operation of Swiss federalism (e.g. Sciarini et al. 2015: 14–15). While the publications in legal and administrative studies cited above provide useful information on the formal rules of operation of the different councils, Bolleyer's and Wasserfallen's contributions suggest that Swiss IGCs contribute to solving specific *political* problems the Swiss federation faces. As a cooperative federation with a politically fragmented landscape, these problems primarily refer to finding a common ground and avoiding policy failure, for example in a referendum.

However, despite these attempts to shed light on Swiss IGCs, the question about their purpose remains unanswered.

1.2 The KdK in the web of intergovernmental councils

Switzerland has over 50 intergovernmental councils (see Annex). Except for three very technical ones (SSK, TAK and SUK), all are exclusively horizontal, meaning that even if the federal government is invited, it cannot co-decide. In contrast to most other federations, Switzerland also has many regional councils that mirror national councils in North-Western, Eastern, Western and Central Switzerland. Swiss IGCs – particularly the nation-wide ones – are also highly institutionalised (Bolleyer, 2009): They operate according to formally established rules, have a permanent secretariat, and use executive committees and working groups to prepare plenary sessions, while decisions are taken by majority vote.

The one body to stand out is the KdK, established in October 1993, in the wake of Switzerland's failed accession to the European Economic Area, through written agreement between the governments of all 26 Swiss cantons (KdK, 2006). Cantons claimed that they had been grossly excluded from negotiating the treaty even though Europeanisation increasingly affected cantonal domains (Fischer, 2006: 137; Bochsler and Sciarini, 2006: 24).

The KdK was created to enhance the capacity of the cantons to defend their interests at the federal level. Article 1.2 of the founding agreement states that the KdK seeks “to promote cooperation between the cantons within the scope of their powers, and to ensure the necessary coordination between and information to the cantons in canton-related Confederation matters” (KdK, 2006). Thus, according to the council's founding agreement, its focus is both horizontal and vertical. Nevertheless, horizontal coordination is not an end in

itself, but rather a precondition for the KdK to exert vertical influence. So, in terms of direction and motivation (cf. Introduction to this special issue), the KdK aims at influencing federal decision-making. This suggests that its purpose is directed at vertical interactions in a bottom-up perspective. Moreover, the KdK concentrates on policy issues that cut across several policy areas. This becomes most visible if one looks at the more specific mandate of the KdK, which is to work on

- “the renewal and continued development of federalism;
- the division of tasks between the Confederation and the cantons;
- participation in the federal decision-making process;
- the implementation of federal tasks by the cantons;
- foreign and integration policy” (KdK, 2006).

Nevertheless, although for the Plenary Assembly to take decisions at least 18 consenting cantons are required (KdK, 2006: Arts. 9 and 10), individual cantonal governments always “retain the right to issue their own opinion” (Art. 10.2). This shows how the KdK is intended to strengthen cantonal autonomy, not restrict it.

In terms of actual operation, a look at the council’s website – indicative of how it portrays itself to the public – reveals that the KdK seeks a voice in federal decision-making by issuing public statements, reports, and legal advice on matters related to federal decision-making; sending letters to the federal government; participating in federal consultations; and by choosing the members for federal-cantonal working groups (i.e. permanent or ad hoc expert committees; cf. Beetschen and Rebmann, 2016). All this corroborates the hypothesis that the KdK’s purpose is vertical influence. Moreover, the KdK participates in the so-called Federal Dialogue (*Dialogue confédéral*), i.e. meetings with representatives of the federal government twice a year to exchange information and discuss policy matters of interest to both levels of government.³

The KdK is a novel organisation insofar as for the first time a *nation-wide* organisation (i.e. consisting of all 26 cantons) focuses on *cross-sectoral* policy issues. It is important to highlight that the members of the KdK are the 26 cantonal *governments* (KdK, 2006: Art. 2.1), and not the cantons as such. This makes the KdK a distinct institution compared to similar generalist councils in other federations. However, although different members of a cantonal

³ Cf. <https://www.bj.admin.ch/bj/fr/home/staat/foederalismus/dialog.html> [May 2017].

government may attend KdK meetings on different occasions,⁴ a typical press release will start with “The cantons have decided that...”, i.e. adopt a position suggesting a strong collective voice.

At the same time, the KdK found itself added onto an already existing web of intergovernmental councils (Auer, 2016: 330). However, all these other IGCs are either policy-specific, that is regrouping only those cantonal ministers responsible for a given policy area, or geographically limited to one of four macro-regions, or both (see Annex). The different roles of the KdK and the policy-specific conferences are formalised in a framework document (KdK, 2012). This document also stipulates that KdK statements amount to positions of the *cantons* whereas the statements of policy-specific conferences are positions only of the respective *conference* (Arts. 5.2 and 5.3). Thus, statements of the KdK have a stronger political character compared to those of the policy-specific conferences. This is not to ignore that the importance of the latter varies with the importance of the underlying policy sector: education and finance are archetypes of cantonal autonomy, whereas forestry and civil protection, for example, are relatively low-salient self-rule domains. Hence, EDK and FDK statements have a stronger political character compared to conferences on forestry and civil protection.

The KdK is not a “peak council” that directs other IGCs – in contrast to the Council of Australian Governments, for example (see Fenna & Phillimore, this issue), but it interacts with these other councils (KdK, 2006, Arts. 3.3 and 4). Interviewees from both the EDK and FDK even relate that from time to time tensions arise with the KdK when it comes to determining which conference should submit a statement or who has the lead in interacting with the federal government; generally, these tensions are resolved in the corridors of the House of Cantons.⁵

⁴ In fact, it is up to the cantonal governments to decide who among them should participate in plenary meetings of the KdK: some designate permanent delegates, others rotate periodically, and others still decide based on the specific policy discussed (interview at the KdK, 30 November 2016).

⁵ Interview at the EDK, 3 December 2015, Interview at the FDK, 5 February 2016.

2 The Purpose of Intercantonal Conferences in the Renewal of Fiscal Equalisation and the Harmonisation of Education Policy

2.1 Research design and case selection

To examine the actual purpose of Swiss IGCs, we compare two reform processes in a cross-case study (Gerring 2007). The advantage of this qualitative method is internal validity: it enables us to identify the factors and mechanisms behind the purpose of the different IGCs. The focus consists in comparing the role of the KdK and two policy-specific conferences (EDK and FDK). The aim of this section is to identify whether the activities of these IGCs assisted the cantons in influencing the federal government, protecting their autonomy, engaging in policy coordination, or exchanging information. This will shed light on the *motivation* of their purpose (see also Behnke & Mueller, this issue). To detect whether their *direction* is horizontal or vertical, we examine whether cantons merely interacted among themselves or (also) with the federal government.

For both processes, Table 1 splits the decision-making cycle into different steps. These are later followed to identify the moments, instruments, and consequences of actions taken by IGCs. Our data consists of IGC communiqués and reports; complemented by media coverage,⁶ secondary literature, and official documentation provided by the federal authorities; and personal interviews with staff of all three IGCs. Given that negotiations at meetings of Swiss IGCs take place behind closed doors and since minutes or other recordings are not available, we must rely on these sources.

[Table 1 ABOUT HERE]

The reform of fiscal equalisation was initiated as early as in 1992, decided in 2004 and implemented as of 2008 (e.g. Mueller and Vatter, 2016). What we focus on here, however, is the second renewal of equalisation payments, beginning with the evaluation report in March 2014 (pre-parliamentary phase), culminating in a parliamentary decree in June 2015 (parliamentary phase) and resulting in new payments as of 2016 (implementation). The next evaluation report, due in 2019, will start a new cycle. Educational harmonisation, our second

⁶ The *Neue Zürcher Zeitung* (NZZ) has been chosen as one of the largest quality newspapers in Switzerland, but we are far from claiming exhaustiveness in this regard.

case,⁷ began with a parliamentary motion in 1997 (pre-parliamentary phase), resulted in the Federal Act of December 2005 (parliamentary phase) approved by referendum in 2006, and was implemented through inter-cantonal coordination, as it concerned self-rule. A new cycle began in July 2016 with the federal consultation on a reform to the Language Act, which included an evaluation of current efforts (BR, 2016).

The selection of these two reforms is based on the most important decision-making processes identified by Sciarini et al (2015: 12) as well as dictated by the need to maximise variation on a key variable, namely whether a policy belongs primarily to the federal government (fiscal equalisation) or the cantons (education). Given the cooperative and non-centralised nature of Swiss federalism, we expect horizontal interaction to dominate in cantonal domains but bottom-up activity in areas where the Confederation and the cantons are interdependent. Accordingly, the KdK should surface in the latter but not the former process. At the same time, the FDK and EDK are well representative of national policy-specific conferences in that they have a permanent secretariat, meet frequently, and use majority voting. Both conferences are also located in the House of Cantons.

Comparing only two reform processes, even important ones and with variation on the type of power-sharing, can only tell us so much about the purpose of IGCs. Moreover, in focusing on the renewal of fiscal equalisation rather than the initial reform, we are dealing with an output in the form of a parliamentary decree, whereas the education reform resulted in a constitutional amendment. Finally, there is also a lag of some nine years between these two endpoints (May 2006 vs. June 2015). Nevertheless, we still think a comparison can yield useful insights because both education and finance are hugely relevant, be that symbolically or in terms of actual expenditure. Also, even parliamentary acts can be brought to a vote via the optional referendum. The difference in timing between the two processes becomes less pronounced if we consider that the federal government's evaluation started much earlier and that it relates to a much longer process of frequent evaluations of fiscal equalization initiated by the reform of fiscal arrangements decided in 2004 and implemented in 2008 (BR, 2016). Finally, as shown by Sciarini et al. (2015:39–48), both education and fiscal equalisation belong

⁷ Strictly speaking, the constitutional article on education and the development, adoption and implementation of the *HarmoS* agreement are two separate processes. However, as the latter was used as an argument during the former, we have merged the two.

to a specific sub-set of Swiss decision-making: largely untouched by Europeanisation but with a strong intergovernmental component domestically.

2.2 *Fiscal equalisation reform*

Fiscal equalisation squarely falls into the domain of vertical interdependence, with one third paid for by cantons and the other two thirds by the federal level.⁸ All transfers are unconditional. What is more, fiscal equalisation is defined by federal legislation (Arts. 47(2) and 135 of the Federal Constitution as well as the Federal Act on Fiscal Equalisation and Cost Compensation). To monitor its effectiveness, the federal government is required to present an evaluation report to the federal parliament every four years. Both chambers must then approve this report as well as a bill containing a four-year framework for all transfers (FDF, 2015). In addition to being an interdependent domain, fiscal equalisation cuts across various other policies (e.g. taxation, economic development, urbanisation, immigration or agriculture: all somehow taken into account in calculating equalisation payments).

The KdK has had the lead in all matters related to the evaluation report and renewal of fiscal equalisation. The FDK submitted a statement to the KdK in May 2014 (FDK, 2014) on which the KdK then based its own, official statement sent to the federal government in June 2014 (KdK, 2014b). The KdK also nominated the cantonal representatives to the federal-cantonal commission (*Fachgruppe Wirksamkeitsbericht NFA*) that had to evaluate fiscal equalisation.⁹ In addition to this, the KdK participated in hearings of the parliamentary committees. In October 2014, for example, the finance committee of the Council of States received a delegation of KdK and FDK representatives (KdK, 2014a). Cantonal efforts intensified once the evaluation report was published. To influence the parliamentary phase, they issued several joint statements.

Yet the fact that fiscal equalisation had important redistributive implications made it more difficult to forge a consensus of all cantons. Therefore, the consolidation of cantonal

⁸ On the Swiss fiscal equalization system, see FDF, 2015; Cappelletti et al., 2014; Mueller and Vatter, 2016.

⁹ According to Art. 48 of the 2003 Law on fiscal equalization, the commission consists of an equal share of federal and cantonal representatives. As representatives of the cantons, the KdK chose five public servants of cantonal departments of finance. One staff member each of the KdK and the FDK additionally participated in meetings of the commission as visitors (Federal Council, 2014, 243-4).

preferences through horizontal coordination to exercise vertical influence required a considerable effort of the KdK. Statements of the KdK and FDK submitted to the federal government represented majority positions and explicitly mentioned minority positions. What is more, cantons also submitted individual statements. Finally, the net payers used the “Conference of NFA-Donors” to lobby on their own (NZZ, 2014b; Konferenz der NFA-Geberkantone, 2014b), since equalisation beneficiaries were and still are a majority in the KdK. Therefore, in June 2014 a joint statement of all net payers was sent to the Federal Council (Konferenz der NFA-Geberkantone 2014b) and a position paper on future modifications of fiscal equalisation arrangements published (Konferenz der NFA-Geberkantone, 2014a).

The main line of conflict ran between equalisation contributors and beneficiaries and most efforts by the KdK focused on finding a compromise between the two on equalisation endowments. The evaluation report had found that the target of 85% of ‘resource equalisation’ had been more than fulfilled and recommended cuts (NZZ, 2014b; NZZ, 2014a). Net payers agreed with this recommendation whereas beneficiaries claimed that 85% merely represented a minimum, and the cuts were therefore unnecessary (Trein and Braun, 2016). The dispute boiled down to whether payments from the resource equalisation fund should be cut by 330 million CHF a year (196 by the federal government and 134 by the donor cantons) or not. These cuts were proposed by the Federal Government in September 2014 and approved three times by the National Council (in March and June 2015) – but twice rejected in the Council of States (in December 2014 and March 2015) (Curia Vista, 2014-15).

With both chambers having equal powers, the stalemate between them was only solved thanks to a “compromise proposal” by the KdK, halving the cuts to 165 million CHF (98 million CHF in federal contributions and 67 million CHF in cantonal payments) (NZZ Online, 2015b; NZZ Online, 2015c; KdK, 2015). In June 2016, both chambers accepted that solution (Curia Vista, 2014-15). The eventually victorious KdK proposal had however been approved by only 19 cantons (thus just about reaching the quorum of 18), with Basel City and Vaud the only donor cantons to have voted in favour and Basel Country having abstained (NZZ, 2015a). Nevertheless, the KdK had succeeded in producing a cantonal statement to solve the stalemate on federal decision-making, making the cantons the facilitators of compromise. The subsequent cantonal referendum against the Federal Act launched by four donor cantons (SH,

ZG, SZ and NW), obviously lacking KdK support since it attacked the solution proposed by the very same, failed to reach the required number of eight (NZZ, 2015b).

The KdK remained active in the post-parliamentary phase. In 2015, members of the cantonal parliaments of Zug and Schwyz announced their intention to suspend their canton's membership in the KdK (ZG, 2015; SZ, 2015). These challenges were defeated through the creation of a KdK working group to analyse future reform options, presented in March 2016 (KdK, 2016). Noteworthy is the fact that the working group is composed of three members each appointed by the donor cantons and the cantonal beneficiaries including Zug and Schwyz (KdK, 2015). Thus, the KdK has managed to keep the cantonal front united, enabling it to intensify its efforts to influence the next federal policy cycle by already now elaborating suggestions for fiscal equalisation reform.

2.3 *Harmonisation of education*

Our second process concerns primary and secondary education. Here, the cantons have exclusive jurisdiction over most aspects and education cuts much less into other policy areas. Nevertheless, the revision of the federal constitutional articles on education (Art. 61a-64a) in 2006 has given the Confederation a right to intervene if cantons fail to harmonise “school entry age and compulsory school attendance, the duration and objectives of levels of education, and the transition from one level to another, as well as the recognition of qualifications” (Art. 62.4). This has thus introduced a “shadow of hierarchy” into the education area.

The Intercantonal Agreement on the Harmonisation of Compulsory Education (*Interkantonale Vereinbarung über die Harmonisierung der obligatorischen Schule*, HarmoS) of 2007 was meant to achieve exactly such harmonisation (EDK, 2011).¹⁰ The EDK's official language policy (agreed in 2004) and its definition of fundamental educational targets (published in 2011) are further instances of autonomous horizontal coordination and implementation. But while the prevention of federal intervention was one reason why the cantons decided to harmonise school curricula, it mostly served the purpose of creating economies of scale and preventing negative spillovers from unilateral action, i.e. amounts to genuine policy coordination.

¹⁰ See http://edudoc.ch/record/24711/files/HarmoS_d.pdf [1.10.2016] for a German version.

Indeed, both the constitutional revision of 2006 and HarmoS were answers to the results of the first PISA study (broadcast in 2000) and public pressure on the cantons to increase education quality, mobility, social permeability, and equality of opportunities (Fischer et al., 2010). To formalise their commitment to implementing the revised constitutional article on education, in 2007 the cantons signed HarmoS. The agreement entered into force in 2009. Even though it is currently binding only for the 15 cantons that have ratified it (BR, 2016: 4), it has triggered adjustment efforts in all cantons and led to more harmonisation across the whole nation (EDK, 2015). HarmoS standardises school structures and mandates the EDK to develop a number of educational targets to streamline cantonal curricula (EDK, 2007; NZZ Online, 2007; NZZ Online, 2012).

In addition to this nation-wide agreement, regional agreements and regional school curricula have been adopted. Most coordination took place within the EDK (or its regional and language-specific equivalents: D-EDK, BZK, NW EDK, and CIIP; see Annex) and the KdK has not been involved in this process. As EDK representatives have pointed out¹¹, the EDK made it clear towards the KdK that the latter had “no mandate to participate”. One reason for this is that the EDK had been engaged in the coordination of primary and secondary education long before the KdK even came into being. For example, already in 1970 members of EDK signed the *Schulkonkordat* (Agreement on the Coordination of Education), and in the 1990s the EDK launched a debate on the future directions of this *Schulkonkordat*.

This process further intensified in the early 2000s, when the EDK participated in the elaboration of the modification of the constitutional articles on education and simultaneously initiated HarmoS (EDK, 2011; Fischer et al., 2010). While the actual modification of the constitutional articles on education was initiated by the federal parliament (see Table 1), the EDK managed to turn it from a top-down into a bottom-up process. After rejecting the federal government’s version of the new article, the EDK participated in the drafting of a new version that was subsequently accepted by parliament (Fischer et al., 2010).¹² Thus, the EDK participated in the pre-parliamentary phase, seeking to protect the autonomy of the cantons. In the parliamentary phase, the EDK continued to provide input. While the participation of the EDK in the pre-parliamentary and parliamentary phases implies that the purpose of the

¹¹ Interview with EDK, 3 December 2015.

¹² Interview with EDK, 3 December 2015.

council was to engage in horizontal coordination to exercise influence on the federal level, the attention of the council turned to genuine horizontal coordination during the implementation phase.

In fact, it was in the implementation phase that the council was most active since it engaged in drafting HarmoS and continues to monitor its implementation. Members of EDK first endorsed an initial version of the agreement and submitted it for consultation among the cantons. After having collected cantonal statements, a new version was submitted to the plenary assembly which subsequently adopted it (Iff et al., 2009; EDK, 2011). But whereas HarmoS' focus is on horizontal harmonisation, it also has a certain vertical orientation since, among others, it is expected to prevent that the federal government intervenes. Thus, HarmoS harmonises wherever necessary to foster mobility and quality but leaves linguistic regions and individual cantons with the discretion to develop school curricula that satisfy local needs. Even cantons that have refused to ratify the agreement participate in these regional curricula. Thus, the EDK finds that although some cantons have not ratified HarmoS, the level of harmonisation of primary and secondary education is high (NZZ Online, 2015a; EDK, 2015). Moreover, while HarmoS defined four basic goals at the national level, it was left to the three "linguistic regions" to specify the more concrete learning goals and "competences" for the first nine years of schooling (preceded by two years of Kindergarten). In concretising these educational goals into specific, acquirable and measurable competences, the three language regions, via their regional councils or alone (Ticino), autonomously developed their so-called study plans. The French-speaking cantons and Ticino have already implemented their plans in summer 2011 and 2015, respectively. The final version of the German-speaking study plan was approved by the D-EDK only in autumn 2014 and most cantons have yet to introduce it (EDK, 2015).

Nevertheless, despite the progress on harmonisation, in July 2016 the federal government intervened by proposing a more detailed federal regulation regarding the teaching of first and second foreign languages (BR, 2016). In fact, the federal government finds itself "compelled", by Art. 62.4 FC, to propose nation-wide standards because a number of German-speaking cantons announced modifications to the teaching of French that would violate the 2004 agreement among cantons (BR, 2016: 4-6, 10). The move by the federal government in this area of legislation (at the crossroads of language and education policy) is unprecedented and

has encountered wide criticism – not least by the EDK itself (EDK, 2016). Clearly the EDK will once more play a crucial role in this new process. In fact, its success in fulfilling its purpose will depend on its ability to prevent the federal government from imposing too strict a federal regulation – or better still: none at all.¹³

3 Discussion

As the most recent renewal of fiscal equalisation and the harmonisation of education policy show, the IGCs participating in these processes have played different roles. Table 2 summarizes our main findings. It shows that the activity of IGCs relates to the character of a policy sector and the main level responsible for it, i.e. to the extent to which a policy sector is a self-rule domain or one where the federal and cantonal governments are interdependent. Distinguishing between primary and secondary direction and motivation is useful for it shows the flexibility of IGC activity that straddle the divide between what is only cantonal and what is also federal (see also Behnke & Mueller, this issue).

[Table 2 ABOUT HERE]

The three IGCs observed here fulfil different purposes. On the one hand, the KdK takes the lead in areas where the federal government and the cantons are interdependent (fiscal equalisation). Trying to influence the federal government means sitting in working groups, participating in federal consultation, issuing public statements, and even drafting legislative proposals. Where necessary, the KdK consults a policy-specific council, in the case above the FDK, and they work together. But towards the outside the KdK remains in charge.¹⁴ Consequently, we can summarise that the KdK's purpose is directed at vertical, bottom-up interaction and that it is motivated by the cantons' wish to exert influence over federal decision-making. Nevertheless, the KdK also engaged in horizontal activities to coordinate cantonal interests, but only as a prelude to vertical influence. Therefore, we refer to horizontal coordination as a secondary purpose of the KdK.

¹³ This seems to have been achieved as we write; see NZZ of 16.12.2016, at <http://www.nzz.ch/schweiz/sprachenstreit-bundesrat-greift-doch-nicht-ein-ld.135236> [24.12.2016].

¹⁴ The example of the "Corporate Tax Reform III" (rejected in a popular vote on February 2017) confirms this finding (Interview with FDK, 6 February 2016).

On the other hand, the KdK was not involved at all in educational harmonisation, which concerned a decentralised, even non-centralised domain (self-rule). Here, the EDK had the lead and cantons engaged in horizontal activities to coordinate their policies to achieve harmonisation of education policy. However, the cantons also used the EDK to play defence and protect their autonomy. Therefore, the harmonisation of primary and secondary education also contains elements of vertical coordination, mostly when the cantons tried to influence the federal government during the modification of the constitutional articles on education. Here, the EDK was instrumental in softening federal regulation: The Confederation would intervene only if harmonisation failed. The EDK subsequently focused on the implementation phase through developing a nation-wide framework for harmonisation (HarmoS), based on which the regional conferences then developed language-specific school curricula. Vertical coordination to defend cantonal autonomy is thus a secondary purpose of this council.

In addition to differing in the directions and motivations of their activities, KdK and EDK also focused on different phases of the policy cycle. The KdK was most active in the pre-parliamentary and parliamentary phases to give a vertical voice to cantonal interests. The EDK mainly dealt with implementation – apart from the modification of the constitutional articles of education, where the EDK’s secondary purpose materialised and the cantons tried to influence federal decision-making to protect their autonomy. This also confirms the expectation outlined in the Introduction to this special issue that influencing the federal level focuses on the agenda-setting phase whereas genuine horizontal coordination matters during the implementation phase, where economies of scale can be produced and negative externalities can be avoided.

Moreover, our observations suggest that the two types of IGCs also differ in that the KdK focuses on issues of cross-sectoral implications, which can be explained by its composition (i.e. the fact that cantonal *governments* and not portfolio ministers are members of this IGC). The EDK, on the other hand, focused on more specific issues that did not cut across policy areas and which required portfolio expertise.

In sum, the nation-wide but policy-specific IGCs such as the EDK primarily focus on genuine horizontal coordination in decentralised policy areas (self-rule). To the extent that vertical engagement to protect cantonal autonomy is present, it is clearly subordinated to the

horizontal purpose. In fact, the EDK has been engaged in harmonising basic and secondary education since the 1970s, long before the federal government became active in this area (Hega, 1999). The KdK, in turn, concentrates on policy areas in which the federal government and the cantons are interdependent. Here, it is horizontal coordination that is subordinated to vertical influence, for it takes at least 18 agreeing cantonal governments before the KdK can speak on behalf of “the cantons”.

Conclusion

This paper has investigated the *purpose* of intergovernmental councils (IGCs) in the Swiss federation. It departed from the premise that the need for their existence arises because of policy interdependence and institutional fragmentation in a context of decentralised and administrative federalism. Moreover, the lack of formal representation at the federal level has laid bare the lack of cantonal influence over important cross-sectoral domains such as European integration. That is why the Swiss cantons established the KdK in 1993 to give the cantons a better, single voice. However, the KdK was merely added onto an already existing, dense net of regional, nation-wide, policy-specific, and/or generalist IGCs.

We found that a division of labour has emerged between the KdK on the one hand and the policy-specific conferences such as the EDK and FDK (and others not further analysed here; see Annex) on the other. This shows that there can be considerable variation even within a given federation as to the purpose of IGCs. Our analyses indicate that a lot depends on the character of the policy area in which a given IGC operates. More precisely, in Switzerland, it matters whether the federal government and the cantons are interdependent (e.g. fiscal equalisation) or whether a policy area is decentralised (e.g. education).

Through the KdK, the cantons now dispose of an institution that focuses on cross-cutting policy areas and specialises in influencing the federal level. The KdK has therefore improved the collective influence of the cantons over national decision-making – as we have seen in the case of fiscal equalisation, a large majority of cantons (19 out of 26, or 73%) was able to see its proposal become federal law. This IGC thus to some extent replaces the Council of States, who lost its role as the representation of the cantons at the federal level. And while the KdK lacks formal law-making powers, it has skilfully made use of direct democracy – both the

successful cantonal referendum of 2004 and the failure of four donor cantons in 2015 to launch another one testify to that.

While the effect of the KdK thus seems to have been to *politically* strengthen the decentralised character of the Swiss federation through focused and effective bottom-up influence, the actions of policy-specific IGCs such as the EDK potentially strengthen its *functional* decentralisation. The magic formula here is “cooperation to avoid centralisation”. Such cooperation, and the consensus-oriented culture of Switzerland more generally, also fosters interactions *between* IGCs, as shown through the example of the FDK supporting the work of the KdK on the renewal of fiscal equalisation. Moreover, to avoid inter-IGC conflicts, a framework document has even been adopted. Overall, then, the establishment of the KdK in 1993 has led to cooperation instead of competition with the other IGCs. We interpret this to have further cemented the cooperative capacity of Switzerland’s federalism: not only within the cantonal and federal governments and inside the IGCs, but also between the latter. Of course, given its limitation to only two reform processes and three IGCs, our study can merely provide preliminary findings. Particularly the EDK is probably a most likely counter-pole in the division of labour: finding it to defend its policy area so vigorously against both federal and KdK intrusion could not only have been expected because of its strongly institutionalised nature, but also because education lies at the very heart of cantonal self-rule. Future studies should therefore enlarge our scope and cover more areas and/or IGCs to validate our findings – especially by including policy areas from the other three sets identified by Sciarini et al. (2015:42–43), i.e. directly and indirectly Europeanised domains as well as purely domestic policy processes where traditional patterns of corporatism persist.

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Table 1: The policy-making phases of two federal reforms

Phase	Activity	Fiscal Equalisation Renewal	Educational Harmonisation
<i>Pre-parliamentary</i>	Problem definition & initiation	March 2014 (Evaluation report)	30 April 1997
	1 st Draft and consultation phase	14 March –30 June 2014	14 May – 15 October 2004
	2 nd Draft and Government proposal	3 September 2014	17 August 2005*
<i>Parliamentary</i>	Committees and plenary 1 st Chamber	9 December 2014 – 19 June 2015	5 October – 16 December 2005
	Committees and plenary 2 nd Chamber		
	Federal Act	19 June 2015	16 December 2005
<i>Post-parliamentary</i>	Referendum	none**	21 May 2006 (obligatory)
	Implementation	1 January 2016–	2004, 2007 & 2011
	Evaluation	(2019)	June 2015 (EDK) & July 2016 (FG)

Source: Curia Vista (2014-15), Curia Vista (1997-2005), BR (2016). Notes: *opinion (proposal by parliamentary committee); **failed attempt to launch cantonal referendum by cantons SH, ZG, SZ and NW (see text); FG = Federal Government. Framework adapted from Vatter (2016: 53) and Linder (2012: 333).

Table 2: Summary of case-study findings

	Fiscal Equalisation	Education Reform
Importance of policy sector	very high	very high
Main level responsible	Federal government	Cantons
Character of policy sector	Vertical interdependence & cross-sectoral	Non-centralised & specific
Lead IGC	KdK	EDK
Subsidiary IGC(s)	FDK	Regional and language-specific EDKs + TI
Primary direction of IGC activity	bottom-up	horizontal
Primary motivation	Influencing federal policy	policy coordination (achieving harmonisation)
Secondary direction of IGC activity	horizontal	bottom-up
Secondary motivation	coordinating cantonal interests	Defending cantonal autonomy
Outcome	small reduction to federal equalisation payments	federal shadow of hierarchy + inter-cantonal school harmonisation