

The role of the Cantons in Switzerland's European policy and current EU-Swiss affairs

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Government Councillor Benedikt Würth
President of the Conference of Cantonal Governments CCG

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01

Participation of the Cantons in Switzerland's European policy

Key elements of Swiss federalism (I)

- Self-determination
 - Art. 42, p. 1 Cst: The Confederation fulfils the duties that are assigned to it by Federal Constitution.
 - Art. 43 Cst: The Cantons decide on the duties that they must fulfil within the scope of their powers.
 - Art. 43a, p. 1 Cst: The Confederation only undertakes tasks that the Cantons are unable to perform or which require uniform regulation by the Confederation.

Key elements of Swiss federalism (II)

■ Participation

- Art. 44, p. 1 Cst: The Confederation and the Cantons shall support each other in the fulfilment of their duties and shall generally cooperate with each other.
- Art. 45, p. 1 Cst: ... the Cantons shall participate in the federal decision making process, and in particular in the legislative process.

■ Implementation

- Art. 46, p. 1 Cst: The Cantons shall implement federal law in accordance with the Federal Constitution and federal legislation.

Switzerland's foreign policy

- Foreign policy competence resides at the federal level...
 - Art. 54, p. 1 Cst: Foreign relations are the responsibility of the Confederation.
 - Art. 54, p. 3 Cst: It (*The Confederation*) shall respect the powers of the Cantons and protect their interests.
- ... but the federal structure requires the participation of the Cantons:
 - Art. 55, p. 1: The Cantons shall be consulted on foreign policy decisions that affect their powers or their essential interests.
 - Federal Law Concerning Cantonal Participation in the Foreign Policy of the Federal Government

Reasons for the participation of the Cantons in foreign / European policy

- Preservation of federalist structures requires mechanisms for the safeguard of cantonal competences through participation in foreign policy issues touching upon cantonal competences or interests
- The know-how of the Cantons concerning the implementation of obligations deriving from international treaties must be taken into account during the negotiation phase
- Due to its proximity to citizens the Cantons contribute to the acceptance of foreign/ European policy decisions within the population

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The Conference of Cantonal Governments CCG

Key aspects of the CCG

- Established in 1993
- Agreement between the 26 cantonal governments
- Negotiations on the accession to the European Economic Area (EEA) as a trigger (refused by the people in 1992)
- Objectives:
 - Promotion of cooperation and coordination among the Cantons in their areas of responsibility and information of the cantons in federal affairs with cantonal relevance
 - Opinion-shaping among the cantonal governments
 - Safeguarding the interests of the Cantons at federal level

Competences of the CCG

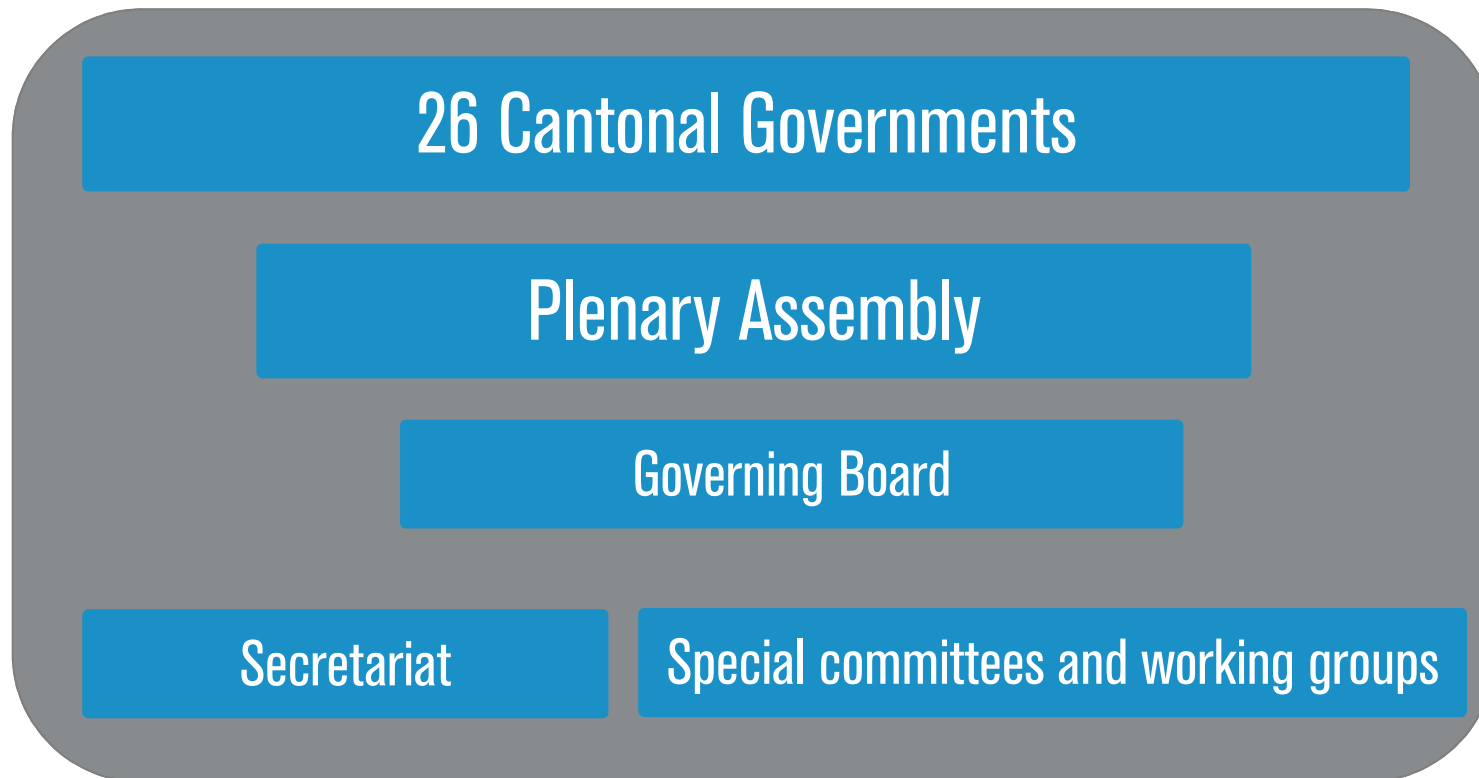
Domestic politics

- Topics of general political importance
- Renewal and further development of federalism
- Matters related to principles of task allocation between Confederation and Cantons (e.g. financial equalization)
- Matters related to principles of the conduct of federal tasks by the Cantons
- Political matters with extensive and trans-sectoral contents

Foreign policy

- Swiss – EU relations
- Free trade agreements
- WTO
- Human rights


Organisation of the CCG



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Mechanisms of participation

Political level

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- During the pre-parliamentary process:
 - “Federalism Dialogue“, “European Dialogue” with the Federal Council
 - Periodic contacts with the bureau of the Council of States
 - Consultation procedure (Art. 147 Cst.)
 - Political commissions, working groups and delegations
 - During the deliberations in the parliament:
 - Hearings by parliamentary commissions
 - Representation of interests
 - Ultima ratio: Referendum by the Cantons

Administrative level

- Working groups
- Delegations: negotiations, regular meetings (e.g. joint committees)
- Representatives of the Secretariat of the CCG working in the federal administration:
 - Department of Justice and Police
 - Department of Foreign Affairs (Directorate of European Affairs, Mission of Switzerland to the European Union)

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Swiss-EU relations: Position of the Cantons

General position of the CCG

- EU remains the most important partner for Switzerland
 - A freeze or even a setback of the Swiss-EU relations is not an option for the Cantons
 - Further deepening of the Swiss-EU relations leads to centralization of competences
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- Support of structured Swiss-EU relations via an institutional framework agreement
 - Need for domestic reforms in order to preserve federalism and direct democracy

Institutional framework agreement (1)

- Swiss negotiation mandate supported by the CCG in 2013
- CCG part of Swiss delegation for negotiation of institutional agreement
- Negotiations came to an end in November 2018
- Spring 2019: Consultation draft institutional agreement

Institutional framework agreement (2)

CCG position paper draft institutional agreement 27 march 2019:

- Support of bilateral way and deepening of collaboration with EU
- Clarification & further talks CH-EU needed on three main points
 1. State Aid
 2. Citizens Rights directive (Unionsbürgerrichtlinie)
 3. Flanking measures
- Definitive position of the cantons only after results of clarification

Other current issues

- Ongoing negotiations/issues:
 - Electricity agreement
 - Participation to research/innovation and education programs (f.e Horizon Europe)
 - Mutual recognition procedures (f.e medtech industries)

- Popular initiative on EU-related issues in the pipeline:
 - Popular initiative to limit free movement of persons (Begrenzungsinitiative BGI, vote probably in spring 2020)

Conclusion

- The cantonal governments are the institutional partner of the Federal Council
 - Support for foreign policy decisions by the Cantons increases domestic acceptance and approval in votes
- Swiss federalism implies explicit division of competences
 - Cantonal interests have to be taken into account



Thank you for your attention!

Questions and remarks?



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