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## The Swiss model of federalism. Some lessons for the European Union

**Abstract:** The federal principle in Switzerland has been developing for centuries. It was a process that has not always proceeded in a peaceful manner. The creation of Swiss statehood required reconciling different groups and interests. Today's federal solutions in Switzerland allow for the peaceful co-existence of different language and religious groups. Another challenge is to reconcile the interests of wealthy and poor cantons. Understanding how this happened can provide guidance for further integration within the European Union, which in many aspects might be compared to Switzerland.

**Key words:** federalism, Switzerland, European Union

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Switzerland is very often given as a model of a federal state. The federal solutions existing in this country integrate multiple interests. Switzerland is a country where different language and religious groups coexist. What is more, this situation is aggravated by the division into poor agricultural and rich industrial cantons. This diversity of Switzerland reflects in a certain sense the situation in the European Union (EU), where there are also countries which vary in many respects. It can therefore, in some way, make sense to compare the EU to Switzerland. The Swiss constitutional solutions ensure the cantons and each social language and religious group influence the policy of the whole federation. The specific nature of the Federal Council, the Swiss government, introduces a model of a constant grand coalition government (Musiał-Karg, 2012, p. 118–120), unknown in any other country, which can be compared with the EU's intergovernmental institutions, like the European Council and the Council of the European Union, which are also a kind of large coalition. Also, the European Commission, which is a supranational institution, is a kind of grand coalition. It should be noted that following the changes introduced by the Lisbon Treaty, the European Council must take into account the results of recent elections to the European Parliament when indicating a candidate for President of the Commission (Article 17, paragraph 7 of the Treaty on European Union).

Within the framework of European integration, since its inception there have been discussions on the shape and patterns of the character of the cooperation. One of the main trends in this debate is the federal model, represented at the very beginning by the so-called Founding Fathers of integration,<sup>1</sup> and in later years continued, for example, by

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<sup>1</sup> The Founding Fathers of the European Union are a number of European leaders who have been recognised as making a major contribution to the development of European integration. The founding fa-

Joschka Fischer. Even today, in an era of economic crisis and uncertainty as to the fate of the Union, this model is back and has re-opened the discussion on the future of the EU.

The constitutional arrangements functioning in Switzerland can provide a very useful clue to how to regulate the division of competences between the Union and the member states, on the one hand to keep the autonomy of states as far as possible, and on the other, to ensure the effectiveness of the Union.

The purpose of these considerations is to try to find answer to the question of how the Swiss model of federalism and the historical development of the federal principle in this country can be used in the study of the EU's political system, and whether the Swiss solutions can be transposed to the EU.

On 12 May, 2000, the German Foreign Minister Joschka Fischer, during a speech at the Humboldt University in Berlin, made some references to the future of the European Union. In the context of the planned enlargement of the European Union to include the countries of Central and Eastern Europe, it was necessary to adjust the institutional system and the functioning of the Union to the new realities. This huge challenge was the pretext for a consideration of the totality of European integration. For the first time in a long time, a leading European politician referred to the federalist concept of European integration. Being aware of the reluctance of some of the political leaders and European societies to the concept, Fischer argued: “[o]nly if European integration takes the nation-states along with it into such a Federation, only if their institutions are not devalued, or even made to disappear, will such a project be workable, despite all the huge difficulties. In other words, the existing concept of a federal European state replacing the old nation-states and their democracies as the new sovereign power shows itself to be an artificial construct which ignores the established realities in Europe. The completion of European integration can only be successfully conceived if it is done on the basis of a division of sovereignty between Europe and the nation-state. Precisely this is the idea underlying the concept of ‘subsidiarity’, a subject that is currently being discussed by everyone and understood by virtually no one” (Fischer, 2000, p. 25).

It is worth at this point considering what model of federalism would be most appropriate for the European Union. The answer to this question is difficult, because every federal system is unique. Therefore, there can be no simple transfer of existing solutions from one of the federal states onto the EU. This does not mean that any elements of the federal solutions cannot be used in planning the future shape of the EU system. This paper presents the basic principles of federalism in Switzerland, because the genesis and the federal solutions of the country reflect to a large extent the EU's challenges, and therefore seem to provide the best model for the Union.<sup>2</sup>

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thers were a diverse group of people who held the same ideals. Most of them were associated with the Christian Democrats, like Konrad Adenauer, Jean Monnet, Robert Schuman or Alcide de Gasperi, but there were politicians representing other political views, like Paul-Henri Spaak associated with the Social-Democrats. More about the political career and personal life of the Founding Fathers of the EU: G. Audisio, A. Chiara, 2007, *passim* and EU portal, *The Founding Fathers of the EU*, <http://europa.eu/about-eu/eu-history/founding-fathers/>, 12.08.2013.

<sup>2</sup> The statement is the personal opinion of the author.

### Federalism in Switzerland

Wolf Linder writes: “Switzerland represents a paradigmatic case of political integration” (Linder, 1996, p. 26). The beginnings of this process can be traced back as early as the thirteenth century. In 1240, Emperor Frederick II approved the relationship between three territorial communities, hereinafter referred to as cantons – the Valley of Uri, Schwyz Valley community and Unterwalden. In early August 1291, the three communities decided to forge the first written agreement.<sup>3</sup> The main reason for signing the document was the need to consolidate power in the face of external threats. However, other provisions of the agreement related to matters of an internal nature, significant at that time, such as arson, theft, prosecution and punishment of such offences, and the need to obey one’s master and adherence to the law. Starting from 1332, when an agreement was signed between the three communities and Lucerne, the Swiss association continued to grow to include other territories and cities. New communities entered into agreements with all the members of the association, or with the selected entities. In 1351 Zurich joined the association, and two years later Bern, Basel became a member in 1501, entering into a covenant with the communities affiliated to the union. In 1584 Geneva signed an agreement with Zurich and Bern. With the expansion of the alliance, the relationship with the Empire lost importance. In 1499 there was the Swiss Confederate battle with Emperor Maximilian I in Dornbach. After losing, the Emperor recognised the independence of the alliance. A few years later, in 1515, the next important event took place, namely the Battle of Marignano, where the Swiss army were defeated by French forces. The battle ended Swiss aspirations in Lombardia, and the Swiss Confederacy never went to war again, after declaring neutrality in 1525. This was the symbolic end of Swiss aspirations to conquer new territories (Maissen, 2010, p. 98). Another important date in the history of Switzerland is 14 October, 1648. The Treaty of Osnabrück guaranteed the Swiss alliance full independence from the Emperor (Wójcik, 1995, p. 378). At that time, Switzerland was strengthening, both politically and militarily. The alliance also included allied countries and territories acquired during periods of war in addition to the cantons. But internally, Switzerland remained only a loose union of different towns and municipalities. The only common institution at that time was the Assembly – *Tagsatzung*, meeting once a year in July, in Baden. It had little opportunity to shape policy, either internal or external. Internal affairs there required the assent of all representatives, and issues connected to external policy were only discussed, without making any binding decisions. In the era of the French Revolution, France conquered Switzerland, and on 12 April, 1798 imposed a new unified constitution in Aarau (Hilty, 1878, p. 731). Article 1 of the Act defined Switzerland as a unitary and indivisible state and abolished the boundaries between the cantons. The Constitution was, for its time, very modern. Article 6 guaranteed freedom of religion, and Article 8 abolished all state privileges, including titles of nobility. The second part was devoted to the constitutional division of Helvetic lands. Article 15 established the following administrative units: cantons, districts, municipalities and sec-

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<sup>3</sup> The dates and historical facts in this section on the basis of: Wojtowicz, 1989; Hettling (ed.), 1998; Steinböck, 1998; Reinhard, 2011. The last author is especially noteworthy, as he describes in detail the political and economic development of the lands which are parts of contemporary Switzerland.

tions of larger municipalities or districts (*Die erste helvetische...*). According to the constitution, the cantons were equal in terms of rights, but Zdzisław Czeszejko-Sochacki writes that they were nothing more than units of administrative division (Czeszejko-Sochacki, 2000, p. 8; Weber, 1980, p. 50). The constitutional order established by the Constitution was maintained on Swiss territory with the help of Napoleon's army. And when the French troops withdrew from the Helvetian Republic in 1802, a civil war broke out between supporters and opponents of the new order. This brief civil war gained the name of the 'war of the sticks' (German *Stecklikrieg*), as the main weapons were wooden sticks, or pikes (Stüssi-Lauterburg). To resolve the situation and restore order, Napoleon's army had to return to Switzerland. After these events, Napoleon issued a new constitution on 19 February, 1803 called the Act of Mediation – *Mediationsakte*. This document is important, because it restored the federal order in Switzerland. Article 1 of the Mediation Act lists all 19 cantons, indicating that they form a union that gives them their constitutional guarantees, freedom and independence and territorial integrity. It restored the Assembly – *Tagsatzung*, in which each canton was represented by one representative (Article 25 of the Act of Mediation). There is a question of whether the Mediation Act was a constitution of a union of states – *Staatenbund* or maybe of a federal state – *Bundesstaat* (Weber, 1980, p. 52). The Congress of Vienna committed the Swiss to adopt a new constitution. And one was, in fact, adopted on 7 August, 1815 by the twenty-two cantons. It is difficult to say that it was a constitution in the true sense of the word. It was much more a contract of federation – *Bundesvertrag*. This act was a multilateral agreement of independent and sovereign Swiss cantons in which they guaranteed to each other to ensure freedom, independence and security from external threats, and maintain law and order internally. The main institution of the alliance was the Assembly, which had the power to declare war, or to sign peace treaties and alliances with other countries. In these important cases, decisions were made by a three-fourths majority. Other decisions were taken by an absolute majority of votes. While the Assembly was not in session the matters of the federation were run by the canton which was currently presiding. The Assembly did not possess any instruments that might force a canton into submitting to its decisions. Zdzisław Czeszejko-Sochacki writes: “[i]n the Swiss doctrine the Assembly is not treated as a parliament in the true sense of the word. Regardless of the lack of other characteristics of a modern parliament, the Assembly was not created as a result of the election, because its members were appointed and directed by the cantonal authorities” (Czeszejko-Sochacki, 2000, p. 9).

An important factor in integration was industrial development. To deal with international competition, it was necessary to strengthen the government. An attempt to review the contract of the federation (*Bundesvertrag*) had already been made in 1832, but the proposed solutions did not receive the required support. Any changes in the agreement were blocked by conservative, Catholic cantons, demanding further unanimity in making such decisions in the future. Cantons in which the majority were Catholics feared an increase in the powers of the central government, seeing the process as a threat to religious freedom (Linder, 1996, p. 27–28). On the other side were the Protestants, referred to as the radicals. They lived mostly in the better economically developed cantons, with emerging industry. They spoke not only in favour of strengthening central government, but also for the democratisation of social and political relations. In 1845, the seven Catholic cantons, seeking to strengthen their political position, decided to enter into a separatist

treaty – *Sonderbund* (Roca, *Sonderbund*; Bucher, 1966, *passim*). When, in 1847, the Protestant majority drafted the constitutional amendments, the representatives of the Catholic cantons left the Assembly. This was recognised by the other cantons as secession, and led to the outbreak of Civil War (*Sonderbundkrieg*). The conflict ended with the victory of the Protestant cantons and the collapse of the *Sonderbund* (Bucher, 1966, *passim*; Weber, 1980, p. 53). These events accelerated the process of reforming the state. The Civil War fully showed the imperfections of the existing order. The victorious radicals were faced with the dilemma of whether to build a centralised, unitary state, or, taking into account the cultural, ethnic and other differences, try to rebuild a loose connection in the state into a real federal structure. The second option was chosen and work on the draft of the new constitution started. The project assumed the creation of a central government, and the cantons were supposed to limit their sovereign rights. The project was presented for approval to the cantons in late summer 1848. Despite some objections to the correctness of the voting in the Lucerne canton, where the radicals who were ruling there at that time counted 30 percent of the votes cast against the constitution as votes ‘for’ (Linder, 1996, p. 30), on 12 September the Assembly recognised that the Constitution had received the required support.

The main creators of the Swiss Constitution of 1848 – Johann Konrad Kern and Henry Druey – based their proposal on some solutions set out in the American Constitution of 1787 (Jorio, 1997, p. 139–160). Thence, perhaps, came the idea of a bicameral parliament, which previously was unknown in Swiss constitutional practice and was created to reconcile the idea of a nation-state with the independence of the cantons. The Constitution was replaced in 1874 with a new act which did not differ much in constitutional issues. The adoption of the Federal Constitution in 1848 proved to be one of the most important events in the history of Switzerland. Zdzisław Czeszejko-Sochacki writes: “[t]he main solutions of the Federal Constitution of 1848, became the basis for the Federal Constitution of 1874 and the rules and some of the more detailed provisions were taken over by the new constitution of 1999” (Czeszejko-Sochacki, 2000, p. 11).

### The principle of federalism in Switzerland

Renč Rhinow writes: “[i]t was a special request of the initiators of the reform of the constitution to give the federal idea in the Confederation a shape, in a spirit that would correspond to the present day” (Rhinow, 2001, p. 43). At this point it is necessary to settle a certain duality in terminology. The official name of the new constitution was *The Federal Constitution of the Swiss Confederation* (German: *Bundesverfassung der Schweizerischen Eidgenossenschaft*). The appearance together of the terms: ‘federal’ and ‘confederation’ may raise doubts about what kind of subject of international law we are dealing with. A ‘confederation’ is a system of sovereign states based on an international treaty, whereas a ‘federation’ refers to a state where there is a division of powers between the federal and member unit levels (Linder, 1996, p. 21).<sup>4</sup> The constitutional concept of

<sup>4</sup> According to this distinction, Switzerland in the years 1815–1848 should be regarded as a confederation. Following the adoption of the Federal Constitution in 1848 Switzerland became a country with a federal structure.

a 'confederation' referred to the historical experience of the Swiss political system, and for over one hundred and sixty years did not specify the character of the relation between cantons any more. Thus, according to Zdzisław Czeszejko-Sochacki, the term 'confederation' (German: *eidgenössisch*) occurring in certain provisions of the Constitution, should be considered as a synonym of the term 'federal' (Czeszejko-Sochacki, 2000, p. 19).

The Federal Constitution of 1999 confirms the guarantee of statehood and independence of the cantons – article 3, and additionally article 47 require the federation to guard its independence. The Constitution contains a very detailed presentation of the tasks of different levels of the federal structure, and describes the exact nature of the regulation of the relations between those levels, as well as the division of powers.

As the cantons were the *spiritus movens* of building the common state, they guaranteed themselves at the outset a high degree of political autonomy, especially when it came to their participation in the decision-making process. Linder names the constitutional experience, especially the period from 1803 to 1815 – time of the Mediation Act, as among the factors that influenced the shape of Swiss federalism at its dawn, then provides the example of the attempt at realising the constitutional test in some cantons in the third and fourth decades of the nineteenth century. Finally, Linder points out the positive signals from the US experience, where the system managed to combine the principle of federalism and democracy (Linder, 1996, p. 74–75). The federation became a 'third way' between a confederation, which had become a bit of an old-fashioned model, and Unitarianism, which was never appropriate for the Swiss situation.

All levels of the federal structure of the state possess unique, yet limited competences. They are required by the federal constitution to cooperate, and guarantee respect for democratic principles.

The political power of the cantons, resulting from their historical roots, sets out the framework of Swiss federalism. Already at the beginning of the functioning of the federation, the competences of the central government were confined to a few areas. However, as in other countries with a federal structure, with time, central government began to grow and take over more competences. Changes in the world also affected this process, especially as far as economic development and technological progress are concerned.

Wolf Linder writes: "[e]ven at the abstract level of constitutional principles of separation of powers between the central government and the cantons, it cannot be defined once and for all. A federal state must establish rules for how to deal with changes in the distribution of a centralized and a decentralized power, and decide whom to entrust new duties to, that have arisen due to changes in the economy and society" (Linder, 1996, p. 78). The problem of the division of powers between the two levels of the federal structure has always aroused strong emotions. At each stage of development of the federalism there were supporters of centralisation, as well as of the opposite option. Initially, the dispute continued between conservative Catholics and Protestant radicals. Currently in favour of increasing the powers of the federal government are mostly the supporters of a strong state and interventionism. For maintaining or even increasing the degree of decentralisation, opt primarily language minorities, to a lesser extent, religious and business groups, that have been worried about too much government intervention in the economy (Linder, 1996, p. 78).



The federal constitution protects cantons against the increase of central authority. Article 3 of the Constitution is of special importance here, which says that the cantons remain sovereign in all rights that have not been transferred to the federation. Swiss society may decide to grant some new competences to the federation by accepting corresponding alterations to the Constitution in a referendum. Wolf Linder says that such a solution “describes federalism more as a non-centralization system than a system of decentralization” (Linder, 1996, p. 79). In addition, it must be remembered that any alteration to the Constitution requires building a broad front of supporters of such a solution. Any proposed change first requires support in both houses of parliament, and then acceptance by a majority of all citizens supported by a majority of more than half of the cantons.

The Swiss Constitution does not mention an exhaustive list of competences, either for the federation or for the cantons. Peter Schönberger writes about this phenomenon: “[t]he tasks and the distribution [of finance – AN] in the Swiss federal state strongly penetrate each other” (Schönberger, 2001/2002, p. 49–58).<sup>5</sup> The legal system and court decisions have developed a system of interpretation of the Constitution, under which, over the years, especially prior to the adoption of a new constitution, it has been decided which of the tasks, not mentioned directly by the Constitution, are to be implemented by the federation (Weber, 1980, p. 91).

Although the federation’s functions are limited, it does exercise control over the cantons. One of the decisive factors is the primacy of federal law, as being of higher rank than the cantonal law. The federation ensures that the cantonal authorities have a republican nature and respect the separation of powers into legislative, executive and judicial branches at the level of cantons. Each canton has its own constitution (Article 51, paragraph 1). The Federal Assembly, on behalf of the federation, approves alterations to the cantonal constitutions, checking their compliance with federal law (Article 51, paragraph 2). The federation also ensures the equal access to opportunities for individual cantons (Article 100, paragraph 2). The Swiss cantons vary in many ways. They differ in the number of inhabitants, area, level of industrialisation, and so on. However, the most important factor is the difference in income levels among citizens, which is sometimes even as high as 30,000 francs. According to Z. Czeszejko-Sochacki, national income per capita in the canton of Zug exceeds 65,000 francs, while in the canton of Jura it is only 30,000 francs a year (Czeszejko-Sochacki, 2000, p. 28).

The objectives of the federation are presented in art. 2 of the Federal Constitution. Article 42 is crucial in discussing the competences of the federation. It defines the tasks of the federation in a very general way. It says that the federation fulfils the tasks which are outlined by the Federal Constitution and takes on tasks that require uniform regulation. This is a totally different approach than in the case of the competences of the cantons. They are free to undertake and carry out all the tasks that are not reserved for the federation (Article 43). In the Swiss system, therefore, the principle of the presumption of competence to the cantons operates, although the competences of the cantons can be narrowed if the federation considers that any area requires general regulation at the federal level.

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<sup>5</sup> The author notes that the lack of a clear determination as to which tasks are to be implemented by various federal units, causes a significant weakening of the federal system, and reduces its effectiveness.

This means that any new competence or task is automatically assigned to the regulation or implementation of the cantons. That is why the federal government must make the relevant regulations in advance. Otherwise, there might arise the impression that the federation receives all the tasks from the cantons which are not already being implemented (Brühl-Moser, 2012, p. 708–709).

Many years ago Herbert Lüthy wrote about the phenomenon of Switzerland: “it is not a nation-state, it is not a unitary state or even a state based on a homogeneous unity. The state structure there derived directly from the Middle Ages, and to a great extent is a denial of the model of the modern state, which began to take shape in Europe in the nineteenth century. The origins and historically shaped identity in Switzerland are nothing more than a medieval alliance of vested interests against the tendencies of unification of the different territories, dynasties, administration or national principalities. And it is this historical identity that shapes the political civilization of Switzerland (German: *politische Zivilisation*)” (Lüthy, 1966, p. 40).

The Swiss model of federalism is given as an example of federalism in general. There must therefore be something that determines that contention. Federalism is not only the division of competences between the different levels of a federation, but it is also the pursuit of the harmonious development of all parts of the state. Swiss federalism was shaped over a long time, indeed it was a bottom-up process which relied on the voluntary cooperation of previously independent entities. The partners, therefore, had the opportunity to get to know each other well, although it is clear from history that quite often there occurred conflicts, even in an armed capacity. Switzerland must have reconciled not only different local communities, but most of all, communities or groups which differed in many ways: linguistically, religiously and culturally. The fact that it has ended successfully, demonstrates the functionality of the solutions reached by Swiss federalism, which give guarantees of considerable autonomy to the cantons, not denying at the same time the possibility of implementing federal tasks. Despite this positive assessment of Swiss federalism, the problems and challenges that have arisen in this country in recent years and are associated with federal structures must also be taken into account. P. Dardanelli notes that most of today’s challenges in Switzerland are associated with the cantons, and their capacity to remain pillars of the federal system. What is more, the author takes the view that the powers of the cantons in this area are outmoded (Dardanelli, 2007, p. 23). The author cites in this regard the analysis prepared by the Swiss think tank Avenir Suisse, which suggested some time ago the territorial reform of Switzerland: creating six large cantons around the major urban centres, and only entrusting such units with a wider range of competences, allowing greater competition between them in terms of financial policy (Dardanelli, 2007, p. 23–24). Due to the almost revolutionary nature of the proposals contained in this report, it had no chance of being put into action, but thanks to it, it seemed possible to start a national debate on the future and the shape of federalism in Switzerland. The cantons took the initiative themselves. In 2004, eight cantons tabled proposals for amendments to the financial system. The debate on the need for changes in the financial system had been taking place in Switzerland since the 1960s, but only among experts. It was not until the early 1990s that the topic became a part of public debate. Meanwhile, work continued on a new constitution, but then failed to turn these issues into the new document (Freiburghaus, 2012, p. 53–71). On 28 November of the same



year, the proposals were put to a referendum. Turnout during the vote on the reform of financial equalisation and the division of tasks between the Confederation and the cantons (*Neugestaltung des Finanzausgleichs und der Aufgabenteilung zwischen Bund und Kantonen* – NFA) was 36.85 per cent, of which 64.4 per cent of citizens and 23 cantons were in favour of the proposed amendments.<sup>6</sup> The new regulations came into force from 1 January, 2008.<sup>7</sup> The main objective of the reform was to reduce the development gap between the cantons with a simultaneous increase in efficiency. To achieve this, it was necessary to reform not only financial transfers within the federation, but also the rationalisation of tasks. In the first range, the old system of vertical and horizontal financial equalisation was maintained, but a new system was also set up which was to lead to an increase in competition between regions, so they were allowed to create their own, more flexible tax systems. The cantons were divided into two groups: poor and rich. Additionally, a new instrument for vertical financial equalisation was introduced – from the federation to mountainous regions and those with difficult social demographics (with high numbers of immigrants or negative birth rates). Also, a clear division of tasks between the federation and the cantons was established. In those areas where cooperation of the federal and cantonal levels is needed, there is a rule that says that strategic management lies in the competence of the federal government, while the cantons are responsible for operational activities and their implementation. And if they carry out tasks requested by the federation, they must receive appropriate funds (Freiburghaus, 2012, p. 75–78). The reform also provided the possibility of establishing closer cooperation between the cantons and the implementation of common tasks that could be financed with the funds, but also with the participation of the federation. This was intended to lead to a real increase in competition between cantons, resulting in a more rational disposal of money. The reform set out some transitional periods for adjusting to the new requirements, the last of them to end in 2036. It shows that this is a deliberate long-term plan. Establishing the Council of States as a chamber representing the interests of the cantons and equipping it with powers equal to the lower house, implies the serious treatment of the cantonal factor in the decision making process. Another issue is how this institution performs its tasks. It is natural that central government tries to implement part of the competence of the cantons. This process is not surprising. Moreover, the taking over of competences by the federation is not yet a problem in Switzerland that gives cause for concern, even as the NFA (*Neugestaltung des Finanzausgleichs und der Aufgabenteilung zwischen Bund und Kantonen*) shows it is possible to increase the share of the cantons' participation in selected areas. The financial reform in Switzerland is named after a term taken from game theory as an example of a win-win solution, namely a situation in which all partners – both the federation and the cantons – achieve benefits (Wittstein, 2012, p. 90).

Paweł Sarnecki writes about Switzerland that it is a “very typical federal state” and also notes that any attempt to classify the form of government in this country “ends with

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<sup>6</sup> Data based on: Die Bundesbehörden der Schweizerischen Eidgenossenschaft, *Bundesratsbeschluss über das Ergebnis der Volksabstimmung vom 28. November, 2004*, <http://www.admin.ch/opc/de/federal-gazette/2005/951.pdf>, 12.08.2013.

<sup>7</sup> Official website of the Department of Finance of the Swiss Confederation, <http://www.efd.admin.ch/dokumentation/02288/02478/02491/index.html?lang=de>, 12.08.2013.

the statement that these solutions cannot be allocated to any of the theoretical models” (Sarnecki, 2003, p. 330).

Swiss federalism is a kind of dualistic federalism, mixed with executive federalism. The cantons have the right to legislate and execute laws in a not inconsiderable number of areas, and they simultaneously implement federal laws (Musiał-Karg, 2012, p. 107). It seems, however, that the dependence of the cantons on the financial policy of the federation, and therefore the analysis of the scope of issues covered by the federation’s legislative powers, allows the conclusion that modern Swiss federalism is closer to the model of executive federalism, although it should be noted that this is with the strong position of the cantons. As in all modern democracies, in Switzerland, too, an important role in shaping state policy is played by political parties. However, the Swiss solution for assembling the personal and the political composition of the central government – the Federal Council, means that one of the essential functions of political parties today – the function of being competitive, loses its importance. The consensual model of governance present in Switzerland significantly reduces party competition and, with some exceptions, their radicalism. It also means that parties are not just partners ‘of necessity’ to each other, but in a natural way are for each other a controlling and limiting mechanism. In addition, the original solutions for resolving jurisdictional disputes ensure respect for the principle of federalism, maintaining the flexibility of the system and the allocation and exercise of powers essential in an era of globalisation and rapid economic and technological change. The courts decide only ‘vertical’ competence disputes, and judgments may determine who should exert a particular competence, or when it is already implemented on the basis of a specific act, can lead to its being appealed. However, it should still be noted that the courts cannot repeal federal law, even if it violates the division of powers between the federation and the cantons. The courts also deal with disputes between the federation and the cantons and between cantons themselves, which are mainly disputes arising from administrative law and public contracts (Sarnecki, 2003, p. 338).

### **Concluding remarks**

When in the thirteenth century three cantons initiated cooperation, they did so to more effectively defend their interests. The same was true in the 1950s, when the process of European integration began. Weakened by the damage of the war, Europe was the centre of a new conflict between the US and the Soviet Union. In order to maintain its political and economic independence, and enhance its chances on the international stage in both respects, six Western European countries decided to enter a first agreement on establishing the European Coal and Steel Community. In the following years and decades, the scope of cooperation steadily expanded – both in material terms and geographically (Węc, 2006, *passim*). Similarities between the EU and Switzerland are not limited only to their remote origins and historical development. Another convergent issue is the diverse nature of the Swiss cantons and European countries. One of the major challenges facing federal arrangements in the European Union is the matter of sovereignty. Today, member states are not prepared to give up their statehood. The same initially occurred in Switzerland. Joschka Fischer, being aware of the difficulties, argues: “[establishing the European Fed-

eration – AN] will not mean the abolition of the nation-state. Because even for the finalised Federation, the nation-state, with its cultural and democratic traditions, will be irreplaceable in ensuring the legitimation of a union of citizens and states that is wholly accepted by the people” (Fischer, 2000, p. 26).

The European Union used to be described as an organisation *sui generis* – one that is difficult to qualify within existing typologies of international organisations. In over sixty years of the development of European integration, areas of cooperation have changed, as well as the challenges that member states had to face. Fischer, in his speech, was talking about the method of integration, and mentioned that, “[t]he question which is becoming more and more urgent today is this: can this vision of federation be achieved through the existing method of integration, or is this method itself, the central element of the integration process to date, cast into doubt?” (Fischer, 2000, p. 27). There have been changes in the division of competences between the Union and the states. It could be ventured that in the case of the EU there is a reverse federalism, in the sense that, while in the case of federal states matters directly related to the traditional notions of sovereignty, such as foreign policy and defence policy, remain within the competence of the federation, in the case of the EU they remain a matter for the member states. Federalism is not only the principle for a political system, it is also a social model in which it is possible to integrate various interest groups. Thus, federalism is often referred as a model combining unity and diversity. Incidentally, the EU’s motto is a reference to this combination: “United in Diversity.” So, maybe, in the federal matter, the European Union is a unique example.

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## Szwajcarski model federalizmu. Wnioski dla Unii Europejskiej

### Streszczenie

Zasada federalizmu w Szwajcarii rozwijała się przez wieki. Był to proces, który nie zawsze przebiegał w sposób pokojowy. Stworzenie szwajcarskiej państwowości wymagało pogodzenia różnych grup i interesów. Dzisiejsze rozwiązania federalne w Szwajcarii umożliwiają pokojowe współistnienie różnych grup językowych i religijnych. Kolejnym wyzwaniem było pogodzenie interesów bogatych i biednych kantonów. Poznanie mechanizmów federalizmu szwajcarskiego może stanowić wskazówkę dla dalszej integracji w ramach Unii Europejskiej, która pod wieloma względami przypomina Szwajcarię.

**Słowa kluczowe:** federalizm, Szwajcaria, Unia Europejska

