

Developments in the Constitutional and Administrative Law of Switzerland

Observations from the perspective of administrative science¹

Andreas Lienhard

Center of Competence for Public Management, University of Bern,

Schanzeneckstrasse 1, 3001 Bern, Switzerland

Significant changes can be seen in government and administration in recent years. Internationalisation, economisation, the changed self-image of citizens and new forms of public management are at the forefront. The following article asks, from an administrative science perspective, whether, and if so how, the constitutional and administrative law of Switzerland reflects these changes. It shows that both in constitutional law and in particular in administrative organisation law, and in the Confederation's budgetary planning law, fundamental changes have taken place. Nevertheless, further research and needed legislation are in required if the law is to keep pace with the dynamic developments.

Keywords: State as Guarantor, New Public Management, Cooperation, Legislation

1 Introduction

Significant developments can be observed in Switzerland's government and administration in recent years. This article considers the research question about the impact of these changes on Switzerland's constitutional and administrative law from the perspective of administrative science.² The article is based on an *analysis of legal norms* governing the organisation of the state and the administration, together with the law on *federal* budgeting although the findings can also apply to a large extent to the *cantons*.

First of all, certain significant *changes in the state and administration and their sphere* are outlined in *Chapter Two*. Individual *lines of development* in constitutional and administrative law are then presented in *Chapter Three*. *Chapter Four* provides the *conclusion*, with an appraisal of the various developments.

¹ Adapted german versions of this article are published in Lienhard, 2014a and 2014b; acknowledgments for suggestions to Mag. rer. publ. Daniel Kettiger.

² Administrative science deals in an interdisciplinary manner with government and the administration, in particular the business management of the public sector, political science, legal science and economics (e.g. Franz, 2013); on the development of administrative science in Switzerland Sager and Hurni, 2013; Kettiger, 2011.

2 Changes in the Sphere of the State and Administration

2.1 Globalisation and Internationalisation

Globalisation and internationalisation have made further advances (Mächler, 2005; Lienhard, 2007, with further references). The private sector and the state have drawn closer together. The international community and international organisations endeavour in this environment to develop *common values and rules* to solve complex, even transnational problems (Lienhard, 2005). The World Bank and the Organisation for Economic Cooperation and Development (OECD) have developed *principles of good governance* which are increasingly also to be found in the constitutions of individual countries. In addition to the rule of law, democracy, federalism, and accountability, the requirements also include effectiveness and efficiency (Lienhard, 2005).

This transnational definition of fundamental values for state governance and public management also has an effect on the *legal systems of individual countries*. Swiss law in general (Maiani, 2013), and its administrative law in particular (Schindler, 2011), have become more internationalised – and will likely become even more so.

2.2 Individualisation and Emancipation

One development directly in the opposite direction can be observed at the level of the individual. The sense of community and joint responsibility seem to be in decline, whereas self-fulfilment and the maximisation of self interest have increased in importance (e.g. Schimank, 2013). This has been accompanied by an emancipation of the citizen vis-à-vis the state: the belief in the state and its authority have decreased, whereas *opportunities for participation and dialogue* have increased (e.g. Villeneuve, 2013). The citizen is, in the form of polls and customer surveys, increasingly regarded and treated as a partner rather than as a legal subject (Lienhard, 2005). He has evolved from “a subject to a customer” (Schindler, 2010).

This has not occurred without having an impact on relationships with the state and administration. The change manifests itself on the one hand in increased *demands for performance* and on the other, with regard to expectations as to the *forms of communication*.

2.3 Economisation

In response to large and in some cases rising government deficits, the growing quantity and complexity of state tasks and intensified *competitive pressure* even among countries, states are forced to critically scrutinise the fulfilment of tasks and seek optimisation methods (also Lienhard, 2005). *Business organisational*

models and management tools therefore are increasingly being introduced into public management and administrative organisation (Franz, 2013). Examples here would be the introduction of political and strategic financial planning or austerity programmes at the macro level, and the use of cost-benefit analyses or the introduction of control mechanisms at the micro level.

Against this background, a *change in culture* is taking place in government and administration that is increasingly marked by a focus on performance and a cost consciousness.

2.4 Outcome-oriented Public Management

Outcome-oriented public management represents a *global development* (Franz, 2013): most OECD countries use related instruments, such as an integrated management of services and resources (an overview on the status and elements of reform in individual countries can be found in the evaluation report FLAG (Management by performance agreement and global budget) dated 4 November 2009 as well as in the Bundesrat, Botschaft NFB, 2014; also Lienhard, 2013b and Lienhard, 2005).³ In Switzerland, 11 cantons have introduced New Public Management (NPM) across the board and 8 cantons have done so partially. The other cantons use individual elements of the reforms. In the larger (urban) communes, the level of implementation is around 50% (on the spread of NPM in the cantons and the communes Lienhard, 2013b; regarding the different conceptions of the implementation, Kettiger, 2011; Ritz, 2013; Bundesrat, Botschaft NFB, 2014; on the current developments in the communes Ladner et al., 2013). At federal level, around one third of the Central Administration is controlled by a system known as FLAG, whereby the widespread introduction of the new management model (NFB) into the structure for the Federal Administration is scheduled by January 2016 (Bundesrat, Botschaft NFB, 2014; AS 2015 1583 ff.⁴; Haldemann et al., 2014; Lienhard, 2015).

Not only the levels of implementation and internal structures, however, but also the experiences with NPM, vary widely: along with effectiveness and increased efficiency, the essential *constitutional benefit* is transparency: with the instruments of outcome-oriented public management, more specific details about services and associated costs can be obtained. But this at the same time brings a significant problem: *over-perfected models* with unnecessary indicators can trigger new forms of unwanted bureaucracy and the assessment of outcomes becomes more difficult than expected. This is also a reason why management of the state

³ International Budget Practices and Procedures Database (Paris 2008)
URL: <http://www.oecd.org/gov/budgeting/internationalbudgetpracticesandproceduresdatabase.htm> (visited July 22, 2015).

⁴ <https://www.admin.ch/opc/de/official-compilation/2015/1583.pdf> (visited July 22, 2015).

with NPM has at times proved difficult (Lienhard, 2013b; Lienhard, 2005; Kettiger, 2011; Lienhard et al., 2005; Schedler, 2013; for an overview of experiences with NPM in Switzerland with a focus on parliaments, the various contributions in *Mitteilungsblatt der Schweizerischen Gesellschaft für Parlamentsfragen*, 2012/3). The interface between administration (management rationality) and state management (policy rationality) therefore requires special care (Lienhard, 2012; regarding the various rationalities, Schedler and Proeller, 2011).

NPM has also shaped state and administrative organisation and management as a *new culture of task fulfilment*, even where it is not being implemented under this label (Lienhard, 2013b; Kettiger, 2011). NPM, moreover, is a nucleus for further reforms such as goal-oriented cooperation between various federal levels, public corporate governance or public private partnership (Lienhard, 2013b; Schedler, 2013). The original constitutional and administrative law (fundamental) criticism of NPM has become largely irrelevant in the context of the connection with the principles of the rule of law and democracy (for more detail, Lienhard, 2005). In the meantime NPM has in many ways become part of constitutional and administrative law and made its way into textbooks on the subject (References in Schindler, 2011).

2.5 Concept of the State as Guarantor

The service-providing state has increasingly been transformed into the *state as guarantor*. According to the concept of the state as guarantor, the state is responsible for the tasks entrusted to it without, however, necessarily fulfilling them itself. Instead, the fulfilment of tasks is outsourced to administrative bodies and private service providers (Lienhard, 2009; with further references Schmid, 2013; Schindler 2010; Schedler and Proeller, 2011; on developments in Switzerland, see Steiner and Huber, 2012; Pasquier and Fivat, 2013; for criticism, Biaggini, 2010). The organisation and management of *outsourced* administration is known as *Public Corporate Governance* (Lienhard, 2009; with further references Schedler, Müller and Sonderegger, 2013).

In Switzerland, various conceptual principles have been developed in this regard (such as the Federal Council's Corporate Governance Report (Bundesrat, Corporate-Governance-Bericht, 2006)) and *outsourcing* is commonly carried out at all federal levels (Lienhard, 2009; with further references; Meister, 2009). Outsourcing brings with it changes in legal forms and forms of action and in supervision and oversight, and demands stringent requirements to ensure that the legal structure of special legislation is coordinated through generally-applicable legislation (Lienhard, 2009).

2.6 Cooperation

Tasks are increasingly carried out in the form of cooperative projects: transnational, horizontal, vertical, in the public sector and in the private sector (e.g. Athias, 2013). The *concept of partnership* seems to represent a global development (Herrhausen, 2004) and is also related to the concept of the state as guarantor (Lienhard and Marti Locher, 2010). Didier Burkhalter thus concludes: “After the era of private transport of the 19th century, and the turn to public of the 20th century, the 21st century could mark the advent of public-private.” (Burkhalter, 2009). In the academic debate, the concept of *Collaborative Governance* has emerged (Strassheim, 2013).

The state has thus transformed from a sovereign power to one that increasingly acts through consensus (for more detail Mächler, 2005). Cooperation can be found in all political fields, in particular for the guarantee of public services (Frey and Frey Marti, 2012). Even and especially in the environment sector, private companies are involved in cooperation and outsourcing arrangements for the *implementation* of environmental protection (Lienhard, 2006; Schmid, 2013).

One particular form of cooperation is the *Public Private Partnership* (PPP) (also known in German as Öffentlich-Private Partnerschaften [ÖPP]). Beyond development projects, the PPP has primarily gained importance in the infrastructure sector (in particular, in the construction of public buildings). Planning, construction, funding and operation are thus contractually transferred to a private consortium. Responsibilities focus on the life cycle of infrastructure (basically Bolz, 2005). International standards have been developed for the processing of such transactions (for a current overview of the subject, various contributions in *dms der moderne Staat, Zeitschrift für Public Policy, Recht und Management*, 2013). The involvement of the private sector in the fulfilment of public tasks has a long tradition in Switzerland (e.g. private construction of railways, public works, etc.) (Abegg, 2011).

Cooperation is becoming increasingly important in the sense of *cooperative federalism* – be it in the horizontal relationship among cantons (e.g. agreements in the field of education) or among communes (e.g. inter-communal cooperation in the waste-management sector), or in the vertical relationship (e.g. federal implementation through programme agreements) (Rhinow and Schefer, 2009).

Cooperative administrative action is thus gaining a new relevance in the context of various developments and poses related challenges for the law (Schmid, 2013).

3 Lines of Development in Constitutional and Administrative Law

3.1 State Organisation Law

3.1.1 Effectiveness and efficiency as constitutional principles

The rule of law and democracy are central pillars of the liberal constitutional state. The primary functions of the rule of law and democracy are to limit power. The legitimacy of a state, however lies not in having its powers limited, but rather in fulfilling the tasks entrusted to it. PIERRE MOOR formulated this as follows: “Although state action must be lawful, its objective does not lie in its legality. Its actions must above all be effective, appropriate and efficient.” (Moor, 2011: 20; also Schindler, 2007). The aim is thus the effective constitutional and administrative action. At the same time, the state should use the resources it has as economically as possible (efficiency). *Effectiveness and efficiency* are therefore two governing principles, which now also belong to good governance (Chapter 2.1.) and are part of the principle of the service-providing state (Lienhard, 2013a; for more detail, Lienhard, 2005).

These two principles have been incorporated into the new Federal Constitution and also appear increasingly in new cantonal constitutions (e.g., Art. 101 BE CC): the effectiveness principle is reflected in the evaluation of effectiveness under Art. 170 Federal Constitution, and the efficiency principle is also expressly anchored in the range of tasks in Art. 43a para. 5 Federal Constitution (Lienhard and Marti Locher, 2015 as well as Glaser, 2015). The principles of effectiveness and efficiency are also reflected in the obligation to balance the budget (Art. 126 Federal Constitution). With regard to the organisation and management of the Federal Administration, the principles also can be found in Art. 178 para. 1 Federal Constitution (Chapter 3.1.2. below). Effectiveness and efficiency thus complement the principles of the rule of law and democracy in accordance with Art. 5 Federal Constitution. As a result, *effectiveness and efficiency considerations* are also increasingly influential in the administration of justice, such as in the case of decisions regarding the approval of drugs (Federal Supreme Court decision 9C_334/2010 of 23 November 2010). Given their importance, these considerations should be more prominently positioned in the principles of constitutional law (Lienhard, 2013a; for more detail, Lienhard, 2005; for criticism of the new constitutional principles, Biaggini, 2010).

Also part of Swiss constitutional law is the *right to good administration*, as now found in Art. 51 of the EU Charter, which primarily comprises procedural rights (in particular the right to reasoned decisions rendered within a reasonable time). Effectiveness (effective procedure) and efficiency (requirement of prompt action) have found their own place in constitutional law (at federal level, in particular Art. 29 para. 1 and 2 Federal Constitution).

3.1.2 Constitutional legitimation of new forms of administrative organisation

Outcome-oriented public management at federal level is constitutionally enshrined in Art. 178 para. 1 Federal Constitution: “The Federal Council is in charge of the Federal Administration. It ensures that it is organised appropriately and that it fulfils its duties effectively.” This commitment also becomes apparent in the overall context of Art. 43a para. 5 Federal Constitution (demand-driven and economical fulfilment of tasks) and Art. 170 Federal Constitution (evaluation of effectiveness) (Lienhard, 2013a as well as Lienhard and Marti Locher, 2015). The cantons have partially incorporated similar provisions in their organisational laws – such as Art. 70 para. 1 and 2 Zurich Cantonal Constitution: “The cantonal government directs the cantonal administration and determines its organisation according to the law. It ensures that the administration acts lawfully, efficiently, cooperatively, economically and in a citizen-friendly manner.” The associated instruments such as effectiveness targets, performance agreements, global budgets, etc. also are variedly introduced in *the legislation of the Confederation and the cantons* (in this regard the analyses of Ogul et al., 2013 as well as of Robert, Casutt and Bruchez, 2014).

Decentralised forms of administrative organisation, and the fulfilment of tasks by *administrative bodies outside the administration* or even by private entities are based at federal level in Art. 178 para. 3 Federal Constitution: “Administrative tasks may by law be delegated to public or private organisations, entities or persons that do not form part of the Federal Administration.” (for further constitutional framework for outsourcing, Lienhard, 2009). Even outsourced tasks, however, remain public tasks – in particular with the consequences associated with legally binding obligations (Rütsche, 2013 and Wyss, 2013).

With Art. 178 para. 3 of the Constitution, and the constitutional principle of subsidiarity (Art. 5a Federal Constitution) – not to be understood here in the federal sense – as well as the individual’s personal and collective responsibility (Art. 6 Federal Constitution), the fulfilment of tasks through *public-private partnerships (PPPs)* can ultimately be clearly and constitutionally legitimised (Lienhard and Marti Locher, 2010).

3.1.3 Equality before the law as part of the rule of law

Because the requirement of equal treatment must apply not only to the relationship between the state and individuals, but also within the administration (e.g. equal treatment of two equally situated administrative bodies by the superordinate department with regard to allocation of resources) (on the general application of the principle of equality before the law, Häfelin et al., 2010), the right to equality before the law should not only be anchored as a fundamental right (Art. 8 para. 1 Federal Constitution), but also recognised as part of the rule of law and be recorded as such in Art. 5 Federal Constitution (Lienhard, 2005).

3.1.4 Law as a management instrument

In a democracy governed by the rule of law, the law is the central basis for administrative action. In addition to its limiting function, it also plays an activating function: the law is a *management instrument* that encourages the administration to provide services (Lienhard, 2005; with references Müller and Uhlmann, 2013; for more detail, Kettiger, 2005a). Laws thus have a *final component*, over and above the conditional. In this sense laws contain *statutory performance mandates* for the administration or specific administrative bodies (Lienhard, 2005, with references). The legislative methodology increasingly includes the modified requirements for final legislation (Müller and Uhlmann, 2013; Bundesamt für Justiz, 2007; Justiz-, Gemeinde- und Kirchendirektion und Staatskanzlei des Kantons Bern, 2003).

The provision of services is evaluated within the framework of *evaluations of legislation* (for detail on legislation evaluation in Switzerland, Kettiger, 2005b; Bussmann, 2007). The review thus does not proceed merely in retrospect (*ex post*) (Art. 27, Art. 44 para. 1 lit. e and f Parliament Act [ParlA], Art. 5 Federal Audit Office Act [FAOA]), but also in the development process (*ex ante*) (Tschannen, 2011) as what is known as a legislation impact analysis (LIA) or regulation impact analysis (RIA; Art. 141 ParlA). Law making thus is not to be understood as a single-dimensional process but rather as a cycle aimed at optimising the law: „The review of the effectiveness of government regulations is part of the legislative process“ (Müller and Uhlmann, 2013: 180). The process of periodic comparison of intended and achieved effects can therefore be termed *legislative controlling* (Kettiger, 2000). Some legal experts today view the improvement of inadequate legislation as a constitutional obligation (Müller and Uhlmann, 2013, with references). In this regard the developments also can be seen as *experimental legislation* (Müller and Uhlmann, 2013; also Mader, 1988; Mastronardi, 1991; practical examples by Kettiger, 2005a).

The law on the other hand has lost some of its power to control. Numerous other management instruments determine state and administrative action as well. These are mainly instruments of political planning (Tschannen, 2011; with references Bichsel and Kettiger, 2011): The focus thus is on *multi-year (task) and financial plans* that increasingly link services and finances (Art. 143 ParlA) (on the increasing importance of this management instrument, Lienhard, 2005; Bichsel and Kettiger, 2011). At other levels of abstraction there are legislative plans – also increasingly linking *tasks and associated funding* – or government guidelines (Art. 146 f. ParlA) or *strategies* (e.g. at federal level: Bundeskanzlei, Perspektiven 2025, Lage- und Umfeldanalyse sowie Herausforderungen für die Bundespolitik). On the other hand, there is the *budget* (Art. 25 ParlA), which bindingly allocates funds and thus decisively determines the intensity of task fulfilment (for more detail, Koller, 1983).

3.1.5 Parliamentary oversight

As *criteria* for exercising oversight, the Federal Assembly today applies *effectiveness and efficiency*, in addition to legality, regularity and expediency (Art. 26 ParlA). Parliamentary oversight is thus experiencing the expanded constitutional requirements for the fulfilment of tasks (Chapter 3.1.1.).

With regard to the organisation of supervisory committees, due to the inter-relatedness between performance and use of resources, consideration should be given to *merging* business controls and financial oversight more clearly (Lienhard, 2005; Zimmerli, 2008) and to balancing the intensity of supervision in the two areas. *Concomitant supervision*, as such, is already recognised with regard to management (obviously preserving the competencies of government and administration) (Lienhard, 2013a; Lienhard, 2005) and would also be appropriate, given the increasing complexity of certain political transactions (rail infrastructure bills or the procurement of a new fighter aircraft, e.g.).

Particular challenges arise with respect to the overall supervision of *outsourced administrative activities* (Poltier, 2008): in this regard, the ultimate oversight over the government's supervision stands in the foreground, and direct rights to influence this should in principle, be avoided (Lienhard, 2009). In this respect, however, the supervisory committees' right to obtain information directly is in any case still handled differently at federal level (Art. 153 ParlA).

3.2 Administrative Organisational Law

3.2.1 Management with performance goals and performance agreements

The principles of outcome-oriented public management have been incorporated into sub-constitutional organisational law in a variety of ways. E.g. in addition to instruments with mandatory application (in particular directives, guidelines), *consensual management instruments* are increasingly being used. Managing the administration by reaching agreement on goals and impacts is a basic principle of public management (Art. 8, Art. 36 para. 1 Government and Administration Organisation Act [GAOA], Art. 11 lit. a, Art. 12 para. 1 lit. a Government and Administration Organisation Ordinance [GAOO]). In the case of the FLAG offices, this not only involves *performance mandates* from the Federal Council (Art. 44 GAOA) but also departmental *performance agreements* with the offices (Art. 10b GAOO) (for optimizations with NFB see AS 2015 1583 ff.⁵; Bundesrat, Botschaft NFB, 2014; Haldemann et. al, 2014; Lienhard, 2015).

The Federal Council even sets *annual goals* for itself, in addition to those for the departments (Art. 51 GAOA, Art. 19 f. GAOO).

⁵ <https://www.admin.ch/opc/de/official-compilation/2015/1583.pdf> (visited July 22, 2015).

3.2.2 Diversity of administrative authorities

Depending on the type of task, a *different organisational or legal form* applies. For what might be termed “ministerial tasks”, the office of the Central Administration is primarily responsible, for tasks of supervising security and the economy, and for services with a monopolistic character, the public law institution, and for public business activities, the special or private company limited by shares (on the typology of tasks, Bundesrat, Corporate-Governance-Bericht, 2006; on the four circles model, Lienhard, 2005). The related *typologising of administrative authorities* attempts to create a modicum of order, despite the lack of a *numerus clausus* for forms of organisation in the public sector (Lienhard, 2009; on the risks of “increasing administrative fragmentation”, Biaggini, 2010).

Nevertheless, the Central Administration is still the core of the administrative edifice (Tschannen, et al., 2009). However, with the state taking on the role of guarantor (Chapter 2.5.), an increasing number of additional organisational and thus legal forms are appearing. These are administrative bodies that form the *decentralised* administration (and are thus still part of the administration), together with those bodies *outside* the administration (i.e. third parties in which the state still has a stake if necessary). Indeed these various forms of organisation normally have their place in the organisational law – e.g. at federal level in Art. 2 GAOA and Art. 6 ff. GAOO. However, their classification, peculiarities and legal consequences are often less than clear (on the difficulty with typologising, Tschannen, 2012).

Rules for good public corporate governance – as “principles for the organisation and management of and in outsourced administrative bodies for the purpose of the effective and efficient provision of services in a democratic state governed by the rule of law” (Lienhard, 2009: 48) – and their lawful implementation of *generally applicable and special legislation* are indispensable. Special legislation should regulate the respective requirements according in particular to legal form, organs, purpose, delegation of tasks, funding and accounting (for more detail, Lienhard, 2009). Generally applicable legislation should in particular regulate the fundamentals of the government’s control mechanisms (Art. 8 para. 5 GAOA) as well as parliament’s abilities to exert influence (Art. 28 para. 1 f. ParlA). With the increased involvement of third parties in fulfilling tasks, *public procurement law* takes on a special significance. Consideration must be given to whether these regulations should apply not only to the management of needs but also by analogy to significant outsourcing initiatives and possibly to large investments, or whether special regulations should be created (Lienhard, 2009).

3.2.3 Privatisations

Alongside state companies under private law, private entities are also entrusted with public tasks. In the case of such *privatisations of task fulfilment* (on the various forms of privatisation, e.g. Tschentscher and Lienhard, 2011), the private entity becomes an administrative body, but the responsibility for providing the guarantee remains with the state. The structure and supervision in this regard is commonly based on *subsidy relationships* (in the form of compensatory payments) (Poltier, 2011). Otherwise, however, the control mechanisms and thus the long-term guarantee that tasks will be fulfilled is still largely unclear (Lienhard, 2011; Guggisberg and Maurer, 2010).

3.2.4 Cooperation between public bodies

Result and efficiency-oriented constitutional and administrative action increasingly leads to *cooperation with other public bodies*, also at various federal levels, in particular in the case of complex, financially intensive or cross-border tasks (Lienhard, 2005; on the constitutional background to cooperation between the Confederation and Cantons and among cantons, Chapter 2.6.). In relation to such cooperation projects, the existing *system of competencies* and the need for *democratic co-determination* must be given adequate attention (Iff, et al., 2010).

3.2.5 Cooperation between the state and private entities

In relation to the effective and efficient fulfilment of tasks through *Public Private Partnerships (PPPs)*, there are a small number of provisions that require the administration in appropriate cases to consider in greater detail the possibility of contractually regulated longer term cooperation with private partners (for the Confederation Art. 52a Financial Budget Ordinance [FBO]). Due to constitutional law's existing requirement that public tasks be fulfilled as effectively and economically as possible (Chapter 3.1.1.), such rules should be incorporated into fundamental principles at legislative level.

PPPs can theoretically be realised within the framework of the applicable sub-constitutional law. However, for the implementation of PPPs in various areas (in particular in the law on public procurement, tax law and budgetary planning law) a *need for optimisation* has been recognised (Bolz et al., 2007). Further experience (on the experiences to date, Verein PPP Schweiz, 2011) will show whether and if so, to what extent specific provisions are required in constitutional and administrative law and what special regulations may be needed for political institutions and the administration in order to guarantee the fulfilment of tasks using PPPs.

3.2.6 Supervision

Public performance mandates and global budgets (Chapter 3.2.1. resp. Chapter 3.3.2.) go hand in hand with increased autonomy for public offices and other public service providers, which in turn brings a need for special *supervision mechanisms* (controlling, reporting on the achievement of goals, cost and performance accounting) – as provided for at federal level in Art. 8 para. 3 and Art. 36 para. 3 GAOA and Art. 21 and Art. 24 ff. GAOO, and in Art. 40 and 45 Financial Budget Act (FBA) and Art. 40 FBO (for optimizations with NFB see AS 2015 1583 ff.⁶; Bundesrat, Botschaft NFB, 2014; Haldemann et. al., 2014; Lienhard, 2015) and has also become customary in the cantons (e.g. § 7 f. and § 28 f. Zurich Controlling and Accounting Act (ZH CAA)).

3.3 Budgetary Planning Law

3.3.1 Accounting model

The Harmonised Accounting Model (HRM1) has shaped budgetary planning law in Switzerland's cantons and communes for almost 30 years as the accounting model for the public sector. The HRM1 is the result of work carried out by a panel of experts at the end of the 1970s at the initiative of the Conference of Cantonal Directors of Finance (CDF). The fundamental idea at the time was to harmonise public accounting by the Confederation, cantons and communes in terms of form (CDF, Manual of the development of the Harmonised Accounting Model (HRM2)). In addition to the harmonisation of the actual accounting framework, the 1982 manual proposed a model law, which aimed to harmonise the provisions on budgetary management that applied to public law corporations at federal, cantonal and communal levels. The HRM1 has basically proven its value as an accounting model for public budgetary management. The strong demand for cost accounting so as to obtain comparative data for costs and services, the introduction of NPM and its application to accounting matters, the increased need for consolidation rules (in particular in connection with outsourcing public tasks) and the development of international accounting standards (International Public Sector Accounting Standards (IPSAS), International Accounting Standards (IAS) etc.) have however brought considerable pressure for change (CDF, Manual HRM2.). As a result, the CDF commissioned the *Harmonised Accounting Model (HRM2)* (CDF, Manual HRM2; Bergmann, 2013, with further references; Bolz and Blaser, 2014). Recommendation No. 20 of the manual contains the Model Financial Budget Act, which serves as the guiding framework for HRM2-compliant legislation. In the model law, in addition to the accounting-related sections, there are also organisational and credit-related provisions, which normally form part of a cantonal financial budget act.

⁶ <https://www.admin.ch/opc/de/official-compilation/2015/1583.pdf> (visited July 22, 2015).

For similar reasons (Dispatch FBA, 2005), the Federal Department of Finance began to reorganise financial management and accounting at federal level, in 2007 introducing the *New Accounting Model (NRM)*, which largely determines the new federal Financial Budget Act (FBA) (Baumgartner et al., 2011).

The developments in *public financial management* have therefore led to a fundamental *revision of budgetary planning legislation* at all federal levels (Kettiger, 2003).

3.3.2 Globalbudgeting

The *global budget* – with, depending on the model, globalised provisions on resources based on product groups or public service providers (if need be with the possibility of more detailed specification as in the Confederation Art. 42 ff. FBA and Art. 42 ff. FBO; for optimizations with NFB see AS 2015 1583 ff.⁷; Bundesrat, Botschaft NFB, 2014; Haldemann et. al., 2014; Lienhard, 2015; e.g. in the Canton of Zurich § 15 ZH CAA) – is the *counterpart of the performance mandate* (Chapter 3.2.1.). Administrative units are thus given greater *freedom of action*, whether to spend the allocated resources on materials or staff, to compensate for increased expenditure with increased revenues and to carry forward a certain amount of unused resources to the next year (for the Confederation Art. 46 FBA and Art. 45 ff. FBO; for optimizations with NFB see above; for the Canton of Zurich § 23 f. ZH CAA). Parliament gains increased *powers of control* with the modified specifications and information on performance.

3.3.3 Efficiency and effectiveness requirements

The constitutional imperatives of efficiency and effectiveness (Chapter 3.1.1.) have been incorporated in budgetary planning law in a variety of ways: e.g. the aim of the FBA is that the Federal Assembly and Federal Council should be able to exercise their constitutional financial powers *effectively*, that *public management* be based on business management principles and that the economic and effective *use of public resources* be encouraged (Art. 1 para. 2 FBA; Bolz and Blaser, 2014).

In addition, the provisions on financial management state that the Federal Council and the administration should manage the federal budget according to the principles of legality, urgency and *financial prudence*, and they should ensure the *effective and economic use of resources* (Art. 12 para. 4 FBA).

The Federal Department of Finance shall examine all bills with financial consequences as to their *economic feasibility*, *effectiveness* and financial sustainability and report to the Federal Council thereon (Art. 58 para. 3 FBA). The *administration* must therefore also be run according to the *principle of economic viability* (Art. 3 para. 3 GAOA).

⁷ <https://www.admin.ch/opc/de/official-compilation/2015/1583.pdf> (visited July 22, 2015).

3.3.4 Measures to balance the budget

Even Switzerland has high public debt⁸, which has led to budget balancing measures being introduced at federal level and in numerous cantons (Bolz and Blaser, 2014). The nature of these measures varies widely, involving instruments such as expenditure brakes, deficit brakes or debt brakes for the current account or capital budgeting. At federal level, the *debt brake* set out in Art. 126 Federal Constitution stands in the foreground; it is supplemented by an *expenditure brake* (Art. 159 para. 3 lit. b Federal Constitution) (Lienhard and Zielniewicz, 2011). Art. 13 ff. FBA provides the detailed specification of the debt brake.

These *fiscal rules* aimed at budgetary consolidation and the sustainable fulfilment of tasks are increasingly being used in other countries as well and have thus gained a great deal of attention as “export articles”.

3.3.5 Budgetary control

The tasks of the financial control authorities have evolved from verifying that management and accounting practices are in order towards conducting *analyses of effectiveness and efficiency* (for the federal level Art. 5 FAOA). This unified view of resources and services corresponds to one of the basic concepts of NPM (Lienhard, 2005) and the relevant constitutional requirements (Chapter 3.1.1.).

Financial control bodies also increasingly carry out *evaluations (of legislation)* (Grüter and Riedi, 2011).

4 Conclusion and Outlook

Constitutional and administrative law has recently undergone fundamental changes from the point of view of administrative science. In certain areas, constitutional and administrative organisational law meets the current requirements. To a large extent, however, there is still a need for research and new legislation.

What appears to be of key importance is the largely completed expansion of democratic constitutional principles that accord with the rule of law (and therefore limit the powers of the state) to include *constitutional principles on effectiveness and efficiency that legitimise the state*. These principles are also increasingly shaping administrative organisational law and budgetary planning law. It must be assumed that the *organisation and management of the administration* will continue to develop in this direction. Constitutional and administrative law will also have to continue developing accordingly.

⁸ In 2011, the Confederation, cantons and communes together had around CHF 206 billion in debts, what means 35% of the gross domestic product, (www.bfs.admin.ch/bfs/portal/de/index/themen/18/03/blank/key/schulden.html; ace).

With regard to the *administrative bodies* that have been entrusted with fulfilling tasks, a move away from the Central Administration towards the *fulfilment of tasks in partnerships* can be observed. The state as guarantor is no longer the state that is responsible for everything and that does everything, but a state that analyses, delegates, forges partnerships and provides guarantees. The necessary legal principles, together with the properly developed legal doctrine, are not yet available to the extent required.

The same applies to the *forms of action* available to the administration: whereas the legal principles for sovereign action are in place and rights of legal recourse are guaranteed, deficiencies can be observed in relation to *consensual forms of administrative action*. These must be ironed out if the state still wants to be accepted by the citizen-as-customer in the generally understood sense.

This change also brings special challenges for governments and parliaments. They have to re-examine their organisation and mode of operation in relation to the *cooperative separation of powers* and adjust *control mechanisms* if they want to keep pace with the developments in the administration. The courts must also assess their own organisation and management in order to guarantee the sustainable administration of justice.

This also brings a special challenge for *academia*: the need for further research is evident in various areas and it is also crucial that research findings be quickly brought into the doctrine and teaching courses. For this reason, it seems inappropriate to establish a new science of administrative law, as has been demanded by German legal experts (Lienhard, 2010, with further references; see also Müller, 2014). It is the very duty and hallmark of academia, and thus of constitutional and administrative law as well – that it must continue to develop and find appropriate solutions to the new challenges.

Zusammenfassung

Im Staatsorganisations- und Verwaltungsorganisationsrecht sowie im Finanzhaushaltrecht der Schweiz sind in den letzten Jahren bedeutsame Entwicklungen zu beobachten. Der vorliegende Beitrag vermittelt eine Übersicht dazu aus einer verwaltungswissenschaftlichen Perspektive. Der Fokus liegt auf dem Recht des Bundes, wobei die Erkenntnisse weitgehend auch für die Kantone Geltung beanspruchen können. Vorab werden einige bedeutsame, die Rechtsentwicklung prägende Veränderungen in Staat und Verwaltung sowie deren Umfeld aufgezeigt.

Schlagworte: Gewährleistungsstaat, Wirkungsorientierte Verwaltungsführung, Kooperationen, Gesetzgebung

Résumé

Ces dernières années, des développements importants ont été relevés en Suisse en ce qui concerne le droit d'organisation de l'Etat et de l'administration, ainsi que dans les domaines du droit de la gestion des finances. La présente contribution a pour but de présenter une vue d'ensemble de cette évolution et de proposer des perspectives du point de vue de la science administrative. Dans ce cadre, le droit fédéral est en point de mire, mais les constatations qui en résultent peuvent en grande partie également s'appliquer aux cantons. En premier lieu, quelques développements importants relatifs aux fondements de l'Etat, de l'administration et de leur contexte sont mis en évidence.

Mots-Clé: L'Etat en tant que prestataire de services, Nouvelle Gestion Publique, Coopérations, Législation

References

- Abegg, A. (2011). Die Bewertung von Kooperationen zwischen Staat und Privaten in der staatsrechtlichen Diskussion der Schweiz. In: J. Ziekow (Ed.) *Wandel der Staatlichkeit und wieder zurück*, p. 177 ff. Baden/Baden: Nomos.
- Alfred Herrhausen Gesellschaft für internationalen Dialog (Ed.) (2004). *Das Prinzip Partnerschaft, Neue Formen von Governance im 21. Jahrhundert*. München/Zürich: Piper.
- Athias, L. (2013). Kontraktualisierung des öffentlichen Dienstes: eine ökonomische Analyse. In: A. Ladner, J.-L. Chappelet, Y. Emery, P. Knoepfel, L. Mader, N. Soguel and F. Varone (Eds.) *Handbuch der öffentlichen Verwaltung in der Schweiz*, p. 679 ff. Zürich: Presses polytechniques et universitaires romandes (PPUR).
- Baumgartner, U., Beljean, T. and Widmer, M. (2011). In: A. Lienhard (Ed.) *Finanzrecht, Schweizerisches Bundesverwaltungsrecht (SBVR), Band X*. Basel: Helbing Lichtenhahn Verlag.
- Bergmann, A. (2013). Öffentliches Rechnungswesen. In: A. Bergmann, D. Giauque, D. Kettiger, A. Lienhard, E. Nagel, A. Ritz and R. Steiner (Eds.) *Managementleitfaden Öffentliche Verwaltung*, Chap. 3/9. Zürich: WEKA-Verlag.
- Biaggini, G. (2010). Entwicklungen und Spannungen im Verfassungsrecht, Versuch einer Standortbestimmung zehn Jahre nach Inkrafttreten der Bundesverfassung vom 18. April 1999. *Schweizerisches Zentralblatt für Staats- und Verwaltungsrecht (ZBl)*. 111(1), 1–41.
- Bichsel, T. and Kettiger, D. (2011). Strategische politische Steuerung als Instrument zur Krisenprävention. In: *Jahrbuch der Schweizerischen Gesellschaft für Verwaltungswissenschaften 2011*, p. 21 ff. Zürich.
- Bolz, U. (Ed.) (2005). *Public Private Partnership in der Schweiz, Grundlagenstudie – Ergebnisse einer gemeinsamen Initiative von Wirtschaft und Verwaltung*. Zürich: Schulthess Verlag.
- Bolz, U. and Blaser, B. (2014). Entwicklungen im Finanzhaushaltsrecht der Kantone, *LeGes – Gesetzgebung & Evaluation 2014/2*, 174 ff.
- Bolz, U., Häner, I., Keusen, U., Bischof, M. and Lienhard, A. (Eds.) (2007). *Gesetzgeberischer Handlungsbedarf PPP in der Schweiz, Positionspapier*. Bern: Verein PPP Schweiz.
- Bundesamt für Justiz (2007). *Gesetzgebungsleitfaden*. Bern: Bundesamt für Justiz.
- Bundesrat (2006). Bericht vom 13. September 2006 zur Auslagerung und Steuerung von Bundesaufgaben (Corporate-Governance-Bericht), p. 8233 ff. *Bundesblatt (BBl)*.
- Bundesrat (2014). Botschaft vom 20. November 2013 über die Weiterentwicklung der ziel- und ergebnisorientierten Verwaltungsführung – Neues Führungsmodell für die Bundesverwaltung (NFB), p. 767 ff. *Bundesblatt (BBl)*.
- Burkhalter, D. (2009). L'avenir du partenariat public-privé. *Le Temps*. 12. Mai 2009.
- Bussmann, W. (2007). Institutionalisierung der Evaluation in der Schweiz, Verfassungsauftrag, Konkretisierungsspielräume und Umsetzungsstrategie. In: H. Schäffer (Ed.) *Evaluierung der Gesetze/Gesetzesfolgenabschätzung (II)*, p. 1 ff. Wien: Manzsche Verlags- und Universitätsbuchhandlung.
- Franz, T. (2013). *Einführung in die Verwaltungswissenschaft*. Wiesbaden: Springer Lehrbuch.
- Frey, R. L. and Frey Marti, C. (2012). *Privatisierung und Deregulierung*. Zürich/Chur: Rüegger.

- Glaser, A. (2015). Der elektronisch handelnde Staat, E-Legislation, E-Government, E-Justice. Zeitschrift für Schweizerisches Recht (ZSR). (II), 259–333.
- Grüter, K. and Riedi, B. (2011). Finanzaufsicht und Finanzkontrolle. In: A. Lienhard (Ed.) Finanzrecht, Schweizerisches Bundesverwaltungsrecht (SBVR), Band X, p. 443 ff. Basel: Helbing Lichtenhahn Verlag.
- Guggisberg, D. and Maurer, A. (2010). Public Corporate Governance, Staatliche Steuerung und Anforderung an subventionierte Unternehmen, KPM-Schriftenreihe Nr. 39. Bern: KPM.
- Häfelin, U., Müller, G. and Uhlmann, F. (2010). Allgemeines Verwaltungsrecht. Zürich/St. Gallen: Dike Verlag AG.
- Haldemann, T., Pauli, B., Bärtschi, D. and De Bon, M. (2014). Neues Führungsmodell für die Bundesverwaltung (NFB), in: Jahrbuch der Schweizerischen Verwaltungswissenschaften 2014, p. 111 ff. Zürich: KDMZ.
- Iff, A., Sager, F., Herrmann, E. and Wirz, R. (2010). Interkantonale und interkommunale Zusammenarbeit: Defizite bezüglich parlamentarischer und direktdemokratischer Mitwirkung, Bericht im Auftrag der Oberaufsichtskommission (OAK) des Grossen Rats des Kantons Bern, KPM-Schriftenreihe Nr. 35. Bern: KPM.
- Justiz-, Gemeinde- und Kirchendirektion und Staatskanzlei des Kantons Bern (2003), Rechtsetzungsrichtlinien, Module 7: NEF-Rechtsetzung. Bern.
- Kettiger, D. (2000). Gesetzescontrolling, Ansätze zur nachhaltigen Pflege von Gesetzen. Bern/Stuttgart/Wien: Haupt Verlag.
- Kettiger, D. (2003). Die Einführung von New Public Management aus gesetzgeberischer Sicht. Aktuelle juristische Praxis (AJP/PJA). 641 ff.
- Kettiger, D. (2005a). Gesetzesevaluation in der Schweiz: Stand – Einbettung in das politisch-administrative System – Ausblick. In: H. Schäffer (Ed.) Evaluierung der Gesetze/Gesetzesfolgenabschätzung in Österreich und im benachbarten Ausland, p. 49 ff. Wien: Manz.
- Kettiger, D. (2005b). Gesetzgeberische Instrumente der Lenkung von Staat und Gesellschaft. ius.full. (3+4), 163 ff.
- Kettiger, D. (2011). NPM in der Schweiz: Konturen und Bewertungen eines länderspezifischen Entwicklungspfads. In: J. Beck and F. Larat (Ed.) Reform von Staat und Verwaltung in Europa – Jenseits von New Public Management?, p. 173 ff. Zürich/St. Gallen/Baden-Baden: Dike und Nomos.
- Koller, H. (1983). Der öffentliche Haushalt als Instrument der Staats- und Wirtschaftslenkung. Basel/Frankfurt a. M.: Helbing Lichtenhahn Verlag.
- Konferenz der kantonalen Finanzdirektoren (FDK) (2008). Handbuch Harmonisiertes Rechnungslegungsmodell für die Kantone und Gemeinden, HRM2. Bern: Verlag der FkF.
- Ladner, A., Steiner, R., Horber-Papazian, K., Fiechter, J., Jacot-Descombes, C. and Kaiser, C. (2013). Gemeindemonitoring 2009/2010 – Bericht zur fünften gesamtschweizerischen Gemeindeschreiberbefragung, KPM-Schriftenreihe Nr. 48. Bern: KPM.
- Lienhard, A. (2005). Staats- und verwaltungsrechtliche Grundlagen für das New Public Management in der Schweiz, Analyse – Anforderungen – Impulse. Habilitationsschrift. Bern: Stämpfli.
- Lienhard, A. (2006). Einbezug von Privaten bei der Gewährleistung des Umweltschutzes – Kooperations- und Auslagerungsvereinbarungen als Vollzugsinstrumente?. Umweltrecht in der Praxis (URP/DEP). (1), 1 ff.

- Lienhard, A. (2007). Deregulierung von Marktregulierungen im schweizerischen Bundesverwaltungsrecht. In: T. Cottier and M. Oesch (Eds.) Allgemeines Aussenwirtschafts- und Binnenmarktrecht, Schweizerisches Bundesverwaltungsrecht (SBVR), Vol. XI, p. 335 ff. Basel/Frankfurt a.M.: Helbing Lichtenhahn Verlag.
- Lienhard, A. (2009). Grundlagen der Public Corporate Governance. In: Schweizerische Vereinigung für Verwaltungsorganisationsrecht SWOR (Ed.) Verwaltungsorganisationsrecht – Staatshaftungsrecht – öffentliches Dienstrecht, Jahrbuch 2008, p. 43 ff. Bern: Stämpfli.
- Lienhard, A. (2010). Neue Verwaltungsrechtswissenschaft? – Vom Sinn und Unsinn des Neuen. Aktuelle juristische Praxis (AJP/ PJA). (11), 1381 ff.
- Lienhard, A. (2011). Zusammenwirken von Staat und Privaten, Eine Übersicht am Beispiel der institutionellen Behindertenunterstützung, SWOR-Jahrbuch 2010, p. 63 ff. Bern: Stämpfli.
- Lienhard, A. (2012). Editorial: Von New Public Management zu Public Governance, Mitteilungsblatt der Schweizerischen Gesellschaft für Parlamentsfragen, p. 3. Bern: Parlamentsdienste.
- Lienhard, A. (2013a). Staats- und Verwaltungsrecht. In: A. Ladner, J.-L. Chappelet, Y. Emery, P. Knoepfel, L. Mader, N. Soguel and F. Varone (Eds.) Handbuch der öffentlichen Verwaltung in der Schweiz, p. 225 ff. Zürich: Neue Zürcher Zeitung NZZ Libro.
- Lienhard, A. (2013b). Wirkungsorientierte Verwaltung – Allgemeine Entwicklung und Situation in der Schweiz. In: Österreichische Verwaltungswissenschaftliche Gesellschaft (Ed.) Wirkungsorientierte Verwaltung und Öffentlicher Dienst, p. 23 ff. Wien: NWV Verlag.
- Lienhard, A. (2015). Das neue Führungsmodell für die Bundesverwaltung NFB. In: B. Waldmann and E. M. Belsler (Eds.) Mehr oder weniger Staat?, Festschrift für Peter Hänni zum 65. Geburtstag, p. 247–261. Bern: Stämpfli.
- Lienhard, A. and Marti Locher, F. (2010). Public Private Partnership im Verfassungsrecht. In: A. Lienhard and T. Pfisterer (Eds.) PPP – Was fehlt zum Durchbruch?, p. 17 ff. Zürich: Schulthess.
- Lienhard, A. and Marti Locher, F. (2015). Kommentar zu Art. 170 BV. In: B. Waldmann, E. M. Belsler and A. Epiney (Eds.) Basler Kommentar Bundesverfassung, pp. 2531–2541. Basel: Helbing Lichtenhahn Verlag.
- Lienhard, A. and Zielniewicz, A. (2011). Finanzverfassung. In: A. Lienhard (Ed.) Finanzrecht, Schweizerisches Bundesverwaltungsrecht (SBVR), Band X, p. 1 ff. Basel: Helbing Lichtenhahn Verlag.
- Lienhard, A., Ritz, A., Ladner, A. and Steiner, R. (Eds.) (2005). 10 Jahre New Public Management in der Schweiz, Bilanz – Irrtümer – Erfolgsfaktoren. Bern/Stuttgart/Wien: Haupt.
- Mächler, A. (2005). Vertrag und Verwaltungsrechtspflege. Zürich: Schulthess Verlag.
- Mader, L. (1988). Experimentelle Gesetzgebung. In: D. Grimm and W. Maihofer (Eds.) Gesetzestheorie und Rechtspolitik, Jahrbuch für Rechtssoziologie und Rechtstheorie, Band 13, p. 211 ff. Opladen: Springer.
- Maiani, F. (2013). Die Internationalisierung des Schweizer Rechts. In: A. Ladner, J.-L. Chappelet, Y. Emery, P. Knoepfel, L. Mader, N. Soguel and F. Varone (Eds.) Handbuch der öffentlichen Verwaltung in der Schweiz, p. 285 ff. Zürich: Neue Zürcher Zeitung NZZ Libro.
- Mastronardi, P. (1991). Experimentelle Rechtsetzung im Bund. Zeitschrift für Schweizerisches Recht (ZSR). (I), 449 ff.
- Meister, U. (2009). Kantone als Konzerne, Einblick in die kantonalen Unternehmensbeteiligungen und deren Steuerung. Zürich: Avenir Suisse.

- Moor, P. (2011). Für eine mikropolitische Theorie des Rechts. Bern/Baden-Baden: Stämpfli.
- Müller, G. (2014). Verwaltungsrechtswissenschaft und Rechtssetzungslehre. Zentralblatt für Staats- und Verwaltungsrecht (ZBl). 113 f.
- Müller, G. and Uhlmann, F. (2013). Elemente einer Rechtssetzungslehre. Zürich: Schulthess Verlag.
- Ogul Onur, K., Mini, Fl., Juon, M. and Bleiker, J. M. (2013). Umsetzung von New Public Management-Elementen in der Rechtsetzung in den Kantonen, KPM-Schriftenreihe Nr. 49. Bern: KPM.
- Pasquier, M. and Fivat, E. (2013). Die autonomen öffentlichen Organisationen oder Agencies. In: A. Ladner, J.-L. Chappelet, Y. Emery, P. Knoepfel, L. Mader, N. Soguel and F. Varone (Eds.) Handbuch der öffentlichen Verwaltung in der Schweiz, p. 183ff. Zürich: Neue Zürcher Zeitung NZZ Libro.
- Poltier, E. (2008). La surveillance des entités décentralisées. In: F. Bellanger and T. Tanquerel (Eds.) Surveillance et contrôles de l'administration, p. 67 ff. Zürich: Schulthess Verlag.
- Poltier, E. (2011). Les subventions. In: A. Lienhard (Ed.) Finanzrecht, Schweizerisches Bundesverwaltungsrecht (SBVR), Band X, p. 343 ff. Basel: Helbing Lichtenhahn Verlag.
- Rhinow, R. and Schefer, M. (2009). Schweizerisches Verfassungsrecht. Basel: Helbing Lichtenhahn Verlag.
- Ritz, A. (2013). New Public Management in der Schweiz: Reform-Evaluationen und Stand der Entwicklungen. In: A. Bergmann, D. Giauque, D. Kettiger, A. Lienhard, E. Nagel, A. Ritz, A. and R. Steiner (Eds.) Managementleitfaden Öffentliche Verwaltung, Chap. 2/7. Zürich: WEKA-Verlag.
- Robert, A., Casutt, F. and Bruchez, N. (2014). Umsetzung von NPM-Elementen in der Gesetzgebung des Bundes, KPM-Schriftenreihe Nr. 55. Bern: KPM.
- Rütsche, B. (2013). Was sind öffentliche Aufgaben?. recht, (4), 153 ff.
- Sager, F. and Hurni, P. (2013). Die Geschichte der Verwaltungswissenschaften in der Schweiz. In: A. Ladner, J.-L. Chappelet, Y. Emery, P. Knoepfel, L. Mader, N. Soguel and F. Varone (Eds.) Handbuch der öffentlichen Verwaltung in der Schweiz, p. 61 ff. Zürich: Neue Zürcher Zeitung NZZ Libro.
- Schedler, K. (2013). Zwanzig Jahre New Public Management – eine Reflexion. IMPacts. (06), 15 ff.
- Schedler, K. and Proeller, I. (2011). New Public Management. Bern: Haupt.
- Schedler, K., Müller, R. and Sonderegger, R. W. (2013). Führung, Steuerung und Aufsicht von öffentlichen Unternehmen, Public Corporate Governance für die Praxis. Bern/Stuttgart/Wien: Haupt.
- Schimank, U. (2013). Sozialer Wandel, Wohin geht die Entwicklung?. In: S. Hradil (Ed.) Deutsche Verhältnisse, Eine Sozialkunde, p. 17 ff. Bonn: Bundeszentrale für politische Bildung.
- Schindler, B. (2007). Ethisierung und Ökonomisierung als Gefährdungen des Verwaltungsrechts – eine ergänzende Stellungnahme. Jusletter. 8. Januar 2007.
- Schindler, B. (2010). Staat, Verwaltung und Verwaltungsrecht: Schweiz. In: Handbuch Ius Publicum Europaeum, Band 3, Verwaltungsrecht, p. 313 ff. Heidelberg: Müller (C.F.Jur.).
- Schindler, B. (2011). 100 Jahre Verwaltungsrecht in der Schweiz. Zeitschrift für Schweizerisches Recht (ZSR). (II), 331 ff.
- Schmid, G. (2013). Kooperatives Verwaltungshandeln. In: A. Eng, M. Féraud, F. Fürst, H. Koller and K. Reinhardt (Eds.) Festgabe Walter Straumann, p. 489 ff. Solothurn: Drucksachenverwaltung.

Steiner, R. and Huber, E. (2012). Government Agencies (Switzerland). In: K. Verhoest, S. Van Thiel, G. Bouckaert and P. Læg Reid (Eds.), *Government Agencies – Practices and Lessons from 30 Countries*, p. 199 ff. Hampshire/New York: Palgrave Macmillan.

Strassheim, H. (2013). Collaborative Governance: Mehrebenendynamiken und Mechanismen des Wandels. *der moderne Staat (dms)*. 6(2), 345 ff.

Tschannen, P. (2011). *Staatsrecht der schweizerischen Eidgenossenschaft*. Bern: Stämpfli.

Tschannen, P. (2012). Zentral, dezentral, ausserhalb – oder: Wie zeichne ich das Organigramm der Bundesverwaltung?. In: M. Rüssli, J. Hänni and R. Häggi Furrer (Eds.) *Staats- und Verwaltungsrecht auf vier Ebenen*, Festschrift für Tobias Jaag, p. 517 ff. Zürich: Schulthess Verlag.

Tschannen, P., Zimmerli, U. and Müller, M. (2009). *Allgemeines Verwaltungsrecht*. Bern: Stämpfli.

Tschentscher, A., and Lienhard, A. (2011). *Öffentliches Recht, Ein Grundriss*. Zürich/St. Gallen: Dike Verlag AG.

Verein PPP Schweiz (Ed.) (2011). *Public Private Partnership (PPP), Praxisleitfaden Hochbau*. Zürich/Basel/Genf: Schulthess Verlag.

Villeneuve, J.-P. (2013). Bürger und Public Manager: die Veränderung der Rollen. In: A. Ladner, J.-L. Chappelet, Y. Emery, P. Knoepfel, L. Mader, N. Soguel and F. Varone (Eds.) *Handbuch der öffentlichen Verwaltung in der Schweiz*, p. 385 ff. Zürich: Neue Zürcher Zeitung NZZ Libro.

Wyss, M. (2013). Verwaltungsarbeit "with a little bit help from my friends". In: A. Eng, M. Féraud, F. Fürst, H. Koller. and K. Reinhardt (Eds.) *Festgabe Walter Straumann*, p. 499 ff. Solothurn: Drucksachenverwaltung.

Zimmerli, U. (2008). Le contrôle parlementaire. In: F. Bellanger and T. Tanquerel (Eds.) *Surveillance et contrôles de l'administration*, p. 111 ff. Zürich: Schulthess Verlag.

