ON THE ORIGINS OF THE SWISS SONDERFALL. AN ENCURAGING VIEW ON THE SUBJECT OF NATIONAL IDENTITY IN A FEDERAL STATE WITHOUT ETHNICITY, ILLUSTRATED BY THE HISTORIC AND THEORETICAL DESCRIPTION OF THE SWISS SONDERFALL.

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Abstract. *Switzerland is a small country, with roughly 8 million habitants, yet it has an important role in political sciences. It can be viewed as an experimental field on several aspects, one is its multilingual character, the other the federal organization, and the most important its direct democratic tools for popular participation in decision making and constitutional change. One important question is, can Switzerland be viewed as a model for future state organization? In the following article, you will get to know Switzerland from a historic perspective, mentioning the cases which made Switzerland special. There are also some thoughts at the end, about how much Romania could profit from the Swiss model.*

Keywords: *Switzerland, multilingualism, federalism, neutrality, direct democracy, national identity*

The following article should be considered as a brief introduction to Switzerland, consisting of Swiss history and the evolution of the Sonderfall.

Why a history about Switzerland and the Sondefall? The *Sonderfall Schweiz (special case Switzerland)*, to which scholars refer to when talking about Switzerland, can be best understood by reviewing the country`s history (Linder 2004, p. 1, Reinhardt 2008, p. 2, Vatter 2016, p. 33, Watts 2008, p. 32). But also, Switzerland is a country which has four official languages, stated in the Federal Constitution (Swiss Federal Constitution of 1999, art. 4, p. 2, Widmer 2007, p. 151): German, French, Italian and Rumantsch. At first you might think that is not a big deal (Belgium has 3, Canada has 2) but if you look closer, you will notice that for example Rumantsch, is only spoken by less than one percent of the entire Swiss population, Italian by roughly eight and French by 22% (Bundesamt für Statistik, *Strukturerhebung 2018*). And yet, all four language groups have their rights codified in the Federal Constitution. There are more aspects about Switzerland, we will see about that, but to keep the volume bearable, the work will focus mainly on elements directly linked to the Sonderfall: Multilingualism, Federalism, Neutrality and Direct Democracy (Widmer 2007, p. 101).

Another notable aspect of Switzerland is that it was constituted by people with the free will to form a nation. It is not constituted through ethnicity or language or destiny (Maissen 2010, p. 8). We will start with an introduction to the early history of Switzerland and see where we can find a guiding path, which will show us the developement of the characteristics of the *special case*.

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The work will conclude with an epilog about how far Switzerland could be viewed as a modell for Romania and its own minority problems.

I am sure that most people already know a lot about Switzerland, it is famous for its mountains and the ski resorts, for the fancy wristwatches, banks and finances and last but not least, the finest cheese and chocolate in the world (authors appraisals). But only a few really know the original value of Switzerland, as a model for an almost perfect federal republic with unparalleled rights to political participation for all its citizens (Vatter 2016, p. 33,Bonjour 2010, p. 6, Widmer 2007, p. 101). But let us take a look where that comes from and why it is unique to Switzerland.

Archeologists analyzed a biface made of silex in 1977, found in Pratteln a small town in the canton of Basel-Land, north-west Switzerland. The biface is dated roughly from the Lower Paleolithic era, between 450,000 and 350,000 BC (Osterwalder 1977, p. 11-13; Leuzinger 2014, p. 8). That is, so far, the oldest artefact of primitive civilization found within the territory of modern day Switzerland.

But we have to wait some more time, until about 8,000 BC, the Neolithicum, to get a more important reference. It is the time of the *pile dwelling villages*, entire villages built on wooden piles on lake shores, a few feet above sea level on high tide. They are considered to be an important source for the study of prehistoric societies (Trachsel 2005, p. 299). But there are absolutely no written documents from that time, only archeological findings, although of very good quality (Trachsel 2005, p. 320). Scholars from the 1867 era, belived that this is the beginning of Swiss history (Leuzinger 2014, p. 13).

And still, this is just another hint for more advanced civilization in Switzerland, but without any consequences for today`s political system. Again we have to wait several more years, around 500 BC, the Iron Age or La Tène epoch, for findings with a certain meaning for Switzerland. The indications from that time period, come from early Roman and Greek travelogues, refering to the "Swiss" as a Celtic tribe, (Osterwalder 1977, p. 174-176) and in the period of approximately 450 BC, we find the people of the Helvetics and the Rhetian, among others, both Celtic tribes, inhabiting todays Swiss western and eastern territory. Unfortunately, again, there are neither written records nor any stories coming from those tribes, we only know about their habits and appearance, through quite well documented Roman chronics and some archeological findings (Meyer 1984, p. 11-13). It is belived that the Helvetics had their territory in southern Germany and we cannot be certain about when and how they moved into Switzerland, maybe due to the Germanic threat from the north (Meyer 1984, p. 18).

What we know about them is scarce, historians wrote that the lack of state organization among the Celtic tribes and their hostility even among each other contributed to the eventual fall of their own culture on the long run, although the Celtic tribes where feared among Romans for their brutality and blitzkrieg type of attacks, it was the cold blooded calculation and organization capabilities of the Roman strategists, which brought forth the victory of the Imperium Romanum over the Celtics and the Helvetic subtribes (Osterwalder 1977, p. 182-183).

Coming from the centuries BC, we arrive at the epoch of the Roman Empire and as with almost all European countries, western Switzerland was occupied up to the Bodensee and the Zürich metropolitan area by the Romans around 450 BC. The Romans built towns like Aventicum (Avenches), built upon the road that connected Rome with the northern region of Europe around 100 BC, Augusta Raurica (Kaiseraugst) 44 BC and Colonia Iulia Equestris former Noviodunum, Celtic for "new fort" (todays Nyon) also around 44 BC, only to name the most important. Although the Romans conquered the Helvetics, they did not destroy them or force them to assimilate and give up the local

culture and habbits, the people started to trade with Rome and even Athens which is well documented by archeological findings of that period (Schelbert 2007, p. XIX, Helbling 1982, p. 16). It is not surprising that we know more about the Helvetics from Roman chronists, it was Gaius Iulius Caesar who wrote about the people in the Alps in his Belum Gallicum (58-49 BC) "The country between the Alps and the Rhein river, the Jura mountains and the Rhone river, is inhabited by the Helvetics" (Helbling 1982, p. 14).

The early centuries AD, the dark Middle Age of Swiss history (Osterwalder 1977, p. 291), are characterized by scarce written documents and several conflicts upon which the Swiss territory acted as a frontline. Starting in the 3rd century, one Germanic tribe will become infamous on Swiss territory, the Alemanni (Helbling 1982, p. 17, Osterwalder 1977, p. 291). The Roman defenses started to fail and cities like Aventicum have been destroyed by hordes of Alemanni penetrating Helvetic territory. The Romans never entirely rebuilt the damage done and the local people started to mind everyday business instead of advanced Roman cultural life. And with the beginning threat of the Visigoths, Rome abandoned Switzerland and the Alpine region around 401 AD (Helbling 1982, p. 18). Although people still remained and maintained a Romanic type of life later on (Osterwalder 1977, p. 292).

The Romans left a lot of culture in todays Switzerland: wine, chestnuts, some vegetables and poultry, but also landscape surveying, architecture and traffic infrastructure – streets! The Roman social life mixed up with ancient Celtic habbits and structures. Most notably, the state organization with a written language and written laws, was admired and, up to a certain degree, even copied (Helbling 1982, p. 17).

But as much as the Romans left during their period of influence, almost 1,000 years (Schelbert 2007, p. XX), it is of no impact on todays Swiss politics, which means we cannot trace back any of the elements, characteristic to the Sonderfall, to the Roman Empire. We could only deduce the stubbornness of todays Swiss people to the Celtic tribes of the centuries BC, most notably the Helvetics. Although the designation Helvetic, will be of relevance only after 1798.

We leave the ancient world and travel through the early Middle Ages, a time characterized by Christianization, influence of the Roman Catholic Church, monarchy, feudality and everlasting disputes between different people on todays Swiss territory: Francophonic Burgundians in the south-west, Germanic Alemanni in the north and Lombards in the south-east (Schelbert 2007, p. XX). The Alemanni moved south and settled in the northern territory of Switzerland, the Burgundians have been settled in the south-west by the Romans, first linguistic demarcations are visible (Helbling 1982, p. 19-20). Here we cannot leave out Charlemagne (as King from 774 until 814), although of less importance for Swiss politics, it is important for the development of the linguistic feature of Switzerland. During his reign, there were no frontiers running through Switzerland, only the language boundaries started to develop and they remained unchanged until today (Osterwalder 1977, p. 331). This is our first finding, having an influence on the Sonderfall.

Later on, we can witness disputes between different houses: Habsburgh, Wittelsbach, Luxemburgh and Savoy (Maissen 2010, p. 16). One shouldn`t forget that some differences between the powers, were due to the famous St. Gotthard Alpine Pass, that was back then, the most important route traversing the Alps, important for trade (Häusler 1972, p. 13).

History repeats itself and the people inhabititng Switzerland again had to face another foreign suppressor and that is the only real significant impact for present day

Switzerland and its politics, the everlasting suppression, or the fear of it, by a foreign king, most notably the House of Habsburgh during that time period.

At this point, we have roughly gone through 400,000 years of history. There is far more to tell about the events that had been taking place during that time and the people involved, but we stay focused on the developement of the Sonderfall. As a remark, between 1291 and 1798, Switzerland is commonly refered to as the *Old Confederation*.

The Old Confederacy evolved in the 14th century, out of a network of ties within the Holly Roman Empire, at the time around 1300, Switzerland had developed two poles, the lake of Geneva and the lake of Bodensee, one was under the Francophonic influence of Burghundy and the other under the Germanic influence of the Alemanni, during that time, two of the most important dynasties, Savoy and the House Habsburgh setteled their disputes and draw the influence frontiers through Switzerland, basically along the Sarin river, canton Fribourg and Bern.

Habsburgh had its name from the castel Habsburgh situated in the canton of Aargau, where they resided until 1220 (Maissen 2010, p. 16-17). Again, more roots of the multilinguistic character are visible.

We have to draw our first conclusions from the findings so far, the Sonderfall consists of the four mentioned elements: multilingualism, federalism, neutrality and direct democracy. We could see that the roots of multilingualism can be traced back to the early centuries AD, but stronger developed during the reigning of Charlemagne. This makes it the oldes element of the Sonderfall. Although there would be no multilingualism without the federation (Widmer 2007, p. 151), that is because officially it was only in 1481 that a French speaking canton, Fribourg, joined the Old Confederation. You will notice that multilingualism and federalism are closely conected but for this work, I will separate the two and bring them into an artificial order. Let us first have a closer look at the multilinguistic character, prior to 1481 the Old Confederacy knew only German as a language of communication, between 1481 and 1798 it was bilingual (French and German) and after 1798, the Italian language joined the confederacy with today`s canton of Ticino. But between 1815 and 1848, the German language was again the only official language of the new Swiss Confederation, the final state of Switzerland and the language structure, evolved during the last half of the 18th century (Bakic 2010, p. 109). The remarkable elements of that time are, the more centralized government of the Helvetic Republic of 1798 decided to teach the pupils of each region in their mother tongue, Rumantsch included, but also the fact that more Francophonic and Italian cantons wanted to join the Confederation, after the Congess of Vienna 1815, instead of following France or the Cisalpine Republic (later to become the precursor of the Italian Republic) (Widmer 2007, p. 155). While in France, after the revolution, a nation state evolved with "one state, one people, one language", Switzerland went the contrary route, it gave up its Alemannic imprint and became a multilinguistic state – a unique act at that time (Widmer 2007, p. 156). But why would they do that? Because of the liberal character of the Old Confederation, the communal democracy and the ample authonomy of the single cantons. Although the Francophonic cantons liked the ideas of the French revolution, „liberté, égalité, fraternité", they prefered the precise rights of liberty, granted in the ideas of the Old Confederacy which was partially restored after 1815, over the more abstract French ideology of liberty (Widmer 2007, p. 156). Paul Widmer also describes some evolving problems, today (2007) French is not the prestigious language anymore among the youth, it is English (Widmer 2007, p. 163). The relations between the language groups are prone to atrophy, today lots of pupils are more attracted to spending a high school year abroad in the USA or GB, not in the other parts of Switzerland for learning French or Italian.

But it is also noteworthy, in terms of fiscal balance, that the German speaking cantons often refuse the total amount of money from the federation, they take less and give the surplus to the Italian and French speaking cantons, they belive (the German cantons) that it is better to be more courteous and help those who have less (Widmer 2007, p. 164). This is a noteworthy mindset.

Let us see what the internal advantages of multilingualism are. It constituted Switzerland! Not the one language made the Swiss nation but three, it is not the one language holding society together but the core elements: people`s democratic rights, federalism and neutrality. This circumstance is the best showcase of the *nation of free volition* (Widmer 2007, p. 166).

And external advantages? Switzerland has very close ties to the three neighbouring language cultures: France, Italy and Germany/Austria, and the best example would be Geneva with its international institutions, a German speaking city would not enjoy the ample support of France and several African countries. It is a location advantage in the battle for international companies and organizations (Widmer 2007, p. 167).

The subject of multilingualism is very old, more than 1,000 years, today the only concerns are to properly maintain this situation and make sure that every citizen masters at least two national languages (Widmer 2007, p. 163). We could spend much more time dicussing the multilinguistic character of Switzerland, unfortunately the space is limited, but I would encourage everybody to do further reading on this very important subject, especially if you live in a multilinguistic country. An interesting work is the Phd-thesis of Nada Bakic from 2010: "Sprachliche Minderheiten in Serbien und in der Schweiz. Ein Vergleich im Bereich Bildung und Verwaltung" (Linguistic minorities in Serbia and Switzerland. A comparison of education and administration).

We leave the language history and jump back in time to have a look at the next element of the Sonderfall: federalism. Before describing the evolution of Swiss federalism, I would like to explain some differences between the USA and Switzerland. We call Switzerland today the Confederatio Helvetica (CH) but one should not confuse it with the old Confederate States of the USA during the secession war of 1860. Confederatio means not the same here in Switzerland as it ment in the US in the 19th century. In the US, the Federalists had to face the Anti-Federalists who were promoting a loose confederation of states and not a union (Vorländer 1997, p. 74). You will see more of this later on.

That leads us to a very important stop in time, the year 1291, the inofficial founding year of Switzerland (Oechsli 1891, p. 294, Reinhardt 2008, p. 11). The year 1291 is the most mystified date in Swiss history, there is a big contorversy going on among older Swiss scholars, whether this date should be considered the official founding date or not (Beck 1978, p. 214-220, Meyer 1990, p. 154, Sablonier 2008, p. 165-167, Reinhardt 2008, p. 11, Meier 2015, p. 43-44).

Here is what happened, on August 1st 1291, the three cantons (the Waldstätte) Uri, Schwyz and Nidwalden (today Nidwalden and Obwalden), forming the alpine region of central Switzerland, came together and swore an eternal oath. That oath and its written charter, the *Bundesbrief*, is a masterpiece of political volition in the early middle ages of history, an *instrumentum publicum* (ab Hohlenstein 1956, p. 526-527). But according to the content of that *federal charter,* we can not think of that document as a founding element of any sort or form, the content was limited to mutual assistance in the case of war, ensuring public peace and rejection of foreign judges (Meyer 1990, p. 156).

The charter in its original form, can be seen in the Federal Charter Museum in Schwyz and there are no indications about freedom, resistance and founding of the confederacy (Sablonier 2008, p. 164, Meyer 1990, p. 156). Still, in the hearts and minds of

some people, this is the constituting date of the Helvetic Confederation and it is celebrated as an official national holiday in Switzerland since 1891 (Reinhardt 2008, p. 11).

We can follow ab Holenstein and his interpretation of the charter: mutual agreement among equals, but not among the entire people, one must not overemphasize the event because the first treaty was written in Latin. Or we follow Meyer, "just a set of rules to follow for cooperation among the first three cantons, but not a constituting document for an entire country" (Meyer 1990, p. 157). Nevertheless, we should keep that written document in mind when talking about federalism, 1291 is early. During the course of the 14th century, more cantons joined in different treaties: *Alliance of Brunnen* between Uri, Schwyz and Unterwalden (today Nidwalden and Obwalden) in 1315 and for the first time in German language, basically reinforcing the former Bundesbrief, in 1332 Luzern joined, in 1351 the Walsdtätte and Luzern made a treaty with Zürich. In 1352 Zug and Glarus were forced to join the treaty. In 1353 Bern joined in (Meier 2015, p. 204-205). The Old Confederation now consisted of eight cantons out of todays 26. The year 1370 is another important date, the Waldstätte and the other cantons signed the *Pfaffenbrief*, to understand this, I have to go back to the 6th Century, after the disintegration of the Roman Empire, the Catholic Church ruled on several aspects of peoples life until that treaty. That charter made an end to that rule, no member of the clergy was allowed to impose foreign rules upon the Swiss people ever again, the clergy could only rule on clerical matters and those of marriage but not on penal law (Meier 2015, p. 205, Reinhardt 2008, p. 22-23, Maissen 2010, p. 38). Another important treaty, was the *Sempacherbrief* of 1393, the charter which was regulating war, trade and change (Reinhardt 2008, p. 25).

In 1454 Schaffhausen and the town of St. Gallen approached the confederacy but did not join it yet. The most important treaty of the 15th century, happened in the year 1481 the *Stanser Verkommnis,* named after the town of Stans in the canton of Nidwalden. Again, I have to go back in time a little to explain the origin of this important event, it was in 1477 during the Burgundian Wars when Federal troops defeted and even killed Charles the Reckless of Burgundy, the last Duke of the House of Valois, at the battle of Nancy. At that time, this was an incredible achivement by the Confederates, the news spread all over Europe, since the troops of Burgundy had been considered as one of the best of their time. Some of the spoils of war can be seen today in several Swiss museums: in Bern, Zürich, St.Gallen and Solothurn (Reinhardt 2008, p. 43, Schelbert 2007, p. XXIV-XXVI, Deuchler 1958, p. 58).

This charter regulated several aspects of the Old Confederation until 1798, most important: it did forbid cantons to interfere with the domestic affairs of other cantons and it prohibited unauthorised warfare. These measures strengthened the inner cohesion of the eight cantons and paved the way for Fribourg and Solothurn to enter the confederation in 1481, but also it provided a certain framework for the future, no canton could enter any treaty with a foreign power, without the consent of all cantons within the confederation (Reinhardt 2008, p. 44-45).

But all these charters only demonstrate a cooperation based on common interests between equals, the cantons of the Old Confederation. These documents where in some aspects ahead of their time but did not constitute a nation or closed country. They should be viewed as an "idea, to respect the different as different and yet to constitute an entity for the common good, a guiding light towards the final state of todays Switzerland" (Widmer 2007, p. 121). In 1501 Basel and Schaffhausen joined and finally in 1513, the canton of Appenzell. And these 13 cantons formed the Old Confederation.

The year 1515 marked an end to the expansionistic politics of the Old Confederation, Helvetic expansion will be a subject of the next chapter, it was at the

famous battle of Marignano, south-east of Milan and today called Melegnano, where the Federal troops had been defeted by the French King Francis the 1st. That event was the founding moment of almost eternal Swiss neutrality, our third element of the Sonderfall (Reinhardt 2008, p. 47, Widmer 2007, p. 134-135), but more of that after this chapter.

Marignano had a lasting effect on the Old Confederation, the Swiss started to mind their own busines and begun engaging in inter cantonal religious wars, it was dawn of the Reformation. It took place in Zürich in 1522, introduced by Huldrich Zwingli and 1536 in Geneva, introduced by Johannes Calvin (Maissen 2010, p. 83, 94). Several wars erupted and two groups formed, the conservative catholics and the more liberal protestants, the religious wars between these two confessions continued until 1848, almost 300 years in total.

In 1648, at the Westphalian Peace Treaty, the Old Confederation was granted vast juristical independence from the Holly Roman Empire of German Nations (Schelbert 2007, p. XXVIII). The everlasting disputes between the two confessions stopped temporarily in 1798 when French Napoleonic troops occupied the Old Confederation and the new Helvetic Republic was declared, following a constitution which was written by Peter Ochs and approved by the French Consulate in Paris, unfortunately without reference to the Swiss people and their circumstances. But it started to develop a certain awareness among the cantons, for the first time and with the town of Aarau as the first capital, after that Lucerne and finally Bern before its disbandment. This was new because until then, there was no capital in the Old Confederation, only the main town of each canton had an administrative role but nothing more (Maissen 2010, p. 160, Helbling 1982, p. 113).

That new republic was more centralized and less federal, which led to new confrontations between two groups: Unitarians promoting a centralized state with a strong capital city and Federalists, promoting canton sovereignity, like during the Old Confederation (Fahrni 2002, p. 60). Here again, you see the difference between the US and Switzerland.

The republic was very unstable, between 1800 and 1802 there had been five coups d`etat and in 1802, Napoleon Bonaparte had to intervene again and disband the complete Helvetic Republic, after barely five years of existence. He established a more federal republic again and issued the *Act of Mediation*on on February 19th 1803 which was received in Paris by Swiss delegates (Stüssi-Lauterburg 1994, p. 5, Maissen 2010, p. 170, Helbling 1982, p. 116).

That charter was highly welcomed by the Swiss people, they felt threatened by the unitaristic aspirations of the Helvetic Republicans and its artificial constitution (Helbling 1982, p. 117).

The new federation got its new name with the Act of Mediation and it kept it until today: Swiss Confederation-Schweizerische Eidgenossenschaft-Confederatio Helvetica (Helbling 1982, p. 117).

At this point we can see the clear federal anti-centralistic character of the Swiss confederates, nobody wanted to be dominated by a single capital and a single government or a foreign ruler or even foreign judges. Even the Act of Mediation was eventually rejected in 1813, that made an end to the Anciene Régime as a role model and a new constitution and a new federal contract was elaborated with more freedoms and authonomy of the cantons but also legal equality, freedom of religion and freedom of press, as a concession for liberal demands (Reinhardt 2008, p. 94).

Starting at the Vienna Congress in 1815, the 18th century was characterized through massive social movements and change, it was the time of restauration and

regeneration, we have to stay focused in order to not get lost in all the events but on the Sonderfall, and federalism.

The first French Revolution paved the way for more liberal ideas and those culminated in the 1830s uprisings "Les Trois Glorieuses" or the July Revolutions or the second French Revolution. Those had a massive impact on Switzerland, Liberalism entered the streets of the Confederation, it was not an elitistic pastime anymore, it was a new order, coming from the bottom and demanding people`s rights and cantonal sovereignty (Farni 2002, p. 60-62). Moreover, economic progress and industrialization, formed a fundament for the new state (Wecker 2014, p. 431). Again, religious conflicts erupted, because the conservative catholic cantons feared the protestants would dominate them and therefore they unified in 1845, forming the special union *Sonderbund* (Luzerne, the Waldstätte, Zug, Fribourg and Wallis) but that union was quickly defeated in November 1847 by the army of the liberal confederates, whose leader was General Henri Dufour, an important figure for Swiss cartography and landscape survey (Helbling 1982, p. 126).

Today`s Switzerland was born in 1848, I have to admit some could call me heretical but modern day Switzerland was founded with the declaration of the new federal constitution on September 12th 1848 (Vatter 2016, p. 442, Helbling 1982, p. 130, Reinhardt 2008, p. 102, Wecker 2014, p. 431, Kriesi & Trachsel 2008, p. 34). That federal construction was a modified copy of the American system, but the emphasis lies on cantonal authonomy, one of the core principles of Switzerland (Widmer 2007, p. 124). The Federal Constitution of Switzerland was a compromise between liberal Protestant unitarians and conservative Catholic federalists, the cantons kept their own police force, school system, taxation authority, civil law, penal law, justice and health system, parts of the infrastructure and trade policy (work, trade, banking), the new federal government took care of customs, defense, postal service, foreign relations and, of course, the curency, it had a very low budget at the beginning (Vatter 2016, p. 442-443).

I can not go deeper into cantonal organization because we could write books about it, I want to point out some aspects, the fundamental priciples (Vatter 2016, p. 443) of Swiss federalism: authonomy and equality among the cantons, the duty to cooperate with each other, but also the fact that they are an active contributor to the decisions, voiced by the federal government. Switzerland has a bicameralistic federal assembly, the people are represented in the national council, the *Nationalrat* and the cantons (today 26) are in the council of states, the *Ständerat*, both share equal powers and constitute the legislative branch of Switzerland (Vatter 2016). But cantonal soveregnty is the key: The existence of the cantons is granted, the cantons decide how they organize internally, the cantons choose their administrative organs independent, the cantons possess vast competencies, the cantons possess own financial resources, the cantons are no subject to political control, the cantons contribute equally to the process of decisions making on federal level, the cantons also contribute in the council of states, to decisions made on federal level (Vatter 2016, p. 444-445).

Here we have to mention the principle of subsidiary which is strong in Switzerland, if the federal government wants competency, it has to be proven that the local authority (in most cases the canton) cannot take care of a problem (explicitly mentioned in Art. 3 Federal Constitution, Vatter 2016, p. 444). This principle organizes the entire federal state from the bottom to the top, the core idea of cantonal soveregnty.

We could see over the past centuries, Swiss people were always suspicious towards a unified state and central authority, the compromise constitution of 1848 only lasted until 1874, when it underwent a total revision and the second constitution lasted till

1999, after another total revision the Swiss Federal Constitution is only 19 years old. Today federalism is the natural modus operandi of Switzerland but there are also problems arising, I want to mention a few before we get to the third element. The major issue of federalism is that every element can decide autonomously and that leads to inequalities, most notably of financial nature, welfare services, education or construction law, and some others. It is an important characteristic of federalism that decisions are made on the lowest level possible, right there where most information gather and where the people are most affected by the decisions (Widmer 2007, p. 131). This makes it a protracted task, finding a suitable compromise, but it can bear the bennefits of finding the "best practice", 26 cantons try to solve problems differently, the best solution can be taken over by other cantons if suitable (Widmer 2007, p. 131). Kriesi and Trechsel talk about benefits: Swiss federalism is assumed to protect minorities, they rely on Arend Lijphart and his work on consociational countries of 1977, *power-sharing structures may enhance conflict resolution* (Kriesi&Trechsel 2008, p. 42). Swiss federalism brings citizens closer to the political authorities, Swiss federalism diffuses power, it enables a more flexible, better-adapted implementation of federal policies at the cantonal level and functions as a brake on centralizing trends (Kriese&Trachsel 2008, p. 43). Swiss federalism offers a playground for experimentation, due to the vast autonomy of the cantons compared to the ones enyojed by a German Bundesland (Kriese&Trachsel 2008, p. 44). Neidhart also mentions problems, distribution of state tasks, distribution of state finances, institutional problems and cantonal territorial reforms (Neidhart 2002, p. 248-260).

As you can see, there are lots of discussions going on about the subject of federalism, not only in Switzerland. We have to close the federal chapter and move over to the next element of the Swiss Sonderfall: neutrality. It is the most important principle of Swiss foreign policy and was officially declared for the first time by the Tagsatzung (Federal Diet of Switzerland, legsilative and executive council of the Old Confederation and the following Swiss Confederacy until 1848) in 1674 (Widmer 2007, p. 134).

But we can witness it since the defeat of Marignano in 1515, during the times which followed, neutrality was only declared when the circumstances dictated it, especially during the Thirty Years War of 1618-1648, which left the Old Confederacy mostly unharmed, but it was not an explicit principle (Widmer 2007). An important proponent of Swiss neutrality was Nicklaus von der Flüe, a hermit from Einsiedeln (1417-1487), he helped to prevent war between the cantons on the Diet of Stans (Stanser Verkommnis) in 1481, his heratic words: "Mischt euch nicht in fremde Händel" and "Macht den Zaun nicht zu weit" led to the core principles of todays Swiss foreign policy, it means: do not participate in other people`s wars and do not declare war on others (Widmer 2007, p. 135).

We have to go back again, to the beginning of the Old Confederation, it was in 1315 at the Battle of Morgarten, where a small group of men from the canton Schwyz, defeted the Knights Regiment from Duke Leopold I of Habsburgh, an incredible victory, so unbelivable that it became part of the unsolved Swiss myths (Beck 1978, p. 214-220). But that led to further engagement, 1386 marked another victory by confederates in the battle of Sempach against Duke Leopold III of Habsburgh, he died at that battle together with several members of the nobility, which led to a problem for Habsburgh because nobody could inherit their possesions. The new local masters had little to no liabillities towards Habsburgh and viewed the Confederates as an alternative to the nobility far away (Maissen 2010, p. 40-41). After that and several internal wars, the confederates took part in the famous Burgundian Wars, we had mentioned that earlier, but also during the Italian War of 1494, confederate mercenaries were requested by Milan, Florence and France.

They even fought against each other, depending who got hired by whom. Between the Burgundian Wars and the battle of Marignano an estimated 200,000 men served as mercenaries abroad, at an estimated 800,000 habitants of the Old Confederation, around the year 1500 (Maissen 2010, p. 65). The foreign services had a very bad reputation at home, they were thought to be the cause for corruption, decadence and prostitution (Maissen 2010, p. 65). The book *Die Geschichte der Schweiz*, published 2014 with contributions of several authors, lists not less than 20 battles in its chronology (p. 616-623) between 1291 and 1848, in which Swiss federal troops fought for either several days or even months, not only on todays Swiss territory like: the Battle at Nancy in 1477 (France) or the Swabian Wars in 1499. Also the War of the League of Cambrai between 1508 and 1516, on locations in France and Italy. During the Coalition Wars between 1799 and 1815, Switzerland acted as a client state of France and it had to endure fights on its own territory. Among the wars fought abroad, there where several others fought between the cantons, either due to influence and power or due to religious differences like during the Reformation years. After years of wars and battles and killing, one can not be surprised that Switzerland became a neutral state.

The neutrality is the most important principle of Swiss foreign policy, Switzerland stayed true to that position over the last centuries, documented lately by joining the League of Nations in 1920, the Helsinki Accords of 1975 or the United Nations in 2002 (Widmer 2007, p. 134-135). Widmer mentions two aspects of neutrality: passive and active neutrality (p. 145-148). Neutrality means not participating in a conflict and deciding not to take any decision during that conflict, staying out of that conflict is why neutrality is chosen, that is the passive type and the other type is to force somebody to take a decision and to act, like in the case of a judge, that would be an active role, the idea is to help solving problems and avoiding armed conflict (Widmer 2007, p. 146). "Issues arise when it comes to humanitarian crisis", should Switzerland stay neutral in the face of human rights violations just because it is neutral? Widmer points out that it should: use only facts and do not judge by hearing, the voice should not be too loud and noisy, declarations should be of substance, the judgement has to be intersubjectively comprehensible and the voice should serve the cause, not the domestic policy (Widmer 2007, p. 150). Neutrality is not a recipe for solving general problems but it neither is obsolete, it is usefull because it rejects the logic of power and war, its element is not passion but considerateness, it is a product of reason therefore it feeds on the consciousness that all politics is limited and the posibillity of war present but on the goal of peace, worth persisting (Widmer 2007, p. 150). The subject of neutrality is deep and I recomend further reading by Edgar Bonjour and his work *Geschichte der Schweizer Neutralität* (History of Swiss Neutrality) of 1975, but for now, we have to close the subject and move on to our last element of the Sonderfall: direct democracy.

I kept this element to the end because of two reasons, if we look at it historically it is the youngest element on federal level. It had already existed in some forms on cantonal level prior to the creation of modern Switzerland but it was only during the 1830 that the mandatory referendum was introduced in almost all cantonal constitutions, except that of Neuchatel, and in 1874 the petition for referendum was introduced on federal level and in 1891, the popular initiative was introduced on federal level (Widmer 2007, p. 108). The other reason is its importance and complexity, which can be considered the key characteristic of Switzerland. Before we get into it, I have to point out what the elements of direct democracy in Switzerland are: the petition for referendum (fakultatives Gesetzesreferendum), the mandatory constitutional referendum (obligatorisches Verfassungsreferendum) and the popular initiative (Volksinitiative). To better understand

how these elements interact with each other, I have to mention the system of consociational democracy (Konkordanzdemokratie), which is very important for the Swiss polytical system, in short and following Arend Lijphart and his work: *Patterns of Democracy. Government Forms and Performance in Thirty-Six Countries* (2012), in general democracy means "the government by the majority of the people".

And in contrast to this definition, we should look at Sir Arthur Lewis and his thoughts on the subject, democracy is "that all who are affected by a decision should have the chance to participate in making that decision either directly or through chosen representatives" (Lijphart 2012, p. 30) and another statement by Thomas E. Cronin seems fitting too "Many worried about tyranny by the majority and held the protection of the minority to be of equal, if not superior importance to majority rule" (Cronin 1989 in Bolliger 2007, p. 419). You can see the incompatibility of the statements because in the first, you exclude the minority, violating the third, from decision making and favor only the majoritarian voice, in the second it would not be the rule by majority but by everybody. And then you have the third, protection of minorities. According to Lijphart, Switzerland is the best example for the consociational democracy, mitigating the aforementioned issues: instead of concentrating power in the hands of the majority, the consociational model tries to share, disperse, and restrain power in a variety of ways: 1. Executive power-sharing in broad coalition cabinets, 2. Executive-legislative balance of power, 3. Multiparty system, 4. Proportional representation, 5. Interest group corporatism, 6. Federal decentralized government, 7. Strong bicameralism, 8. Constitutional rigidity, 9. Judicial review and 10. Central bank independence (Lijphart 2012, p. 33-40).

But, one at the time, I have to explain some circumstances. We could see that before 1798, Switzerland was a loose confederation of souveraign cantons, there was no federal constitution, the Tagsatzung (Federal Diet of Switzerland) with delegates from every canton, formed the only supra-cantonal institution (Vatter 2016, p. 273) housing executive and legislative branch and in charge of war and peace issues but also alliances with other countries. But the power was limited since each canton was responsible for its own internal organization. The course of direct democracy in Switzerland had an interruption in 1798, during the centralized Helvetic Republic which was based on the ideas of an individual who was inspired by the French Revolution, Switzerland became a French protectorate without vast people`s rights to participation on the new federal level (Vatter 2016, p. 360), it was Napoleon Bonaparte who understood the importance of federalism in Switzerland, he restored the ancient freedoms and rights with the Act of Mediation. And only after 1815, Switzerland started to become truly independent by resolutions of the Congress of Vienna and its own written constitution. After the creation of a nation-state in the form of the federation in 1848, more decisions had to be made on the new federal level, consisting both spheres, internal and external relations and the people started to demanded the same rights on federal level as they had on cantonal level, the new government (after 1848) had to react to avoid unrest and uprisings (Widmer 2007, p. 105-107).

The introduction of those elements of direct democracy, on federal level, were the most inventive actions of Swiss politics, with the people`s referendum, the opposition had an effective instrument to influence government policy and the consociational character had a very stabilizing effect on Swiss politics in general (Widmer 2007, p. 109).

Now let us have a look at the elements, the people`s initiative (Volksinitiative) enables the people to either change the complete federal constitution (Totalrevision) or certain articles only by collecting 100,000 valid signatures within 18 months, it is considered as an activating element, activating the parliament to act and have a counter proposition ready. The initiative on total revision of the constitution existed already in

1848, new was the possibility to have a partial change (Teilrevision) (Kost 2013, p. 78, Schiller 2002, p. 100-101). The mandatory constitutional referendum (obligatorisches Verfassungsreferendum) means that all change of the constitution, total or partial, needs a confirmation by the people and the cantons, the cantons act in this case as a control organ to make sure the Federation does not get too much competencies. This was introduced in 1848 (Vatter 2016, p. 50, Schiller 2002, p. 100). And the petition for referendum (fakultatives Gesetzesreferendum) enables 50,000 citizens, their signatures have to be collected within 100 days, to demand a people`s referendum if parliament wants to issue a new law (Vatter 2016, p. 50, Schiller 2002, p. 100).

Furthermore, I would like to talk about some functions of direct democracy in Switzerland, Vatter speaks about certain effects of direct democracy: integrating, legitimizing and stabilizing (Vatter 2016, p. 375), he also points out that consociational democracies are not less efficient than competitive democtracies, within consociational democracies the learning process is longer, decisions take more time but are not less inovative (Vatter 2016, p. 376). For the people`s initiative he defines four functions: 1. Valve function, 2. Flywheel function, 3. Catalytic function and 4. Mobilizing function (Vatter 2016, p. 378). There are two directions, which the debate about the effect of direct democracy is heading, one direction points to the *breaking effect*on government policy, five characteristics confirm that: the initiative is a powerfull veto-instrument against political decision maker, the people prefer to vote in favor of long-term policies instead of short-term decisions made by politicians, the participation tools enable the people to obtain more information about an issue, they know more about the costs and benefits of a project, the creation of a status-quo-bias which means risk averse people might vote against a change of the current situation and the last point is, that rather conservative points of view are better implemented in politics by the help of direct democratic tools (Vatter 2016, p. 379-380). Widmer also points out to some pros and cons of direct democracy, it can take a very long time until laws pass, much more than a parliamentary democracy would take (Widmer 2007, p. 110) but he mentions also the benefits, the people`s right to referendum stops government activism and actors have to be reserved in order to succed with their proposal, it helps limiting short term activities without proven success. The highest gain of slow political processes is its legitimacy, stability and higher credibility among the people (Widmer 2007, p. 111).

Additionally, the people`s referendum promotes inovation within the political system, best examples are the vast environmental laws and regulations, and the integrative effects make sure that all political interests are taken into consideration, unlike in some representative decision making models (Vatter 2016, p. 400). After going through some aspects of Swiss direct democracy, I want to focus on the debate going on today, about the direct democracy. We shall see about the proponents and the adversaries.

Christian Bolliger asks the bold question whether we have to reject direct democracy in order to protect minorities. His conclusions are: it is possible that specific minority interessts are not recognized within majoritarian decisions and the minority will have a hard time fighting the majority without proper tools. But all members of the society will lose rights if they decide to reject direct democracy. Science shows that effects of direct democracy are dependent on factors like how strongly the minorities are accepted within a society and how the institutional surrounding of that society is structured (Bolliger 2007, p. 443). Gerhard Schmid speaks about another issue, foreign policy, if all acts of the government are subject to popular confirmation, there is a risk of "happy decisionism" which means that certain actors could contest each and every contract and rejected it after negotiations, by popular referendum (Schmid 1996, p. 311), that would

slow down every political process. Aymo Brunetti sees also problems with the status-quo-bias, it is a central factor in decision making, because people do not want to abandon certain habits and customs. He points out that the popular initiative has less influence on politics because it demands reform and that is empeded by the bias (Brunetti 1997, p. 180). Andreas Kost also mentions the veto-effect of the initiative and the referendum, the people seem to stop reformist aspirations of the government by voting against its decisions. But it is proven positive to have certain issues discussed among the electorate, that generates more acceptance and legitimacy. Especially in financial questions, the people in Switzerland had voted much more conservative when it came to spending money, he even mentions that fiscal evasion is, in cantons with more people's rights on budgetary decisions, less of an issue (Kost 2008, p. 91). Feld and Kirchgässner come to similar conclusions like Kost regarding financial aspects of direct democracy, the spendings of the federation would be less if there were a finance referendum possibility which does not exist, the national debts would be lower if the people were included in the decision making process (Feld, Kirchgässner 1997 in Schiller 2002, p. 100). All in all, the effects of direct democracy in Switzerland are positive: it enhances the economy and the social structure. But it promotessome well organized interest groups and does not protect minorities sufficiently (Vatter 2016, p. 401).

You can see the debate about the pros and cons of direct democracy in Switzerland is huge and the common question seems to be whether Switzerland would still be Switzerland without the popular rights, they are an expression of freedom, they are the reason why somebody wants to become a Swiss citizen, because if the people are not allowed anymore to participate in a decision making process, who rules Switzerland? If the answer was Brussels, the Swiss personality would be disturbed (Widmer 2007, p. 120).

During the last few pages, you got to know four important aspects of Swiss politics. The end is dedicated to the conclusion of the work, that is to recapitulate the chapters and see where Romania could profit from the experiences made in the Swiss Federation. We started with multilingualism in our work so we will start with it again. That is also the only aspect which Romania and Switzerland have in common. Though Romanian is the only official language in Romania, in the western part of the country, in Transylvania, Hungarian is a strong minority language and in some districts even a majoritarian language. Switzerland could act as an example for multilingual management of a country. You could see, the Swiss constitution guarantees each language group its own language, even those groups which are below one percent of the entire population, have their language guaranteed. The four languages are located in four different regions and each region has a different language as its official language. So far there are no incidents known, where a German Swiss demanded language rights in a Francophonic canton or the other way around, if you move there as a citizen, you have to adapt to that region, the region is not adapting to you. The same could be a possibility for Romania, the western region has a strong Hungarian minority and in order to respect and appreciate those people, they could be granted better language rights within the affected districts. In Switzerland, each and every product bought in a store, needs three languages for content description, Romania does not need to go that far.

Our next point is federalism, this is something Romania can not apply. Romania is a unitarian country with a centralized goverment and organization, a former monarchy. In order to organize it federal, the constitution needs to be changed, that is something which cannot be done in due time. Considering ongoing problems, this would be too much of a burden for todays citizens, to reorganize their country in a new matter. As you could see, even Switzerland took over a century to become the political system it is today, not

mentioning the internal wars because of that. What could be applied is the sense for cooperation among the people, even if of different ethnics or cultures or regions. The next aspect is neutrality, Romania is member of NATO, the UN and the European Union, it can not be considered neutral. For beeing neutral, it would have to leave those organizations, except for the UN. That would be something nobody would take into serious consideration, the financial and security benefits do not allow for such an action right now.

And last but not least, direct democracy. This is a complex matter as you could see, implementing those tools requires vast improvements and changes, one should start at school education. The history shows that there are several issues which need thorough planing and thinking, therefore all necessary informations must be at hand, or at least, the citizen must know how to obtain those informations. Political participation needs a well informed electorate and, something i have not mentioned prior in the work, the right republican virtues!

In Switzerland, it was Isaak Iselin (1728-1782) who talked about the right virtues, "only the virtuous man, can be a good citizen" he also mentioned those virtues in his book *Träume eines Menschenfreundes (Dreams of a Philanthropist)* of 1776. Those are sedentairness, tenurial and education (Iselin 1776 in Brühlmeier 2011, p. 141). Iselin goes that far as to claim that a good republic will not work without better republicans, "give a people the most elaborated constitution but leave them without virtues, freedom will be impossible" (Iselin 1776 in Brühlmeier 2011, p. 142). I would like to exemplify this concept, there were several attempts to modify the federal constitution by popular initiative, one in 1985 demanding the death penalty for a drug dealer and one in 2012 again demanding the death penalty for child molesters (Curia Vista, online news portal of the Swiss Parliament). Those are good examples of bad virtues, as a good Republican and Christian you do not demand the killing of a human in the name of the people. A good example for good virtues is the creation of the canton Jura in 1979, all Swiss citizens were asked by popular referendum, if they aprove the creation of the canton of Jura, which they did, the majority of Swiss voters were in favor for the separatistic demands of the Jurasic people. They understood the issue and problems those people had to face. Rolf Graber points out that social unrest and the feeling of beeing left behind, will stimulate people to form their own alternative realities, that is mostly a counter reaction to liberal-capitalistic modernization processes, like Switzerland went through in the 19. century, for him the developement of direct democracy is a history of inclusion and exclusion (Graber 2017, p. 205-206).

He relies on the work of Jürgen Habermas "The Theory of Communicative Action" of 1981 "As a battle for recognition, the project direct democracy will always remain an unfinished one, which points beyond the shape of a nation state. By being linked to social justice, it (direct democracy) refers to the unversalistic retribution demanding of the dignity of man, as a realistic utopia of a just society (Graber 2017, p. 207).

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