Changing Federal Constitutions – Lessons learnt from International Comparison

Conference • 24/25 February 2011 • Berlin • Bundesrat Building
Federal systems require a constitution providing for a stable and reliable division of power. At the same time the constitution must be flexible and allow adaptation to changes in social or political context. During the last three decades, the necessity to transform territorial states has become increasingly important due to simultaneous processes of globalisation and regionalisation. Consequently, a number of states have initiated constitutional reforms and in some cases also successfully completed the ratification process. Discussions about constitutional change have not come to an end, and further reforms will be necessary. However, federal constitutions are difficult to change depending on particular conditions, some of which are given, others are modifiable.

The aim of the conference is to discuss constitutional reforms in federal structures from a comparative perspective in order to identify structures, processes and strategies which have proved to be indispensable for successful constitutional amendment. Focusing on the modalities and procedures of various successful and failed constitutional reforms, the conference should give practical suggestions as to how future reforms should be designed.

In particular, the following questions should be considered:

- In which forums or institutions are constitutional reforms elaborated? Who is involved and which procedures do apply?
- Are certain procedures more suitable than others for federal reforms?
- How does the institutional framework of a political system influence reform processes and results?
- What are the roles of parties and the impact of party systems? To what extent do interests of the civil society affect reform negotiations?
- Which procedures could be applied for ratifying future constitutional reforms and which conditions influence the chances of successful ratification?
- How do constitutional reform processes affect constitutional evolution?
- How do states cope with the failure of federal reforms? Does failure end in an impasse or can it be compensated by constitutional evolution?
- To what extent can the international comparison give us new ideas about how to design constitutional reforms, especially in Germany?

The conference is based on a research project on “Patterns of Federal Constitutional Reform” which is headed by Prof. Dr. Arthur Benz and funded by the German Research Foundation (DFG). Experts from all nine countries under scrutiny have contributed to the project and will also participate in this conference.

The Bundesrat is a constitutional body of the Federal Republic of Germany representing the Länder at the federal level. It has taken a decisive role in constitutional reforms of German federalism passed in 2006 and 2009.

The Forum of Federations has been previously engaged in various comparative research projects concerning constitutional reforms in federal systems. The results of these projects will contribute to the conference and the envisaged publication.
Programme

Thursday, 24th February 2011

09.00 – 10.30

Welcome

Angelica Schwall-Düren  Minister for Federal Affairs, Europe and the Media and Plenipotentiary of the Federal State of North Rhine-Westphalia

George Anderson  Forum of Federations

Arthur Benz  TU Darmstadt/IEV Hagen

Keynote speech:

John Kincaid (Lafayette College, Easton USA)

The relevance of constitutional reform in federal systems

Discussion

10.30 – 11.00: Coffee Break

11.00 – 13.00

1st Panel: Constitutional negotiations in „co-operative“ federalism

Introduction: Comparison between Constitutional Negotiations

Nathalie Behnke (Universität Konstanz)

Country Report Switzerland
Gerard Wettstein (Eidgenössische Finanzverwaltung, Bern)

Country Report Austria
Peter Bussjäger (Institut für Föderalismus, Innsbruck)

Country Report Germany
Anton Hofmann (Bayerische Staatskanzlei, München)

Discussion

13.00 – 14.00: Lunch Break
14.00 – 15.45

2nd Panel: Constitutional negotiations in federal systems with divided societies

Introduction: Characteristics of reforms in divided societies
Richard Simeon (University of Toronto)
Country Report Belgium
Dave Sinardet (Universiteit Antwerpen)
Country Report Canada
Nadia Verrelli (Queens University Kingston, Canada)
Country Report Spain
César Colino/José Olmeda (Universidad Nacional de Educación a Distancia Madrid)

Discussion

15.45 – 16.15: Coffee Break

16.15 – 18.15

3rd Panel: Decentralisation and regionalisation in unitary states

Introduction: Decentralisation as expansion of multi level systems
Roman Pasquier (Université de Rennes)
Country Report United Kingdom
James Mitchell (University of Strathclyde, Glasgow)
Country Report Italy
Franco Bassanini (ASTRID, Rome)
Country Report France
Patrick Le Lidec (CNRS Paris)

Discussion

Following the end of the discussion a guided tour through the Bundesrat Building will be provided

19.30: Dinner
9.00 – 10.45

4th Panel: Processes of ratification

Introduction: Amendment rules and ratification processes
Markus Kaltenborn (Universität Siegen)

Ratification by legislatures
Carlos Closa (Instituto de Políticas y Bienes Públicos, Madrid)

Ratification by referendum
Dieter Freiburghaus (IDHEAP, Lausanne)

Regional actors in ratification processes
Arthur Benz (TU Darmstadt/IEV Hagen)

Discussion

10.45 – 11.15: Coffee Break

11.15 – 13.00

5th Panel: Evolution after constitutional reform

Introduction: Failure or constitutional evolution
Jonathan Bradbury (Swansea University)

Austria after the Austrian Convention
Christoph Konrath (Wissenschaftlicher Dienst des Nationalrats, Wien)

Constitutional change in Canada after Charlottetown
Marc-Antoine Adam (Secrétariat aux affaires intergouvernementales, Québec)

The German federal system after two reforms
Wolfgang Renzsch (Universität Magdeburg)

Discussion

13.00 – 14.00: Coffee Break
14.00 – 16.00

Panel discussion: Challenges of federal reforms
with distinguished politicians, who participated in recent constitutional reforms in Germany, Austria and Switzerland

Georg Milbradt (former Minister President, Free State of Saxony)
Arnold Koller (former President of the Swiss Confederation, Switzerland)
Peter Michael Huber (Minister of the Interior, Free State of Thuringia)
Volker Kröning (former Senator, Free Hanseatic City of Bremen)
Georg Lienbacher (Vienna University of Economics and Business) (to be confirmed)

Moderation: Felix Knüpling

Summary and conclusions
Arthur Benz (TU Darmstadt/IEV Hagen)

End of the conference
Contact

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