International Perspectives on Fiscal Federalism:
The Basque Tax System

In February 2018 Basque society celebrated the 140th anniversary of the Economic Agreement. This model of governing financial and fiscal relations with the Spanish state, based on negotiation and agreement, is one of the most and unique instruments of self-government in the Basque Country and certainly one of the most outstanding signs of Basque identity.

Since February 28, 1878, the Economic Agreement has overcome major challenges such as wars, political and economic crises, and dictatorial governments. The twenty-first century brings particular challenges not only at the state level—the emergence of strong centralism and constitutional crises—but also at the international level with globalization and the uniformization of the digital economy and markets.

The central thread of this book is the analysis of the Basque Economic Agreement as a financial self-government tool from the perspective of some of the federal reference models in the world: the United States, Switzerland, Australia, and Canada. The Economic Agreement has contributed to the creation of a unique system in which the preservation of traditions becomes intermingled with investing in innovation, research, and development, creating synergies that have proved to be extremely effective and successful in reaching adequate levels of autonomy for sub-central governments, efficiency, income distribution, equity, accountability, and other key factors involved in nation-state building processes in federal systems. A model that can thus be considered to be a model of reference in relation to a likely devolution of powers to local government in the twenty-first century in order to tackle the current social and economic realities.

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International Perspectives on Fiscal Federalism: The Basque Tax System

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## CONTENTS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Authors</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preface</td>
<td></td>
<td>Gemma Martínez and Xabier Irujo</td>
<td>7</td>
</tr>
<tr>
<td>1</td>
<td>US and Basque Tax Systems: A Comparative Approach to Their Evolution and Legal Fundamentals</td>
<td>Gemma Martínez Bábara</td>
<td>13</td>
</tr>
<tr>
<td>2</td>
<td>Economic Theories of Fiscal Federalism: The USA and the Basque Country</td>
<td>Nieves Pereda Chavarri</td>
<td>41</td>
</tr>
<tr>
<td>3</td>
<td>Tax Harmonization in the United States Compared to the European Union and the Basque Country</td>
<td>Mikel Aruzia Fernandez</td>
<td>67</td>
</tr>
<tr>
<td>4</td>
<td>A Comparison between Wealth Transfer Taxes in the Basque Autonomous Community and the United States</td>
<td>Aitziber Etxebarría Usategi</td>
<td>97</td>
</tr>
<tr>
<td>5</td>
<td>The Basque and Swiss Fiscal Systems Building Processes as a Source of Lessons for the European Integration Process</td>
<td>Mikel Erkoreka Gonzalez</td>
<td>119</td>
</tr>
<tr>
<td>6</td>
<td>A Fiscal Model for Political Cosovereignty? How the Economic Agreement Has Shaped the Territorial Ambitions of Basque Nationalists</td>
<td>Caroline Gray</td>
<td>137</td>
</tr>
<tr>
<td>7</td>
<td>The Impact of the Basque Economic Agreement on Community Economic Development</td>
<td>Sofia Arana Landín</td>
<td>157</td>
</tr>
<tr>
<td>8</td>
<td>Federalism and the Cities of the Twenty-First Century</td>
<td>Roberto Bernales Soriano</td>
<td>173</td>
</tr>
</tbody>
</table>
Chapter 5

The Basque and Swiss Fiscal Systems
Building Processes as a Source of Lessons
for the European Integration Process

Mikel Erkoreka Gonzalez

Now that the worst of the 2007 crisis seems to have been overcome, European institutions have opened up a period of reflection in order to discuss the reforms needed to achieve an improved performance of the European Union (EU). In this connection, several proposals for the future of the EU multilevel system of fiscal and financial governance are now on the table. In this context, concepts such as tax harmonization, tax competition, and tax sovereignty are at the forefront of the debate on future EU fiscal policy.

Since the creation of modern nation-states, taxation has been a recurrent topic of discussion within the framework of intergovernmental relations, both in the domestic organization of states and at the international level—between states or within supranational organizations. Focusing on the domestic field, the distribution of the power of taxation is a key determinant in assessing the real and effective scope of the fiscal and financial power exercised by different institutions or levels of government.

As a result of the integration process over recent decades, the European Union has emerged as a new player in the European tax field. Even though the European central institutions still do not have a direct role in raising taxes or setting tax rates, their influence on taxation matters is...

becoming increasingly determinant. In some regards, it is possible to draw parallels between the European integration process and certain liberal state-building processes that took place mainly during the nineteenth century. Just as the authority of liberal states was strengthened at the expense of sub-central “powers,” the European Union is progressively concentrating more powers in its hands at the expense of the member states. There has been a role reversal: the member states are now acting as sub-central “powers,” giving up sovereignty in favor of the European central institutions. In this regard, improving understanding of nation-state building processes can provide lessons for the ongoing process of European integration.

In accordance with these precedents, this chapter focuses on the exercise of tax power by Basque and Swiss sub-central governments, analyzing them from a historical perspective. On the one hand, Switzerland, by tradition, was and continues to be one of the most paradigmatic examples of European federalism. On the other, under the agreement system (Concerto Económico), the Basque provinces of Araba, Bizkaia, Gipuzkoa, and Navarre formed an exception within the Kingdom of Spain, shaping a federal-type system of fiscal and financial relations between these provinces and the state. By comparing and contrasting the two case studies, the chapter aims to identify key factors involved in nation-state building processes in federal systems. In particular, the benchmarking exercise places special emphasis on the extent and impact of the institutional changes in the tax landscape. For that purpose, the article is structured in four sections.

The first section establishes the historical and institutional framework of both realities. The second and third sections analyze and compare the extent and scope of the fiscal and financial self-government exercised by Basque and Swiss sub-central governments in the first third of the twentieth century and from the last third of the twentieth century to the present. The final section provides some conclusions and reflections on the European integration process.

Historical and Institutional Development of the Basque Country and Switzerland

The choice of Switzerland and the Basque Country as case studies is not a matter of chance. They provide empirical examples of the complexity and divisiveness emanating from intergovernmental relations regarding the distribution of powers and responsibilities among models of fiscal federalism.

Until the nineteenth century, Switzerland had been structured as a confederal state, in which the central state, the Confederation, played a subsidiary role. Under the seigniorial system, the Basque provinces of Araba, Bizkaia, Gipuzkoa, and Navarre each enjoyed extremely broad self-government, operating de facto as a "sui generis" confederation.

The nineteenth century marked a watershed in the configuration of the res publica in both cases. The liberal revolution that traversed Europe during the nineteenth century, together with other factors of change like industrialization, completely transformed their structures of government and administrative organization.

In the nineteenth century, abandoning its confederal tradition, Switzerland was consolidated as a federal state. In the context of the Liberal Revolution and after a brief civil war in 1847, the liberals imposed their state project with the approval of the "Federal Constitution of the Swiss Confederation" in 1848. Although the title of the new Constitution maintained the denomination "Confederation of Switzerland," the Constitution of 1848 laid the foundations of a federal state. Drawing inspiration from the US Constitution, a National Council and Council of States were created, and a Federal Court was instituted. Additionally, the unification of customs, money and weights, and measures was established. The Confederation was exclusively empowered to coin money and was equipped with its own revenues proceeding from its management of customs rights.

2 Navarre, under the Economic Covenant (Convenio Económico) was organized according to a system that was similar, though not identical, to that enjoyed in the Araba, Bizkaia, and Gipuzkoa, thanks to the Economic Agreement. On the evolution and confluence of the two systems from their creation until the outbreak of the Spanish Civil War in 1936, see Mikel Aramburu, “Evolución De Los Conciertos Y Convenios Económicos Hasta 1936. Una Perspectiva Comparada,” Tira Vasconia 10 (2013), 219–78.

3 José Antonio de Aguirre y Lekuona, “Prólogo” in País Vasco y Estado Español. La solución Argentina (Buenos Aires: Ekin, 1951).


5 Oswald Sigg, Las Instituciones Políticas En Suiza (Zürich: Pro Helvetia, 1988).
From the approval of the Federal Constitution in 1848 until World War II, a gradual process of centralization developed in favor of the Confederation and to the detriment of cantonal power. Facing the extraordinary situation arising from the two world wars, the Confederation strengthened and expanded its tax power. Following World War II and in a context of bitter debates between those positions that demanded greater centralization and the defenders of maintaining the widest possible cantonal autonomy, a review process took place, consolidating large parts of the "extraordinary and provisional" reforms implemented during the wartime periods.

After various decades without any significant alterations, a new Constitution was approved in 1999, which updated the previous one of 1848. In comparison with other European countries, Switzerland has enjoyed a high degree of political and institutional continuity from the beginning of the twentieth century up to the present day. Among other questions, the institutional map has not suffered structural changes throughout this period. The administrative structure has remained divided into three main levels: the Confederation, the cantons, and the municipalities. It should be recalled that as a consequence of a negative vote in the referendum in 1992, Switzerland decided not to form part of the EU.

The process of deep transformations undergone by the Basque Country in the nineteenth century had certain parallels with what has been described for the Swiss case. Prior to the construction of the liberal Spanish state, a process that developed over the course of the nineteenth century, the Kingdom of Spain was articulated as a composite monarchy in which other alternative powers coexisted alongside the central administration, including the Basque representative institutions.

Under the foral system the Basque provinces enjoyed extremely broad self-government. Joseba Agirreazkuenaga defines the foros as "a series of laws, customs, privileges, liberties, exemptions, that formed the basic rules of social, economic, juridical, legal and political life according to General Assemblies for inhabitants of the Basque Country, guaranteeing a significant level of self-rule and self-government." Although its origin dates back to the Middle Ages, under the liberal conception of the nineteenth century the foral system could be compared to a constitutional system, in which each province had its own "foral constitution."

In the context of the Liberal Revolution of the nineteenth century, the survival and strengthening of the peripheral powers of the Basque Country around the Basque representative institutions clashed with the process of building and expanding of the Spanish liberal state. Together with other factors, this state of competition between different powers was decisive in explaining the origin of the series of harsh civil wars that ravaged the Basque Country during the nineteenth century. Following the victory of the liberal troops in the final Carlist War (1872–1876), the state, in an act of centralist imposition, abolished the foral system "manu militari" and against the will of the Basque representative institutions.

Two years after the abolition of the foral system, the Basque and Spanish governments negotiated the Economic Agreement as the system by which the Basque provinces would contribute to the finances of the Kingdom of Spain. The content and extent of the self-government emanating from the agreement system that began with the Royal Decree of February 28, 1878 bore little resemblance to the prior situation. Extensive self-government was reduced to economic-administrative autonomy. In the fiscal and financial fields, the Basque provinces continued to exercise a broad self-government. But in other spheres, such as political-institutional organization, the administration of justice, and military questions, the provinces were fully integrated into the common and uniform framework of the state.

At the end of the nineteenth and beginning of the twentieth century, the Economic Agreement was consolidated as the instrument regulating taxation and financial relations between the Basque and Spanish central administrations. But the outbreak of the Civil War in 1936 altered the situation dramatically. Following the capture of Bilbao by the rebel troops in June 1937, the Economic Agreement was abolished in Bizkaia and Gipuzkoa. The new dictatorial regime described the provinces of Bizkaia and Gipuzkoa as "traitors" because of their support for the republican

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8 Ibid., 256–57.
legality of the time, in this way justifying its decision to eliminate the Economic Agreement in both provinces. Conversely, the Economic Agreement and Covenant continued in force respectively in Araba and Navarre throughout the entire Franco period.

Not only did the abolition of the Economic Agreement in Bizkaia and Gipuzkoa mark the end of a stage in the vital life of the agreement system, but it also was a milestone in the gradual process of centralization and homogenization that, since the nineteenth century, had been gradually subjecting and subordinating the self-government power of the Basque representative institutions in favor of the central institutions of the unitary Spanish state.

More than forty years had to pass until, following the death of the dictator Francisco Franco in 1975, an intricate process of negotiation with the state started that culminated in the recovery and updating of Basque self-government, based on the 1978 Spanish Constitution, the 1979 Autonomy Statute, and the 1981 Economic Agreement Law. The 1979 Autonomy Statute, currently in force, establishes the Autonomous Community of the Basque Country that encompasses the provinces of Araba, Bizkaia, and Gipuzkoa. The statute also re instituted the Basque government as a supra-provincial authority, situated between the state and the provinces. Furthermore, after Spain's entry into the European Economic Community in 1986—today part of the European Union—the European institutions came onto the institutional scene. The Basque institutional landscape has undergone a deep transformation over the last century. While three levels of administration—state, provinces and municipalities—coexisted for most of the twentieth century, following the incorporation of the Basque government and European institutions, it now consists of five levels.

Before concluding this historical and institutional contextualization, we should underscore one key characteristic that is concurrent in the two cases: the procedure for assigning powers between central and sub-central governments has not been the result of a process of decentralization. The construction of the Swiss federal state is a clear example of a "bottom-up construction" process. It has been the cantons, formed in their turn by municipalities, that gradually and in response to circumstances have transferred power and competencies to the Confederation and not the reverse. It can thus be understood that up until today, original sovereignty and residual powers have remained in the hands of the cantons, not of central power.12

Although the Basque case is somewhat problematic, the logic of the transfer of powers between administrations follows the same pattern. Irrespective of possible legal interpretations of the formal link that might exist between the foral system and the agreement system, in terms of government practice what took place in the Basque Country was not a process of decentralization but of concentration. When the state abolished the foral system it absorbed part of the functions that until then had depended on the foral governments. But in those areas of the public function that—on occasions by de iure means and on others by de facto ones—remained under the authority of the Basque administrations, there was no effective process for the devolution of powers given that they had not previously been centralized. For example, in Araba and Navarre, where the fiscal and financial self-government system survived during the Franco's dictatorship, the state, from the foral period to the present, has never developed the bulk of the rail network or carried out forestry management, nor has it managed or collected the main direct taxes.


Restricting ourselves to the fiscal and financial domain, the Swiss federal system and the Basque agreement system bore reasonable similarities with respect to their organization, extent, and functioning. In both cases, the distribution of tax powers and responsibilities was divided into three main level of government: the central state, called the Confederation in Switzerland; the Swiss cantons or Basque provinces as sub-central governments; and the municipalities.13

The cantonal and provincial governments exercised extensive tax power and had broad financial autonomy. In both systems, the framework

12 Sánchez and García, Suiza, 81.
of fiscal relations between administrations was articulated on two levels: between the central state and the sub-central entities on the one hand, and within the framework of the sub-central entities—sub-central governments and municipalities—on the other. Among other questions, the control of municipal treasuries and the design of the municipal financing systems corresponded in both cases to sub-central governments and not to the central government. Therefore, each sub-central entity had its own system of municipal financing.

In general terms, the dispersal of fiscal powers between the sub-central and central tax authorities followed a logic based on the nature of the taxes: direct taxes were under the control of the sub-central governments while the state controlled indirect taxes.

Due to the broad freedom of fiscal self-government that sub-central governments enjoyed in both the Basque Country and Switzerland, there were clear differences between the domestic tax systems. For example, not all the sub-central tax authorities collected the same taxes. With respect to the taxes they decided to levy, each authority, without harmonizing restrictions, decided on the substantial elements of the different taxes, such as tax bases, tax rates, and tax allowances. The same happened with the work of collection, settlement, and inspection. Among other questions, the distribution of the function of tax collection between the sub-central and municipal administrations was decided at the cantonal or provincial level.

In the case of Switzerland, each canton had its own tax administration, which when added to that of the Confederation resulted in twenty-six different tax authorities in a territory with slightly over four million inhabitants. Meanwhile, regarding the Basque Country, five tax authorities coexisted within the Spanish Kingdom prior to the Civil War, which broke out in 1936: the state tax administration and one for each Basque province of Araba, Bizkaia, Gipuzkoa, and Navarre.

The coexistence of multiple fiscal governments with very wide faculties of action provided a favorable platform for inter-territorial tax competition. Tax competition was a widespread and common practice in Switzerland, at both the cantonal and municipal levels. For example, there were great differences in the tax rates applied between cantons. But tax rates were not the only element to bear in mind. The use of other competitive instruments, such as whether or not to apply certain taxes, fiscal regulations referring to the sums exempted and deductions, or even the degree of scrupulousness in the work of inspection and collection, were all influential.14

As with the cantons, the Basque administrations were not subjected to harmonizing restrictions that might have significantly conditioned the exercise of their fiscal self-government. In this context, the Spanish tax administration repeatedly accused the Basque tax authorities of applying lower fiscal pressure on direct taxation and of practicing unfair tax competition. This situation generated strong suspicions in both Spanish public opinion and in the Spanish Treasury Department. Additionally, there were also cases of tax competition among the Basque provinces themselves.15

The Tax Power of the Basque and Swiss Sub-central Governments during the Last Third of the Twentieth Century up to the Present

Obviously enough, in the course of nearly a century, Swiss and Basque fiscal system have undergone profound changes. However, the extent and intensity of the transformations differ considerably between both realities. In this regard, the development of the institutional setting is fundamental to understanding the evolution of the taxation powers of Basque and Swiss sub-central governments.

As pointed out above, Switzerland has experienced a high degree of institutional continuity since the beginning of the twentieth century. The Swiss administrative structure continues nowadays to be based on the same three levels of government: the Confederation, the cantons, and the municipalities. Concerning the distribution of tax powers, new relevant players, such as supra-cantonal entities or the European institutions, have not come onto the scene.16

The cantons continue to be empowered to levy any kind of tax provided that does not fall under the exclusive authority of the Confederation. Among others, the Confederation claims exclusive taxation authority in

VAT (value added tax), special excise duties, stamp duties, withholding tax, and customs duties. In short, the traditional principle of separation, by which the Confederation managed and collected the indirect taxes and the cantons the direct ones, continues to guide the Swiss tax system. The cantons continue playing a prominent role regarding direct taxation, while the Confederation does so regarding indirect taxation. Consequently, the twenty-six cantons are given wide latitude in the creation of their own tax legislation.\(^\text{17}\)

In the 1990s, the Federal Parliament approved and implemented the Federal Act on the Harmonization of Direct Taxation at Cantonal and Communal Levels. This is a framework law designed to harmonize certain formal aspects of cantonal direct taxation. But as the law, reflected in article 129 of the Federal Constitution of the Swiss Confederation, states, “harmonization shall [only] extend to tax liability, the object of the tax and the tax period, procedural law and law relating to tax offences. Matters excluded from harmonization shall include in particular tax scales, tax rates and tax allowances.”

Any attempt to make significant progress on the path of tax harmonization over and above the formal aspects has failed in Switzerland. The popular initiative “For fair taxation. Stop abuses of tax competition” (Pour des impôts équitables. Stop aux abus de la concurrence fiscale) illustrates this. This initiative, launched by the Socialist Party, was intended to limit tax competition and introduce a minimum cantonal tax rate for high incomes. But the initiative submitted to a referendum in 2010 was rejected at both the federal and cantonal levels.

In this way, the cantons continue operating today in a poorly harmonized framework, in which inter-cantonal tax competition is still a widespread practice.\(^\text{18}\) Consequently, there are significant differences in the tax pressure within Switzerland, not only among cantons, but also from one municipality to another within the same canton. As in the early twentieth century, not all cantons collected the same taxes. With respect to the taxes they decided to levy, each authority decided on the substantial elements of the different taxes, such as tax scales, tax rates, and tax allowances. The same happened with the work of collection, settlement, and inspection.

In contrast to Switzerland, the Basque fiscal and financial system has undergone deeper transformations. In the late 1970s, following the death of Franco, Basque representatives negotiated a new Economic Agreement with the Spanish government, approved by law in 1981.\(^\text{19}\) In this way, the agreement system was updated and recovered in Bizkaia and Gipuzkoa, once again encompassing the three provinces. The Economic Covenant of Navarre was subsequently revised.

The adoption of the 1978 Spanish Constitution, the 1979 Autonomy Statute, and the 1981 Economic Agreement Law completely changed Basque fiscal, financial, political, and institutional organization. Under the Autonomy Statute a new administrative entity was established: the Autonomous Community of the Basque Country (ACBC), which encompasses the Historical Territories, or provinces, of Araba, Bizkaia, and Gipuzkoa. Navarre was articulated as a single-province autonomous community. Soon after, in 1986, Spain joined the European Economic Community, adopting common European rules and standards.\(^\text{20}\)

Consequently, the institutional setting of the ACBC is currently structured on five levels of government: the European Union; the state; the Basque government; the provincial governments of the Historical Territories of Araba, Bizkaia, and Gipuzkoa; and the municipalities.

Moving from the institutional to the fiscal area, the 1981 Economic Agreement Law regulates the taxation and financial relations between the Spanish tax administration and the ACBC. The Economic Agreement Law acknowledges that institutions of the Historical Territories of Araba, Bizkaia, and Gipuzkoa “may maintain, establish and regulate, within their territory, their taxation system.” In addition, it added that, “the levying, administration, settlement, inspection, revision and collection of the taxes and duties comprising the taxation system of the Historical Territories shall be the responsibility of the respective territorial governments.”\(^\text{21}\)

\(^{17}\) Federal Tax Administration, \textit{The Swiss Tax System} (Bern: Swiss Tax Conference Information Committee, 2017); Federal Department of Finance, \textit{Federal, Cantonal and Communal Taxes} (Bern: Swiss Confederation, 2016).


In this way, the Basque provincial governments continue empowered to exercise an extensive fiscal and financial self-government. They are among the sub-state authorities in Europe that have the most tax power. But even so, compared to the previous period, the fiscal autonomy and normative capacity of the Basque tax authorities are subjected to stricter limitations today. These constraints arise mainly from the multilevel tax harmonization powers. In particular, the Basque tax authorities are subjected to a "triple tax harmonization" fostered and implemented by the European institutions, the state, and the Basque parliament. In the words of Gemma Martínez, "the Basque Country region is a rare bird among regions with wide taxation powers; no other region in the federal system is involved in so many tax harmonization levels."

Starting from the first field of tax harmonization, the European Union does not have a direct role in raising taxes or setting tax rates. Tax legislation is mainly decided by each country of the European Union at the national level. But in order to ensure that competition in the single market is not distorted, the European Commission can present proposals for tax legislation. It can also make recommendations and issue policy guidance in specific areas. All the EU members must unanimously agree on any EU tax legislation. Within this framework, the European Union has implemented measures to coordinate and harmonize indirect taxes such as value added tax (VAT) and excise duties. Separately, the harmonization of direct taxation has been minimal to date.

At the domestic level, the Economic Agreement Law establishes several general principles regarding the harmonization of Basque tax legislations with that of the state. Among other questions, the Basque fiscal systems shall "respect the state tax law in matters of terminology and concepts" and "maintain an overall effective fiscal pressure equivalent to that in force in the rest of the State." Although it may seem paradoxical, the current decentralized Spanish state model establishes more harmonizing restrictions on Basque fiscal self-government than was the case under the previous unitary state models of both Restoration and Francoist Spain.

Finally, the internal tax harmonization among the Historical Territories has to be taken into consideration. The ACBC is organized internally as a federal or even confederal fiscal system.

As has been noted above, under the agreement system the bulk of tax powers remain in the hands of provincial or sub-central tax authorities. The Basque parliament and government—acting within the ACBC as central administration—enjoyed limited tax power with respect to the three Basque provinces. The Autonomy Statute and Economic Agreement Law allow the Basque parliament to promote the "coordination, fiscal harmonization and mutual cooperation between the Historical Territories institutions." To that end, in 1989 the Basque parliament adopted the Tax Harmonization Law, which "allowed the Basque Parliament to eliminate, if necessary, essential differences among the tax systems of the Historical Territories," for example, in tax rates or the tax treatment of certain items. Thanks to the Harmonization Law, the Basque Tax Coordination Committee was created, whose function is to promote fiscal harmonization, cooperation, and coordination among the tax administrations of Araba, Bizkaia, and Gipuzkoa.

The Basque government is almost entirely financed on the basis of provincial governments' financial transfers. After collecting the taxes, the sub-central governments of Araba, Bizkaia, and Gipuzkoa transfer most of their revenues to the Basque government (around 70 percent). Therefore, despite the limited taxation power exercised by the Basque government, after the transfer, it enjoys a higher effective expenditure capacity than the provincial and municipal governments.

In this respect there are certain parallels between the ACBC and EU multilevel fiscal and financial governance systems. As explained above, EU intervention in taxation matters has mostly been confined to harmonizing indirect taxation. The financial transfers of member states are the largest source of income of the EU budget, accounting for around 70 to 80 percent of the revenue side. In contrast with the Basque government budget, the EU expenditure budget stands out due to its

22 Gemma Martínez, Armonización fiscal y poder tributario feral en la Comunidad Autónoma del País Vasco (Oñati: IVAP, 2014).  
25 Organ of Tributary Coordination of Basque Country, Economic Agreement, 246.  
CONCLUSIONS AND REFLECTIONS ON THE EUROPEAN INTEGRATION PROCESS

As in the nation-state building processes, any kind of in-depth integration process requires a long-term perspective. The current state of the Basque and Swiss tax systems is the end of a long process of successes and failures, as well as the result of intricate processes of intergovernmental conflicts and negotiations. In this context, the European Union is still a very recently created organization. In areas such as monetary union, which in many countries has been achieved after a lengthy process of maturation, the European Union has taken a quantum leap forward in a few decades. The current juncture characterized by large adverse shocks—for instance the economic crisis or the political and institutional challenges caused by the Brexit—must be viewed from this long-term perspective. Most of today’s European states have overcome much more serious internal crises during the process of their construction. In this sense, situations of turmoil such as the current one should not be seen as only posing a risk, but also as an opportunity for consolidating the rapid progress made so far and for reflecting on the future of the European Union.

The institutional changes are fundamental for understanding the divergent evolution of the taxation powers of Basque and Swiss sub-central governments from the early twentieth century up to the present. In comparison with the Swiss case, the Basque tax landscape has been profoundly affected by the emergence of new relevant players such as the European Union or the Basque autonomous institutions. In that context, any future reform in the institutional setting will have to be studied very carefully.

The emergence of a new “competency” requires reformulating and reconfiguring the assigning of tax power and responsibilities, with all the political and technical challenges that this involves. The distribution of taxation power is a key determinant for calibrating the real and effective scope of the power that is assigned to each institution or level of government. Tax power has been and continues to be the central axis around which Basque and Swiss sub-central institutions self-government pivot. Aware of this, Basque and Swiss sub-central institutions have shown great resiliency and resistance in order to preserve as much taxation power as possible under their authority.

The European integration process is following a similar pattern. The attempts to move forward the fiscal integration faced the reluctance of the member states to cede any tax sovereignty. But still, if the European institutions want to increase their capacity of intervention on the European economy—see, for instance, the cohesion policies or the fiscal stabilization function—its fiscal and financial power should be strengthened in order to provide more funds to the still meager EU budget. The Swiss and Basque cases show two possible alternatives: claiming direct taxation powers over some taxes, such as certain indirect taxes; or increasing the amount of the sub-central governments’ financial transfers. Any changes in this respect will largely determine the fiscal path that the European Union takes between federalization and a more confederal type of system.

BIBLIOGRAPHY


