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Crisis management in federal states: the role of peak intergovernmental councils in Germany and Switzerland during the COVID-19 Pandemic

Abstract
In federal states, intergovernmental councils were the main institutions through which the federal government and the constituent units coordinated their responses to COVID-19. To examine whether peak councils assumed a leading role during the COVID-19 pandemic to ensure cross-sectoral as well as intergovernmental coordination, this article compares the role of two "peak councils"—the Conference of Premiers (MPK) in Germany and the Conference of Cantonal Governments (KdK) in Switzerland—with sectoral councils in normal times and during the COVID-19 pandemic. The analysis relies on an original database of more than 900 council outputs based on which we compare the level of activity, the publicity, the direction of action, and the bindingness of outputs. The findings show that MPK took a leading role during the pandemic, a role that was indeed unusual when compared to normal times, while KdK, which likewise does not play a leading role in normal times, did not during the pandemic either.

Keywords: Federalism, intergovernmental relations, COVID-19, Germany, Switzerland

Zusammenfassung
Krisenmanagement im Föderalismus: Die Rolle von intergouvernementalen Spitzengremien in Deutschland und der Schweiz während der Corona-Pandemie
Im Umgang föderaler Staaten mit der COVID-19-Pandemie spielten intergouvernementale Regierungskonferenzen eine zentrale Rolle. Anhand des Vergleichs der deutschen Ministerpräsidentenkonferenz (MPK) und der schweizerischen Konferenz der Kantonsregierungen (KdK) mit den politikfeldspezifischen Minister- beziehungsweise Direktorenkonferenzen untersucht dieser Beitrag, inwiefern die MPK und die KdK während der COVID-19-Pandemie eine herausragende Rolle einnahmen, um so sowohl sektorenübergreifende Koordination als auch die Zusammenarbeit der Regierungsebenen sicherzustellen. Anhand eines eigens erhobenen Datensatzes von mehr als 900 Beschlüssen und Pressemitteilungen werden Aktivität, Öffentlichkeitsarbeit, Ausrichtung und die politische Bindungswirkung der Beschlüsse einer vergleichenden Analyse unterzogen. Im Ergebnis zeigt sich, dass der MPK während der Pandemie in der Tat eine zentrale, vom Normalmodus abweichende Bedeutung zukam. Innerhalb des schweizerischen Konferenzgefüges nahm die KdK hingegen keine herausgehobene Stellung ein—weder im Normalmodus noch zu Krisenzeiten.

Schlagworte: Föderalismus, intergouvernementale Beziehungen, COVID-19 Pandemie, Deutschland, Schweiz

1 Introduction

In their response to the COVID-19 pandemic, governments imposed containment policies, purchased and distributed medical equipment and vaccines, and provided financial support to individuals and businesses. In federal states, where powers are distributed between at least two levels of government, the federal government and the constituent units shared responsibility for the management of the COVID-19 pandemic. Federal countries took a variety of approaches, ranging from highly decentralized to centralized decision making (Chattopadhyay, Knüpling, Chebenova, Whittington & Gonzales, 2021; Hegele & Schnabel, 2021; Steytler, 2021). In some federations, measures were mainly decided by the constituent units, while in others the federal government took the lead. Because crisis measures cut across jurisdictions and policy sectors (Paquet & Schertzer, 2020), intergovernmental coordination between governments and across policy sectors was crucial to ensure coherent responses and to avoid harmful competition for resources (KdK, 2020; OECD, 2020).

Coordination occurred in all federations, though to different degrees.[1] Intergovernmental councils were the main institutions through which the federal government and the constituent units coordinated their crisis responses (Chattopadhyay & Knüpling, 2021, pp. 294-295; Fenna, 2021; Freiburghaus, Mueller & Vatter, 2021; Kropp & Schnabel, 2021; Kuhlmann & Franzke, 2021; OECD, 2020; Rozell & Wilcox, 2020; Schnabel & Hegele, 2021). Intergovernmental councils are more or less regular meetings of the members of the federal and/or constituent unit governments (Bolleyer, 2009; Poirier, Saunders & Kincaid, 2015). They can be vertical, if the federal government is a formal member, or horizontal, if membership includes the constituent units only.

While the public attention these councils received in several federations during the COVID-19 pandemic was rather unusual (DIE ZEIT, 2021a; Republik, 2021), federations have relied on intergovernmental councils to coordinate public policymaking for many decades (Bolleyer & Bytzek, 2009; Cameron, 2001; Opeskin, 2001; Poirier, Saunders & Kincaid, 2015; Schnabel, 2020; Watts, 2003). Intergovernmental councils exist in all multilevel systems (Behnke & Mueller, 2017; Poirier, Saunders & Kincaid, 2015). Via these councils, governments harmonize policy, pool resources, and exchange information. Although it is well recognized that intergovernmental councils played a prominent role in the way federal states dealt with the COVID-19 pandemic, we do not have a good picture of how that varied between countries or deviated from normal practice.

Given the cross-sectoral and cross-jurisdictional character of crisis management and because decisions were very politicized and highly consequential, the peak council of a federation can be expected to take the lead among intergovernmental councils in coordinating crisis management. This article investigates whether peak councils really assumed a leading role during the COVID-19 pandemic. To this end, we compare their role during the COVID-19 pandemic to "normal" times. The answer to this question allows us to draw conclusions on the way and extent to which federations were able to achieve the cross-sectoral and intergovernmental coordination needed to manage the crisis effectively.

The empirical analysis focuses on Germany and Switzerland, that is two federations with highly institutionalized systems of intergovernmental councils (Bolleyer, 2006; Hegele & Behnke, 2013). It examines and compares the role of the German Conference of Premiers of the *Länder* (*Ministerpräsidentenkonferenz*, MPK; created in 1948 and institutionalized in 1954) and the Swiss Conference of Cantonal Govern-

ments (*Konferenz der Kantonsregierungen*, KdK; established in 1993). MPK consists of the heads of government (the premiers) of the *Länder*. Although the federal government is not a formal member, two of MPK's four annual meetings are followed by a meeting with the federal chancellor, who convenes it (Lhotta & von Blumenthal, 2015). In contrast to MPK, membership of KdK consists of the collegial governments of the cantons, with each of them deciding from meeting to meeting who should attend plenary assemblies (Schnabel & Mueller, 2017). A representative of the federal government may be invited as a guest to exchange information.

To establish whether MPK and KdK took a leading role in coordinating crisis responses we measure and compare their level of activity, publicity, purpose, and the bindingness of outputs of the peak councils with the level of activity, publicity, purpose, and the bindingness of outputs of the relevant sectoral councils in normal times and during the pandemic. The analysis draws on an original dataset containing more than 900 written council outputs (see *online appendix*).

Our findings show that MPK took a leading role during the COVID-19 pandemic, a role that was indeed unusual when compared to normal times—and when compared to its Swiss counterpart. KdK does not play a leading role in normal times and did not during the COVID-19 crisis either.

2 Conceptualizing the role of peak intergovernmental councils

Council systems usually consist of a number of sectoral forums through which line ministers coordinate policymaking (Bolleyer, 2009, p. 17). In addition, there are generalist councils whose members are the heads of government or entire governments. These councils focus on cross-sectoral, often highly politicized issues, while sectoral councils tend to concentrate on policy-specific and often less politicized issues (Poirier & Saunders, 2015, pp. 459-462; Schnabel & Mueller, 2017; Wanna, Phillimore, Fenna & Harwood, 2009). They tend to be at the apex of the council system and are therefore referred to as "peak" councils (Hegele & Behnke, 2017; Phillimore & Fenna, 2017). The First Ministers' Meetings in Canada, the Council of Australian Governments (as well as its successor, National Cabinet), and Germany's MPK, for example, consist of the heads of government. In other peak councils—the Council of State Governments in the United States and Switzerland's KdK—entire governments are the members.

In normal times, governments coordinate a range of policy-specific and cross-sectoral matters, some of which are highly political while others are much less politicized. In normal times, peak councils may or may not play a leading role in the council system. During a crisis, cross-sectoral and highly consequential matters typically dominate the political agenda. We therefore expect that crises lead peak councils to take over the lead in coordinating the crisis response, ensuring intergovernmental as well as cross-sectoral coordination:

During a crisis, peak councils play a leading role in the council system.

The COVID-19 pandemic cut across policy sectors and jurisdictions. Governments had to make decisions concerning health care, education, and the economy all at once. Moreover, those measures interfered strongly with individual liberties, and the economy. Given their predominant position as the body formed by the heads of governments

or entire governments, peak councils are the "natural" nexus between the public authorities and the general public and are thus well positioned to promote individual compliance with crisis measures. Consequently, we expect that during the COVID-19 pandemic peak councils played a more elevated role than in normal times.

We test this proposition by comparing the role of peak councils with the role of the sectoral councils. In the following we introduce four factors that indicate the extent to which peak councils take a leading role: level of activity, publicity, direction of action, and bindingness of outputs. Based on these indicators we examine the role of the peak councils in normal times and during the COVID-19 pandemic.

2.1 Level of activity

While some councils meet regularly and frequently and generate a large number of council outputs, others are less active, as reflected in fewer outputs (see Bolleyer, 2009; Schnabel, 2020). We contend that the level of activity of a council reflects its relative importance in the council system. A higher level of activity of the peak council compared to the sectoral councils is an indicator that the peak council takes a leading role. Given their political importance, we assume that peak councils are more active than sectoral councils, especially in times of a crisis:

1a) During a crisis, the level of activity of the peak council is higher than the level of activity of sectoral councils.

However, the overall level of activity reflects the extent to which the peak council assumes a leading role in general terms. The relative importance of crisis-related subject matters in its outputs is even more reflective of the extent to which the peak council takes a leading role during a crisis. A leading role of the peak council also means that it concentrated on the management of the crisis, putting other matters aside, and that the focus on the crisis is more pronounced in the peak council than the sectoral councils:

1b) During a crisis, the peak council focuses its specific activities on crisis-related matters more than the sectoral councils do.

2.2 Publicity

Council meetings typically take place behind closed doors (Arens, 2020), but there is increasing pressure to show more public accountability in the "age of transparency" (Meyer & Kirby, 2010). Sharing information about council activities can foster legitimacy. Many councils have websites where they provide information about their functioning and membership, and where they publish press releases to inform the public about their activities. Some councils also arrange press conferences and use social media (e.g., Twitter). Intergovernmental councils may also use publicity to increase their influence. For example, a horizontal council may try to gain visibility among the general public to increase the constituent units' leverage vis-à-vis the federal government—a strategy known as outside lobbying (Kriesi, Tresch & Jochum, 2007; Trapp & Laursen, 2017). Councils might also "go public" in order to influence their members (see Hegele & Behnke, 2017). We assume that an elevated role of peak councils in the

council system is also reflected in their communication strategies. During a crisis, public communication is even more important as a crucial condition of effective leadership and, therefore, successful crisis management (Boin, 't Hart, Stern & Sundelius, 2005; Boin, Lodge & Luesink, 2020). Policymakers must inform the public about the crisis, how they intend to react to it, and why, to build support for their responses. Therefore:

2) *During a crisis, the peak council launches more efforts at publicity than the sectoral councils.*

2.3 Direction of action

A major dimension of a council's purpose is its direction of action[2], meaning the level of government its outputs are directed at (Behnke & Mueller, 2017, pp. 512-518). If horizontally oriented, an output concerns only the constituent units. Vertically oriented outputs concern both levels of government. For instance, constituent units might seek to influence federal decision-making or to protect their autonomy vis-à-vis the federal government.[3] Council action can also be directed at the general public (e.g., media, population) to influence their behaviour. During nation-wide referendums in Switzerland, for instance, councils try to influence voters through voting recommendations (Freiburghaus, 2018). Directing action at the general public is different from publicity which is about sharing information with the general public about a council's activities for the purpose of transparency and visibility. Peak councils play a leading role if their action covers more directions than the action of the sectoral councils. We expect that:

3) *During a crisis, the peak council covers more directions of action than the sectoral councils.*

2.4 Bindingness

Although councils rarely produce legally binding agreements (Poirier, Saunders & Kincaid, 2015), resolutions can be politically binding for council members (Bolleyer, 2009) when reflecting political commitment to a policy position or action.

We distinguish four degrees of political bindingness. High bindingness means that governments reached agreement on specific policy measures (e.g., to introduce national policy standards). Substantial bindingness means that governments consider taking action (but without agreeing on a specific action) or ask a third party to take action, specifying the kind of action. Modest bindingness means that governments formulate a joint policy position (e.g., on federal government policy); develop recommendations or guidelines; or encourage a third party (e.g., the federal government) to consider or propose action. Low bindingness, finally, means that council members only discuss a policy matter and exchange information. Bindingness is low but still existing since the acknowledgment of a report, for example, creates expectations that council members will follow-up.

The bindingness of council outputs is another indicator of their relative importance. By adopting binding resolutions, governments can show leadership, which, as mentioned above, is crucial for effective crisis management. Therefore, we expect that:

4) *During a crisis, the peak council adopts more binding outputs than the sectoral councils.*

3 Research design

We first examine the role of the peak councils in the council system in normal times, which serves as the baseline for comparison. To test our expectations, we then analyze the role of the peak councils during the COVD-19 pandemic in Germany and Switzerland. By comparing the two periods we establish whether the role of the peak councils during the crisis was unusual.

3.1 Case selection

Germany and Switzerland both have a functional, or "administrative", distribution of powers, (Bolleyer & Thorlakson, 2012; Hueglin & Fenna, 2015, p. 52) and a strong tradition of intergovernmental coordination (Kropp, 2010; Vatter, 2018). They have highly institutionalized and functioning council systems. In both countries, councils play an important role in federal coordination (Kropp, 2010; Vatter, 2018; Schnabel, 2020).

However, the two federations differ in the functioning of the executives, more specifically in the relationship between the heads of government and the ministers, and hence between the members of the peak council and those of the sectoral councils. In Germany, the relationship between the chancellor or premier and the ministers is more hierarchical than in Switzerland. Each minister has a certain autonomy within their respective policy area ("department responsibility"), but the chancellor or premier has the authority to determine general policy guidelines (Basic Law Art. 65). This principle applies to the federal government and the *Länder*, with the exception of Bremen. Moreover, in the *Länder*, cabinet ministers are appointed by the premier. Accordingly, the relationship between MPK and the sectoral councils can be expected to have a more hierarchical character. In Switzerland, by contrast, there is no hierarchical relationship between the president (who is *primus inter pares*) and the cabinet ministers (Vatter, 2018, pp. 110-115). In the cantons, the collegial multiparty executives are directly elected by the electorate. Consequently, it can be assumed that there is no hierarchical relationship between KdK and the sectoral councils.

Differences can also be found in the crisis governance arrangements. Under Germany's *Infection Protection Act* (*Infektionsschutzgesetz*, IfSG) the *Länder* were responsible for most decisions to contain the spread of the virus. The federal government was assigned the role of the coordinator. Most decision making was decentralized and coordinated (Hegele & Schnabel, 2021). In Switzerland, the *Epidemics Act* (*Epidemiengesetz*, EpG) distinguishes between a normal, special, and extraordinary situation. During the "extraordinary situation" (16 March-18 June 2020), most decision-making was centralized. The "special situation" (28 February-16 March 2020; 19 June 2020 onwards) led to more decentralized decisions (Freiburghaus, Mueller & Vatter, 2021). These differences can be expected to influence the role of the peak councils in the two countries.

To establish whether the COVID-19 pandemic increased the role of the peak councils in Germany and Switzerland, we compare it to the role of the following sectoral councils (*Table 1*; see Freiburghaus, Mueller & Vatter, 2021; Hegele & Schnabel, 2021; Schnabel & Hegele, 2021):[4]

Table 1: Relevant sectoral councils

	Germany	**Switzerland**
Health	Conference of Health Ministers (*Gesundheitsministerkonferenz*, GMK)	Conference of Cantonal Directors of Health (*Gesundheitsdirektorenkonferenz*, GDK)
Education	Standing Conference of Ministers of Education and Cultural Affairs (*Kultusministerkonferenz*, KMK)	Swiss Conference of Cantonal Directors of Education (*Erziehungsdirektorenkonferenz*, EDK)
Economy	Conference of Ministers of the Economy (*Wirtschaftsministerkonferenz*, WMK)	Conference of Cantonal Directors of Economy (*Volksdirektorenkonferenz*, VDK)

Source: Own illustration.

Our period of investigation covers the first two waves of the pandemic until the end of 2020 (January-December 2020) when vaccination roll-out began (crisis period) and the baseline year before the beginning of the crisis, which we refer to as "normal times" (January-December 2019).

3.2 Operationalization and data

Council outputs are the most visible aspect of intergovernmental coordination (Schnabel & Hegele, 2021), which is why we use them as the units of analysis. Our original database includes more than 900 council outputs (see *online appendix*). German and Swiss councils generate two types of council outputs: resolutions and press releases. Resolutions formalize the outcome of council meetings such as joint actions or joint positions. Press releases share information with the public. Most councils publish their outputs in separate sections on their website, which we used to collect the data and to identify the type of output.[5] The four factors of interest have been operationalized as follows (see also *online appendix*):

- *Level of activity*: The first indicator of the level of activity is the number of outputs produced by a council. The second indicator is the proportion of COVID-19-related council outputs in total outputs.
- *Publicity:* To measure publicity, we determine the number of press releases.
- *Direction of action:* The direction of action is indicated by the content of council outputs and consists of three categories (horizontal, vertical, general public). It is operationalized as the share of each category of the total number of outputs published by a given council.
- *Bindingness:* We assess the bindingness of council activities according to four ordinal categories to determine the share of outputs with different degrees of bindingness using the content of council outputs. Because press releases are directed at the general public and do not generate bindingness for council members, we only measure the bindingness of resolutions.

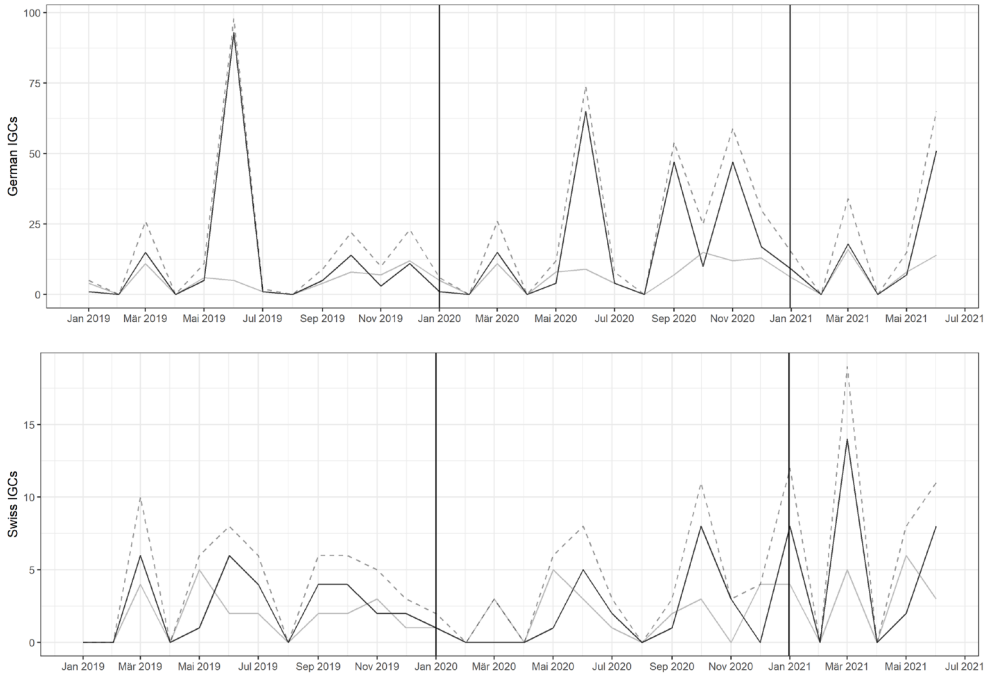
To code the direction of action and bindingness, we inductively developed content-analytical rules with a solid theoretical foundation. We provide a general category with an explicit definition ("definition theory"), a cognitive anchoring in typical examples for the category ("prototype theory"), and rules to demarcate the categories from one another ("decision bound theory") (Mayring, 2015; Murphy, 2002).

4 MPK and KdK in normal times

4.1 Level of activity

Our data show that German councils generate more outputs than their Swiss counterparts (*Figure 1*). On average, German councils release 17.2 outputs per month, compared to 4.2 outputs per month by Swiss councils—amounting to a total of 225 (160 resolutions, 65 press releases) in Germany and 59 (36 resolutions, 23 press releases) in Switzerland. This difference in the level of activity may be explained by the role German councils play in the preparation of decisions in the *Bundesrat* (Germany's second chamber of parliament through which the *Länder* participate in federal decision making (Hegele, 2018)), the (constitutional) commitment to equivalent living conditions in Germany, and Germany's EU membership with many supranational matters requiring information exchange and position-taking by the *Länder* (see Hegele & Behnke, 2013).

Figure 1: Number of outputs of German and Swiss councils in normal times and during the COVID-19 pandemic



Notes: Dark grey = number of resolutions; light grey = number of press releases; dashed line = total number of council outputs.

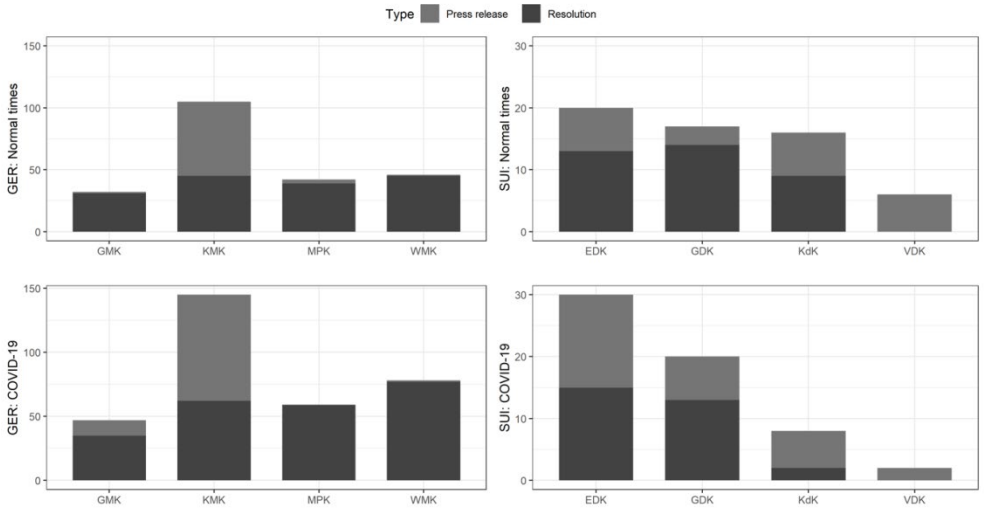
Source: Own data.

With 42 outputs (39 resolutions, 3 press releases), MPK is the least active council in normal times. KMK (91 outputs), GMK, and WMK (each 46 outputs) all publish significantly more outputs than MPK (*Figure 2*). In Switzerland, in 2019, KdK generated

fewer outputs (16) than EDK and GDK (20 and 17 outputs, respectively). KdK only produced more outputs than VDK (6 outputs).

Overall, our data on the level of activity suggests that neither MPK nor KdK play a leading role in intergovernmental relations in normal times. Sectoral councils are much more active, at least in terms of the number of outputs.

Figure 2: Number and type of council outputs



Source: Own data.

4.2 Publicity

In normal times, MPK's attempts at publicity are minor in terms of the number of press releases, with the peak council publishing only three press releases in 2019 (7.1% of the council's total number of outputs; *Figure 2*). Plenary assemblies of MPK, especially the meetings with the federal chancellor, are usually followed by a press conference of the chair and co-chair—and, after vertical meetings, with the federal chancellor—though (e.g., Bundeskanzleramt, 2019). Moreover, individual council members sometimes release media statements on their websites. Nevertheless, MPK's publicity remained behind the publicity of KMK (60 press releases in 2019). Most KMK meetings are, like MPK, followed by a press briefing.

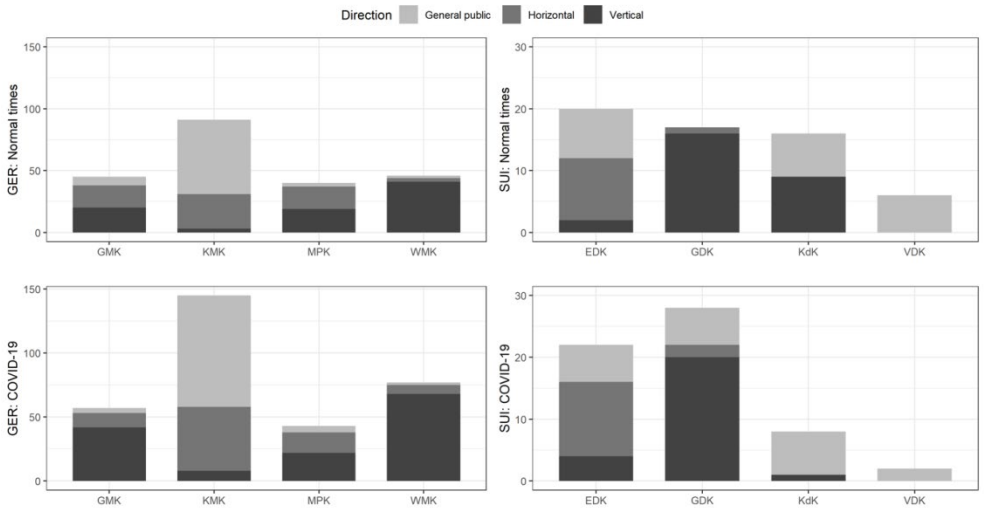
Switzerland's peak council, KdK, was one of the most active councils in terms of publicity, as indicated by the number of press releases (7 in 2019). KdK issues press releases on highly political matters such as a major tax reform, fiscal equalization, and EU-Switzerland relations. The overall number of press releases by Swiss councils before the pandemic, at least in our period of investigation, was small, though, which suggests that councils did not engage in publicity.

Overall, our data on publicity suggest that neither MPK nor KdK take a leading role in normal times.

4.3 Direction of action

MPK's main direction of action is both horizontal and vertical in normal times (45% each). MPK often helps to prepare *Bundesrat* meetings, while the sectoral councils, in turn, support MPK. Outputs issued by WMK and, to a much smaller degree, GMK, involve both levels of government (i.e., vertical direction of action), while KMK's direction is more horizontally oriented. Apart from KMK, German councils rarely engage in action directed at the general public in normal times. *Figure 3* shows that MPK does not cover more directions of action than the sectoral councils. Hence, the direction of action of Germany's peak council suggests that it does not assume a leading role in the council system in normal times.

Figure 3: Direction of action of council outputs



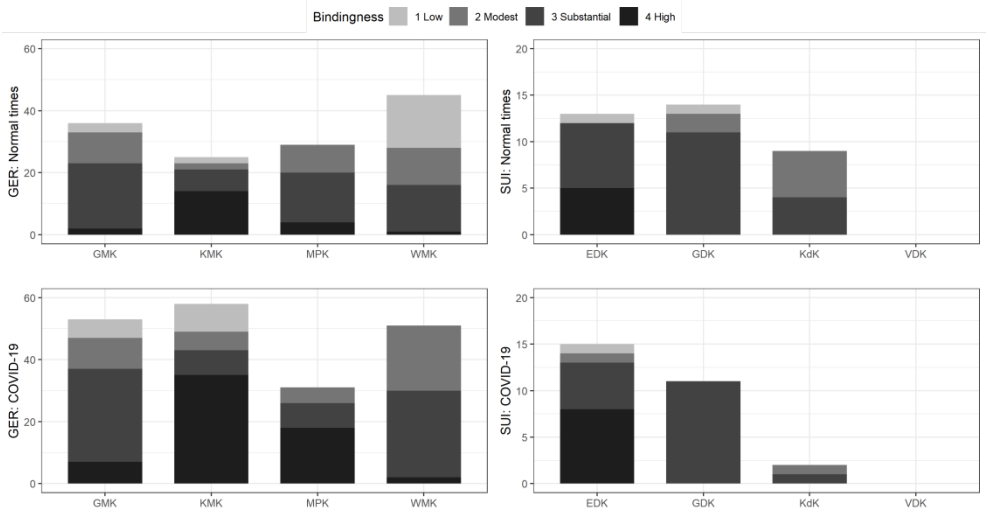
Source: Own data.

In Switzerland, a small majority of KdK's outputs in normal times is vertically oriented (56.3%) (Schnabel, 2020; Schnabel & Mueller, 2017). For example, KdK participates in formalized consultation procedures whereby it submits statements to the federal authorities (e.g., KdK, 29 March 2019) or urges the federal government to respect the canton's interests regarding, for example, Swiss-EU relations (e.g., KdK, 29 March 2019). That none of KdK's outputs is horizontally directed does not mean that horizontally oriented activities are of no importance for the Swiss peak council. But, forging horizontal consensus is mainly a precondition for KdK to produce vertically oriented outputs (Schnabel, 2020; Schnabel & Mueller, 2017). In normal times, almost half of all written KdK outputs intend to mobilize voters ahead of nation-wide referendums by issuing press releases with explicit voting recommendations (e.g., KdK, 29 March 2019). VDK's action is purely addressed at the general public. GDK mainly focuses on vertical action (88.9%). EDK's direction of action, however, is both horizontal and vertical as well as directed at the general public. EDK thus covers more directions of action than KdK. Hence, the direction of action of Switzerland's peak council also suggests that it does not play a leading role in normal times.

4.4 Bindingness

In normal times, over half of MPK's outputs showed high (13.8%) or substantial (55.2%) bindingness (*Figure 4*), with the council frequently instructing third parties to take action (especially the federal government) and, occasionally, agreeing on specific action. However, the bindingness of outputs by KMK was even higher, with 56% of the council's outputs showing high bindingness and 28% showing substantial bindingness. GMK's outputs were, overall, less binding, although most of the council's resolutions indicated substantial bindingness. WMK outputs, by contrast, were significantly less binding. Thus, MPK stands out only slightly in regard to the political bindingness of council outputs, providing modest support for an elevated role of Germany's peak council in normal times.

Figure 4: Bindingness of council resolutions



Source: Own data.

Swiss councils tend to generate outputs with a higher degree of bindingness than their German counterparts.[6] However, the bindingness of outputs also suggests that KdK does not take a leading role in normal times. The majority of KdK outputs in 2019 were modestly binding (55.6%). 44.4% showed substantial bindingness, but no outputs were highly binding. Outputs by EDK and GDK were significantly more binding, with the majority showing substantial bindingness (EDK: 53.9%; GDK: 78.6%). A significant share of EDK outputs (38.7%) was even highly binding. VDK did not adopt resolutions.

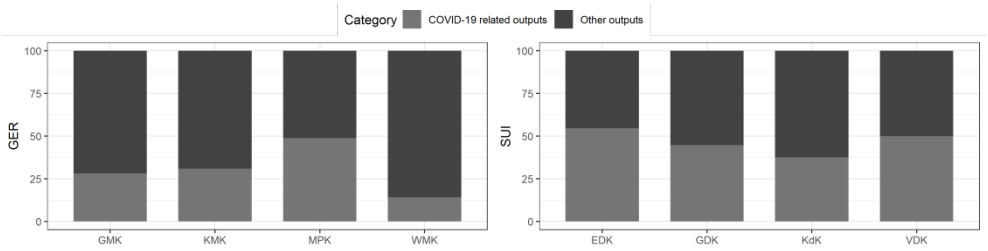
In normal times, the bindingness of KdK's outputs is lower than the bindingness of resolutions by the sectoral councils. MPK's resolutions, by contrast, tend to be more binding compared to the sectoral councils, except for KMK, showing that it plays a more important role than KdK.

5 MPK and KdK during the COVID-19 pandemic

5.1 Level of activity

In Germany, the level of activity of the councils in our sample increased during the crisis compared to normal times, as indicated by the number of resolutions and press releases issued in 2020 compared to 2019 (*Figure 1*). The higher level of activity mainly concerned the sectoral councils, however—especially KMK (145, up from 91 in 2019) and WMK (78, up from 46 in 2019). The number of MPK outputs increased only slightly, from 42 in 2019 to 47 in 2020 (*Figure 2*). However, the share of COVID-19 related outputs indicates that MPK assumed a leading role. Almost half of MPK outputs dealt with the pandemic (48.9%), sidelining the sectoral councils by far (*Figure 5*).

Figure 5: Share of COVID-19-related council outputs



Source: Own data.

The leading role played by MPK is also reflected in the content of outputs, including decisions with wide-ranging implications such as containment measures. Sectoral councils often focused on complementary measures (e.g., semester times). MPK sometimes asked sectoral councils to prepare recommendations (e.g., GMK, 24 July 2020; KMK, 20 May 2020). The high share of COVID-19 related outputs of MPK is in line with the governance arrangements for public health crises as codified in the *Infection Protection Act*. As mentioned above, the *Länder* were responsible for the adoption and easing of containment measures in Germany and the federal government was assigned the role of a coordinator. The federal government also remained responsible for the external border. Both levels of government adopted economic stimulus and support and procured medical supplies. Most of these decisions were coordinated (Hegele & Schnabel, 2021; Schnabel & Hegele, 2021), for the purpose of which the federal chancellor and the premiers met—sometimes on a weekly basis—as the MPK.

In Switzerland, the COVID-19 pandemic had a minor effect on the level of activity of intergovernmental councils. While the number of outputs of GDK (28, up from 17 in 2019) and EDK (22, up from 20) increased, the number of KdK outputs declined (8, down from 16; *Figure 2*). Its secretary general attended meetings of the crisis steering committee established by the federal government (*Krisenstab des Bundes*), but only during the first wave and without leading to a higher number of outputs. Only 37.5% of KdK's outputs concerned COVID-19 (*Figure 5*), most of which aimed at building pub-

lic support for crisis measures (e.g., KdK, 27 March 2020). Most outputs concerned on-going, non-crisis related issues (e.g., eGovernment). GDK, in turn, was particularly active during the pandemic, its outputs increasing from 17 in 2019 to 28 in 2020. Almost half of GDK outputs related to COVID-19. These observations can be explained by the "Gentlemen's Agreement" between KdK and GDK whereby GDK would serve as the main nexus between the federal executive and the cantons regarding measures to combat COVID-19 (KdK, 2020). EDK also focused its attention on the pandemic to a more significant extent than KdK (54.6% of outputs).[7]

Thus, the level of activity shows that MPK took a leading role during the pandemic, being the council where the most fundamental decisions regarding the pandemic were discussed. KdK, by contrast, was sidelined by GDK and other sectoral councils—which evoked a feeling of unease among certain cantons (SRF, 2020).

5.2 Publicity

We found more publicity during the COVID-19 pandemic in Germany, with press releases of councils going up from 65 in 2019 to 96 in 2020 (*Figure 2*). Some of this increase was due to the higher number of press releases by KMK (up from 60 in 2019 to 83 in 2020). The other council that increased its publicity was MPK. The German peak council published only three press releases in 2019, but twelve in 2020. What is more, the federal government issued statements by the chancellor after MPK meetings convened by the federal government summarizing the outcomes of the discussions. These outputs are not included in our dataset, but further contributed to the publicity of MPK, becoming more systematic over time. In addition, each vertical MPK meeting on COVID-19 was followed by a joint press briefing by the chancellor and the chair and co-chair of MPK. Consequently, we can see a clear attempt at publicity by MPK during the COVID-19 pandemic, leading to a high visibility of the council in the media (DIE ZEIT, 2021b).

The number of press releases of Swiss councils also increased, from 23 in 2019 to 30 in 2020 (*Figure 2*). This increase in publicity mainly concerned GDK (15 press releases, up from 3 in 2019). Besides participating in press conferences of the federal executive and issuing press releases, GDK also used Twitter to broadcast decisions to tighten or ease restrictions, for example. VDK also participated in joint press conferences with the federal minister of economy.[8] KdK's publicity, however, did not increase, supporting the finding that the pandemic did not lead to Switzerland's generalist council assuming a more important role. Nevertheless, KdK issued two press releases to signal to the public that it supported the federal government's decisions during the first wave of the pandemic (KdK, 27 March 2020), which can be seen as helping to build legitimacy, and to draw conclusions on the management of the first wave (KdK, 22 December 2020).

In short, our data on publicity provide further evidence that MPK assumed a more important role during the COVID-19 pandemic, while KdK was side-lined by the sectoral councils, despite being the peak council.

5.3 Direction of action

During the pandemic, MPK strengthened its vertical character (from 47.5% in 2019 to 51.2% in 2020), serving as the main venue where the crisis response was coordinated between the *Länder* and the federal government. MPK meetings to discuss crisis measures were convened by the federal chancellor, who prepared and circulated draft resolutions. MPK continued to function as a horizontal forum to discuss other, crisis-unrelated matters as well. MPK's outputs addressed to the general public fell from 7.5% in 2019 to 5.8% in 2020 (*Figure 3*). Like MPK, the outputs of the sectoral councils continued to cover all three directions. Albeit slightly decreasing as well (from to 64.4% in 2019 to 60%), KMK remained the council with the biggest share of outputs addressed to the general public. Its outputs included several press releases that detailed the rationality of crisis measures to build public support, such as guidelines on how schoolrooms are properly aired out to reduce the risk of airborne SARS-CoV-2 transmission (e.g., KMK, 20 October 2020) or, in most general terms, efforts to reassure the population (e.g., KMK, 5 August 2020). Overall, MPK did not cover more directions of actions than the sectoral councils. Hence, the direction of action of Germany's peak council suggests that it did not assume a leading role in the council system during the crisis.

The share of KdK outputs directed at the general public rose from 43.8% in 2019 to 87.5% during the crisis—mostly due to the voting recommendations it issued. Nevertheless, it did not assume a leading role, given the quite significantly decreasing share of vertically directed outputs (from 56.3% in 2019 to 12.5% in 2020). Moreover, we did not identify outputs that were horizontally directed, like in normal times. Again, KdK was side-lined by GDK who continued to produce vertically oriented outputs and a small share of horizontally oriented outputs while also generating a higher share of outputs directed at the general public (21.4%).

5.4 Bindingness

Almost two thirds of all outputs of German councils during the COVID-19 pandemic showed substantial or high bindingness (59.3%; *Figure 4*), which is a minor increase from 2019. The political bindingness of MPK outputs increased significantly. The council passed more resolutions in which governments committed to specific measures than before (58.1%, up from 13.8%). MPK stands out in terms of overall bindingness but also the increase of bindingness during the crisis, with 83.9% of MPK outputs showing substantial or high bindingness (up from 69%)—compared to 74.1% (KMK, down from 84%), 69.8% (GMK, up from 63.9%), and 40.5% (WMK, up from 35.6%; *Figure 4*). This finding is in line with the societal implications and wide-reaching effect MPK resolutions had during the COVID-19 pandemic.

Compared to Germany, Swiss councils showed a stronger tendency towards political bindingness, with 89.3% of council outputs showing high or substantial bindingness in 2020 (2019: 75%). The share of highly binding outputs increased by nearly 15 percentage points compared to 2019. The bindingness of KdK resolutions also increased, with more outputs showing substantial bindingness (50%, up from 44.4% in 2019) while the share of outputs with modest bindingness decreased slightly (50%, down

from 55.7%). However, the number of outputs was very small, with KdK passing only two resolutions in 2020 (compared to 9 in 2019) so that it is difficult to draw a meaningful conclusion. Nevertheless, the output with the highest degree of bindingness concerned the pandemic: KdK members adopted a resolution asking the federal government for specific changes to federal COVID-19 legislation, such as additional financial support for certain groups (KdK, 20 August 2020). There also was an increase of highly binding outputs by EDK (53.3%, up from 38.5%), while substantial bindingness declined (33,3%, down from 53.9%), and modest bindingness only increased slightly (6.7%, up from 0%). The political bindingness of outputs by GDK increased as well, with all resolutions showing substantial bindingness (100%, up from 78.5%). Indeed, GDK issued many statements to request specific changes to federal bills and draft regulations or to demand the federal government to take action.

In short, our data suggest that the political bindingness of outputs by Swiss councils increased during the COVID-19 pandemic. This change concerned all councils fairly equally, so that this indicator also suggests that KdK did not assume a leading role during the pandemic. While the political bindingness of outputs by German councils increased only very slightly during the COVID-19 pandemic, the significant increase of bindingness of MPK outputs can be seen as another indicator of the council's leading role.

6 Discussion and conclusion

In federal systems, the management of COVID-19 required a coordinated effort by the federal government and the constituent units, leading intergovernmental councils to play a prominent role during the pandemic. In fact, COVID-19 can be seen as a "moment of glory" of these councils. Since measures not only cut across jurisdictions but also across policy sectors, peak councils can be expected to play an elevated role in coordinating crisis responses to ensure cross-sectoral as well as intergovernmental coordination.

Table 2: Overview: role of MPK and KdK in normal times and during the COVID-19 pandemic

	Leading role of the peak council			
	MPK		**KdK**	
	Normal times	*COVID-19*	*Normal times*	*COVID-19*
Level of activity	x	(✓)	x	x
Publicity	(x)	✓	x	x
Direction of action	x	x	x	x
Bindingness	(✓)	✓	x	x

Notes: ✓= fulfilled; (✓) = partly fulfilled; (x) = largely not fulfilled; x = not fulfilled.

Source: Own illustration.

Our findings show that neither peak council plays a leading role in normal times (*Table 2*). MPK is the least active council in terms of outputs, and KdK is sidelined by some

of the sectoral councils as well. Moreover, neither MPK nor KdK stand out in terms of publicity. Nevertheless, the bindingness of its outputs suggests that MPK plays a slightly elevated role in normal times. MPK produces resolutions that tend to be more binding than those published by the sectoral councils. Moreover, although not reflected in the numbers, the content of outputs shows that MPK often asks sectoral councils to take action or prepare reports, which can be seen as evidence of a leading role.

The COVID-19 pandemic, however, clearly led MPK to gain in importance—in public attention and vis-à-vis the sectorial councils. Under the *Infection Protection Act*, the *Länder* decide on most containment measures. The Act strongly encourages coordination by allowing the federal government to formulate recommendations. MPK was the main forum through which the federal government and the *Länder* coordinated Germany's crisis response. At MPK meetings, the chancellor and the premiers agreed on restrictions that interfered quite extensively with people's lives (such as limits on gatherings and events, social distancing, mask requirements, and the closure of restaurants, bars and non-essential shops), discussed the easing of the restrictions, and decided to reimpose them when infection rates rose again. Accordingly, MPK's level of activity, publicity, and the bindingness of its outputs increased during the pandemic—and it did so much more than the sectoral councils.

Conversely, the COVID-19 pandemic did not lead to KdK assuming a leading role, being sidelined by the sectoral councils, especially GDK. In Switzerland's more centralized crisis structure under the *Epidemics Act*, GDK became the main partner of the federal government—in line with the "Gentlemen's Agreement" reached by GDK and KdK. KdK voluntarily played a minor role, letting the more cohesive—i.e., thematically focused sectoral councils—take the lead. The federal executive (especially the health minister) seemed happy to find reliable and efficient partners in the sectoral councils, especially GDK. KdK, in turn, turned into a rather symbolically important body that was contacted by the federal executive as some sort of 'crisis summit', though irregularly (Freiburghaus, Mueller & Vatter, 2021).

Consequently, our expectation that during the COVID-19 pandemic peak councils played an elevated role among the councils is only partially confirmed. That MPK took a leading role while KdK did not suggests that the differences between the two federations regarding their executive arrangements influenced the role the peak council plays during a crisis. In line with the more hierarchical relationship between the heads of government and cabinet ministers in Germany, MPK ensured cross-sectoral as well as intergovernmental coordination. In Switzerland, where the head of government is only *primus inter pares*—and may not even be the person who represents the cantonal government at KdK meetings—the coordination of crisis management was organized along sectoral lines. Hence, KdK was sidelined by GDK.

Our findings thus suggest that peak councils take a leading role in parliamentary federations (such as Australia, Austria, or Canada), where relationships between heads of government and cabinet ministers are more hierarchical, ensuring both cross-sectoral and intergovernmental coordination. Although Switzerland has a hybrid regime, combining aspects of both parliamentary and presidential systems (Carey & Shugart, 1992), it is not the only country where there is no hierarchical relationship between members of the executive. In presidential federations like the United States, where (some) members of state governments are directly elected, cross-sectoral coordination may also not be ensured even when intergovernmental coordination is achieved.

Notes

* The *online appendix* to this article can be retrieved from the dms website.

1 By coordination, we here refer to the process of coordination which does not necessarily lead to a coordinated outcome (see Schnabel & Hegele, 2021).
2 The second dimension of a council's purpose is its motivation (Behnke & Mueller, 2017, pp. 8-9). Establishing the motivation of activities requires qualitative in-depth investigations of the actions by an intergovernmental council. Therefore, we concentrate on the direction of action.
3 Vertical activities can be "bottom-up" or "top-down" (see Behnke & Mueller, 2017).
4 The Conference of Ministers of Finance (*Finanzministerkonferenz*, FMK) in Germany and its Swiss equivalent, the Conference of Cantonal Directors of Finance (*Finanzdirektorenkonferenz*, FDK), too, discussed COVID 19-related matters. In Switzerland, it was mostly the FDK's presidency who was in charge of managing COVID-19-related items of business. In the case of FMK, complete data availability could not be ensured. Consequently, we excluded FMK and FDK.
5 When separate sections do not exist, we use the heading of a council output to establish whether it is a press release or resolution. During the crisis, joint resolutions by the federal government and the *Länder* were published on the website of the federal government and not on the website of the MPK. To ensure comparability, we disregarded council outputs that were published pursuant to open government principles (*Öffentlichkeitsprinzip*) such as letters to lobby members of the federal parliament (e.g., *Sessionsbriefe*), which some Swiss councils publish on their website. We have also excluded council outputs concerning procedural matters; those having been released on behalf of the chair; and third-party documents that have been re-published by the councils.
6 Two-thirds of council outputs in Switzerland show substantial or high bindingness, compared to 59.3% in Germany.
7 Although not reflected in the number of outputs, VDK was involved in the (economic) management of the pandemic (Freiburghaus, Mueller & Vatter, 2021). VDK's president (together with the president of FDK), rather than the plenary assembly, was an important contact person of the federal government.
8 E.g., joint press conference of the federal government with the presidents of VDK and FDK (Schweizerischer Bundesrat 2021).

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