

A decorative graphic consisting of a thin black circle on the left side. A thick horizontal bar, colored red on the left and fading to white on the right, spans across the middle of the slide. Large black square brackets are positioned on the left and right sides of the red bar, framing the main title text.

# **Indebtedness of the local communities of the Canton of Valais – legal structure**

***Audit Office of the Canton of Valais (Switzerland)***

***EURORAI Seminar, 7<sup>th</sup> October 2011***

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# Introduction

## ■ *Switzerland*

- Federalist structures
- 26 cantons
  - from 16,000 to 1,300,000 inhabitants per canton
  - Canton of Valais (310,000 inhabitants)
- 2,551 local communities (Valais 143)
  - from 22 inhabitants to 370,000 per local community
  - Leukerbad: 1,700 inhabitants

41,000 km<sup>2</sup>

7.9 mio  
inhabitants



5,200 km<sup>2</sup>

310,000  
inhabitants

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# Law on the Local Government Code of November 13<sup>th</sup>, 1980

## ■ *Article 71, principles of financial management*

- Legality
- Urgency
- Economic and appropriate use of funds
- **Search for budgetary balance**

# Law on the Local Government Code of November 13th, 1980

## ■ *Weaknesses of this law*

- Application of depreciation rates = non-compulsory
- Period to reduce the overdrafts = not stipulated

# Law on the Local Government Code of November 13th, 1980

## ■ *Auditor*

- Elected by the primary assembly from amongst its members
- Few effects with regard to the objective of the budgetary balance

## ■ *Supervision of the State*

- Loans which exceeded 10 % of the gross income of the last financial year
- Granting of loans which were not enough guaranteed and which exceeded 1 % of the gross income of the last financial year

- **Non-compliance with the law = contract not valid !!!**

# Law on the Local Government Code of November 13th, 1980

## ■ *Possibilities of intervention of the cantonal state*

- Local community placed under compulsory administration (cantonal government)
- Local community placed under the care of a curator (cantonal trial court)
  - **These two extraordinary legal measures were introduced for the first time with the case of the local community of Leukerbad**



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# The local community of Leukerbad

## ■ *Financial situation by the end of 1997*

- Debts : € 148 million

  - Gross debt per inhabitant : € 87,500.00

- Participations and loans : € 82 million

  - Companies with financial difficulties

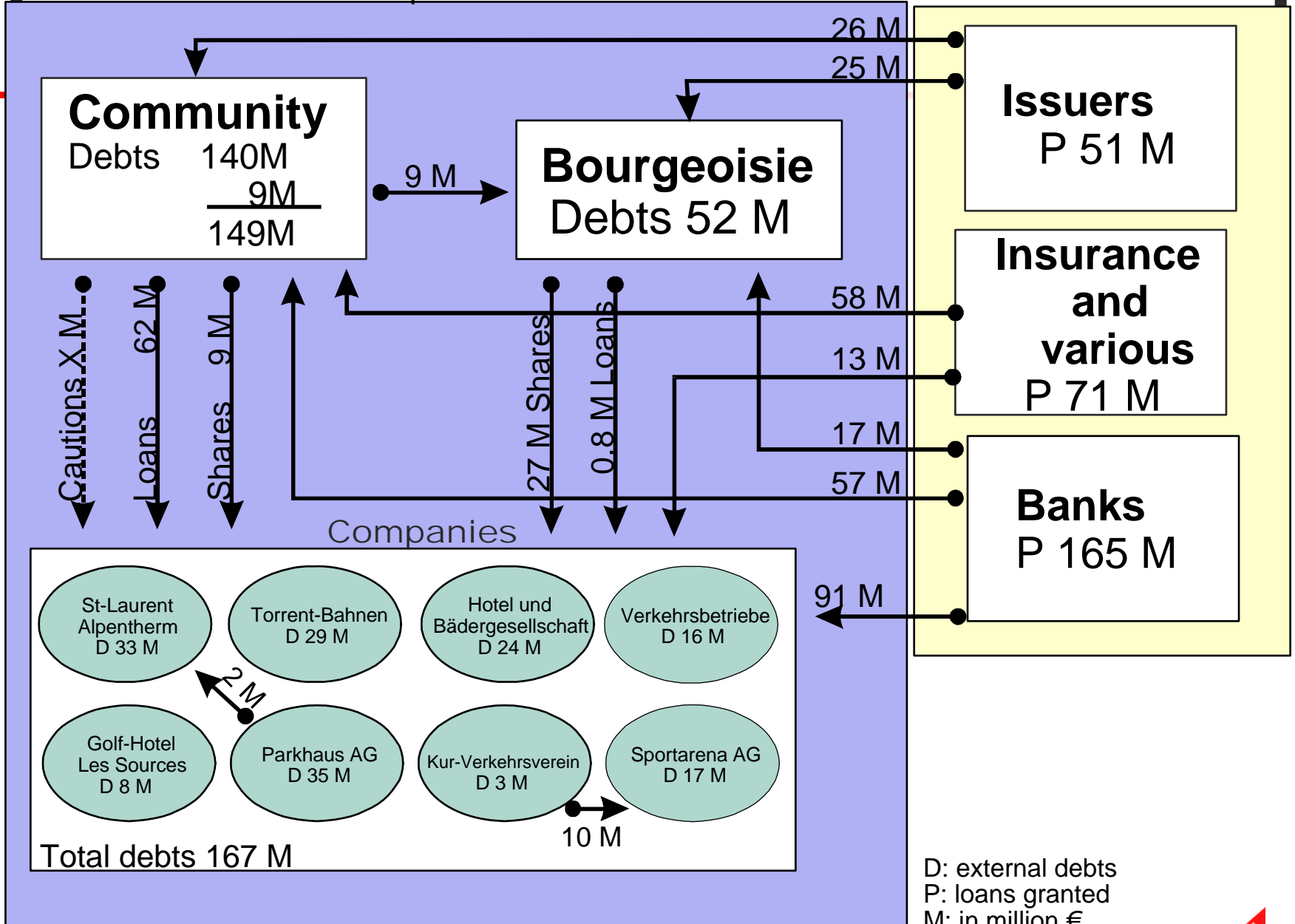
  - Balance sheet of the local community without risk provisions

  - Loans made with third parties / loans granted to companies = **without ratification by the cantonal government**

# The local community of Leukerbad

Balance sheet (in million €)	31/12/1995	31/12/1996	31/12/1997
<b>Financial funds (FF)</b>			
Liquid assets	0,5	0,5	0,4
Accounts receivable	3,8	4,0	4,0
Financial assets	65,0	68,1	81,6
Prepaid expenses	8,3	12,1	16,7
<b>Total FF</b>	<b>77,6</b>	<b>84,7</b>	<b>102,7</b>
<b>Administrative funds (AF)</b>			
Real estate	36,5	37,0	35,8
Other assets	0,0	0,1	0,1
<b>Total AF</b>	<b>36,5</b>	<b>37,1</b>	<b>35,9</b>
<b>Overdraft</b>	<b>4,3</b>	<b>5,4</b>	<b>9,6</b>
<b>TOTAL ASSETS</b>	<b>118,4</b>	<b>127,2</b>	<b>148,2</b>
<b>Debt</b>			
Accounts payable	2,6	5,0	4,0
Medium and longterm debts	114,6	120,6	141,0
Accrued liabilities	1,2	1,6	3,2
<b>Total debts</b>	<b>118,4</b>	<b>127,2</b>	<b>148,2</b>
<b>TOTAL LIABILITIES</b>	<b>118,4</b>	<b>127,2</b>	<b>148,2</b>

# Group Leukerbad



D: external debts  
 P: loans granted  
 M: in million €

# The local community of Leukerbad

## ■ *Intervention of the cantonal state*

- Financial analysis by the Audit Office of the Canton of Valais
- Order issued by the Government of the Canton of Valais whereby the community is placed under compulsory administration
  - The creditors refused the financial restructuring plan developed by the commissioners
- Order issued by the Trial Court of the Canton of Valais whereby the community is placed under the care of a curator
  - 2 solutions : taking-over of debts by the canton or claims waiver by the creditors

# The local community of Leukerbad

## ■ *Liability actions against the Cantonal State of Valais*

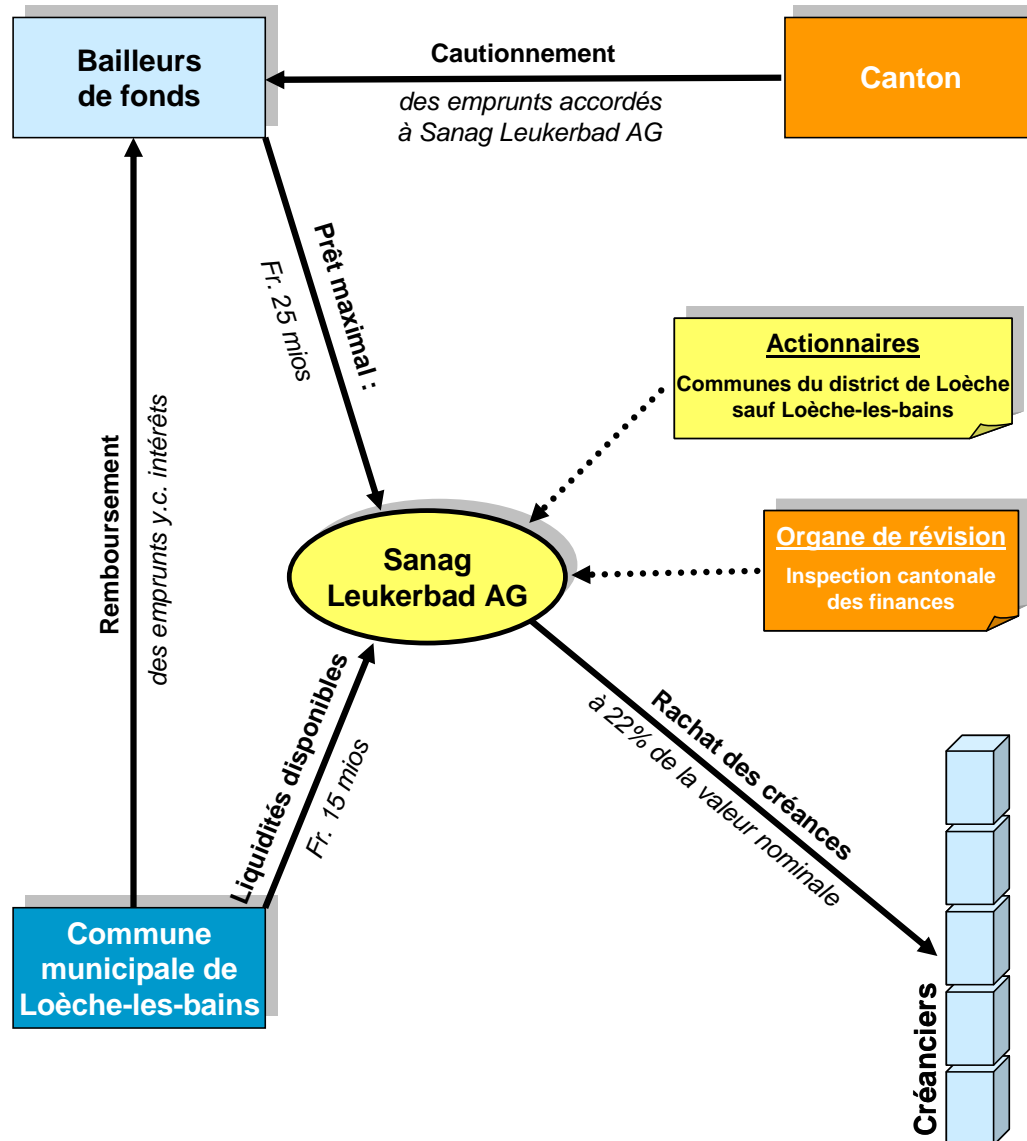
- 4 creditors and the community of Leukerbad lodged complaints with the Federal Court
  - Reason: not having assumed the supervision
- The Federal Court rejected the liability actions
  - The cantonal state is not responsible for the mistakes made by the local authorities and the banks

# The local community of Leukerbad

## ■ *Financial restructuring plan*

- Sustainable debts = 22% (dividend) = € 33.3 million
  - Liquid assets of the local community = € 12.5 million >> the balance is to be financed
  
- Sanag Leukerbad AG
  - Purchase of receivables
  - Public guarantee by the State of Valais in respect of a loan of € 20.8 million
  - The community has to provide an annuity of € 750,000

# The local community of Leukerbad





# The local community of Leukerbad

## ■ *Successful financial restructuring plan*

- Audit Office of the Canton of Valais = auditor of the Sanag Leukerbad AG and assumes also the monitoring of the financial management of the local community
- Creditors abandoned debts for € 147 million
  - Only a debt of € 2 million was not given up due to legal proceedings

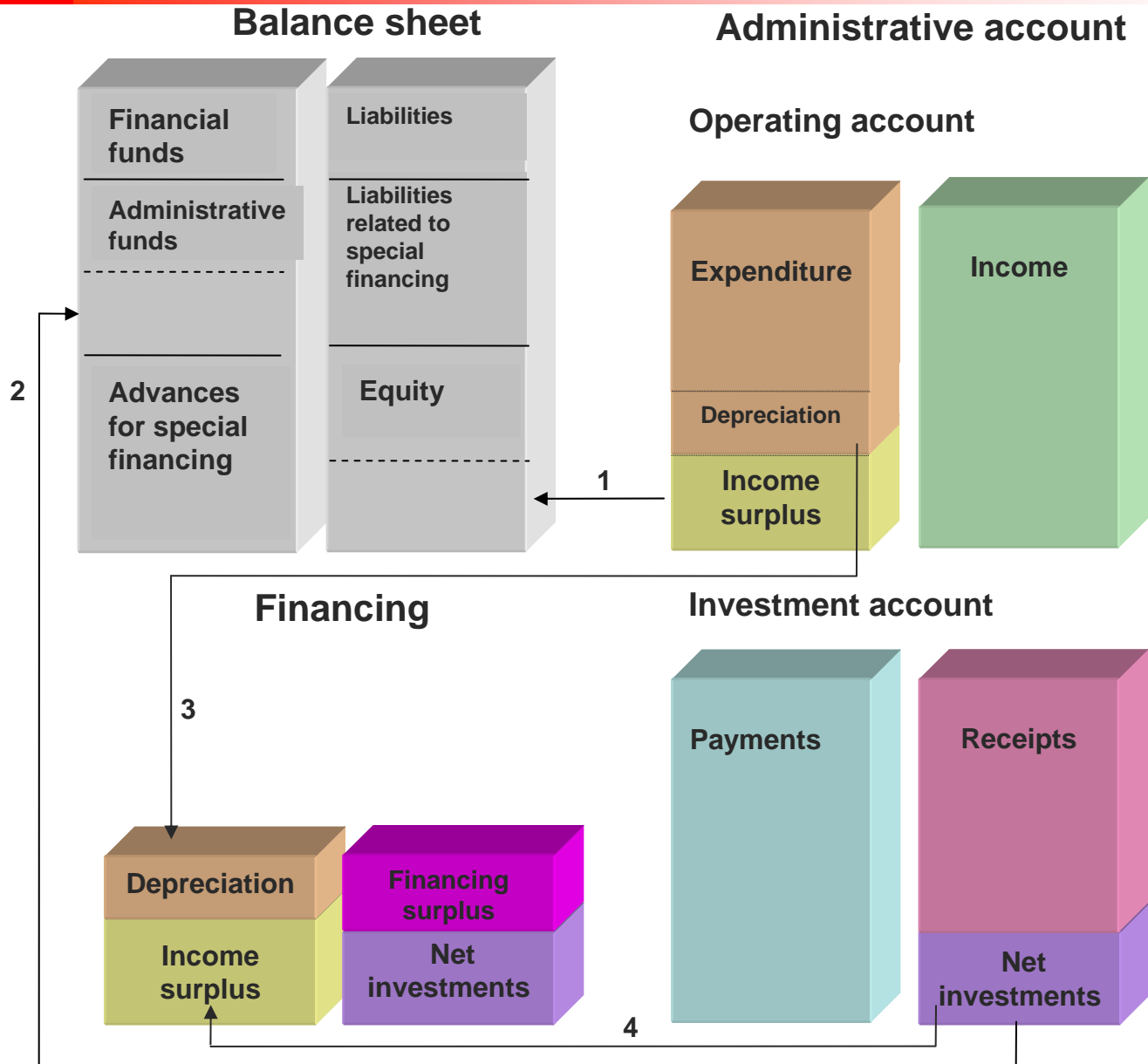
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# New Local Government Act of February 5th, 2004

- ***Strengthening the autonomy of local communities***
  - Clear legislation and higher demands
  
- ***Compulsory harmonized chart of accounts***
  - Operating account / investment account
  - Administrative funds / financial funds
  - Accrual accounting

# New Local Government Act of February 5th, 2004



# New Local Government Act of February 5th, 2004

- ***Valuation of the financial assets***

- According to the commercial principles

- ***Valuation of the administrative assets***

- Depreciation rate 10 %

- ***Budgetary balance of the local community***

- No deficits
- In case of overdraft in the balance sheet a financing plan must be developed

} Debt brake

- Opportunity for the canton to appoint an expert

# New Local Government Act of February 5th, 2004

## ■ *Financial indicators*

- Financial indicators with assessment guidelines are integrated into the annual account submitted to the primary assembly

## ■ *Auditor*

- Professionalization
- Detailed report for the executive of the community
- Brief report for the legislative authority of the community

# New Local Government Act of February 5th, 2004

## ■ *Transparency*

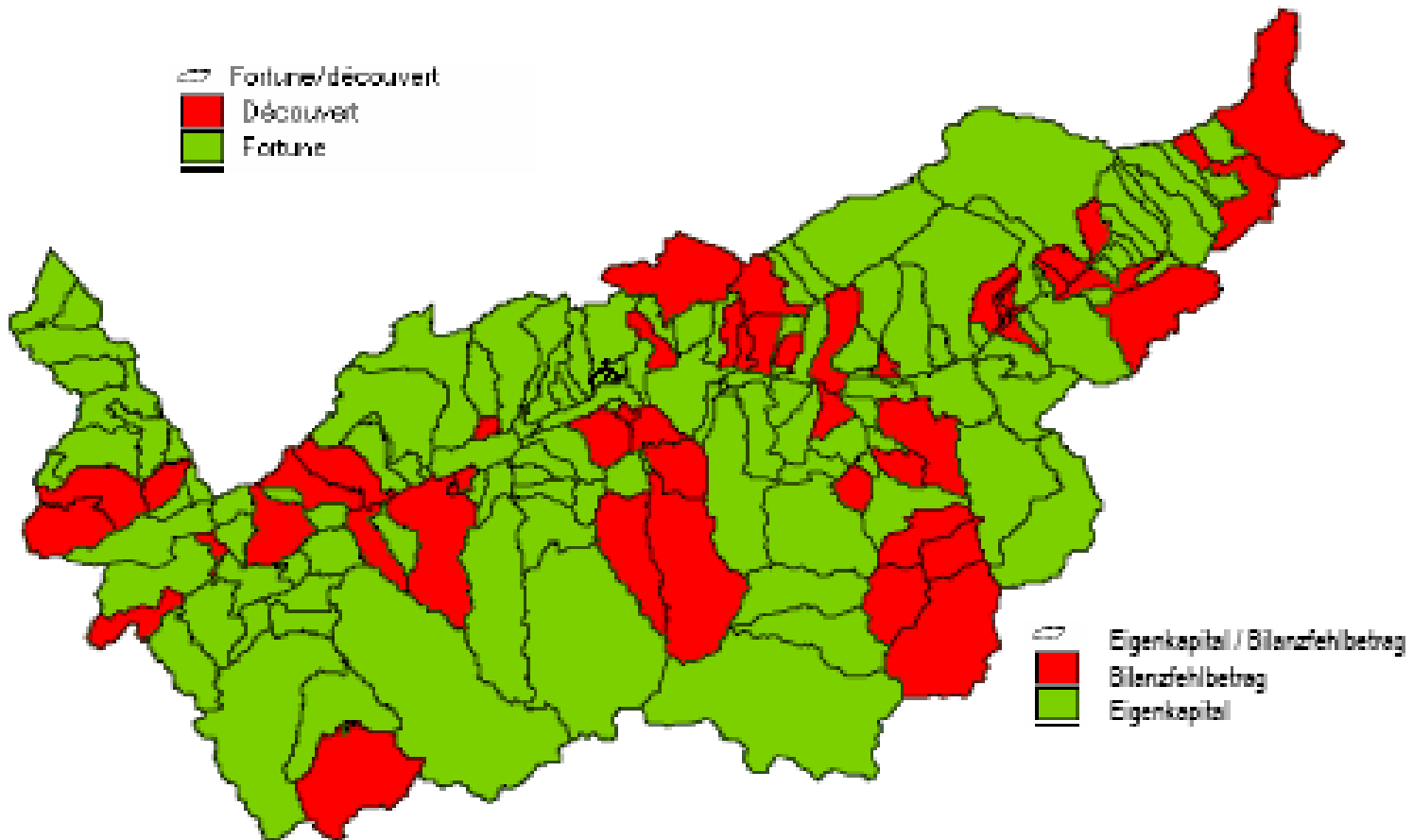
- Renewed interest of the citizen

## ■ *Supervision by the State*

- Financial information is analyzed by checklist by the supervisory authority
- Brief report must be delivered to the supervisory authority
- The Audit Office of the Canton of Valais verifies the implementation of the measures taken by the cantonal authorities

# New Local Government Act of February 5th, 2004

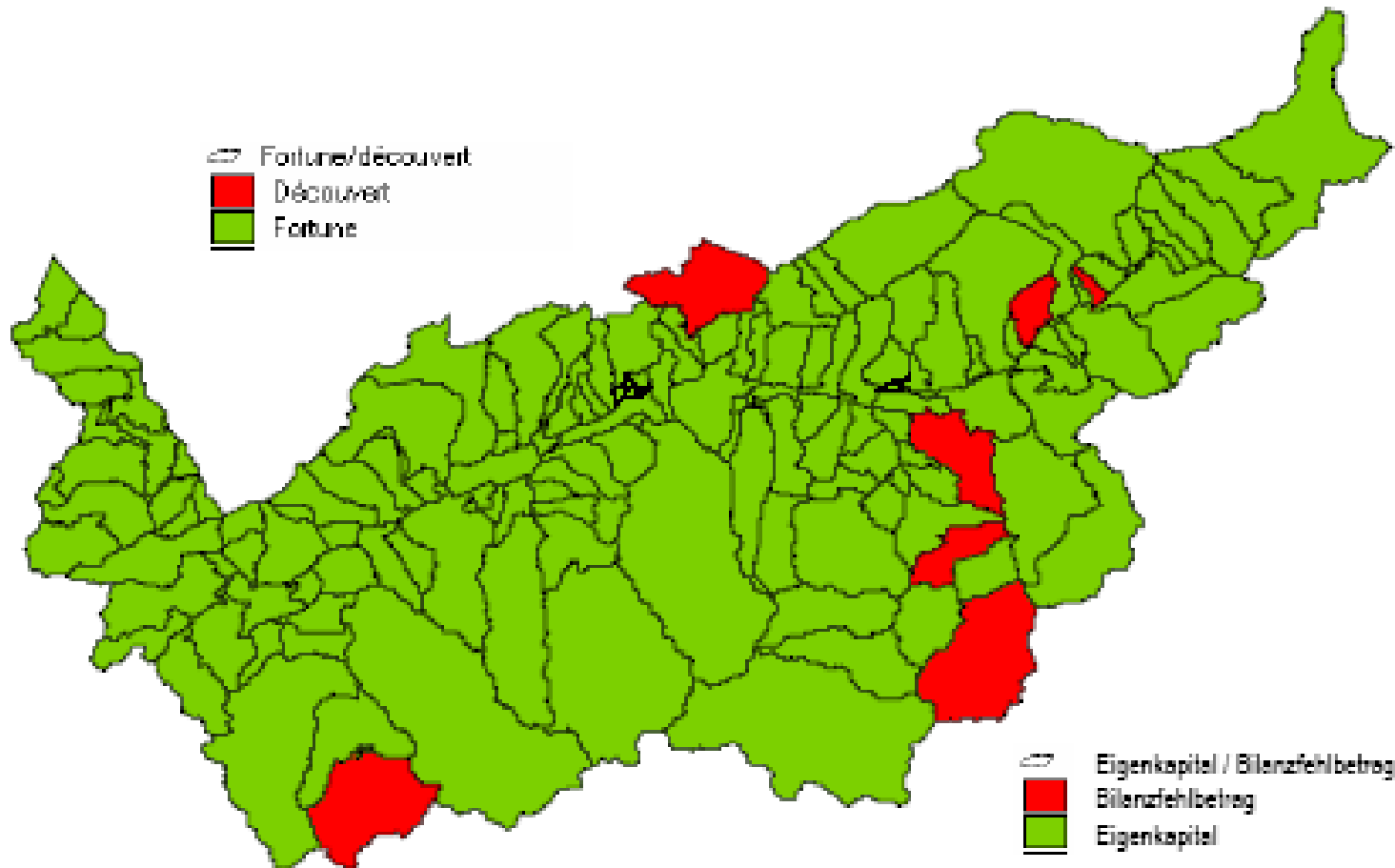
Equity and overdraft 2003





# New Local Government Act of February 5th, 2004

Equity and overdraft 2009



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# Conclusion

The local authorities are responsible

Excellent political solution

since the financial situation of the local communities  
is under control



***Thank you for your attention***