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Tutor: Jakob Gustavsson

Institutions, Veto Players and Policy Change

The Privatization Process of the Telecommunication Sector
in Germany and Switzerland

Johanna Stähle

Abstract

Veto player have come to serve as an explanatory fact in the divergence of policy outcomes. Contemporary research on the subject of policy making argues that policy stability is more likely in political settings with multiple veto players, although it restricts a government's ability to push through reforms.

The ambition of this thesis is to examine the affect political institutions have on the policy making process. More precisely, it aims to evaluate the explanatory power of the veto player theory as provided by Tsebelis (1995).

This thesis reconstructs and discuss the assumptions and predictions of the veto player theory. The method being used is a comparative study. The theory will be tested against the cases of the telecommunication reforms in Germany and Switzerland. In both countries the proposal of a complete privatization of the telecommunication sector been considered, but whereas in Germany (1994), the second post-reform transformed the state monopoly into a private sector Switzerland rejected the same proposal, as late as 2006.

Even though the concept of veto player has a central role in explaining policy outcomes, the findings show that the veto player theory is not alone sufficient alone to explain the different policy outcomes in selected cases. The more general critics against the theory derives from how actors endowed with veto power are conceptualized. To strong assumptions on the actors behavior, might result in overlooking potential veto players.

Abstract

Einspruchsberechtigte Akteure, die so genannten „veto player“, haben eine wichtige Rolle für den Inhalt und das Zustandekommen von Gesetzen. Aktuelle Forschungen rund um das Thema der Gesetzgebung (policy making) zeigen, dass beständige politische Gesetze nur dann erlassen werden, wenn viele einspruchsberechtigte Akteure an der Entscheidung mitgearbeitet haben. Dies wiederum hindert die Regierung dabei, Reformen rasch durchzuführen.

Die Zielsetzung der Master-Arbeit ist es zu untersuchen, wie politische Einrichtungen und Institutionen die Gesetzgebung beeinflussen. Die Arbeit konzentriert sich darauf, die Erklärungskraft der „veto player theory“ von Tsebelis (1995) zu beurteilen.

Die Methode, die verwendet wird, ist eine vergleichende Untersuchung. Die Theorie wird an den Fällen der Telekommunikationsreform in Deutschland und der Schweiz getestet. In beiden Ländern wurde eine komplette Privatisierung des Telekommunikationssektors in Betracht gezogen. Während Deutschland 1994 durch die zweite Postreform die Bundespost in eigenständige Unternehmen aufteilte, lehnte die Schweiz dies bis in Jahr 2006 ab.

Auch wenn das Konzept über die „veto player“ eine zentrale Rolle hat den Gesetzesabschluss zu bewerten, zeigt diese Entdeckung, dass die „veto player theory“ nicht alleine ausreicht, um die politischen Resultate der beiden ausgewählten Fällen zu erklären. Generell lässt sich an der Tsebelis Theorie bemängeln, dass sie dazu neigt wichtige Akteure in der Politik als einspruchsberechtigte zu übergehen.

Key words: Veto players, Institutions, Policy Making, Switzerland, Germany

Table of contents

List of Abbreviations	V
List of Foreign Terms	VII
1 Introduction.....	1
1.1 The Purpose of Study	1
1.1.1 Relevance	2
1.2 Plan of Study	2
2 Method	4
2.1 Comparative Approach	4
2.1.1 Case Selection	5
2.1.2 Most Similar Case Design.....	5
2.2 Material	5
3 Literature Review	6
3.1 The Veto Player Concept	6
4 The Veto Player Theory	8
4.1 Fundamental Components.....	8
4.2 The Veto Player.....	9
4.3 The Dependent Variable.....	10
4.4 The Independent Variable	10
4.4.1 The Numbers of Veto Players	11
4.4.2 Ideological Distance	11
4.4.3 Cohesion.....	12
4.5 Agenda Setting and Referendum.....	12
5 Criticisms of the Veto Player Theory.....	14
6 The Privatization Process of Telecommunications	16
6.1 Germany	16
6.1.1 EC Policy and Directive.....	18
6.2 Switzerland.....	18
7 Institutional Structure.....	20
7.1 Similarities and Differences	20
7.1.1 General Veto Player Structure in Germany.....	21

7.1.2	General Veto Player Structure in Switzerland	23
8	Comparative Analyze	25
8.1.1	The Privatization of Deutsche Telekom.....	25
8.1.2	The Privatization of Swisscom.....	26
8.2	Comparison	28
8.3	Findings	28
9	Conclusion	31
10	References.....	32
11	Appendix.....	35

List of Abbreviations

BV	Federal Constitution of the Swiss Confederation (Bundesverfassung der Schweizerischen Eidgenossenschaft)
CDU	Christian Democratic Union (Germany) (Christlich- Demokratische Union)
CSU	Christian Social Union of Bavaria (Christlich Soziale Union in Bayern)
CVP	Christian Democrats (Switzerland) (Christlich-Demokratische Volkspartei)
DBP	German Federal Post Office (Deutsche Bundespost)
DPG	German Postal Union (Deutsche Postgewerkschaft)
EEA	European Economic Agreement
EFTA	European Free Trade Association
EU	European Union
FDP	Free Democratic Party Germany (Freie Demokratische Partei)
FDP	Free Democratic Party Switzerland (Freisinnig Demokratische Partei)
GATT	General Agreement on Tariffs and Trade
GG	The Basic Law for the Federal Republic of Germany (Grundgesetz für die Bundesrepublik Deutschland)
OFCOM	Office of Communication
PDS	The Left Party (Die Linkspartei)

PTT	Post Telephone and Telegraph
RegTP	Regulatory Authority for Telecommunications and Posts (Regulierungsbehörde für Telekommunikation und Post)
SP	Social Democratic Party of Switzerland (Sozialdemokratische Partei der Schweiz)
SPD	Social Democratic Party of Germany (Sozialdemokratische Partei Deutschland's)
SVP	Swiss People's Party (Schweizerische Volkspartei)
WTO	World Trade Organization

List of Foreign Terms

Bundesländer

The Federal States of Germany

Bundespräsident

The Federal President

Bundesverfassung der Schweizerischen Eidgenossenschaft (BV)

The Federal Constitution of the Swiss Confederation

Bundesversammlung

The Swiss Federal Parliament

Deutscher Bundesrat

The German Federal Council

Deutsche Bundesregierung

The Federal Government

Einspruchsgetzetz

Non-Mandatory Law

Grundgesetz für die Bundesrepublik Deutschland (GG)

The Basic Law for the Federal Republic of Germany

Konkordanzdemokratie

Consensus Democracy

Nationalrat

The National Council

Schweizer Bundesrat

The Swiss Federal Government

Ständerat

The States of Council

Zustimmungsgesetz

Mandatory Law

1 Introduction

Contemporary research underlines the importance of veto players in order to explain policy outcomes (Ganghof & Bräuniger 2006, Andrews & Montinola 2006, Busemeyer 2005, Keefer & Stasavage 2003 etc). Political power can be more or less concentrated in the hands of the executive. The constitutional rules differ across countries and determine the degree of influence given to interest groups and opposition parties. Policy change is argued to be less likely in countries where numerous veto players are operating, put differently, in more fragmented political systems. On the opposite, in countries with a low number of veto players, policy changes are more likely to occur, since theoretically spoken, they have a wider range of policy options to choose between.

The veto player theory provided by Tsebelis (1995) is considered to be the most elaborate and prominent of the approaches within the research field of veto players. Similar to other approaches on the subject, Tsebelis argue that the capability of political actors to push through reforms is determined by the institutional structures, as these structures create obstacles toward a move from the status quo. Tsebelis take this argument even further, claiming that differences between political systems are to be found in various structures of veto players, this making the veto player an independent variable in his theory. This theoretical argument opposes the traditional distinctions in the literature, the one between non-democratic and democratic regimes, or the one between parliamentary and presidential regimes.

The telecommunication sector in Germany and Switzerland has like numerous of countries worldwide, undergone liberalization reforms. The last move from a national monopoly to privatization has been considered in both countries, but with different results. Whilst Germany took the last step and opened up the borders for international competition in 1996, Switzerland turned down the governmental proposition as late as 2006. This thesis seek to test the explanatory power of veto player as an independent variable to policy stability, taking the case of the privatization process of telecommunications in Germany and Switzerland, as an example.

1.1 The Purpose of Study

The purpose of the thesis is to examine the veto player theory in order to interrogate the reality of its predictions and the degree to which it can explain the divergent policy outcome of the privatization of the telecom sector in Germany

and Switzerland. It should be noted that this study focuses explicitly on the theory as provided by Tsebelis (1995, 2002). Tsebelis illustrate the potential for a move from the status quo as a function of veto players and their characteristics. The primary insight of this theory is that; *an increase of veto players and their ideological distances will reduce their ability to make significant policy changes*. It poses two questions, one more theoretical, and one specifically connected to the cases in point;

- How accurate is Tsebelis veto player theory in explaining and predicting policy outcomes?
- To what extent can the veto player theory explain the different outcomes of the telecommunication reform in Germany and Switzerland?

1.1.1 Relevance

The concept of veto players has come to gain importance with scholars looking to explain divergence in policy outcome, thus it is of relevance to further explore under what circumstances they operate and how it may affect the policy outcomes. This thesis aims to contribute with some further understanding how institutions affect the policy making process. Since Tsebelis first published his theory in 1995, veto players have been widely explored in correlation to policy outcomes.

1.2 Plan of Study

The following study is structured into six chapters. Chapter 2 discusses the methodological concerns and outlines the method and material being used. The third chapter briefly reviews the existing literature on veto players, but also outlines differences within this field of research. Chapter 4 introduces the veto player theory as developed by Tsebelis, its assumptions are explained and reconstructed. Critics against the veto player theory will be reviewed in chapter 5. Chapter 6 gives an overview on the developments in the policy area of the telecommunications reforms in Germany and Switzerland. Chapter 7 outlines the institutional structures in Germany and Switzerland, and sketches out the differences, as well as similarities, their institutional structure reveal. It also discuss and outlines the ‘general’ structure of veto players in studied countries.

The analysis begins with a closer look into the veto player structure during the time for the telecommunication reform. The following section compares the policy outcomes in the two countries. The chapter ends with a comparison and evaluation of the utility of the veto player theory to these cases, and also gives a

discussion of the theory in more general terms. The final chapter consists of a summarization of both theoretical arguments and empirical findings.

2 Method

2.1 Comparative Approach

This study is in hypothesis-testing character, and seeks to examine the hypothesis generated by the veto player theory. It has therefore adopted a comparative approach to the subject. Lijphart describe the comparative approach as a "method of discovering empirical relations among variables" (Lijphart 1971: 683). Lijphart's line of thinking will be followed, looking at outcomes and comparing the constraints that the governments faced in the form of actors endowed with power to block legislation, in transferring the national monopoly into a private enterprise. The comparison provides a structured analyze of Germany and Switzerland, with focus on the institutional structure. The comparison of only two cases, allows for a deeper investigations into the similarities and differences observed (Landman 2003: 29). Its been argued that the qualitative comparative method, does not allow the testing of all relevant variables, usually referred to as the small N problem. Due to the nature of this thesis, this problem become less relevant as the intention is *not* to examine all possible explanations to the policy outcome, as rather test the given variables provided by the propositions. As put forward by Ebbinghause; "a small-N study can be useful when the cases are well selected to test a given theory, any disconfirming case can help to eliminate hypotheses (Ebbinghause 2005: 142).

2.1.1 Case Selection

The hypothesis will be empirically tested on the telecommunication sector in Germany and Switzerland. The primary motive for the selection is to be found in the dependent variable, the policy outcome. The telecommunication sector has in both countries undergone liberalizations reforms, the legislative proposal on a complete privatization been considered, but with various outcome. Germany privatized the telecommunication market in 1994, but Switzerland rejected and has to this date a governmental monopoly. The various policy outcomes of these two countries provide a good opportunity for testing the theory.

2.1.2 Most Similar Case Design

Germany and Switzerland share a host of common features in their political structure, as both countries are democratic and federally organized, and both countries have a second chamber obliged with veto power. However, they do differ in some ways, as the instrument of direct democracy is significant for Switzerland, in Germany it is classified as a representative democracy (a deeper outline of their differences and similarities is to be found under section 7.1).

2.2 Material

The study been conducted through both secondary and primary sources. The information provided in the thesis is based on freely available material, such as laws, press articles, reports etc. Primary sources have mainly been used in order to create the undertakings in the privatization process. The secondary material covers academics literature, both articles and books on the subject.

The theoretical framework is build upon G. Tsebelis theory on veto players. The reason for the choice of Tsebelis theory originates from his detailed and extensive works on veto players. Since the introduction of the theory, it has many times been updated and expanded. The theoretical framework presented in this thesis is primarily based on the first (1995) and last contributions (2002), as they provide a detailed examination of the foundations of the theory. Other works on veto player will be used to clarify the line of thinking.

The reliability of the sources has been tested in accordance with four classical principles for testing the validity of the sources, independence, tendency synchronizing, and originality (Esiasson et.al 2004: 304).

3 Literature Review

3.1 The Veto Player Concept

As pointed out in the introduction, veto player approaches have come to play a central role in explaining the divergence in public policy outcomes. The usage of veto players is an increasing body of academic literature. Studies on the subject reveal a variation of approaches and are tested on a considerable range of policy areas. This section of the thesis will give a brief review of the main literature on veto players, as well as an outline of a few key differences within this research field. Research on the topic can especially be found within the field of political science and political economy, but as also for instance in the study of Europeanization.¹

The research on veto players deal with how institutions influence and shape policy outcomes (Weaver and Rockman 1993; Immergut 1992; Bonoli 2001; Tsebelis; 1995, 2002). Even though the idea of veto players can be traced long back, the first structured comparative study on the role of institutional veto power is Immergut's study of health politics (1992).²

The basic argument of veto player is straightforward, an individual or a collective player who has the power to block, will put their veto in order to forward their interest. The logic to follow is that a country with numerous veto players responds slower to change and changes are only expected to be incremental. The concept of veto players is built upon the assumption of actors having a rational behavior and their preferences being assumed (Ganghof 2003: 10).

Besides the shared features of the research on veto player, the literature also renders differences. These include the conceptualization of the political actors as decision makers, and reflect the core assumptions scholars make on political systems. Some scholar argues that the conception of veto players should be distinct, while other disagree and claim the opposite. Birchfield and Crepaz

¹ With awareness of the multi-faceted nature surrounding 'Europeanization', this thesis refers to studies, using veto points as an explanatory fact to divergent adoption patterns of EU policies on a domestic level (See, for an example; Risse, Green-Cowles and Caporaso (2001) or Haverland in Featherstone and Radaelli (2003).

² The idea of veto player can be dated back to the work of Madison, in *The Federalist Papers* (1961). Madison argued that the governmental institutions should be arranged in a way, that the could 'check' on each other (Andrews & Montinola 2006: 56).

(1998) introduced the distinction between ‘collective’ and ‘competitive’ veto players, based on the assumption that all veto points are not ‘created equal’ and have various capacity to throw veto. This stand in contrast to, for example Tsebelis, who argue that the “the logic of decision making in presidential systems is quite similar to the logic of decision making in multi-party parliamentary systems.” and consequently should be treated equal (Tsebelis 1995: 292).

Further a distinction within this field of research is to be found in the way the actor’s preferences are assumed. Tsebelis (2002) circumscribes the preferences of the actors as pure policy seeking, while Bräuniger & Gangohf (2006) include such factors as vote and office seeking in the strategy of the veto player. Immergut (1992) presumes the preferences of the actors as not being determined and limited by the institutions, instead the institutions only affect the opportunities to achieve their goals, “The actors asses their goals, interests, and desires independently from the institutions” (Immergut 1992: 231).

The literature on veto players cover a range of various policy areas, health policy (Immergut, 1992), economic reforms (Zolnhölfer, 2003), pension rates (Bonoli, 2000) and the ‘rule of law’, which investigate the relationship between veto player and bribes in emergence democracies (Andrews & Montinola, 2006). The link between welfare reforms and veto player has been studied to a great extent. In contrast to other scholars on the subject, Tsebelis intention is to put forward a ‘coherent theory’. To quote Tsebelis himself on this point “to compare between systems and to put an end to the proliferation of parallel debates that occurs when political scientist compare political systems along a single dimension” (Tsebelis 2000: 441). The veto player theory challenges some traditional distinctions like presidential and parliamentarism used in comparative politics. To understand differences regarding to a political system the theory instead focus on the process of legalisation. The following sections provides an outline of the theory developed by Tsebelis.

4 The Veto Player Theory

The ambition of Tsebelis theory is to explain the capacity of political institutions to produce policy change. The theory provides a unifying framework, allowing for comparison among different political systems. The veto player theory focuses on legislative politics, and how lawmaking decisions are made. Tsebelis framework is built upon a Rational Choice Institutionalism.

4.1 Fundamental Components

This section of the chapter will highlight the fundamental components and define the key concepts of the veto player theory. The focus of the theory is to explain policy change or policy stability.³ The basic assumption is that when many political actors with significant ideological distance and a distinctive internal cohesiveness are to be found, policy change is less likely. Like the name indicates, the primary component of the theory is the veto player. In order to change a policy, a certain amount of actors have to agree on the proposed change, Tsebelis calls these actors veto players and defines them as follows;

Veto players are individual or collective actors whose agreements are (by majority rule for collective actors) is required for a change of status quo (Tsebelis 1995: 289).

Regardless to regime, legislature type and party system, all political institutions, can on the basis of the rules be formed as a framework of veto players (Tsebelis 2000: 441).⁴ In order to ‘measure’ the capacity of a system to produce policy change, Tsebelis submit to the ‘winset of status quo’ (see, figure 1). The winset of status quo is defined as “the set of policies that can replace the existing on” (Tsebelis 2002: 21). The size of winset correlates with the potential of change for a political system. To portray the preference pattern of the actors, Tsebelis use indifference curves (see, figure 1). The indifference curves are built upon the assumption that each legislator in the decision making process has a most preferred policy (the so-called ideal point) and no player would accept any

³ Policy stability is defined as the absence of change of the status quo, and policy change refer to a significant change of the status quo.

⁴ All political system can be analyzed, presidential or parliamentary, party system (one-, or two or multiparty) and type of parliament (unicameral or multicameral).

other outcome that he or she does not prefer over the status quo (Tsebelis 2002: 20).⁵ Another, central concept is the core. It refers to the set of points with empty winset policies that cannot be defeated as one applies decision making rules.

Tsebelis draws heavily on game theory in his theoretical framework. In similarity with other veto player approaches, a conception of veto players as *intentional* actors is made. The actors are rational and their preferences are fixed. (Ganghof 2003: 2-3, Tsebelis 2002: 9). Figure 1 below gives a graphic presentation of the theory, as it recaps the fundamental concept of the veto player theory.

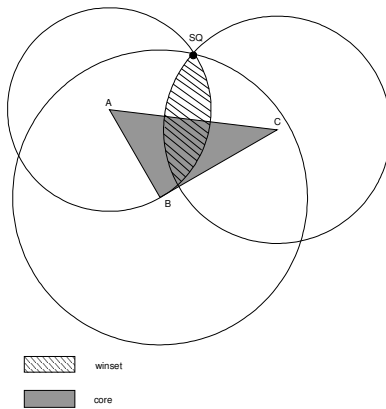


Figure 1, source: Based on Tsebelis (2002)

The figure illustrates the winset and core of three veto players. The points, A, B and C represent the veto players. The location of status quo (SQ) shows where the current policy lies. Around each point is a circular indifference curve drawn. The indifference curve shows that player A will prefer anything inside the circle to SQ and that the player is indifferent to points (policies) that are on equal distance from its ideal point (most preferred policy). The intersection of the three curves identifies the winset of policies that can defeat the SQ. The shaded triangle shows the core of the three players.

4.2 The Veto Player

As mentioned in the previous section, the focus of the theory is on the veto player. Tsebelis distinguishes between three different types of veto player, who are to be found within a political system. The first category are specified and required by the constitution, and therefore given the name, institutional veto players. The institutional veto player is either individual (for an example the president in a presidential system) or collective actors (could be the two chambers in a bicameral legalization) (Tsebelis 2002: 19-20). Tsebelis claim that collective players act under the same rule as individual veto players. The second type of veto player is identified as partisan veto players (parties) and includes all the parties within a governmental coalition. The partisan veto player differ from the institutional actor in one particular aspect, the partisan player is neither sufficient

⁵ Tsebelis consider the actors having Euclidean preferences, which assume that a player, among any two points will prefer the one closest to their ideal point and being indifferent for points that are on a equal distance from their ideal point.

nor necessary for policy change (Tsebelis 1995: 302). Tsebelis assume that the member of a government coalition must approve governmental proportions before legislative initiatives can be adopted, and make the coalition participants veto players. The third group is an additional group of potential veto players, who can be found in specific contexts. Such additional veto players could for example be powerful interest groups or even the military in some cases (ibid 305-306).

4.3 The Dependent Variable

The independent variable for the theory is policy stability. It refers to the difficulty of a system to produce significant change in the status quo. In order to change a policy, status quo has to be defeated. Winset of status quo is used as a proxy for stability, and is composed of all policies that are preferred and can defeat the status quo (Tsebelis 1995: 295). The size of winset indicates the potential for policy change. The likelihood for a policy change increases with an increased size of winset and in reverse, decreases as winset shrinks. A bigger unanimity core produces a large set of points (policies) that cannot be defeated (Tsebelis 2002: 21). If the winset of status quo is empty, there is no possibility for a move of status quo. A set of factors has an impact on the size of winset, these will be outlined in following section.

4.4 The Independent Variable

Tsebelis argue that policy stability depends on three specific characteristics of the veto players, their numbers, congruence and cohesion. These three characteristics compose the independent variables of the theory (Tsebelis 2002: 21). Congruence refers to the difference in ideological positions and cohesion reflect the similarity of policy positions of the units of each veto player (internal cohesion) (Tsebelis 1995: 301). In order to analyze the capability of political systems to produce policy change, it is necessary to consider all three dimensions in the analysis.

Tsebelis put forward three propositions to explain the relationship between the independent variables and the policy outcome. The *first* asserts that, as the number of veto players increases, the probability of policy change does not increase. That means, adding another veto player will never increase the possibility of changing the status quo, but it does not necessary entail that the possibility for such a change declines (explained in 4.4.1 absorption rule) (ibid: 297). The *second* hypothesis states, as the distance among the players increases, the possibility of policy change does not increase (2002: 16). The *third* hypothesis refers to the cohesion within the players and declares, as the size of the 'yolk' of a collective player required for a agreement increases, the area that

includes the winset of the status quo increases, or policy stability decreases (1995: 301). The three hypotheses are explained in more depth in the sections to follow.

4.4.1 The Numbers of Veto Players

Though a veto player is anyone whose agreement is necessary for changing the status quo, the identification of the actual amount of veto players is of essential meaning for the analysis. As pointed out before, three different type of veto player are identified. Institutional actor only counts if the constitution demands it. That means that a country which has formally a bicameral legislation, but where one of the chambers ultimately can overrule the decision of the other, will be counted as one modified veto player.

The partisan veto player includes all the members in a coalition. This results in that the same parliamentary system can have different amount of veto players with respect to the governmental composition (Tsebelis 1995: 305).

Tsebelis makes the assumption that partisan veto player are distinct from each other and all parties should therefore be counted as a different veto players (2002: 21).⁶ This also includes cases of ‘oversized’ coalitions and minority governments. Where partisan players shall be counted as distinct, the institutional players may be absorbed (Tsebelis *ibid*: 311). The addition of another player does not necessarily mean that policy stability increase. This is explained by the absorption rule, *if a new player is added within the unanimity core of any set of previously existing veto players, this player is absorbed and has no effect on policy stability* (Tsebelis 2002: 28). Taking the U.S. as a case in point, three institutional veto players are identified, consisting of the President, the Senate and the House. If the same party controlled all three institutions, applying the absorption rule, the number goes down to one veto player. The third potential group of veto players can be found in various contexts. Example of a potential player could be cases were policymaking is delegated; monetary policies are in several cases handed over to a central bank. It could also include strong interest groups in corporatist countries. A constitutionally request of supermajorities and referendum are also equal for adding another veto player. Important is to notify that the number of veto players can vary with time and issue, and each case has to be carefully considered (Tsebelis 1995: 308).

4.4.2 Ideological Distance

The second variable that has an impact on the winset of the status quo is the ideological distances between the veto players. Built upon the assumption that the

⁶ Tsebelis underline that cases where two parties have the same policy position is rare, therefore is the assumption being made.

policy distance among the veto players expands along the same line, the likelihood of stability and status quo increase. Consequently, thus as, the number of veto players and the policy distance between them increases the possibility of policy change decrease (Tsebelis 2002: 30-32).

4.4.3 Cohesion

The third independent variable of the theory is cohesion. Cohesion refers to the differences in policy positions *within* a veto player, *before* a discussion takes place.⁷ The size of the ‘yolk’ depends on how cohesive a party is. The cohesion is described in terms of the yolk; a cohesive player has a small yolk. To put in other words, policy stability increase along with cohesion (Tsebelis 2002: 48).⁸ Cohesion can be found within a party with small ideological differences, a single veto player has the highest cohesion. Tsebelis recognize three factors to influence the cohesion. The first aspect to consider is the amount of veto players; an increasing amount of veto players tends to increase the cohesion. As individuals participating in a collective player and do not have identical policy preferences, more solutions become possible (Tsebelis 1999: 93).

The electoral system may have an effect on the cohesion, thus, proportional electoral systems give the leadership the possibility to control the nominations, and thereby have control over on the party discipline. On the opposing side, a plurality system with a wide coalition may decrease the cohesion. The third factor that could have an impact on the cohesion is the party system. A parliamentary system compared to a presidential is more cohesive, and as a result voting against the own government can result in bringing the regime down (Tsebelis 1995: 313).⁹

4.5 Agenda Setting and Referendum

Except for the three ‘key’ variables, Tsebelis identify further factors that may influence the policy making process and its outcome. One issue to consider is who sets the agenda. The general rule is that the veto player who sets the agenda has an advantage, though he or she can consider the winset of the others and

⁷ Cohesion is not be confused with party discipline, the party discipline refers to the ability of a party to control the votes of its member inside the parliament, while cohesion refers to preferences (Tsebelis 1995:311-312).

⁸ Social Choice Theory has demonstrated that within every collective actor, there is a centrally located sphere, called the ‘yolk’. The size of the yolk is usually very small and on the average it decreases with the number of individual voters with distinct positions. This finding allows replacing the individual players with collective actors. For a deeper discussion on the concept, see Miller *et al.*, (1989) or Ferejohn *et al.*, (1984).

⁹ For a deeper discussion on cohesion, see for an example; John E.Owens (2003).

select preferred outcome (Tsebelis 2002: 34). Two aspects are of significance for the importance of the agenda setter, the role of the agenda setter is reduced as the size of winset shrinks and the role of the agenda setter increases as the more centrally located the setter is (Tsebelis 2002: 37).¹⁰ Subsequently, knowing the preferences of the agenda setter can bring useful information about the outcome.

Referendum introduces the preferences of the population in the policy making process and is equivalent to the introduction of another veto player (Hug & Tsebelis 2002: 466). The most interesting part of referendum is the agenda control. If both parts (who asks the question and who “triggers” the referendum) are controlled by the same actor, the referendum process eliminates all the other players. If different groups can become agenda setters (popular initiative), the legislative outcome will depend on how competitive the selection process is. The mere possibility of a referendum shifts the outcome closer to the median voter. If the median voter would prefer the status quo to the legal proposal it would instantly be defeated by a referendum (Hug & Tsebelis 2002: 493).

¹⁰ Tsebelis argues that parliamentary systems gives most of the legislative power to the government, while presidential systems gives agenda control to the parliament (Tsebelis 2000: 456).

5 Criticisms of the Veto Player Theory

This section will review some of the critiques against the veto player theory. The critiques shed light on the more fundamental assumptions Tsebelis constructs his theory on. The first criticism to be assessed derives from how Tsebelis circumscribe the preferences of the actors. Critics throw doubts on the assumption of actors as purely policy seeking, it has been argued that the way Tsebelis specifies the preferences of the actors, ignore other possible influences, such as vote and office seeking (Jochem 2003, Ganghof 2003, Busemeyer 2005). As put forward by Ganghof, “policies are means rather than ends”, and in so doing, underlines the importance of the competition for votes and offices in the political game (Ganghof 2003: 10). Furthermore, Ganghof clearly argues, that preferences built on strong assumptions, also creates problems with the measurement, and denote that a corroboration of theory not is possible. The author underline the necessity of preferences being measured in an adequately manner in order to test the theory empirically (Ganghof 2003: 13). The second problem relates to the measurement of preferences, is the identification of relevant actors. Too strong assumptions may result in overlooking relevant actors. Ignoring other dimensions in the measurement of preferences can question to which extent some actors are absorbed or not.

Critics oppose the treatment of veto players as being equivalent, and mean that the actors have to be distinguished. Crepaz & Birchfield claim that veto points cannot be treated the same way, based on the assumption that veto points are created in a different ways. The veto points are not only different with regard to institutions, but they also lead to different policy outcomes. The authors make the distinction between ‘competitive’ and ‘collective’ points. Competitive veto points derive from systems, such as presidential systems, and strong bicameralism. Institutions with mutual veto power characterize these systems and where actors operate in separate institutions. With respect to the mutual power to veto, they have a strong capacity to restrain government. In reverse, the collective veto points are to be found in systems where the actors function in the same institutions, and where the members interact with each other, the force to create responsive policies is greater. As an example of such a system could be parliamentary regimes and proportional electoral systems (Crepaz & Birchfield 1998: 181-182).

In similarity with Crepaz &, Birchfield, Strom (2000) argues that treating institutional and partisan actors in an equivalent way is misleading, since parties and institutions are interdependent. According to Strom, a veto player must have both the opportunity and the motive to throw its veto. A partisan player may have the motive but not the opportunity, while an institutional player has the opportunity but not necessarily the motive, Strom exemplify this point, by taking

a surplus party in an oversized coalition, which can be bypassed, and as a result, that party's vote is not necessary in the voting process (Strom 2000: 179-180).

6 The Privatization Process of Telecommunications

The telecommunications sector was long considered to be a natural monopoly, but the last thirty years has seen a shift worldwide. National monopoly and heavily regulated provision of the telecommunications sector has been transformed to a more competitive environment consisting of a number of telecommunication service providers (Katz 1997: 9). The United Kingdom shortly followed in the direction of U.S in deregulating its market.¹¹ The discussion of the national monopoly on telecommunications in Europe arose in the late 1970's. Europe's lack of competitiveness against industries like in Japan and the U. S, simultaneous with progress in technology expressed the need of a policy reform (Dang-Nguyen & Schneider 1993: 15, Hulsink 1999:).¹² This section provides an overview of the deregulation and liberalization process in the context of telecommunications in Germany and Switzerland.¹³

6.1 Germany

The last two decades of telecommunication reform in Germany has been characterized by increasing liberalization, that in 1996 led to the privatization of Deutsche Telekom. Similar to other West European countries, the telecommunication industry in Germany was for a long time assigned to the public sector, the PTT, responsible for post, telegraph and postal services (Vogelsang 2002: 6, Hulsink 1999: 5).

A reform of the German telecommunications can be traced back to the early 1960's. A commission was set up by the Federal government, in order to provide the government with advice on how to make the German Bundespost (DBP) more effective.¹⁴ The commission suggested that the DBP should be more

¹¹ In 1984, was the telecommunication in United Kingdom the first major public corporation to be privatized (Ferner & Terry in Katz 1997: 89).

¹² Until the 1970's, telecommunication basically meant ordinary telephone services, the digitalization of transmission and switching technology made the introduction of many new services possible (Keller: 2003: 9)

¹³ The terms deregulation, liberalization, and privatizations are closely connected, and needs to be defined. This thesis draws upon Vogelsang definitions, deregulations is defined by the degree of state supervision, liberalization refers to openness to, and the amount of competition, while privatization is defined by the degree of state ownership (Vogelsang 2002: 2).

independent, but only minor changes were implemented (Vogelsang 2002: 4). During the 1970's, further attempts to liberalize the telecom market were made, but still no major changes were made in the legal area. In the end of the 1970's criticism was directed against DBP's monopoly. The computer industry, led by IBM criticized DBP's monopoly. The computer industry had technology co-developed in the direction of the telecommunications, but was still excluded from the existing institutional structure (Smith 1991: 212). 1981, the criticism was followed by an evaluating of the DBP, carried out by the Monopoly Commission. The commission concluded that all telecommunication should be opened for competition, and only networks should remain as a monopoly. Again just modest adjustments were introduced (Vogelsang 2002: 5). The German development of the telecommunication sector has been characterized of consultation with different interest groups. The postal union Deutsche Postgewerkschaft (DPG), and equipment manufactures were well represented in the policy making process, partly through the role of the Postal Administration Council (Postverwaltungsrat). Policy initiatives and important administrative decisions consequently became the result of informal negotiations between the minister of Post and Telecommunications, the DPG and the principal equipment suppliers (Darbishire 1997:191-192, Smith 1991:214).

The transition from a public monopoly to privatization can be explained in three major steps, the so-called post-reforms. The first post-reform entailed three major modifications of the telecommunication sector. In line with the recommendations of the EC's Green Paper (see section 6.1.1) liberalization of terminal equipment and value added services was launched.¹⁵ Furthermore, the Deutsche Bundespost was divided into three regulatory bodies, but with no change in legal status and the Bundespost still remained as a public administrator (Darbishire 1997: 190).¹⁶ The separation of the three public enterprises laid important ground for future reforms. The second post-reform in 1994 brought about a constitutional change necessary for the privatization of the telecom sector. One year later the monopoly ended and borders were open for international competition. The third post-reform introduced the creation of the Reg TP, which is significant, since it was the first time Germany received an independent regulatory institution (Vogelsang 2002: 8).¹⁷

In November 1996, Deutsche Telecom (DTAG) went on the stock exchange for the first time. The role of the state was no longer to provide telecommunication, only assure that it's provided adequately. The privatization was just partial, in line with EC regulations, major reforms followed and in 1998 the voice market was open for competition (Thatcher 2001: 11). Today, the government owns 11 percent of stock (Mitwirkung bei der Gesetzgebung).

¹⁵ Value added services contain services based on the transmission of information and include the addition, storage, and transformation (Vogelsang 2002: 6).

¹⁶ Postal Services (Deutsche Post) Telecommunications (Deutsche Telekom) and Banking (Deutsche Post Bank)

¹⁷ RegTP's function includes carrier regulation, licensing, some standard setting, universal service policy, allocation of spectrum frequencies and telephone numbers. (Vogelsang 2002: 5).

6.1.1 EC Policy and Directive

As a member state of EU, Germany is required to take EU legislation into account in its domestic law (OECD 2004: 18).

The process to liberalize the telecommunication markets in the EU began in the mid-1980's. The EU policy was launched through the introduction of the 1987 Green Paper, aimed to work like a framework for future reforms on liberalization of the telecommunication market.¹⁸ The years before 1987's Green Paper, limited legislation within the area existed, and the PTT's was excluded from the liberalization of public procurement within the Treaty of Rome (Hulsink 1999: 100, Thatcher 2004: 291).

In the years following, the pressure for regulatory change increased. In 1988, the Terminal Directive passed, and prohibited the right of the member states to have legal monopolies over supply (Directive 88/301EEC). In 1990, the Service Directive followed and strengthened the obligations of the member states further, by ending the rights of having monopoly over advanced services.¹⁹ After 1993, the EC's regulatory framework greatly extended across the telecommunication sector, including core areas previously left to the member states. Liberalization directives were passed in the mid-1990's to prohibit monopolies on all remaining parts of the telecommunication sector, such as satellite services, mobile communications, voice telephone and the infrastructure (Thatcher 2001: 10). As a consequence of Germany's membership in the EU, the state also made commitments to the WTO agreement, on basic telecommunications, the so-called Reference Paper. Germany received further pressure, after being accused of being in violation of the WTO Reference Paper (OECD 2004: 46-47).

6.2 Switzerland

In contrast to Germany, the telecommunication sector in Switzerland has not taken the last step towards a fully privatization, and the government still remain as the main stakeholder, owning 58.81% of Swisscom (31.12.2006). The liberalization of the telecommunication sector can be described in two major steps. The first draft on the new law to liberalize the telecommunications sector was introduced in 1998, but first ratified in 1991. The Act on

¹⁸ Green Papers are published by European Commission in order to stimulate discussions on given topics and are not legally binding. Green Papers could be seen as a consultation process or a debate on the basis of proposals (<http://europa.eu>).

¹⁹ Example on advanced services; e-mail, fax services, data transmission and processing services.

Telecommunications in 1991, allowed for the liberalization of ‘value added network services’ and terminal equipment. This was combined with the preservation of public monopoly of the Post and Telegraph Company on basic services. The activities of market regulation and services provision were separated through the creation of the OFCOM (Mach et al. 2003: 305-306). The task of the regulatory agency was to ensure the fulfillments of international obligation, regarding public procurements.

1994 the Swiss government signed the GATT agreement on public procurement that liberalized the public markets at both federal and cantonal level. In order to liberalize procurements of the federal government a new law was adopted. According to this law, public procurement above a certain threshold must be published officially at a national and international level. At a cantonal level, the GATT agreement was arrangement by inter-cantonal agreements (Mach et al. 2003: 306). Swisscom remained as a part of PTT until 1998 when the telecommunication act once again was modified. The Act was passed by the parliament in 1997, but came into force through its implementation in 1998. The reform was splitting the post and telecom services into two separate corporations. Except the separation of the PTT, the reform also allowed a fully liberalization of telecommunications services and infrastructure (except the mobile sector) and allowed 50 percent of Swisscom to be sold (Bartle 2006: 422). Even though Switzerland is not a member of EU, as a member of EFTA, Switzerland voted on the EEA agreement, which requires the members to implement most of EU’s single market policies, but the Swiss citizens rejected the EEA treaty in compulsory referendum in 1992 (Bartle 2006: 410). The Bundesrat laid out the proposal on a complete privatization of Swisscom as late as the 5th of April 2006. The proposal of a complete privatization of Swisscom was rejected. The 10th of May, the same year the Nationalrat voted 99: 90 against a privatization. On the 7th of June, the voting took place in the Ständerat, the second chamber, and voted against privatization, with a vote of 23:21 (www.admin.ch).

7 Institutional Structure

The first section provides a brief overview on the political systems, and sketch out similarities, as well as differences. The next section gives an outline for the decision making process important actors in respective country. Interesting for this thesis is especially the differences in the institutional organization, although it reveals different veto player structure.

7.1 Similarities and Differences

Germany and Switzerland share a host of common features in their political structure, as both countries are democratic and federal organized. The legislative power are in both countries divided between two chambers. In Germany the 614 members of the Bundestag are voted in directly by the people, whereas the second chamber, the Bundesrat consists of 49 representatives for the states, the so-called Bundesländer (Art. 38: GG). In Switzerland are the 200 members in the Nationalrat directly elected by the people, while the 46 members of Ständerat represent the interests of the states, or cantons (Art 149, 150: BV). In both Germany and Switzerland the legislative is electing the executive body. In Switzerland the Bundesrat is elected by the Bundesversammlung (Nationalrat and Ständerat), a collegial body of seven ministers and a chancellor (Art. 168 BV). In the same way in Germany, the chancellor and its ministers are voted into office by the Bundestag (Hancock 1998: 252).

Even though the countries share similarities, their political structure reveals great differences. Perhaps, the most significant difference is to be found in the core of their political systems. Switzerland has the instrument of direct democracy, which gives the people through referendum, a direct vote in the policy making process (Art. 140 BV). This stands in sharp contrast to Germany's classification as a representative democracy, where the legislative power is in the hand of the representatives, and the people have only an indirect power on the legalisation process.

Moreover, the balance between the legislative and the executive power in Germany and Switzerland appear quite different. As already mentioned, the executive is in both countries elected by the legislative, but the arrangement differs in two particular aspects. Switzerland is labeled as a Konkordanzdemokratie or 'concordance democracy', it signifies extreme stability and does not reflect the electoral outcome. Since 1959, the seven members of the

Bundesrat (Federal Council) are voted in by a so-called 'Zauberformula', that guarantees two seats each for the Radical Democrats, Catholic Conservative and Social Democratic Parties and one seat to the Swiss Peoples Party (Bonoli 2001: 246, Lijphart 1999: 34, Immergut 1992: 133).²⁰ In contrast, the German federal government (Bundesregierung) reflecting the proportional electoral result.

The second aspect concerns the legislative dependence on the government. While the seven councilors in Switzerland stay in office for a fixed office time of four years and cannot be dismissed by a vote of no confidence, the executive in Germany are dependent on the legislative confidence and can be transmitted by a vote of no confidence (Lijphart 1999: 120).²¹

A further difference can be found in the structure of interests. In Germany the unions and labor are a strong and well-organized force, whereas the union tend to be less organized in Switzerland and business is considered to be a stronger power (Lembruch 1993: 55). Drawing upon Lijphart, who makes a distinction between social and liberalistic corporatism, Switzerland can be seen as representing the latter (Lijphart 1999: 27).

The bicameral checks and balance system takes different features in the countries. Switzerland fulfils the conditions for a strong bicameral legalisation, as the two chambers are equal in all respects. Germany offers both strong and weak bicameral settings, with regard to the type of legalisation.

7.1.1 General Veto Player Structure in Germany

The numbers of political actors with power to block legislation, is reliant to situation in Germany.

The checks and balance system in Germany provides both strong and weak bicameral settings, contingent on the legalisation. The power of the second chamber to veto is reliant on the type of law. The constitution distinguishes between 'Zustimmungsgesetze' (Mandatory Law) and 'Einspruchsgesetze' (Non-Mandatory Law). The so-called 'Zustimmungsgesetze', requires the approval of both chambers, a two-thirds majority in both the Bundestag and the Bundesrat has to approve for a change of status quo. The 'Zustimmungsgesetze' contains constitutional amendments and revisions (Art. 79:2 GG).²² 'Einspruchsgesetze', exemplifies the weak feature of bicameralism, and provide the Bundestag with a

²⁰ In the last election (2003) the SVP won most of the voices, with 26.6 percent, SPS got 23.3 percent, FDP won 17.3 percent and CVP attained 14.4 percent. This resulted in, that CVP had to give one seat to the SVP (Fraktionen der 47. Legislativeperiode 2003-2007, www.parliament.ch)

²¹ The vote of no confidence have been used twice, in April 1972 when CDU/CSU opposition attempt without any success to bring the Brandt government down, the second time was in October 1982 when Helmut Schmidt was replaced by Helmut Kohl (Conradt 1998: 152)

²² The years between 1949 to 1998, 53,1%, of all laws in Germany been the so-called 'Zustimmungsgesetze', which require the special majority of both the Bundestag and the Bundesrat (Rudizio 2006: 276).

strong power to veto, as it has the final vote on the bill. Even if the Bundesrat rejects a law with two-thirds majority, it still can be overruled by a majority in the Bundestag (Bräuninger & König 1999: 212). Consequently, the number of institutional veto player in Germany is either one or two.

The governmental configuration turns out to be of essential meaning for determining the number of veto players. In times of divided government, it is equivalent for adding one veto player. Different party majority in the two chambers results in two distinct veto players, as the absorption rule cannot be applied according to the counting rules. In reverse, if the same majority controls the Bundestag and the Bundesrat, the Bundesrat will be absorbed, and the two chambers counted as one modified veto player. However, this can be put into question. As pointed out by Zolnhöfer, the members of the Bundesrat cannot be seen as pure representatives of their parties, "They owe their seats primarily to the Land governments of which they are a part" (Zolnhöfer 2003: 130). There is no assurance that they will vote in accordance with the party line, especially on questions that are of major significance for the state. This point out the weaknesses of Tsebelis absorption rule, which completely ignores this dimension.

The party system in Germany is often described in terms of a Grand Coalition. In the post-war Germany has the electoral support been concentrated to one of the big parties, CDU or SPD, who been in governmental coalition with a smaller party (Hancock 1998: 265). Therefore is the partisan veto players often two in Germany.

Unions, interest associations, and other movements plays an important role in German politics, and in the policy making process. The most important interests group stays in contact with the major parties. Labor unions are for an example strongly linked to the SPD, even if there are unions existing with close ties to CDU (Hancock 1998: 276).

The literature often circumscribes the Bundespräsident as a symbolic and representative actor in Germany's political field and tends to overlook the veto power he in fact has. Tsebelis himself point out that the rarity of individual veto players and clearly point out that head of the states in western European country have no veto power (Tsebelis 1999: 593).²³ The role of the Bundespräsident can be discussed though. This thesis argues for that the Bundespräsident in Germany cannot only be seen as just a symbolic and representative figure in the lawmaking process. The Bundespräsident is the last person who has to sign the law before its goes into force. The German president has the power to veto legislation if he considers the move from the status quo as not covered by the constitution (Art. 82 GG). In similarity with the federal court, the Bundespräsident is not allowed to allow acting on the basis of political reasons. But if a law is considering

²³ With the exception of popularly elected presidents, Tsebelis mention communist parties and parliament deciding by unanimity, taking the Polish parliament in the early eighteenth century, as an example on individual veto players, and underline that the head of state in Western European countries has no veto power (Tsebelis 1999: 593, Tsebelis 2002: 38).

violating the constitution, or if the law making process was not correctly followed, he has the right to turn a law down (Rudizio 2006: 296, Hancock 1998: 260, Art. 82, GG).²⁴ The current president uses this instrument quite often and is a target for discussion in Germany. In contrast to Tsebelis, this thesis argues that the Bundespräsident indeed shall be counted as a veto player. Similar arguments have been made concerning the Federal Court.²⁵

7.1.2 General Veto Player Structure in Switzerland

Switzerland is described as a consensus democracy (Konkordanzdemokratie). This reflects extreme stability and a proportional division of power. The basic principle of this type of political system is the participation of all major political parties in the executive body. Moreover, federalism and the instrument of direct democracy are significant for Switzerland. This results in a decision making process characterized by compromises and negotiating (Lembruch 1993: 44). The fragmented political power endows numerous actors with power to veto legislation, at the same time it weakens the power of the political parties.

The federal structure in Switzerland provides the cantons with veto power in the decision making process. The Swiss constitution reflects equal power of the two chambers in all respects (Art. 148:BV). The strong settings of bicameralism, or 'double majority', requires the cantons in all type of legislation, with exception for explicitly assigned to the central stat. This provides even the small cantons with veto power.²⁶

The element of direct democracy has major effects on the legislation in Switzerland. It is argued that the direct democratic institutions impose restrictions on the political elites in the decision making process. The instrument of direct

²⁴ From the year 1949, and up to date, this has been the case 7 times (Rudizio 2006: 296). As late as 24.10.2006., Bundespräsident Horst Köhler decided to reject the law concerning the privatization of 'Flugsicherungsgezet' (FSG) on the basis of Art. 83 in the Basic Law. Just two weeks after, the president stopped a second law, this time concerning the 'Verbraucher information', or 'consume information (www.bundespraesident.de).

²⁵ Tsebelis argue that constitutional courts mostly are placed inside the unanimity core of the existing veto players and consequently are absorbed, due to the selection process. As Tsebelis himself put it; "The restrictions imposed upon the selection of members of the highest institution of the judiciary eliminate extreme policy positions, and practically guarantee that the median of the court will be centrally located in the policy space" (Tsebelis 2002: 227). Ganghof criticize this line of thinking, by pointing out that the court acts on basis of principles in the constitution and not on their policy preferences (Ganghof 2003: 8). The task of the Federal Court in the legislative process is to judge legalization to ensure that it does not offend the Basic Law (Conradt 1998: 20). The role of the Federal Court have been discussed in the media, critics been pointing out that it has intrude in reforms, reserved for the chambers and government (see, for example, The Economist, April 13, 1996, Czasche-Meseke, 1995). For a deeper discussion on the topic, see for example, Mary L. Volcansk (2001).

²⁶ Representatives of 20 percent of the people (the 13 smallest cantos together) in Ständerat are alone able to block an entire law (Vatter 2005: 5).

democracy provides the people with a direct vote in the decision making process, and are threefold. A distinction can be made between the referendums, which exist in an *obligatory* and an *optional* form, and the *popular initiative*. The obligatory referendum is subject to constitutional amendments, and requires not only the approval of the majority of the people, but also a majority of the cantons (Art 140:BV). Most parliamentary acts and regulations are subject to an optional referendum (Lindner 1994: 21). A parliamentary decisions become law unless 50. 000 citizens, within 90 days, challenge the proposal through a demand of a popular vote. The third option to influence the decision making process is to put an issue on the political agenda by collecting 100.000 signatures in 18 months, an election will take place. Depending on type of referendum, the people are either counted as institutional, or additional veto players according to Tsebelis counting rules. The alleged risk of a referendum leads the authorities to avoid referendum traps by two means, a pre-parliamentary consultation phase (Vernehmlassung) is undertaken to ascertain the degree of opposition groups, and the legislative bill itself is considerably transformed by a compromise backed by a large coalition of interests groups and parties (Lindner 1994: 100). This gives the major interest groups important power to block legislation, as they both can put their veto through an optional referendum by a popular vote, or through the pre-consultation phase. Consequently, has the peak associations a very strong position in the policy making process (Lembruch 1993: 52).

The qualification of Bundesrat as a partisan veto player can be put into question. Due to the use of the so-called 'magic formula', that guarantees the four biggest party obligatory seats, adding together with the fact, that the government *cannot* be brought down through a vote of no confidence, gives the Bundesrat at the first look great power. On the other hand, it calls the legitimacy of the Bundesrat into question. One can assume that is actually reduce its power to veto, compared to political systems based on competition between political parties. But, consider that no party has majority, the power could be seen as reduced, since the parties have to act in consensus. The Bundesrat has the role of a mediator in the policy process, negotiating different interests in the beginning of the legalisation process.

8 Comparative Analyze

On basis of previous chapters, the aim of this chapter is to compare, critically discuss, and evaluate the telecommunication process in Germany and Switzerland against a framework of veto players. Tsebelis describes the potential policy outcome as a function of the number of veto players, the ideological differences between them and the cohesion of each player. The three characteristics compose the independent variables of the theory, and its important for the analysis is to take all three dimensions in consideration. This chapter will follow Tsebelis logic in the examination of the privatization process of the telecommunication sector in Germany and Switzerland.

8.1.1 The Privatization of Deutsche Telekom

Deutsche Telekom was transferred to private sector status on 1 January 1995. The second post-reform in 1994 brought a constitutional change necessary for the privatization of the telecom sector. The second post-reform passed the Bundesrat on the 29th of June, and was then voted through on the 8th of July in the Bundesrat.

The privatization of Deutsche Telekom required a constitutional change (Art. 83: GG). A constitutional amendment demands the approval of a two-thirds majority in both Bundesrat and Bundestag (Art. 79 II: GG). During the second post-reform, there were two constitutional veto players in Germany. As the party majority in the two chambers differed at the time, the absorption rule cannot be applied. While CDU/CSU had the majority in the Bundestag, the SPD controlled the Bundesrat.

The election period between 1990 and 1994 was CDU/CSU and FDP in governmental coalition, together they had 398 of total 662 mandates (www.bundeswahlleiter.de). The decision making rule is of essential meaning, though a two-thirds majority required 441 votes in favor of a privatization.

The partisan veto players are the two parties in government, CDU/CSU and FDP, since the majority in the Bundesrat differed, a third partisan veto player has to be added. As the SPD also was the opposition party in Bundestag, it will be counted as one.

The DPG has to be added as an additional veto player in the policymaking process. As a major representative for the postal employers and strongly linked to SPD (Schneider 2001: 246). DPG who opposed the reform, tried in the very last phase to put pressure on the SPD, who initially also opposed the reform. The

DPG threatened with a strike to acquire the veto position of SPD and criticized the SPD for moving away from the status quo (mainly for social values and for decision rights) (German News-Deutsch Ausgabe, 19.06.1994, Berliner Zeitung 29.06.1994).

The second parameter of measuring policy stability is founded in the congruence between the parties involved, and reflects the ideological distance between the veto players. Tsebelis makes the assumption that policy distance among the veto players expands along the same line, and decrease the probability for a change of the status quo. The ideological distance between the veto players can be considered high at the time. The requirement of the approval of both Bundestag and Bundesrat, contributed to increase the congruence, as the two major parties, CDU/CSU on the right wing and SPD on the left side, controlled each chamber. The policy position of SPD was closer to the status quo, compared to CDU/CSU who had the majority of seats in the Bundestag and was in favor of the privatization (Schneider 2001: 248). A further factor to increase the policy distance was the additional player DPG, who put pressure on SPD to remain with the status quo.

Turning to the last dimension of Tsebelis theory, the cohesion, and probably the most unclear parameter of the theory. Even though the indicators for cohesion are rather vague, a few assumptions are made. The numbers of participants inside a veto player is believed to have an effect on the cohesion. This results in that the Bundestag is the least coherent player, with its 662 members, compared, to the 68 members of Bundesrat. To review what has earlier been said, one cannot consider Bundesrat as very coherent, as it contains the Bundesländer, who represents different regional interests. What also might have an effect on the cohesion is the type of party system, a parliamentary system is assumed to be more cohesive than a presidential one, though voting against the government may bringing it down. This would result that Germany from this perspective should be more cohesive. But, like already pointed out, the affect of party system is rather unclear and unproved. Also a wide coalition might contribute to decrease the cohesion. Another fact to consider is the agenda setter, who was the government. According to the theory, the agenda setter has an advantages though he or she can consider the winset of the others. The power of agenda setting can be consider low at the time for the reform in Germany, while size of winset are small.

8.1.2 The Privatization of Swisscom

In March the 23rd, 2006, the Bundesrat laid out the proposal on a complete privatization of Swisscom AG. The argument for the privatization was founded in conflicts of interest, since the Bund has the role of legislator and regulator, at the same time being the main stockholder. Further motive to be presented was the political and financial risks for the Bund to invest outside Switzerland (Bericht

zum Ergebnis der Vernehmlassung 2006: 5). There was no obvious majority for or against a privatization of Swisscom. The parties presented different views on the reform, and a smaller majority of the cantons supported the proposal of privatization.

The fifth of May 2006, The Nationalrat stopped the proposal on a complete privatization of Swisscom, with 99:90 votes against a privatization (Nationalrat, Abstimmungsprotokoll 2006). A month later, the second chamber, the Ständerat, voted against a privatization, with 23:21 (Ständerat, Abstimmungsprotokoll 2006).

Hence, to the strong bicameral settings in Switzerland, the constitution required the agreement of both chambers (Art. 148 BV). The absorption rule cannot be applied, as the party majority in the two chambers differed. The Ständerat and the Nationalrat must consequently be counted as two institutional veto players. SVP together with SP, held the majority of seats in Nationalrat, while Ständerat was controlled by CVP and FDP. As the privatization of Swisscom was considered a federal issue, the people have to be added as a third institutional veto player, as a change in the constitution are subject to an obligatory referenda (Art 140a BV).

Turning to the next type of veto player, the partisan, which is special to Switzerland. Tsebelis argue that all parties in government have to be counted as political actors assigned with veto power. That would mean that the number of partisan veto player always would be four in Switzerland, due to the 'Zauberformula'. But like argued earlier, this thesis will not count the parties in Bundesrat as partisan veto players, though their veto power can be considered restricted. There exists no party majority and, the role of the Bundesrat is of mediating character, one can assume that they do not have a real power to block the legislation. As additional veto players, one has to add Swisscom itself and trade associations, although they have a very strong position in the policy making process.

The ideological distance must be considered as high, since the policy positions of the parties widely differed. The parties in the Bundesrat were separated on the task, SP and CVP were concerned that a privatization would lead to worse infrastructural conditions in the rural areas of Switzerland. SVP and FDP, on the contrary supported a privatization. Swisscom itself and trade associations gave their support, while labor organizations opposed the idea of privatization. The cantons further increased this distance while just a small majority was in favor of the privatization.

Following the assumption that the numbers of members inside a veto player decrease the cohesion, the Ständerat with only 46 members would be the least coherent player in Switzerland. But like argued in the German case (Bundesrat), one can make the same argument with the Swiss cantons. As they represent different states and thereby different interest, one cannot consider the Ständerat as cohesive. Inside both the Ständerat and the Nationalrat the parties differed in their policy positions, and thereby decreased the cohesion. The most cohesive veto players could be assumed to be Swisscom and other peak organizations. In similarity with the German case, the Swiss government had the role of the agenda

setter. Like in the German case, the power of agenda setting can be assumed being restricted, although it did not exist many policy option to choose between. The fact that many actors have the power to veto, further decrease the power of the agenda setter.

8.2 Comparison

There was no given outcome of the reforms on the privatization of the telecommunication sector, neither in Germany or in Switzerland. The governments faced similar constraints in changing the status quo. The first parameter for policy stability and probably the most important one, the numbers of existing veto players did not reveal any major differences in the two countries. In Germany could totally four veto players be found, two institutional, one partisan, and one additional. In Switzerland existed five veto players at the time for the reform, three institutional and two additional actors with power to block the legislation. What not is discussed in Tsebelis theory, is however different veto players, have different power to throw their veto. For instance, where the interest groups in Switzerland has an direct veto in the policy process, through the call of a referendum, the interest groups in Germany only have an indirect voice. Concerning the result on the two other dimensions of policy stability, ideological distance and cohesion, appeared quite similar. The ideological distance could both in Germany and in Switzerland be considered high at the time, although the policy positions among the veto players widely differed. The cohesion can be considered low at the time for the reform, in both Germany and Switzerland different positions within the veto players could be found. Even though the last parameter of the theory contributed to decrease policy stability, the size of winset must be considered small at the time for the telecommunication reform, both in Germany and Switzerland, due to the high number of veto players that existed at the time.

The conclusion is that the veto player theory is not sufficient in explaining the various outcomes in the telecommunication sector. In order to explain why privatization occurred in Germany, but not in Switzerland, one has to consider other factors. This study has been limited to looking into the hypothesis derived from the veto player theory, and thereby ignored other possible influences. But, in order to explain the policy change in Germany it is difficult to ignore that the adjustment in Germany was almost parallel with EU's requirements on the telecommunication sector. As being one of few member countries in Europe, still upholding a governmental monopoly, one can assume that external pressure been pushing in the direction of a reform change.

8.3 Findings

Two questions been guiding this study, one more general and on explicitly connected to the cases in point. While stated that the veto player theory is not alone sufficient in order to explain the different policy outcomes, the question whether the veto player theory is accurate in predicting and/or explaining policy outcomes, is still to be answered.

The great strength of the theory is that it allows for comparison between different political systems. The theory also shows how institutions has an impact on the policy making process. However, methodological weaknesses taken together with strong assumptions on the political actor, runs the risk of declining the utility of the theory.

Tsebelis theory is built upon strong assumptions on the behavior of the veto player, which might lead to failing to notice important actors within the policy making process. The assumption that actors only vote on bills from a ideological policy perspective, can be put into question. Taking an example in point, the Bundesrat as well as the Ständerat contains of representatives of the states in respective country, according to the theory, the representatives voting only in accordance with party line. They represent regions with different interests, and may not be voting in accordance with party line. This also points out the problem with the absorption rule, which absorb any actor within the same party (policy sphere), this may result in overlooking potential veto players.

Furthermore, this thesis agrees with earlier critics on the subject saying that political actors as purely policy seeking tend to overlook other relevant factors in the strategy of the voting pattern. Tsebelis completely exclude party competition from his theoretical model, this is rather unlikely in real political life, and may lead to wrong predictions on the voting behavior.

Tsebelis conceptualize the veto player as partisan, institutional, or additional, this firm way of identifying veto players, might fail to spot other veto players in the policy process. Presidents in western European countries, fall outside Tsebelis definition of veto players. As shown with the case of Germany, this thesis arguing that the Bundespräsident is being one example of this. Earlier critiques on the subject have been making similar arguments regarding the Federal Courts.

Turning to the methodological problem of the theory, Tsebelis underlines the importance of all three dimensions, in order to make correct predictions on policy change. But where most of the focus is put on the veto player itself, the other two parameters tend to be put at the side, and gradually fade out during the theoretical framework. Problems can especially be found in the measurement of the cohesion. The theory only provides a few factors that might have an effect on cohesion. Tsebelis himself, highlight the imprecision of this parameter, at the same time underlining its importance The vague indications on cohesion make it difficult to empirically examine in correct manners.

The basic finding of this thesis is that institutional structure has an central role in explaining policy outcome Although the precision of the theory can be questioned, as above illustrated. The question is not whether political intuitions matters in the policy making process, evidently they do. Even if Tsebelis theory has its weaknesses, it still has great advances, like the ability to compare across different political systems. Even though a re-definition of veto players and their

characteristics might be needed in order to make accurate predictions on the policy outcome.

9 Conclusion

This thesis sought to test the explanatory power of the hypothesis generated from Tsebelis veto player theory. The basic assumption of the theory is that when many political actors with significant ideological distance and a distinctive internal cohesiveness are to be found, policy change is less likely. Two questions been guiding this study, first one more theoretical, whether or not the veto player theory is successful or not in explaining and predicting divergence in policy outcome. The second question, has been an attempt to examine if the theory are successful in explaining the explicit cases with the telecommunications reforms in Germany and Switzerland.

The thesis has been examining the veto player theory. Its assumptions and predictions has been outlined and discussed. The method being used has been a comparative study, comparing the privatization process of the telecommunication sector in Germany and Switzerland. The focus has been on the institutional structure in German and Switzerland.

The thesis concluded that the veto player theory is not sufficient in explaining why Switzerland rejected, and Germany pushed through the reform. No significant differences could be found. Multiple veto players could in both countries be found. The studied countries appeared similar regarding all three dimensions. In order to understand the different policy outcomes, one cannot neglect external pressure.

The bottom-line of the findings was that veto players have a central, but limited role in understanding the law making process, or more precise, the policy outcome. A number of problems concerning the concept have been outlined. Difficulties could for an example be found in the way Tsebelis conceptualizing actors. Also methodological problems concerning the theory have been highlighted.

Even though the concept of veto players could be traced long back in time, it could be seen as a relatively new research field. Perhaps, one should ask where this concept might be heading? As more research on the subject of veto players are made, the deeper knowledge under what circumstances they operate will be developed, and might result in a better, and more precise theoretical approach to the subject.

10 References

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Internet Addresses

Ownership Structure of the Swisscom Share

www.swisscom.com/GHQ/content/Investor_Relations/Aktionaersinformation/en/Besitzstruktur/?lang=en

Abgabe der Bundesbeteiligung an Swisscom

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Gesetzgebungsverfahren

www.bundesrat.de/nn_144680/kompakt/gesetzg/va/va-node.html?__nnn=true

Bundestag entscheidet über zweite Stufe der Post-reform.

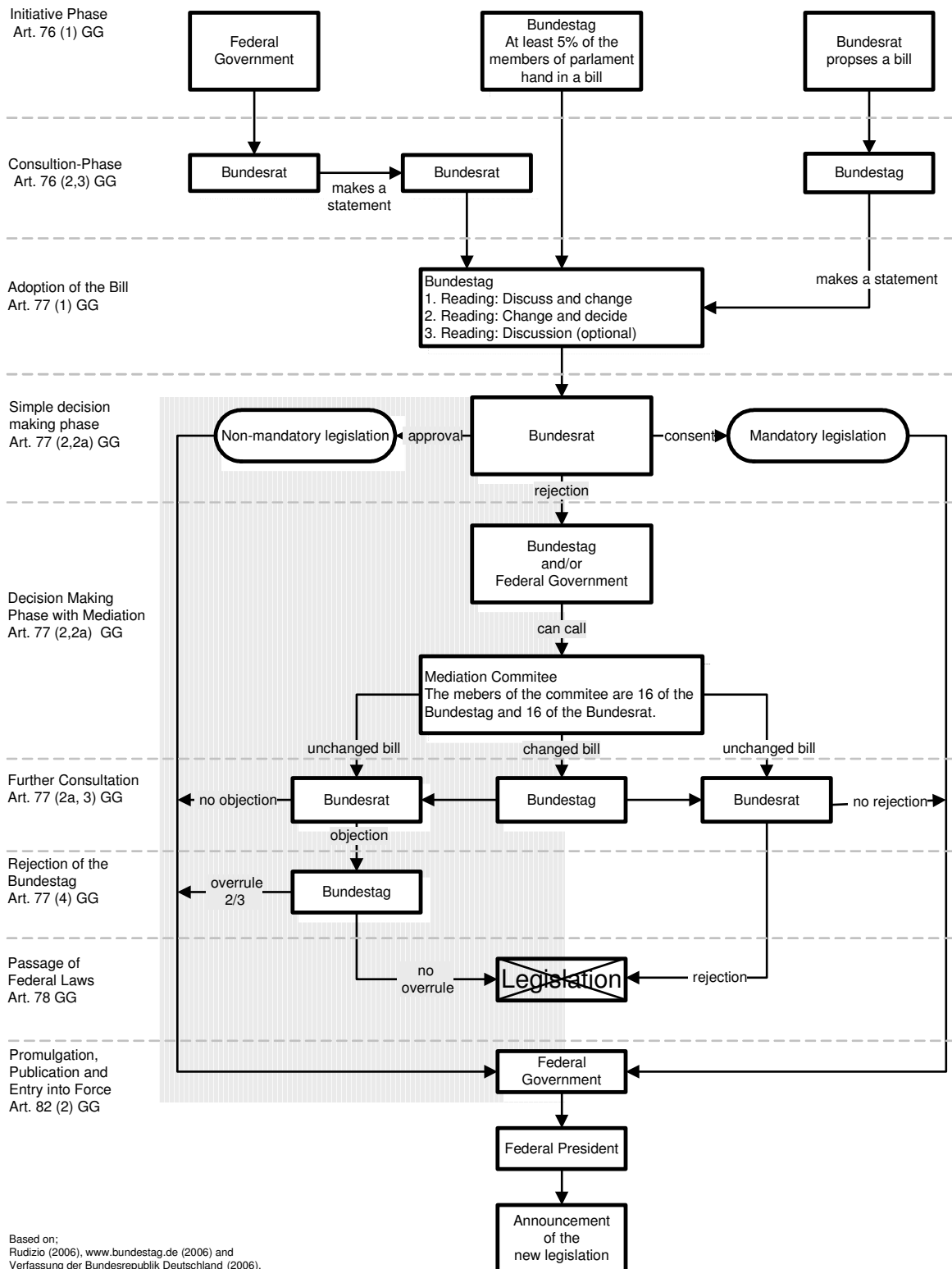
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Bundespräsident Horst Köhler fertigt Gesetz zur Neuregelung des Rechts der Verbraucherinformation nicht aus

<http://www.bundespraesident.de/Journalistenservice/Pressemitteilungen>

11 Appendix

The Lawmaking Process in Germany



The Lawmaking Process in Switzerland

