

- ***The Process of European Integration and Political Union:
German or Swiss Federal System as a Model for Europe?***

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Introduction

The discussion about the future political form and the institutional structure of the Political Union still covers a relevant part of the debate. Within this larger context two relevant formulars were generally guiding the development of the process of European Integration: the first was introduced by Winston Churchill in his speech in Zuerich in 1946, where he argued that the future form of Europe will be the 'United States of Europe'. The second was formulated by Charles de Gaulle at the beginning of the sixties; there de Gaulle expressed his vision and spoke about a farreaching 'Europe of the fatherlands'. This two formulars mean of course something very different. While the one is orientated towards a 'Federal State of Europe' the other focus on a 'Federation of States' in the sense of an international organization in which the member states remain overall sovereign. The recent developments since the ratification of the Single European Act and especially since the highly controversial and also necessary debates during the ratification of the Maastricht Treaty have made it clear that both formulars do not fit to the political and institutional dynamics of the process of European integration (Sbragia 1993; Schuppert 1994; Scharpf 1994, Goetz 1992). But than the question arise in which way will it be possible to characterize the form and structure of the European Union?

The phrase of a 'Federal State of Europe' was especially taken for granted in the Federal Republic of Germany, the German states and leading state Politicians across the different political parties (Hrbek, Thaysen 1986;

Borkenhagen et. al. 1992; Hrbek, Weyand 1994; Benz 1993). The central argument was, that the form of the EC respectively the EU should be organized in a three-level system. The underlying hypothesis was that the future institutional architecture of Europe should be modeled along the two-tiered German federal system. It was obvious on one side that this argument was also driven by the selfinterests of the German states and their leading politicians. But on the other side the question arises whether there might be some kind of institutional and analytical relevance in this argument.

On the contrary another hypothesis can be found in the literature. This hypothesis argues that above all the Swiss federal system could and should be used as a model for the future European Union. This argument was even prominent in the 19th century and in the first three decades of the 20th century in Europe, for example in the former Austrian-Hungarian Empire but also used in newly created countries after World War I, in which different ethnic and cultural groups existed (Schieder 1958). The Swiss system is based, among else, on the integration of three different major political cultures and languages and their integration is closely linked to the federal development and the federal system itself (Deutsch 1976; Boeckenoerde 1991; Thuerer 1992; Rhinow 1992; Busmann 1992; Kux 1992; Frey 1992). This argumentation was strengthened again in the debate whether Switzerland should join the European Economic Area in 1992 or not and, later on, perhaps become a memberstate of the European Union itself.

The process of European Integration has produced an analytical pattern which can be described in Daniel Elazar's term as a 'federal principle' and what has been recently carefully analyzed by Alberta Sbragia

in her article 'The European Community: A Balancing Act' (1993: 23-38). The expression 'federal principle' does not mean that there exists a definite model of a federal system which can be used - or even has to be used - as the overall normative framework. Its focus is orientated on a variety of organizational and institutional patterns which are trying to organize different institutional levels, competences and political power and second on the dimension of political and institutional process.

The hypothesis of my paper is as follows: The open description of the 'federal principle' offers the possibility to analyze the internal developments and dynamics within the European Union. It also offers the chance to rise the question whether there might be some historical, institutional and empirical possibilities, while looking on different federal systems like the Federal Republic of Germany and Switzerland, to try to work out significant developments and political and institutional patterns which might be helpful for analyzing aspects of the process of European Integration or even could be used in some way as a blueprint.

II. Structures and Patterns of German Federalism

German federalism was restructured again after 1945. The process of restructuring was related first to a long tradition of federalism in German history, second to the pressure of the Western Allies and third to leading politicians and political and social actors after 1945 in the western occupied zones. It is also worthwhile to mention here that the newly or recreated states

(like: Bavaria; Bremen; Hamburg) have been established before the Basic Law, the constitution, and through that, the Federal Republic of Germany came into being. Further on it is also necessary to mention that an important aspect of German federalism after 1945 is situated in the relatively high social, political and cultural homogeneity of the reestablished democratic German society which has deep influence on the federal system and the way, federalism is handled in Germany by the relevant political and social actors.

German federalism is related to some specific forms and patterns which in that way are unique within the federal democratic world. After an intensive discussion within the constitutional convention in 1948/1949, whether the senate principle, according to the US constitution or a federal chamber, more related to the German tradition, should be established, a compromise between leading political party politicians was installed. The 'Bundesrat', which came into being, functions in the German federalism as a second chamber. But its institutional logic and political functions differ strongly from second chambers like the US or Switzerland (Schuettmeyer, Sturm 1992). The institutional logic which is lying behind the German federal chamber goes back to the 19th century, that means to the constitutional ideas of 1848 and the German Empire from 1871 (Vierhaus 1989; Nipperdey 1980; Maier 1990; Laufer 1992).

The institutional logic of the German version of a federal chamber focus the problem not only trying to separate political power via an organisational differentiation of relatively autonomous territories, the states after 1945. It also focus the issue to integrate these different states under the

roof of a federal system to make it possible that they are able to participate directly in federal politics. This direct representation of the states functions in the way, that the German second chamber is the representational form not directly of the states but above all of the state governments. The state governments send ministers into the second chamber, according to a specific selection mechanism. The direct political participation and integration into the federal decisionmaking process differs for example from the US federal system and the competences of the state governors. The aforehad mentioned selection mechanism does not operate in a proportional way to represent the states but reproduces again parts of the democratic principle. That means that the states with a larger population gain more votes in the second chamber than states with a smaller population (Gunlicks 1993). The state members in the chamber are representatives of their home state and the views and votes they express in the chamber are binded views and votes.

Compared the German second chamber with other second chambers there are even more relevant differences which are constituing the German second chamber (Gunlicks 1988; 1994). For example, the second chamber has a veto power especially on political issues which are implemented via the federal government and which might or actually intervene into state competences. These regulations where extended in 1992/1993 during the constitutional reform of the basic law. During that process the states insisted, via the second chamber, strongly on strenghtening their competences against the federal government in all cases, which are related to the European Union. The enlarged competences are formulated now in the newly created Article 23 of the basic law. The enlargement of specific competences of the German

states lays in the political logic of a relevant aspect of German federalism, which can be formulated as participatory federalism (Ossenbuehl 1990). This special aspect of federalism is systematically pre-structured by the unique form of the German second chamber and differs strongly from principle of 'dual federalism'.

Now I would like to summarize my preliminary results: The reestablished German federalism after 1945 has, reproduced in his second chamber, a unique form which is especially characterized through the pattern of direct participation of the state governments in federal legislature. The participatory federalism in Germany fulfills in this case demands of the state governments but reduces also in some way the dimension of competence federalism, as critics have often mentioned in the debate (Ossenbuehl 1990; Scharpf 1994; Benz 1994).

III Structures and patterns of Swiss federalism

Compared with the German federal tradition and federal system of the Federal Republic today the Swiss federal system differs first for historical reasons, second for institutional and third for reasons of operating.

In a historical perspective the today still existing form of Swiss federalism was established in 1848 and constitutionally laid down in the first Swiss constitution. The two-chamber system was modeled after the US system to integrate the various sovereign Cantons with their internal different

social, political, language and cultural differences (Stadler 1980). The complete revision of the Swiss constitution in 1874 continued with these institutional and political practice. The cantonal sovereignty is normatively implemented in Art. 3 of the Swiss constitution.

The Swiss second chamber is institutionally and politically a real second chamber. The 'Staenderat' is the territorial representation of the cantons, each canton gets two seats in the chamber with the exception of the so-called half-cantons which get one seat. Most of the cantonal members of the second chamber are elected directly by the people of their canton. The views and votes of the members of the second chamber are not binded, as it is in the german system the case. They are politically independent not only from the people from were they are elected but also from the cantonal governments, which also shows a significant difference to the german federal system (Saladin 1984; 1986; Eichenberger 1990; Fleiner-Gerster 1981; 1984; 1988). Because it is a fully established second chamber it also has the competences to introduce own law proposals.

Because of the second important institutional and political pattern in Switzerland, the strong implementation and intensive practice of direct democracy on all three levels, the federal, the cantonal and the local community level (Haller 1994; Kirchgaessner, Frey 1994; Blankart 1992; Frey, Bohnet 1993) it is also possible for the second chamber to initiate his own direct initiative but this possibilty does not have a real practical relevance. But in a another issue the relevance of the interlinkages between federalism and direct democracy are quite obvious and of a great political

importance. The popular constitutional initiative for example which can be used from the people in the federal political arena to try to amend an new article to the constitution or specifications to an article which is already in the constitution needs to fulfill relevant requirements before be implemented in the constitution. Among these requirements are the need for a double majority among the people on the national level as well as a majority of the people in the cantons. This double majority was especially implemented in the constitution to protect the small cantons against the large cantons and to serve as a special form of territorial minority protection. Because of these institutional requirements the popular initiative on the national level usually fails to succeed. In political reality this means too that the small cantons can produce political blockades and therefore refuse to install more progressive and modernizing laws and politics into the Swiss political system (Linder 1992; 1991).

The cantonal political practice differs also for other reasons quite obvious from the German federal practice. The autonomy of the cantons is higher not only for institutional but also for political reasons. Because the subsidiarity principle plays an important role in Swiss federalism the cantons have still different possibilities to implement their own specific cantonal politics which can be quite different from canton to canton. Because of these possibilities cantons can be in some way more flexible to implement specific policies which fit better into their political, social and economical infrastructural settings. As an outcome of these cantonal autonomy the competitive dimension will be more visible and stronger than in the German case. But in the Swiss case the dimension of the so-called participatory

federalism plays also an role in cantonal politics. Because of the underlying consociational pattern in the Swiss system all important political and social actors as well as the cantons are integrated into the required system of the 'consultation of interests' (Vernehmlassungen). That means if the federal government for example wants to implement a new relevant national law or policy the cantons have to be asked for their opinions. If a majority of cantons rejects this policy the federal government will not be able to implement it.

Now I would like to sum up my preliminary results: As I have tried to show the Swiss federal system and the relevant institutional arrangements are following a quite different pattern and institutional and political logic than it can be found in the German case. The second chamber is installed as a true chamber and there functions and the interlinkages to the direct democracy as an important part of the Swiss political system and political culture have produced special checks and balances.

IV Conclusions: German or Swiss federal system as a model for Europe?

The leading question of my paper was whether the German or the Swiss federal system might be used as a model for Europe. As I have argued in my paper it is of course not possible, neither for analytical or for empirical reasons, to use either the German or the Swiss federal system as a blueprint to analyze the process of political and institutional integration of the EU. Both federal systems have created very different institutional structures and patterns of decisionmaking and mechanisms of integration. But nevertheless it

seems plausible that the internal structures and developments in the EU are fit to the term 'federal principle'. That means too that the current political and institutional form of the EU is operating in some way similar to patterns which can be found in the German as well as in the Swiss system. The combination of unanimity and majority vote can be found too in the Swiss consociational system as well as the mechanisms of the protection of smaller member countries in the EU are also in some way related to the Swiss system. Especially the subsidiarity principle which have been integrated into the Maastricht Treaty is more strongly integrated in the Swiss federal system than in the German system. But the current functioning of bargaining processes within the EU between EU institutions and the member countries operates in some way similar to the cooperative federalism in Germany as Fritz Scharpf has mentioned it recently and furthermore the integration and participation of the member countries within EU institutions looks similar to the second chamber in Germany.