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Two steps forward, one step back? Party competition, cooperative federalism, and transport policy reforms in Germany

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Abstract

Background Transport policy has regained political relevance in Germany. The successful realization of the *Verkehrswende*,—the extensive transition toward sustainable transport and mobility—is central to reaching climate neutrality. In 2020, the Federal Government proposed the reform of two key ordinances that have regulated road traffic so far. The amendment was aimed at implementing several provisions at the expense of car drivers and, at the same time, in favor of cyclists and pedestrians. Due to cooperative federalism, the governments of the 16 constituent units (*Länder*) had to adopt the amendment in the *Bundesrat*, Germany's second chamber. In the legislative process, however, the reform ultimately failed in its original scope. Using it as a particularly instructive case study, we show how and why party competition and cooperative federalism hamper comprehensive transport policy reforms in Germany.

Results In the German political system, political interests interact within a complex web of cooperative federalism. To understand partisan encroachment on the federal decision-making processes, this paper uses a process-tracing approach. To investigate decision-making in the *Bundesrat* and its outcomes, the empirical analysis combines qualitative analyses of several publicly available sources. We can empirically demonstrate that political parties influenced legislative procedures. The reform failed in its original scope because the three political parties with veto power in the *Bundesrat* insisted on their positions and were not willing to agree on a compromise.

Conclusions For the implementation of the *Verkehrswende*, the German federal system proves to be both a blessing and a curse. On one hand, the institutional design of the *Bundesrat* constrains extreme positions and helps promote decisions most citizens may agree with. The *Länder* governments and administrations can also contribute their expertise and local experience to federal legislation via the *Bundesrat*. On the other hand, veto powers are ubiquitous in the German system of cooperative federalism. Therefore, it is prone to blockades. The actions of the political parties in the *Bundesrat* have hampered the comprehensive reform of road traffic regulations that was originally envisaged. Policymaking took two steps forward toward implementing the *Verkehrswende*, only to immediately take one step back again.

Keywords Mobility policy, Transport policy, *Verkehrswende*, *Bundesrat*, Political parties, Cooperative federalism, Process-tracing

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Background

In Germany, transport policy was long considered an issue with little potential for political conflicts. This situation has changed. Infrastructure projects have become the center of public debates due to completion delays and cost overruns. Most prominently, the reconstruction of the central train station in Stuttgart caused mass protests against the project [1, 2]. Moreover, climate neutrality can only be reached by revamping the transport sector. According to the federal environment agency, the *Umweltbundesamt*, transport accounts for around one-fifth of greenhouse gas emissions,¹ with most transport-related emissions caused by road traffic [3]. The extensive transition toward sustainable transportation and mobility—in Germany commonly framed as the *Verkehrswende*—has become a key issue in party competition [4].

The *Verkehrswende* goes beyond the electrification of cars. It is also about strengthening alternatives to the car and, therefore, challenging the cultural hegemony of automobility [5]. In 2019, the Federal Ministry of Transport and Digital Infrastructure proposed the reform² of two key ordinances (*Rechtsverordnungen*) to implement numerous provisions at the expense of car drivers and, at the same time, in favor of cyclists and pedestrians. For example, it was planned to better protect cyclists by prescribing a mandatory distance of 1.50 m when cars overtake bicycles in cities. Driving bans were to be imposed for significant speeding (21 km/h above the speed limit in town and 31 km/h out of town), while both speeding fines and fines for parking violations were to be significantly increased. Although rather technical in appearance, the amendment of the ordinances seemed to be another “crack in car hegemony” [6]. To come into force, an ordinance must be approved by the governments of the 16 constituent units (*Länder*) in the *Bundesrat*, the de facto second chamber in Germany. Eventually, the amendment failed in its original scope as several of its main concerns did not find a majority in the *Bundesrat*. The failure of the reform was a surprise, especially because ordinances are administrative acts that usually pass the *Bundesrat* quietly [7]. It highlighted the extent to which the *Verkehrswende* has become subject to political conflict. Using the amendment as a particularly instructive case study, we intend to understand how and why party competition and cooperative federalism hamper comprehensive transport policy reforms in Germany.

Unlike the United States or Switzerland, where the federal level and the constituent units are each vested with a large degree of autonomy, a key feature of Germany's cooperative federalism is the entanglement of different tiers of government. In most policy areas, including transport [8], legislation is predominantly made at the federal level, while execution and administration of the laws fall within the remit of the *Länder* [9]. At the federal level, the *Länder* participate in decision-making via the *Bundesrat* that has a decisive say up to an absolute veto. Therefore, policies of the federal government can be blocked in the *Bundesrat* (for historical examples in transport policy: [10]). This makes comprehensive reforms complicated, especially when partisan majorities differ between the federal parliament (*Bundestag*) and the *Bundesrat* [11]. This distinct institutional design of co-decision making tends to narrow the scope for political action and has been blamed for thwarting “major policy changes that were seen as adequate responses to the social and economic challenges Germany faced since reunification” [12].

As a research field, transport policy has been long neglected by political science in Germany. The research gap can be explained by the fact that 20th-century transport policy has traditionally centered around the distribution of financial resources to build roads, railways, and airports. This has limited scientific curiosity to economic output by economists. In addition, transport policy in Germany is harder than most policy fields to pin down because of its high degree of multi-level governance [13].

In our study, we present novel empirical evidence that the claim regarding the limited capacity of the German federal state to implement and steer wide-ranging policy reforms also applies to transport policy. The analysis unfolds in three steps: first, we present process-tracing as a method in the social sciences and as a tool to unpack decision-making in the *Bundesrat*. Second, we present the empirical investigation that draws on an extensive collection and analysis of primary sources, including the initial proposal of the amendment by the Federal Ministry of Transport and Digital Infrastructure, the recommendations of the *Bundesrat* committees, the plenary protocols, and YouTube videos of the plenary sessions. Third, we discuss both the process-tracing approach and our findings. The analysis underlines that transport policy has become re-politicized in Germany. We find that political parties made use of their power in the *Bundesrat*, at both the committee and the plenary level, to influence legislative procedures. The partisan majority constellations in the *Bundesrat* then hindered the major reform that was originally envisaged. In the conclusion, we outline the implications of our study for future transport policy reforms in Germany.

¹ Current data is available online: <https://www.umweltbundesamt.de/bild/tab-anteile-des-verkehrssektors-an-den-emissionen>. Accessed 24 Jan 2023.

² BR-Drs. 591/19.

Methods

Process-tracing in the social sciences

Process-tracing has become a prominent method in the social sciences and a “fundamental tool of qualitative analysis” [14]. According to Beach and Pedersen, process-tracing aims to analyze and reveal causal mechanisms in single-case studies. The method focuses on the causal mechanisms linking independent variables (X) and outcomes (Y) [15]. Mechanisms can be defined as “entities and activities organized, such that they are productive of regular changes from start or setup to finish or termination conditions” [16]. This definition points to two key elements of any mechanism: entities and activities. Entities are objects that perform activities due to distinct properties. Activities produce change, moving the mechanism from a starting point to the finish [16]. The interplay of entities and activities characterizes any mechanism.

Drawing on this understanding of mechanisms, Beach and Pedersen advance their popular conceptualization of process-tracing as a social science research method: political actors—in our case, the delegates of the *Länder* in the *Bundesrat* and its committees—are the entities that perform certain activities. The entities can be understood as toothed wheels. Activities, such as voting in the plenary of the *Bundesrat*, transmit the causal forces through the mechanism, moving the toothed wheels toward a specific outcome. The combination of an entity and an activity constitutes one part of the mechanism. The individual parts of the mechanism, for example, part I (composed of entity I and an activity) and part II (composed of entity II and an activity), should be causally linked. Moreover, part I must lead to part II. Otherwise, the mechanism does not work in such a way that it produces the outcome Y [15].

The specific approach to process-tracing depends on the research goal. Therefore, it must be defined at the outset [15]. Our goal is to evaluate a theoretically specified causal mechanism considering empirical evidence. That is, a mechanism linking the strategic interests of political parties in the federal system (X) and the party politicization of *Bundesrat* decisions (Y). In doing so, we aim to provide empirical evidence that the mechanism works as expected. In the classification of Beach and Pedersen, we use “theory-testing process-tracing”. There are two preconditions of this approach: “we know both X and Y and we either have existing conjectures about a plausible mechanism or are able to use logical reasoning to formulate a causal mechanism from existing theorization” [15]. In our case, these preconditions are met. Previous studies have substantiated the influence of political parties on decision-making in the *Bundesrat* [7, 17, 18]. Other contributions have investigated the legislative

procedures in the *Bundesrat*, mapping the various opportunities for partisan influence [19, 20].

Tracing decision-making in the German *Bundesrat*

For unpacking the causal mechanism, Beach and Pedersen suggest three specific research steps. In the first step, both the mechanism and the context in which it operates must be specified. The activities, the units, as well as the individual parts of the causal mechanism are conceptualized. In the second step, all elements of the mechanism are operationalized. In the third step, the empirical evidence is gathered and compiled [15]. These three steps allow the researcher to evaluate whether the mechanism works as expected.

Specifying the causal mechanism, we need to identify the relevant actors (and, for collective actors, their composition), their goals, and the decision-making rules under which they interact. To identify these components, it is worth considering the official schedule of the *Bundesrat*, which is characterized by a 3-week-long process. In the first week (“committee week”), the standing committees of the *Bundesrat* come together and scrutinize the legislation. In the second week (“coordination week”), the *Länder* governments coordinate their positions on the legislation based on the committee recommendations. This coordination takes place both within the respective governments and between the governments. In the third week (“plenary week”), coordination continues at the highest political level and on-site in Berlin. On the Friday of this week, the *Bundesrat* plenary makes the final decisions [19]. The chronological sequence of events does not imply a causal relationship. However, it can serve as the framework for more in-depth analyses of causal relationships [21].

Starting with the first research step, unpacking the causal mechanism, we propose two parts, each one with different entities and activities. The two-part mechanism is expected to operate in any decision-making procedure in the *Bundesrat* (Fig. 1). Part I refers to the *Bundesrat* committees. Most of the substantive work in the *Bundesrat* takes place at the committee stage. The committees are comprised of the ministers who are responsible for the respective departments in the *Länder* cabinets. The members of the Environment Committee, for example, are the 16 *Länder* ministers of the environment. According to the constitutionally enshrined departmental principle (*Ressortprinzip*), the ministers are responsible for the *Länder* positions in “their” committee. In the Environment Committee, for example, the positions of the respective ministers of the environment are crucial for deliberation and decision-making and not those of the entire *Länder* governments [17]. Regarding the operation of *Bundesrat* committees, therefore, the functioning of

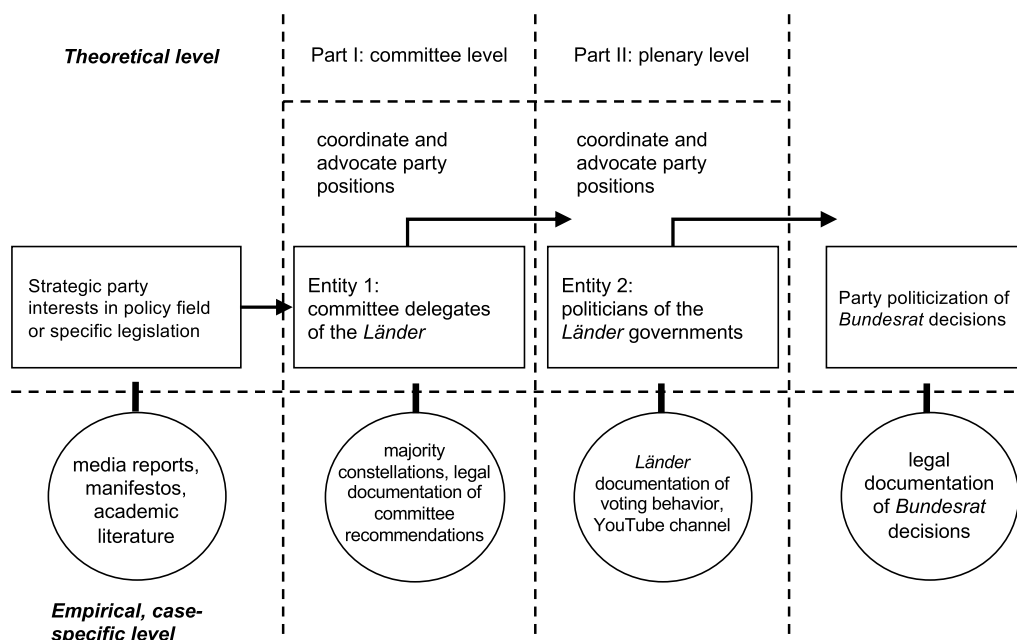


Fig. 1 Causal mechanism of the *Bundesrat* decision-making. Source: Authors' own depiction following Beach and Pedersen methodology [15]

coalition governments in the *Länder* comes close to the analytical idea of "ministerial dictatorship" [22].

The politicians delegate most of the committee work to civil servants in the ministries who prepare the positions on their behalf and represent them in the meetings. As representatives of their ministers, the civil servants act in compliance with their instructions and must discuss sensitive issues with the management level in the ministries. There is an interplay between bureaucracy and politics. Political parties have established strategies for mutual information and coordination, at both the political and the working level. Before the committee meetings, civil servants meet in groups defined by the party affiliations of their ministers to coordinate partisan positions. Next to technical and territorial considerations, partisanship plays a central role in the (voting) behavior at the committee stage [7]. *Bundesrat* committees make decisions with a simple majority. As the ministers, even from one *Länder* government may come from different political parties, there may be different partisan majorities in different committees.

Part II of the mechanism refers to the plenary level and encompasses the "coordination week" and the "plenary week". The *Bundesrat* committee system is characterized by multiple referrals [23]; that is, legislative proposals may be considered by several committees. Consequently, *Länder* governments are often confronted with different, sometimes conflicting committee recommendations. In the *Bundesrat* plenary, the

Länder governments must cast their votes *en bloc*. It is not possible to find a coalition compromise in the form of a split vote.

The coalition partners need to coordinate on how to deal with these conflicts, especially if they have advocated different positions at the committee stage. The internal coordination "is overlapped and partly influenced by the simultaneous cross-state coordination of the parties in Berlin. At the end of the week, remaining conflicts need to be resolved solely at state secretary or cabinet level" [17]. If coalition partners cannot find a common position, the government will abstain from voting, following the so-called "*Bundesrat* Clause" that is formalized in the coalition agreements [17]. In the *Bundesrat* plenary, these abstentions formally work as "no-votes" as it operates under absolute majority rule.

The plenary makes decisions with an absolute majority. As the *Bundesrat* is comprised of 69 seats, a proposal requires a minimum of 35 votes to be adopted. The number of votes that each *Land* has in the *Bundesrat* plenary ranges from three to six. This distribution depends on population size—but with a large degree of malapportionment [24]. For example, Germany's most populous state North-Rhine-Westphalia with 18 million inhabitants, controls six votes, while the Saarland with one million inhabitants, controls three votes. According to the ideas of the framers of the German constitution, this malapportionment safeguards the principle of territorial representation [25].

The next two research steps consist of operationalizing the mechanisms and gathering empirical evidence. For identifying party positions on the legislation at stake, we draw on secondary literature, media reports, and manifestos. Regarding the first part of the mechanism (the committee level), data availability is a challenge. The *Bundesrat* does not publish the latest minutes of the committee meetings [7]. These minutes, comprising the debates among the *Länder* representatives and their voting behavior, would reveal the extent to which party positions are advocated at the committee stage.

Nevertheless, we can make plausible conjectures about it. While legislation is normally referred to several committees, all of them have equal reporting rights [23]. In contrast to the plenary sessions, each *Land* has only one vote in the committees, and the decisions are made by a simple majority. This results in committee-specific majorities, depending on the party affiliations of the ministers in the *Länder* cabinets [7]. For example, in September 2020, the Greens participated in 11 of 16 *Länder* governments. In all these cabinets, the Greens were responsible for the environmental portfolio. In five of them, the ministers of transport were party members of the Greens. In the *Bundesrat*, they had a majority in the Environment Committee (11 out of 16 votes), but only 5 votes in the Transport Committee.

Political parties are expected to leverage their majorities in the committees to push through their preferred positions. Therefore, we analyze both the partisan majorities in the individual committees and the substantive content of the recommendations. The relevant information is publicly available. The document, comprising all committee recommendations (*Empfehlungsdrucksache*), is accessible via the legal database³ of the *Bundestag* and the *Bundesrat*. The committee members and their respective party affiliations can be found on the website of the *Bundesrat* (the current composition only) and in its annual handbooks.

At the plenary level (the second part of our mechanism), data availability is also mixed. The political coordination in the run-up to the plenary session is a blind spot, taking place behind closed doors. The stenographic protocols of the plenary sessions are publicly available, but they do not register the individual voting behavior of the *Länder*. This only occurs in rare cases when the roll-call votes are requested or obligatory for constitutional amendments [26]. Recently, *Länder* governments have started to publish their voting behavior online. These lists have a varying degree of detail, but they usually include the relevant information. If these lists were incomplete or

unclear, we also watched the plenary sessions on the *Bundesrat's* YouTube channel,⁴ to get a glimpse of the governments' voting behavior (as they raise their arms in case of support). Combining these different publicly available sources, we can evaluate whether the *Länder* politicians have coordinated party positions on the legislation prior to the plenary session and present them there.

Results

In the *Bundesrat*, the amendment of the two ordinances proposed by the Federal Ministry of Transport caused conflicts. The positions of the political parties differ significantly in the degree to which the *Verkehrswende* is linked to a reduction of privileges of cars in road traffic and prioritizing alternative means of transportation, especially bicycles. The party manifestos of the 2021 federal election reveal two sides of the conflict and reflect the traditional left–right divide [4]. On one side, Alliance 90/The Greens (the Greens), *Die Linke* (the Left Party) and, to a lesser extent, the Social Democrats (SPD) supported a comprehensive *Verkehrswende*. On the other side, the Christian Democrats (CDU/CSU), the Liberals (FDP), and the *Freie Wähler* (Free Voters) in Bavaria advocated rather tentative reforms and held on to the privileged status of the car.⁵

Using process-tracing and the causal mechanism (Fig. 1), we scrutinize how partisan interests are imprinted on decision-making in the committees and the plenary of the *Bundesrat*. The analysis is divided into two sections. First, we investigate the decision-making in February 2020 when the initial proposal for the amendment of the Federal Ministry of Transport and Digital Infrastructure was adopted by the *Bundesrat*. Then, we analyze the second round of decision-making in September 2020 that became necessary due to a legal error that was found after the adoption of the original amendment.

The adoption of the amendment in February 2020

The first part of the mechanism refers to the committee stage. To begin with, five *Bundesrat* committees were involved in the deliberations: Transport, Interior Affairs, Legal Affairs, Environment, and Agriculture. Figures 2 and 3 present the partisan composition of the committees as well as the partisan majorities. The relevant information was retrieved from the website of the *Bundesrat*. In each of the committees, there were different majorities. Only in two committees, Environment and Legal

³ <https://dip.bundestag.de>, Accessed 24 Jan 2023.

⁴ <https://www.youtube.com/bundesratdeutschland>, Accessed 24 Jan 2023.

⁵ The “Alternative for Germany” (AfD) does not participate in any government in the *Länder*. Hence, it is not represented in the *Bundesrat*. Regarding the *Verkehrswende*, the AfD is committed to keeping everything as it is, especially the privileges for motorized individual traffic [4].

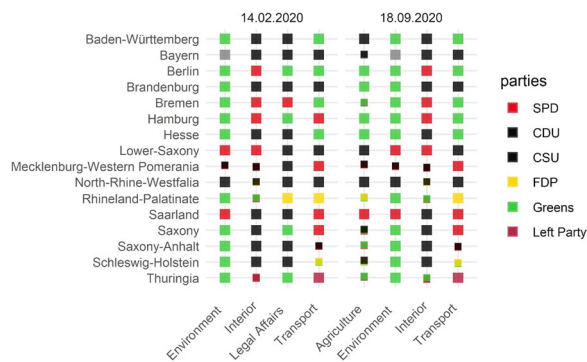


Fig. 2 Partisan composition of the *Bundesrat* committees. Source: Authors’ own depiction based on the official information of the *Bundesrat*

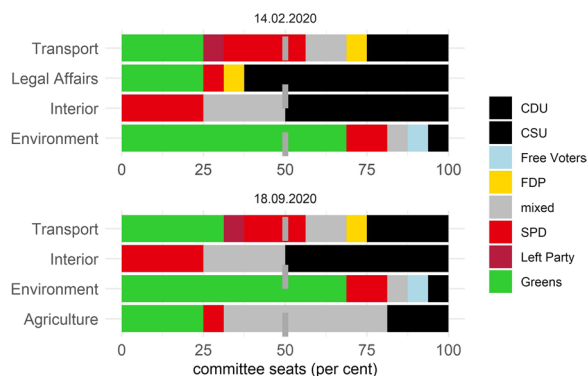


Fig. 3 Partisan majorities in the *Bundesrat* committees. Source: Authors’ own depiction based on the official information of the *Bundesrat*

Affairs, a single political party had the majority of more than 8 votes. The Greens were responsible for the environment portfolio in all *Länder* governments they participated in. Consequently, they had 11 of 16 votes in the Environment Committee. As 10 of the 16 *Länder* ministers of justice were affiliated with the CDU/CSU, the party had a majority in the Legal Affairs Committee.

In the other *Bundesrat* committees that were involved in the deliberation of the amendment, partisan majorities are more ambiguous. Based on common preferences, there are likely voting alliances that could be formed by the political parties. However, without knowing the committee protocols and the voting results, we cannot be certain whether the political parties have done so and—if there were several options for alliances—which one they have opted for. For example, in the Transport Committee, the two political parties in favor of an ambitious and comprehensive *Verkehrswende*, the Greens and the Left Party, would have had a majority with the SPD. Yet, the SPD could also ally with the CDU/CSU—its coalition partner at the federal level at that time. SPD and CDU/

CSU would also have had the majority in the Interior Affairs Committee.

Another ambiguity results from the fact that *Länder* governments may appoint more than one minister as committee member if the issues this committee deals with affect several ministerial portfolios at the *Länder* level. Nevertheless, the *Land* has only one vote in each committee. It then depends on the agenda item of which minister is responsible for casting the vote of the *Land* [20]. In the case of coalition governments, the appointed ministers of the *Land* regularly have different partisan affiliations. In such situations, we cannot assign the vote of a *Land* to a political party with a sufficient degree of certainty. Therefore, Fig. 3 contains the fictive category “mixed”, comprising the *Länder* which have appointed at least two ministers with different partisan affiliations as members of the same committee.

In one case, we can at least make a plausible conjecture regarding the responsible minister. In the Interior Affairs Committee, the CDU/CSU lacked one vote for a majority. North Rhine-Westphalia had appointed three committee members, two of the CDU and one of the FDP. The latter was responsible for immigration and, hence, for a policy area that has no links to traffic regulation. It is plausible to assign the vote of North Rhine-Westphalia to the CDU/CSU which, under this assumption, had the majority in this committee.

Based on this analysis of the partisan composition of and majorities in the committees, we have conducted a content analysis of the legal document⁶ containing all their 71 recommendations. We coded each committee recommendation on a simplified policy dimension with the poles “pro *Verkehrswende*” and “contra *Verkehrswende*”. As the committee recommendations aim to amend the proposal of the Federal Ministry of Transport and Digital Infrastructure, this document is the reference point for our coding decisions.

We have categorized all recommendations that change the rights, obligations, and sanctions in favor of pedestrians, cyclists, and environmental protection but to the detriment of motorized private transport as “pro *Verkehrswende*”. These include, for example, the introduction of a general speed limit and the (further) increase of fines for parking violations. Recommendations in favor of motorized private transport, such as the softening of the distance rules when overtaking cyclists, have been classified as “contra *Verkehrswende*”. Finally, we include a third category, “technical”, comprising recommendations driven by administrative considerations of the *Länder* ministries. Evaluating the content of the committee

⁶ BR-Drs. 591/1/19.

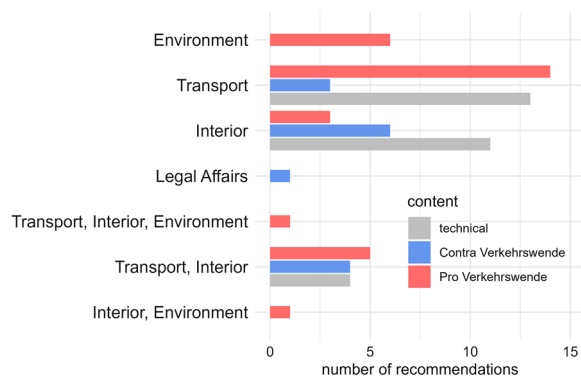


Fig. 4 Qualitative analysis: content analysis of committee recommendations (February 2020). Source: Authors' own analysis and depiction

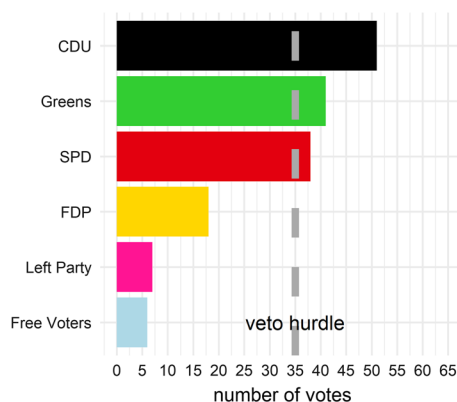


Fig. 5 Partisan veto power in the *Bundesrat* plenary. Source: Authors' own calculation and depiction

recommendations is often challenging and presupposes both substantive and legal knowledge. Hence, three researchers read and coded all proposals independently from one another. Conflicting cases were discussed among the team. Figure 4 presents the result for each committee. Several recommendations were adopted by more than one committee. These joint committee recommendations are listed separately in Fig. 4.

The Environment Committee, dominated by the Greens, only passed “pro *Verkehrswende*” recommendations. Most prominently, it recommended—as the only committee involved—the introduction of a general speed limit. By contrast, our content analysis shows that all recommendations of the Legal Affairs Committee, in which the CDU/CSU had a majority, were “contra *Verkehrswende*”. The results for the Transport Committee and the Interior Affairs Committee present a mixed picture. While both committees adopted numerous technical recommendations, we note that for the Transport Committee more recommendations were “pro *Verkehrswende*” than against it. The recommendations in favor of the *Verkehrswende* mainly refer to further increases in fines for parking violations. For the Interior Affairs Committee, which was dominated by the CDU/CSU, we register more recommendations “contra *Verkehrswende*” than in favor of it. These include demands to roll back crucial improvements for cycling, such as the mandatory minimum distance of 1.50 m for cars when overtaking cyclists in cities. Taken together, the analysis of the available empirical evidence shows that partisan interests played a central role in decision-making at the committee stage.

The second part of the mechanism refers to the plenary level. Due to the different voting rules (absolute majority, weighted votes) and the need of the *Länder* governments to cast their votes *en bloc*, partisan majorities in

the plenary differ from the ones in the committees. Figure 5 summarizes the majority situation in the *Bundesrat* plenary at the time of our analysis. It reflects the unique interplay of decision rules and political convention, enabling each coalition party to force an abstention and thereby block all votes of the *Länder* in which it participates in the government.

To recall, this interplay works as follows: the *Länder* governments must seek an agreement within the cabinet prior to the plenary sessions. The coalitions bring together political parties which advocate different policy positions on the *Verkehrswende*. If the *Länder* governments cannot find a common position, they abstain from voting in the plenary sessions. This abstention is agreed upon in the coalition contracts of *Länder* governments (*Bundesrat* Clause). As decisions in the plenary are made by an absolute majority, abstentions de facto count as nays. By invoking the *Bundesrat* Clause, each coalition partner can force the government to abstain from voting in the plenary session. For example, the Greens in Saxony-Anhalt, then the smallest coalition partner with 5.2% of the electoral vote, can block the four *Bundesrat* votes of the *Land*. Figure 5 illustrates that at the time of our analysis, three parties had accumulated veto power in the *Bundesrat* plenary; the SPD, the Greens, and the CDU/CSU.

In the plenary session,⁷ there were two speeches on the amendment. *Winfried Hermann* (the Greens), the Minister of Transport of Baden-Württemberg, called for a paradigm shift in the regulation of road traffic far beyond what was proposed in the amendment. Nevertheless, he also highlighted the specific improvements for the amendment, especially for cyclists. For the federal

⁷ BR-PlPr. 985:36–38.

Approval: Berlin (●●●), Bremen (●●●)

Abstention (according to official documentation of voting behavior): Baden-Württemberg (●●), Brandenburg (●●●), Mecklenburg-Western Pomerania (●●), Lower-Saxony (●●), Saarland (●●), Saxony-Anhalt (●●●), Schleswig-Holstein (●●●)

Abstention or rejection: Bavaria (●●), Hamburg (●●), Hesse (●●), North Rhine-Westphalia (●●), Rhineland-Palatinate (●●●), Saxony (●●●)

Legend: CDU/CSU (●), SPD (●), FDP (●), Greens (●), Left Party (●), Free Voters (●)

Fig. 6 Voting behavior on the introduction of a speed limit. Source: Authors' own depiction

government, *Enak Ferlemann* (CDU), Parliamentary State Secretary to the Federal Minister of Transport and Digital Infrastructure, praised the amendment for its better regulations for cycling and as a good first step toward the comprehensive reform of road traffic. In the run-up to the plenary sessions, the political actors appear to have struck a compromise that satisfied all sides.

The *Bundesrat* adopted seven of 13 recommendations that we coded as “contra *Verkehrswende*” and 21 of the 27 “pro *Verkehrswende*” recommendations, mainly the ones that refer to increases in fines. The introduction of the general speed limit was not adopted. Figure 6 presents the voting behavior related to the respective recommendation of the Environment Committee. Only two *Länder*, Berlin and Bremen, which were both governed by a coalition of SPD, Greens, and the Left Party, voted in favor of the recommendation. The other *Länder* abstained from voting due to the *Bundesrat* Clause, i.e., the coalition partners could not find a common position,⁸ or voted against the recommendation. CDU/CSU (together with the FDP) successfully vetoed the introduction of the general speed limit.

In summary, partisan interests impacted the *Bundesrat's* final decisions on the amendment. Decision-making was no zero-sum game of party politics, but it reflected the willingness to work together and find common ground that normally characterizes cooperative federalism in Germany. The final compromise was a carefully crafted and toughly negotiated agreement between the CDU/CSU, the SPD, and the Greens. It thus reflected a major political breakthrough. The amendment was henceforth framed as the “bicycle amendment”.

The attempt to repair the “bicycle amendment” in September 2020

Just a few months later, the German Automobile Association (ADAC) discovered a formal error in the legal text of the adopted reform. According to the lawyers of the ADAC, the error rendered parts of the reform legally void, namely, the newly introduced driving bans and increases in fines for car drivers. This came as a surprise and put the “bicycle amendment” back on the agenda of the *Bundesrat*. Article 80 (1) sentence 3 of the Basic Law requires the legislators to specify the legal basis of ordinances. However, the “bicycle amendment” did not mention § 26a Number 3 of the Road Traffic Act (*Straßenverkehrsgesetz*) relevant to driving bans. Therefore, the legal basis of the amendment had to be fixed. Quickly, the question emerged if this fix should only repair the small legal error, or if it allowed adding even more changes, thus modifying the former compromise.

In September 2020, the *Bundesrat* again dealt with road traffic regulations. To begin with, in the first part of the mechanism four committees were involved in deliberations: Transport, Interior Affairs, Environment, and Agriculture. The committees adopted 21 recommendations.⁹ The first 19 recommendations refer to technical questions of implementing new requirements of the European Union. The last two recommendations, 20 and 21, were controversial ones as they dealt with fixing the legal error of the “bicycle amendment”. One recommendation was adopted by both the Transport Committee and the Interior Affairs Committee, while the other one was by the Environment Committee.

The recommendation of the Transport Committee and the Interior Affairs Committee aimed to repair and modify the “bicycle amendment”. Before the decision-making in the *Bundesrat*, the CDU/CSU and SPD had agreed on a compromise that would weaken the penalties originally envisaged for speeders. While fines for speeding should still be raised marginally by €25 to €120, the driving bans were rolled back considerably. In the original proposal, driving bans were applied for all speeding violations exceeding the limit by 21 km/h within cities. According to the CDU/CSU and SPD compromise, this should only apply to repeated violations or violations in designated areas, such as schools and kindergartens. The SPD and CDU/CSU jointly had a majority in both committees (Figs. 2 and 3) which pushed for this “reform of the reform”. Conversely, the Environment Committee, dominated by the Greens, argued for a 1:1 repair of the original “bicycle amendment”—with a new entry formula without the legal error. The two committee

⁸ A special case was Thuringia. Due to a government crisis, Thuringia had no representatives sent to the plenary session of the *Bundesrat*. The *Land* did not participate in voting at all.

⁹ BR-Drs. 397/1/20.

recommendations thus reflected the respective party interests as well as partisan majorities.

Based on these conflicting committee recommendations, there are clear expectations for the plenary level, the second part of our mechanism. Unless the political leaders struck an 11th-hour deal, both recommendations would be voted down in the *Bundesrat* plenary (Fig. 5). The Greens would veto the proposal of SPD and CDU/CSU, while these two would block the Greens 1:1 repair.

In the plenary debate,¹⁰ *Hermann* (the Greens) pointed out that the *Bundesrat* decision in February 2020 was already a compromise that had resulted from comprehensive intergovernmental and cross-party coordination. According to *Hermann*, it was “quite astonishing [...] that a decision, which was made after long discussion by almost everyone in full awareness, is called into question again after a few weeks, as if the decision had been made unconsciously, without knowing the objections” [translation by the authors]. *Hermann* announced on behalf of the Greens that they would not support the proposal of SPD and CDU/CSU. *Anke Rehlinger* (SPD), Minister of Economics, Labor, Energy, and Transport of the Saarland, countered that the fines for car drivers had gone too far in the “bicycle amendment” and defended the joint proposal of SPD and CDU/CSU.

This time, the political leaders would not strike a compromise. As the political parties insisted on their respective positions, both committee recommendations eventually failed in the *Bundesrat* plenary. The proposal of SPD and CDU/CSU was supported by the, at that time, five *Länder* governments without the participation of the Greens. Berlin and Bremen, both governed by SPD, Greens, and the Left Party, were the only *Länder* which voted in favor of the 1:1 repair.

To overcome the political standstill, decision-makers tried to find common ground outside the *Bundesrat*. Delegating politically sensitive issues to ministerial conferences has traditionally been a promising strategy to resolve blockades in the *Bundesrat* [27]. The ministerial conference of the *Länder* transport ministers eventually reached a compromise [28]. On September 2021, the legally non-binding, political agreement of the conference was formalized in the *Bundesrat*.¹¹

Discussion

The process-tracing approach has proven useful in capturing and analyzing decision-making in the *Bundesrat*. The *Bundesrat* has been described as a ‘black box’ [18], as opaque or entirely lacking documentation of its internal

procedures complicates the assignment of responsibility to individual actors. Process-tracing allows for a fine-grained investigation of how—and to what extent—political parties influence decision-making at various stages. The conceptualization of this mechanism is an original contribution to the vast literature on party competition and cooperative federalism in Germany. It condenses major assumptions into an analytical tool that enables structured empirical investigation.

Process-tracing is intended to provide a scientific form of analysis and explanation of political events and outcomes, focusing on causal mechanisms. It goes beyond storytelling. The individual research steps must be transparent and comprehensible [29]. Therefore, we have used as many publicly available sources as possible in our investigation, including legal documents, plenary protocols, and videos, and combined them to empirically test the mechanism.

In both the situations we analyzed, even in the exceptional one in September 2020, the mechanism worked as expected. Political parties make use of their majorities in the committees to push through recommendations. The politicians then try to balance the various interests, both within the *Länder* governments and between the governments. Depending on the outcomes of political coordination processes as well as the majority constellations in the *Bundesrat*, we can observe the party politicization of its decisions. The analysis underlines that actors, in our case party politicians, shape processes and their outcomes [29].

In the two situations we analyzed for our case study, the consequences of party politicization were different. In the first round of decision-making on the amendment, the *Bundesrat* adopted a compromise between the political parties. Their willingness to cooperate and find common ground for joint decisions may contain a zero-sum game of party politics.

However, in September 2020, interest groups and lobbyists (especially the ADAC) weighed in on the political debate, while both the legal error and the consequences for car drivers in the original proposal were broadly covered in the media. Moreover, the political parties had already prepared their election campaigns. In 2021, several *Länder* elections and the federal election were scheduled. As the Greens, the SPD, and the CDU/CSU insisted on their respective positions, the *Bundesrat* was unable to fix the legal error of the originally adopted amendment. The political compromise eventually bargained by the *Länder* ministers of transport fell significantly short of the original proposal.

¹⁰ BR-PIPr. 993:329–331.

¹¹ BR-PIPr. 1009:424–427.

Conclusions

In Germany, transport policy has regained political relevance. The successful implementation of the *Verkehrswende* is central to reaching climate neutrality. However, there is no common understanding of the problems nor shared solutions to be realized in the *Verkehrswende* [30]. As people differ in how they move in traffic, so do they differ in their preferences regarding the transformation of transport policy. Individual mobility behavior shapes policy positions; for example, pedestrians and cyclists favor stricter fines for speeding than car drivers [31]. This has opened up the *Verkehrswende* to party competition, making it a major point of conflict. The positions of the political parties differ significantly based on party manifestos [4], a variation that our analysis supports further. Legislation to regulate traffic plays an important role in the political debate on the *Verkehrswende* because it affects almost all citizens in their daily lives.

For the implementation of the legislation, the German federal system proves to be both a blessing and a curse. On one hand, the institutional design of the *Bundesrat* forces multiple actors who represent different territorial entities, portfolios, and party affiliations to seek compromise. It constrains extreme positions and helps promote decisions most citizens may agree with. The *Länder* governments and administrations can also contribute their expertise and local experience in the application of rules to federal legislation via the *Bundesrat*. In particular, civil servants who scrutinize the legislation in the committees have the professional knowledge to understand scientific evidence [17]. Due to its interdisciplinarity, interdependencies with other policy areas, and technical details, transport policy is particularly complicated [32]. Policymakers are regularly confronted with different scientific findings. For example, while some find evidence that speed limits on German highways (*Autobahnen*) contribute to combat climate change [33, 34], others underscore the importance of a more comprehensive view, considering impacts of transportation policies (speed limits) beyond those related to carbon dioxide emissions [35]. Moreover, as the legislation is adopted at the federal level, it ensures coherent rules and provisions across the country. This is important for the citizens' acceptance of the rules and their eventual compliance with them.

On the other hand, veto powers are ubiquitous in the German system of cooperative federalism. Lehbruch was the first who argued that party competition can encroach upon federal decision-making [36]. Therefore, cooperative federalism is prone to blockades, like in the case of the "bicycle amendment". The actions of the political parties in the *Bundesrat* have hampered the comprehensive reform that was originally envisaged and

produced instead a lowest common denominator compromise. Policymaking took two steps forward toward implementing the *Verkehrswende*, only to directly take one step back again. This situation discourages policy entrepreneurship that aims to enforce reforms with long-term benefits against initial doubts or opposition [37].

Regardless of how the specific outcomes are evaluated (e.g., in terms of efficiency), the encroachment of party competition on federal decision-making is problematic from a democratic perspective. Due to the possibility of a minority veto, decisions may reflect the self-serving interests of a single political party rather than the preferences of the majority.¹² The fragmentation of the party system, multi-party coalitions in the *Länder*, and the *Bundesrat* Clause equip several political parties with veto power [38]. At the same time, the accountability of political actions is undermined when voters do not know which political party is responsible for policy outcomes. This makes it difficult to vote for or against the incumbent government in elections [39]. In a functioning democracy, citizens must be able to understand which political party supports and advocates which policies, especially in important areas such as transport policy which has a bearing on their everyday lives.

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AS is the lead author of the paper. He drafted the Background. AS and CS implemented the empirical analysis and interpreted the results. AJ revised and complemented the empirical analysis. AS and CS drafted the Discussion and Conclusion. All authors revised the manuscript prior to submission.

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¹² For example: according to recent polls, the majority of citizens in Germany, and even the majority of ADAC members, support the introduction of a speed limit on highways [33].

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