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How to cite

VARONE, Frédéric, INGOLD, Karin. Switzerland, Public Policy in. In: Encyclopedia of Public Policy. Cham : Springer International Publishing, 2023. p. 1–10. doi: 10.1007/978-3-030-90434-0_54-1

This publication URL: https://archive-ouverte.unige.ch/unige:169253
Publication DOI: 10.1007/978-3-030-90434-0_54-1

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Switzerland, Public Policy in

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Keywords

Direct democracy · Europeanization · Evidence-based policymaking · Experts · Federalism · Interest groups · Judicialization · Regulatory agencies · Policy cycle

Introduction

Three peculiarities of the Swiss political system must be considered when assessing the institutional venues in which policymaking occurs and the resources and effective power of different policy stakeholders. First, direct democracy instruments allow policy actors to put a new policy issue on the political agenda (by launching a popular initiative) and to veto a policy solution that was enacted by the parliament (by calling for an ex post referendum). Second, Switzerland is characterized by strong federalism: the subnational entities (cantons) can co-determine the formulation of federal policies and, furthermore, have significant manoeuvrability when implementing these policies. In addition, cantons have important policy competences in several areas, including health care, public order and security, or education. They also negotiate hundreds of inter-cantonal agreements to address tax and finance, research, or cultural issues. Third, the Federal Assembly (i.e. Swiss parliament) is a *militia* parliament, meaning that most elected representatives are not professional politicians. They often depend upon the policy expertise provided by administrative agencies and interest groups. This chapter discusses how these institutional rules matter along the four main phases of the policy cycle: agenda setting, formulation, implementation, and evaluation (for handbooks on Swiss policymaking, see Knoepfel et al., 2007; Sager et al., 2017a). It is richly illustrated by recent empirical studies covering different policy domains and using both quantitative and qualitative methods.

Agenda Setting

During the agenda-setting phase, policy entrepreneurs define a policy problem to be solved and navigate across institutional venues to attract the scarce attention of policy stakeholders and to (eventually) put this policy issue on the political agenda (Baumgartner & Jones, 1993). The

M. van Gerven et al. (eds.), *Encyclopedia of Public Policy*,
https://doi.org/10.1007/978-3-030-90434-0_54-1

framing and venue-shopping strategies of policy entrepreneurs influence their success in defining the agenda's priorities and shape the subsequent policy formation. It is thus essential to analyse who, in practice, has the leading role in agenda-setting processes in Switzerland: the government, the parliament, citizens (through popular initiatives), or international actors (via bi- or multilateral agreements).

To answer this question, original data on all 1804 legislative bills introduced to the Swiss parliament between 1987 and 2015 were collected and analysed (Jaquet et al., 2019). Empirical results indicated that the relative frequency of impulses coming from the government (i.e. Federal Council and its administration) has decreased over time. This decrease has gone hand in hand with the greater influence of the Swiss parliament. This is remarkable because the Swiss parliament has many competences but relatively few resources (Flick Witzig & Bernauer, 2018; Vatter, 2020). International actors such as the European Union also increased their agenda-setting power. A media analysis of climate policymaking in Switzerland over the last 30 years also confirmed increasing internationalization, indicating the growing impact of international events and global summits on domestic policymaking (Kammerer & Ingold, 2021). Finally, it should be noted that despite the increasing use of popular initiatives by political parties, interest organizations, and ad hoc groups of citizens, their weight in the agenda-setting process has remained stable in relative terms.

The declining relative share of policy issues that are introduced by the government on the political agenda does not mean, however, that the government is less influential in agenda setting today than it was 30 years ago. In fact, the increasing internationalization of policymaking processes, which strengthens the framing power of government and its administration in relation to parliament, certainly contributes to the agenda-setting influence of the government (see the section on policy formulation below).

Beyond this mere quantitative assessment of who is driving the agenda-setting process, two points are worth mentioning in the Swiss context. First, the use of direct democracy instruments by political parties is often criticized as supporting the policy demands of populist parties. Second, the recourse to experts' knowledge for identifying emergent problems and designing technical solutions bears the risk of freezing political debates. Both phenomena (i.e. populism and technocracy) have been identified as key challenges to representative democracy and participative policymaking (Caramani, 2017).

Direct Democracy and Populism

In Switzerland, popular initiatives are a powerful instrument for setting the policy agenda. By collecting 100,000 signatures from citizens in 18 months, a political party, or an interest group can call for the revision of the federal Constitution. Popular initiatives put pressure on both the government and the parliament, which must share their agenda-setting power with the people. However, the capacity to directly influence policymaking through popular initiatives remains limited since, on average, nine out of ten initiatives are eventually rejected at the ballot box. Nevertheless, even if it is rejected, a popular initiative may have positive side effects by giving political parties the opportunity to profile themselves on key policy issues. It may also lead to policy changes indirectly because the demand raised by the initiative may be addressed, at least in part, in another legislative act (Eichenberger & Varone, 2020; Rothmayr & Varone, 2009).

Policy scholars have applied the methodology of Baumgartner and Jones's (1993) punctuated equilibrium approach to measure the impact of direct democracy on Swiss policy agendas. Varone et al. (2014) showed how the dramatic electoral rise of the Swiss People's Party (from 12% of vote shares in 1991 to 29% in 2007) is related to its programmatic reorientation towards a radical right party and to its strategic use of popular initiatives. Indeed, the Swiss People's Party has launched several popular initiatives on the dominant policy issues of its new electoral manifesto (e.g. initiatives against illegal immigration in 1996, against the misuse of the asylum policy in 2002, to ban the building of minarets in 2009, and for the automatic deportation of

criminal foreigners in 2010). With its far-reaching direct democracy, the Swiss political system offers favourable institutional conditions for a populist party such as the Swiss People's Party to decisively influence the policy agenda-setting process.

Role of Scientific Experts and Technocracy

In Switzerland, policy advice is rarely institutionalized. Very few policy domains make use of an advisory body to the government or the parliament. Policy advice is rather realized through policy evaluations conducted by external experts for mandates that are ad hoc or limited in time (Hadorn et al., 2022). This renders policy advice, typically in times of crisis like the COVID-19 pandemic, and the incorporation of scientific knowledge in decision-making and administrative practices a difficult task (Eichenberger et al., 2023). Climate change policy is one example. For decades, Swiss scientists acted as lead experts on the Intergovernmental Panel on Climate Change (IPCC) and as authors of its associated assessment reports. Nationally, however, they play only a very marginal role when it comes to advising politicians on climate change mitigation (Ingold, 2011; Kammerer & Ingold, 2021).

The role of science is different in more technical policy domains, where the science–administration relationship is crucial in the early phases of problem perception and agenda setting as well as in the formulation of policies. For example, in the revision of the Water Protection Act in 2011 and the management of micropollutants in surface water, science, and administration jointly shaped policymaking (Metz, 2017). In terms of the local energy policy, scientific experts were also true policymakers (Ingold & Gschwend, 2014).

Policy Formulation

The policy formulation stage in Switzerland can be subdivided into three phases (Sciarini, 2023). First, during the *pre-parliamentary* phase, the public administration leads the process of drafting a legislative proposal. It frequently resorts to external expertise and organizes formal consultations of all potential stakeholders (e.g. other public administrations, political parties, interest groups, and cantons). The aim is to assess the political acceptability and technical feasibility of the envisaged policy solution. The leading public administration generally includes the major critical points that are raised by powerful policy actors, who are (potentially) able to launch an optional referendum against the law once it has been adopted by the parliament. Thus, the pre-parliamentary negotiations are a crucial phase of the law-making process in Switzerland.

Second, the *parliamentary* phase is structured in a similar way as in most Western democracies: a specialized legislative committee discusses and amends the legislative proposal that results from the pre-parliamentary phase. Then, the plenum deliberates and votes on individual amendments and the final text. Switzerland is a system of perfect bicameralism, meaning that the lower chamber (representing the people) and the higher chamber (representing the cantons) have to agree on the final text. A so-called shuttle procedure between the two chambers, or even a conciliation committee, is organized if necessary.

Third, the *referendum* phase allows 50,000 citizens who are not satisfied with the legislative act adopted by the parliament to call for a popular vote (i.e. optional referendum). If a majority of citizens eventually refuse the law at the ballot box, then it never comes into force. The threat to launch a referendum is thus a powerful resource in the hands of certain policy stakeholders, who use this institutional opportunity to defend their policy positions and ask for changes in the legislative proposals.

Using similar research designs, Kriesi (1980) and Sciarini et al. (2015) investigated the most important law-making processes in the early 1970s and 2000s, respectively. A comparison of their findings shows that while the pre-parliamentary phase is still perceived as the most important by a large majority of the interviewed policy actors, there is an increasing shift in favour of the parliamentary phase. Two specific challenges that elected representatives are facing are the Europeanization and internationalization of

policymaking processes and the impact of interest groups on politicians' behaviours.

Europeanization of Policy and Politics

Switzerland is not a member state of the European Union. However, it has reached a situation of customized quasi-membership. During the 1990s and 2000s, Switzerland and the European Union concluded more than 15 bilateral agreements in various fields, which is a form of direct Europeanization of policies (Afonso & Maggetti, 2007; Dupont & Sciarini, 2007). In addition, Switzerland unilaterally and voluntarily adapted several EU rules, which is a form of indirect Europeanization (Gava et al., 2014).

The scope of the European Union's influence on Swiss decision-making and outputs differs across policy domains. It is particularly high for immigration, foreign trade, transportation, the environment, and agricultural policies and low for education, social affairs, and defence policies (Gava & Varone, 2014). Direct and indirect Europeanization processes have also impacted the institutional balance of power in domestic politics. Europeanized decision-making processes are said to strengthen the government (Moravcsik, 1994) and export-oriented business associations, lead to de-parliamentarization (Goetz & Meyer-Sahling, 2008), and weaken unions and small businesses oriented towards the domestic market. Thus, multi-level governance is transforming Swiss policymaking by introducing substantive policy reforms and empowering specific policy actors. Europeanized policy domains are characterized by a considerable proportion of frequent but predominantly minor policy changes introduced by the executive branch (Gava & Varone, 2014).

Non-professional Parliament and Interest Groups

The Federal Assembly (i.e. Swiss parliament) is a *militia* parliament. Most elected members of parliament (MPs) are not full-time politicians and have a professional occupation (e.g. lawyers, business managers, or farmers) beyond their parliamentary mandate. In addition, federal MPs do not benefit from a strong support of personal staffers to fulfil their law-making and government oversight functions (Pilotti et al., 2019). As a corollary, most MPs are dependent upon the technical expertise and other resources provided either by the federal administration and scientific experts, or by specific interest groups.

These advocacy organizations are well-developed in Switzerland. Economic peak-level associations have traditionally been considered very influential policy actors in the context of an underdeveloped central state (due to strong federalism) and weak national political parties (Eichenberger & Mach, 2011). In the last decade, however, a pluralization of the interest group population has occurred, with a noticeable rise of citizen groups defending ideal causes (e.g. the environment, human rights, or pacifism; Eichenberger, 2020). The lobbying activities of businesses and public interest groups have an impact on the way MPs steer the policymaking process. For instance, federal parliamentarians with formal ties to similar interest groups are more likely to co-sign legislative proposals (Fischer et al., 2019) or to requests policy evaluations in a policy domain that is relevant to their interest groups (Varone et al., 2020) than MPs with different interest groups profiles.

Policy Implementation

The key principle guiding policy implementation is executive federalism (Strebel, 2014; Vatter, 2004). Simply speaking, the Confederation formulates public policies, and the decentralized units – the cantons and municipalities – implement them. Following the policy domain, the 26 cantons and more than 2000 municipalities have more or less freedom in doing so.

An advantage of executive federalism is that each jurisdiction can act as a laboratory, and different solutions can be tested to determine their effectiveness and efficiency. This is particularly true in policy domains where the decentralized units, the cantons, traditionally have much say, such as in energy policy or spatial planning (Stadelmann-Steffen et al., 2019). Of course, this makes particular sense, as the different

decentralized units possess diverse resources (Thomann, 2014). Policy problems affect the different cantons and regions differently. Climate change policy is a good illustration, as it affects Switzerland very differently depending on the sociodemographic, economic, or topographic structure of a region. For example, some rural areas are affected by droughts, whereas mountainous regions have to deal with reduced snow cover or increased flood risks. Interestingly, climate change adaptation is not an example of successful executive federalism: the absence of a clear legal implementation mandate for sub-national units, as well as the lack of necessary funding, has led to widescale non-implementation (Braunschweiger & Pütz, 2021).

If cantons or municipalities were to act as true federal laboratories, this would mean that vertical and horizontal communication channels and learning procedures would need to be institutionalized in order to identify first- and second-best solutions in different contexts. There exist so-called inter-cantonal conferences (a general one and several policy domain-specific ones), but participation therein is not mandatory for the cantons, and therefore, some cantons are not represented. For many cantons, their horizontal coordination and vertical impact are limited (Schnabel & Mueller, 2017). Another, always growing decentralized "unit" is largely missing and underrepresented in the Swiss federalist system: the agglomerations (e.g. Zürich, Geneva, Basel, or Bern). Following Kübler (2004), agglomerations are becoming more important to the complex political arrangement of Swiss federalism, but because of their lack of formal representation, they also create a true democratic deficit.

We focus on two new trends in policy implementation: the creation of independent regulatory agencies (IRAs) and judicialization. Both phenomena are quite common in other countries (e.g. the United States of America) but not so much in Switzerland.

Independent Regulatory Agencies

In the 1990s, Switzerland followed the international trend of liberalizing, or even privatizing, network industries that deliver public services (e.g. telecommunications, electricity, gas, postal services, and railways). This opening to market competition of sectors previously regarded as state monopolies was accompanied by the institutionalization of sector-specific IRAs. Important regulatory powers (e.g. security of operations, validation of tariffs, and fair competition between operators) are delegated to such agencies, which – to be credible and effective in the long term – should enjoy broad independence vis-à-vis elected officials (Gilardi, 2008), regulated market operators, and public authorities such as traditional public administrations or courts (Ingold et al., 2013; Maggetti et al., 2013).

IRAs, which were initially established in the USA during the Progressive movement (1890–1920s) to depoliticize policymaking and better rely on technical expertise, are probably the most significant innovation in the Swiss state structure. Comparative policy studies show, however, that the organizational and financial autonomy of these agencies, as well as their influence on policymaking, strongly differ from one sector to the next. Indeed, the overall outcome of the Swiss reform is a hybrid regulatory state that incorporates elements of the standard (American) model but also builds around the Swiss federalist division of tasks and neo-corporatist consultation of interest groups (Maggetti, 2014).

Judicialization as Implementation Game

Since 2000, the Swiss Constitution has guaranteed access to independent courts as an enforceable individual right. The Federal Administrative Court created in 2007 reviews policy decisions made by federal administrations. In specific policy fields, it also hears complaints against implementation decisions made by cantonal governments (e.g. health insurance). Its rulings can generally be appealed to the Federal Supreme Court. However, the judgements of the Federal Administrative Court on asylum-related issues are final.

Swiss policy scholars have recently begun to investigate legal mobilization by different policy actors and the impact of courts' judgements on

policymaking (Flick Witzig et al., 2022; Rothmayr, 2001). They have shown that the internationally dominant judicialization hypothesis (i.e. postulating a continuing increase in litigation about policy outputs) must be rejected in Switzerland. In the vast majority of policy domains, the increase in cases brought to the courts has remained modest, with the notable exception of social security issues (Tanquerel et al., 2011). Further studies have also explored the extent to which courts eventually contribute to the convergence of cantonal policy outputs regarding disability insurance. Empirical findings suggest that Federal Supreme Court judgements have a limited but positive impact on the harmonization of granting disability benefits across cantons. Moreover, courts contribute to this policy convergence across cantons when a major policy change needs to be implemented (Byland et al., 2015).

Policy Evaluation

The ex post evaluation of a public policy aims at showing how the achieved policy effects contribute to solving the societal problem the public policy is addressing. Evaluation should thus sustain the secondary, impacts-based legitimation of a state intervention (Knoepfel et al., 2007; Scharpf, 1999). In this respect, policy evaluation is a democratic exercise as long as we understand democracy as government *for* the people. Of course, this secondary legitimation of a public policy is a necessary complement, but not a substitute, for its primary, inputs-based legitimation. Indeed, democracy is mostly conceived as government *by* the people. Accordingly, the policymaking process has to be inclusive and foster the political participation of all policy stakeholders. It has been argued that the Swiss system is an ideal-typical case of consensus democracy; several institutional mechanisms push towards the consultation of cantons, parties, and interest groups when drafting a federal policy. A double majority (of both the people and the cantons) is formally required when there is a vote on a popular initiative or constitutional amendment introduced by political elites. In a similar vein, a large political majority is also needed during the lawmaking process to avoid the risk of a facultative referendum (see above). All in all, political acceptance through consultations and negotiations is probably more important than policy performance and problem-solving capacities in Switzerland (Sager et al., 2017b, p. 319). This might represent a strong handicap for the development of policy evaluations.

However, we observe a broad institutionalization of policy evaluations in Switzerland (and also in international comparison; see Jacob, 2023) contrary to this expectation. The Confederation exercises oversight over the federal administration (see Article 160 of the Constitution) and ensures that all federal policies are evaluated regarding their effectiveness (Article 170). Several organizations are thus formally in charge of conducting policy evaluations and, thereby, fulfilling the constitutional mandate. The parliament has its own evaluation service (i.e. parliamentary control of the administration), which can be commissioned to scrutinize the effectiveness of the federal government's measures. In addition, the Swiss Federal Audit Office supervises the financial management of the federal administration. It also evaluates the efficiency (i.e. cost-benefits) of public policies and is the contact point for whistleblowers. Finally, several federal departments have also created their own evaluation services; the most active ones focus on health, international cooperation and aid, economic policy, education and innovation, social policies, and energy and environmental protection. Between 2000 and 2014, no less than 1252 policy evaluations were commissioned by the executive branch, the legislative branch, or other actors such as universities (Balthasar & Strotz, 2017). Using the example of policy evaluation demand by MPs in Switzerland, Bundi (2018) suggested that parliamentarians seek more control through evaluations in policy fields where public activities are more often delegated to non-public actors or the need for legitimation is particularly high. The key question is whether and how the findings of policy evaluation are used in policymaking.

Evidence-Informed Policymaking

The evaluation literature distinguishes between instrumental, conceptual, and symbolic uses of policy evaluations. The two former uses should inform decision makers about what works, under which conditions, and why (Nutley et al., 2007). Several empirical studies have investigated when such evidence-informed policymaking occurs in Switzerland. Focusing on ex ante regulatory impact assessments (RIAs), Rissi and Sager (2013) showed that in two out of three cases, the government and its administration used RIA findings to make changes to legislative proposals. Fornerod (2001) also concluded that about 60% of ex post policy evaluations had a direct and high influence on the policymaking activities of public administrations. More recent studies have delivered less optimistic results. Frey (2012) suggested that the executive branch considered science-based evidence about policy effects in only half of the law-making processes investigated. In a similar vein, Balthasar (2007) indicated that only half of the policy recommendations formulated in evaluation reports were eventually implemented. Finally, Ledermann (2012) noted that government and administration mainly used legal expertise. In sum, while the strong institutional pressure to increase political acceptance of policies (i.e. input legitimacy) does not seem to limit the practice of policy evaluations (as a source for output legitimacy), evidence-based policymaking remains limited in Switzerland as in other countries.

Outlook: Policy Learning, Integration, and Coherence as Challenges

Can adopting an ex post perspective lead to policy learning and successful pathways to policy change in select policy domains in Switzerland? As an outlook to this chapter, we illustrate (non-) learning, policy integration, and coherence in three policy fields and through recent studies.

First, different policy process theories assume that after an external shock such as a natural disaster or a technological accident, actors will change their perceptions about a problem or an issue and prefer different policy solutions than before the shock (Birkland & Warnement, 2017; Sabatier & Weible, 2007). Only 3 months after the nuclear accident in Fukushima in the year 2011, the Swiss government declared nuclear phasing out. This phasing out went hand in hand with the energy transition, promoting renewables and energy efficiency in order to replace the 40% of energy generated by nuclear power in the Swiss portfolio. But the subsequent analyses of actors and their beliefs and ideologies showed that policy preferences and the actors' arrangement in Swiss energy policy stayed largely stable and comparable to before the crisis (Fischer, 2014; Ingold et al., 2019; Kammermann & Strotz, 2014). The nuclear phasing out seemed like a done deal, but the overall energy transition only slowly translated into policy outputs and outcomes.

Second, when studying cross-sectoral integration of the biodiversity issue in Swiss politics, Reber et al. (2022) came to the following conclusions. The issue of biodiversity did not gain steady, exceptional, or persistent attention, even though Switzerland declared international commitments to fight biodiversity loss early on. The issue of biodiversity gained temporary or even invariant attention over the two investigated decades. This implies that the conservation of biodiversity did not follow the cross-sectoral nature of the problem but was subject to the dynamics of politics, where actors, because of limited resources, engage with an issue only for a certain amount of time.

Finally, federalism and direct democracy impact policymaking so that many diverse, decentralized policy outputs are introduced, usually at the cost of policy coherence. Trein (2018) investigated health policy in a comparative way and concluded that the co-evolution of different sectors in the Swiss health system was hampered through a rather weak national government and non-politicization of health professionals.

All in all, learning over time, cross-sectoral integration, and policy coherence are challenging in the Swiss federalist system. These challenges could be mitigated through vertical and horizontal coordination among administrative departments

and different jurisdictions (Reber et al., 2022). More responsibilized inter-cantonal conferences (Schnabel & Müller, 2017) and platforms where best practices are exchanged could further strengthen the idea of cantonal or decentralized laboratories where policy innovations are tested via a trial-and-error method (Stadelmann-Steffen et al., 2019).

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