

Executive supremacy in the French Legislature: the impact of institutional procedures in the reform of the French welfare state

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ABSTRACT

New institutionalist scholars widely agree that formal institutional arrangements affect policy outcomes. Research on the impact of institutional procedures on bargaining outcomes, however, is still in its infancy. The central issue in this paper is to find out how different institutional arrangements available to the French executive constrain in practice strategic interactions between parties and thus influence policy outcomes. Thus two questions are central: first, which institutional arrangements can the government use to pass legislation and second what kind of legislative prerogatives are available to deputies during the legislative process.

The first section of this paper focuses on the political institutions and the role played by veto players within the decision-making system. The second section deals with the institutional rules that restrict the legislative role of the French National Assembly. The third section analyses two reforms of the French welfare state, in order to assess the impact of institutional arrangements in practice. Variation in the case studies is given through the fact that in the Juppé plan 1995 exclusive jurisdiction was attributed to the government, gate-keeping rules and time constraints were used, whereas during the Raffarin reform in 2003 gate-keeping rules (urgency of a bill) were applied.

INTRODUCTION

New institutionalist scholars widely agree that formal institutional arrangements affect policy outcomes (Hall and Taylor 1996; Aspinwall and Schneider 2000). One of the main weaknesses of such approaches, however, is that they do not show clearly how structure really matters and how the rules of the game are indeed able to influence actors' behavior. There are very few studies focusing on the impact of institutional procedures in the French legislature. In a seminal study, Huber (1996) has demonstrated how minority governments make use of restrictive procedures (the package vote and of the confidence vote procedure) to pass specific pieces of legislation. A more general study by Huber and McCarty (2001) examined institutional variation in cabinet decision-making processes as a central variable to explain outcomes of bargaining processes in parliamentary processes.¹

The central issue in this paper is to investigate whether and how institutional arrangements available to the French executive constrain in practice strategic interactions between parties and thus influence bargaining outcomes. Institutional arrangements refer to the rules and principles listed in the French Constitution that govern executive-legislative relations during the decision-making process at the parliament. In contrast to the study of Huber (1996) the focus here is on governments with an absolute majority at the National Assembly. Governments supported by a solid parliamentary majority can use restrictive procedures to accelerate the legislative process. Rasch and Tsebelis (2005) listed several methods available to governments to control parliamentary agendas: time constraints, several rules (closed, restrictive, expansive, sequencing voting order, vote-counting, and gate-keeping rules), and attribution of exclusive jurisdiction to the government. So that in this paper an attempt will be made to find out how institutional arrangements influenced bargaining outcomes. Thereby two aspects will be considered: first, which institutional arrangements can the government use to pass legislation and second what kind of legislative prerogatives are available to deputies during the legislative process.

The first section of this paper focuses on the political institutions and on the role played by veto players within the decision-making system. The second section deals with the question of which institutional rules exist to restrict the legislative role of the French National Assembly and how do actors use them strategically to successfully implement policy change.

¹ Thereby two types of decision rules are compared: unilateral and collective cabinet decision-making procedures. The unilateral collective cabinet decision-making procedure gives prime ministers unilateral power to demand a vote of confidence on a particular policy issue. When such a situation is given, the parliament is forced either to accept the prime minister's policy or to bring government down. In contrast, the collective decision-making procedure requires prime ministers to obtain collective cabinet approval for confidence motions (see (Huber and McCarty 2001, 347, 351).

The third section analyses two reforms of the French pension system, in order to assess the impact of institutional arrangements in practice. Whereas in the Juppé plan 1995 exclusive jurisdiction was attributed to the government, gate-keeping rules and time constraints were used, during the Raffarin reform in 2003 only gate-keeping rules (urgency of a bill) were applied.

1. POLITICAL INSTITUTIONS: VETO PLAYERS IN THE FRENCH POLITICAL SYSTEM

The basic idea of veto players approaches is that if some individual or collective actor has veto power, s/he will use it to further her interests. Using Tsebelis' (2000, 446) definition veto players are those actors whose consent is needed for a change of the status quo. Veto players can be institutional (president or chambers of parliament) and partisan parties (as part of a coalition government). An institutional veto player only counts as veto player when it has a formal veto power. Accordingly, in a bicameral legislature when the upper chamber only has a delaying power, it is not considered as a veto player. The veto players' theory asserts that the more veto players there are, the harder it should be to change the status quo. Thus political systems with many veto players are more susceptible to have high policy stability and automatically to be less successful in passing reforms than systems with few veto players (Tsebelis 1995; Immergut 1992). It may be helpful to briefly describe how the separation of power works in the French political system in practice and which rules of decision-making are available to the different political actors involved.

The French political system with a strong president and a bicameral legislature is considered by Tsebelis (1995, 306) as a pure parliamentary system with one institutional veto player (the National Assembly) and two partisan veto players, when two parties are in government. In the empirical case studies under analysis, in which governments dispose over absolute parliamentary majorities, if we use Tsebelis' veto players' definition, there are merely two partisan veto players (the two right-wing coalition parties RPR and UDF).

Following Tsebelis (2002, 81) the president of the republic is not considered a veto player. Although the president can veto a government decree or an ordinance (considered as legislative acts) by refusing to sign it, he has no veto power in a restrictive sense over the promulgation of bills, since he can merely delay the legislation by asking parliament for reconsidering the bill or parts of it. It means that he cannot block the adoption of a policy. This may be important in a power sharing situation (cohabitation), which exists when President and Prime Minister are from different political parties and thus the President has no

parliamentary majority at his disposal. Due to the fact that in this paper the focus is rather on government situations, in which the government and the president come from the same political party (RPR), the role played by the president in the legislative process will not further taken into account. Furthermore, in pension politics the president does not matter much, because the Prime Minister is in charge of pension legislation, sets the legislative agenda and leads the decision-making process. Whether or not cohabitation occurs, it does not influence the policy outcome. Social security is a purely domestic issue where the intervention of the President does not occur. If governments are supported by stable majorities in parliament, they should be able to pass their proposals and the President is not expected to have a strong impact in the reform debate.

Separation of Power Political Arenas	Actors	Rules of decision-making	Veto Players
Executive	President	Must sign decrees and laws; before the promulgation of a law he can send laws back to parliament for reconsideration; can be given supplementary powers in times of emergency; can dissolve the National Assembly once a year; determines the agenda of the Council of Ministers	No veto player
	Prime Minister	Directs the government; controls the parliamentary agenda; initiates legislation; Instruments available: <ul style="list-style-type: none"> • Package vote (<i>vote bloquée</i>) i.e. the government can at any time exclude articles or amend a bill and ask the National Assembly to accept or reject the government's policy package; • Confidence vote procedure (Guillotine procedure): the government can cease all debates immediately; if a motion of censure is not introduced and adopted within the next twenty-four hours, the law is adopted 	_____
Legislative	National Assembly	Adopts legislation; decision by absolute majority; can force government to resign by passing a motion of censure by absolute majority	No veto player, if government has an absolute majority
	Senate	May initiate bills or propose amendments, but final decision rests on the National Assembly; agreement of the senate is required but after two rounds of conciliation (<i>navette</i> system), the government can denote an act to urgent and cut off the shuttle system	No veto player
Judicial	Constitutional Court	When the President of the Republic decides to exercise emergency power, he must consult the Court; supervises referenda and elections; Supervises the constitutionality of laws	when a law is considered unconstitutional legislation is abrogated

Table 1: Political Arenas in France

The French Parliament is constituted by the National Assembly and the Senate. Whereas the deputies to the National Assembly are elected by direct suffrage, the Senate is elected indirectly for six years by an electoral college. The five-years legislature term of the National Assembly may be shortened if it is dissolved by the President of the Republic, as happened on April 1997 for the fifth time since the Fifth republic was established. The National Assembly has two functions: to adopt legislative acts and to supervise the government. Only the National Assembly has the power to force the government to resign by passing a motion of censure by absolute majority of its members. The Senate has legislative powers expressed through the right to make amendments. Bills are debated in the Senate as in the National Assembly, i.e. initially in one of the six standing committees, and then in public session. Senators may submit written questions to the ministers, debate general policy statements, carry out fact-finding missions and form committees of enquiry. The method of election, the senators' long term of office (until 2004 they were elected for nine years) and the fact that the Senate cannot be dissolved ensures great political stability in the French upper house. The Senate has thus come to be seen as the institution which ensures continuity in government operations and hence of the state as a whole. In other words, the Senate has the power of delaying legislation through its right of making amendments, but cannot be considered a veto player, since it cannot reject a bill. This is why some scholars (Kempf 2003; Tsebelis and Money 1997) assert that the Senate retains rather authority and influence without having power. Since the focus here is on governments with a solid parliamentary majority in both chambers of parliament, these are not considered as veto players.

But the problem with this way of counting veto players is that further veto players existing in a system are simply ignored. In the French case, at least a further institutional veto player, the Constitutional Council cannot be ignored, because government decisions can be challenged in front of it and in the last two decades judicial review of constitutionality has steadily increased. One of the most important functions of the Constitutional Council consists in supervising the constitutionality of general laws and laws of constitutional character and legislation by policing the executive-legislative boundary. This means that the Constitutional Council defines not only the policy issues in which the parliament is entitled to legislate, whilst all other matters are governed by administrative enactments, but it also has to give its assent to any proposed law and any new parliamentary standing order. Once petitioned, the Constitutional Council has the power to invalidate in part or in full any law, if the latter is considered to be unconstitutional (Knapp and Wright 2001, 142). According to (Tsebelis 2002, 226) when a rejection by a constitutional court is sufficient to abrogate legislation

approved by the Parliament, the judiciary can be considered a veto player. Since the Constitutional Council may invalidate law on constitutional grounds, it acts as an additional chamber of parliament able to cancel whole pieces or parts of legislation just before the legislation is signed into law by the President of the Republic.

In the French political system, when the government has an absolute majority there are very few institutional actors with authority to propose or veto legislation, and accordingly fewer institutional obstacles to pass legislation. The central question is whether different institutional arrangements affect governments' capabilities to pass reforms.

2. EXECUTIVE SUPREMACY IN THE FIFTH REPUBLIC: THE RESTRICTIVE PROCEDURES AVAILABLE

The Constitution includes several rules strengthening the French government against the legislature. Huber (1996) sees France as the prototype of rationalized parliamentarism characterized by institutional arrangements like the package vote (*vote bloquée*) and the confidence vote procedure that allow the executive in the absence of coherent partisan majorities in the National Assembly to restrict parliament's power. Originally the notion of *rationalised parliamentarism*, closely linked to the new institutional arrangements, should compensate for the traditional absence of a parliamentary majority, which was a central feature of the French political system during the Fourth Republic (1946-1958). During this period, the executive was unable to have a stable parliamentary majority, so that the likelihood that deputies would override executive decisions was high. In such a situation, the National Assembly was in itself a critical veto point (Immergut 1990). The main function of the new restrictive procedures was to avoid similar deadlock situations, to increase the ability of the executive to draw up and to adopt legislation and to have a political stable government. Due to the existing circumscription of the powers of the parliament, the National Assembly has been characterized as a "loyal workhorse, poor watchdog" (Frears 1990), since it fails to be an arena for the nation's political debate and to control the executive.

The central issue is how under the existing institutional arrangements the division of power between executive and legislative works in practice. This involves two aspects: first, which institutional arrangements can the government use to pass legislation, and second what kind of legislative prerogatives are available to deputies during the legislative process.

The Constitution contains several provisions granting control of the legislative agenda to the government, limiting the right of deputies to submit and vote amendments and limiting opportunities for members of parliament to vote on bills themselves. Huber (1996, 36) asserts

that deputies have been able to escape the effects of the government's constitutional control over the agenda, but not of the package vote and the confidence vote procedures. Both procedures allow the government to shape the last formulation of any bill that parliament debates and parliament is unable to change the government's formulation. The extent to which the package vote and the confidence vote procedure curtail parliamentary activity therefore depends in the effect of this "last-move advantage".

The package vote (*vote bloquée*) procedure, also called "the guillotine", gives the government the opportunity to select articles and amendments at any time and exclude those it opposes. The National Assembly must then vote either to accept or to reject the government's policy package. Under the confidence vote procedure (what in France is commonly called *le 49.3*) there is no vote on the law itself, but instead all debate ceases immediately and if a motion of censure is not introduced and adopted within the next twenty-four hours, the law is considered as passed in the form designated by the government (Huber 1992, 676). This institutional procedure allows governments to attach the fate of a bill to a censure vote in the National Assembly. For minority governments, the confidence vote procedure is often a ultimate instrument to push through a legislative text and for governments with secure majorities it is an useful tool to accelerate the legislative process (Knapp and Wright 2001, 139). The existence of this institutional arrangement means in practice that the prime minister can demand a vote of confidence on a specific policy at any time during the legislative process, even after the parliament has adopted or defeated a bill (Huber 1996, 273). Although the unilateral confidence vote procedure gives governments significant influence over policy outcomes, they are rather reluctant to make use of this institutional arrangement (hitherto it was used by Mauroy over nationalisations after 1981, and Chirac over privatisations five years later), because in case of defeat it may lead to new elections and may even cost prime ministers their job (Huber and McCarty 2001, 346).

There are, however, further institutional arrangements available to French governments that are often used to accelerate the decision-making process: in the agenda-setting and decision-making process government proposals have priority over parliamentary ones and the attribution of exclusive jurisdiction to government gives the executive the power to restrict time for discussion and even to hold issues away from consideration by the parliament.

The legislative process typically begins when a cabinet minister or a member of one of the houses of parliament submits a bill draft to the parliament. Members of parliament, however, have restricted competencies in financial matters: their legislative proposals and

amendments are unacceptable if adoption will lead to an increase or decrease in public resources. In addition, government bills (*projets de loi*) have priority over private member's bills (*propositions de loi*). Both types of laws must be registered by the National Assembly or at the Senate, only financial matters must be registered by the National Assembly. After its registration the text is sent for examination by a parliamentary committee, which prepares a report, in which the text of the bill is amended, rejected or adopted. In a further step, the text comes before the National Assembly. The discussion of a bill takes place in an open session and focuses on the government's proposal and not around that of the parliamentary committee. Furthermore, the government can oppose considering amendments not previously discussed at the committee level. Laws have to be approved by an absolute majority in the National Assembly and in the Senate. In case of disagreement, a shuttle system between the two houses of parliament starts: the legislation is passed back and forth between the two houses. After two readings, if the legislative text has not been adopted, the government calls a conference committee (the *commission mixte paritaire*), composed of seven deputies and senators until agreement can be reached. The government can, however, after a single reading in each house of parliament adopt the legislation and thus curtail the parliamentary discussion if it determines the law in question to be a matter of urgency (Bonnard 2003, 58; Tsebelis and Money 1995, 104).

Finally, the attribution of exclusive jurisdiction to the government allows it to rule by decrees. This means in practice that the government may ask parliament for special legislative authority in a specific policy area, for an explicitly limited period of time, to take measures normally within the legislative sphere, by ordinance or decree. Ordinances are enacted in meetings of the Council of Ministers and come into force upon publication. They become null and void, however, if the bill for their ratification is not submitted to parliament before the date set by the enabling act. To date 19 such requests have been made, authorized, and used. Under the exclusive jurisdiction procedure all power is removed from the parliament, since the ratification process is reduced to the tabling of a bill that is never discussed (Mény 2002, 115).

Considering that the government has all these different procedures at its disposition, so what kind of legislative prerogatives are available at all for deputies during the legislative process. Although the government has the *agenda-setting power* and the article 48 of the Constitution reduces parliamentary incentives to submit legislation in the form of private members' bills, deputies can use several tactics to circumvent the government's control of the agenda. First at all, deputies can appeal to the Conference of Presidents in the National

Assembly to have their bills put on a daily agenda through the *ordre du jour complémentaire*. Second, by using a *rappel au règlement* (article 58 of the rules of the National Assembly) deputies may express their opinions orally on subjects left off the agenda. Third, the normal amendment process can also be used by deputies to propose substitute bills for the one proposed by the government. In order to prevent committees from dramatically revising government bills, primacy is, however, given to the government bills.

Even if the Constitution has numerous provisions restricting amendment prerogatives, this does not limit substantially parliamentary amendment activity. Since there are very few instruments available to the parliamentary opposition to control the executive or to delay the examination of a law project, parliamentary obstruction (increasing the number of amendments) remains one of the most important instruments of the parliamentary opposition. Finally, after a bill has been passed deputies can appeal to the Constitutional Council.

The both case studies will illustrate how these institutional procedures work in practice and whether they constrain in practice actors' behavior.

3. DECISION-MAKING PROCESS OF TWO PENSIONS REFORMS

The two reform situations deal with interactions between two players, the government and the parliamentary opposition. The latter may be a cohesive group of deputies from the Socialist (PSF) and from the Communist Parties (PCF). In the legislative decision-making process, the government is the pivotal player. It is assumed that governments with a solid parliamentary basis bargain from a position of strength with the parliamentary opposition, since the government holds control of important institutional weapons to control the parliamentary agenda and the parliamentary stage. Thus, it is expected that parliamentary opposition is unable to defeat a bill. Although the two players bargain to determine a policy outcome, their roles are very different depending on the institutional rule used by the government. In the 1995 Juppé reform and the 2003 Raffarin reform, the decision-making process has two distinct stages: proposal and parliamentary stage.

3.1 THE CONTROVERSIAL 1995 JUPPÉ PLAN

PROPOSAL STAGE

The center-right governmental coalition led by Juppé in the second part of the 10th legislature period (1993-1997) had the strongest majority in the National Assembly since 1958: 257 RPR and 215 UDF deputies. In contrast, the Socialist Party (PS) had suffered an historical defeat in the 1993 parliamentary elections losing 200 seats (see Figure 1: Composition of the French National Assembly 1993-1997).

Composition of the French National Assembly 1993-1997

Party	Seats
Rassemblement pour la République (RPR)	257
Union for French Democracy (UDF)	215
Socialists (PS)	57
Communists	23
Other (Independent, etc.)	25
Total	577

Source: <http://www.assemblee-nationale.fr/elections/historique-2.asp>

On November 13, 1995 Juppé initiated in the National Assembly the debate on the “*Plan for the Reform of the Social Protection*” (thereafter called Juppé plan) proposing a reform for all areas of social security. In the pension sector the Juppé government intended to proceed to a harmonization of the public sector employees with those of the private sector by increasing the contribution period for civil servants from 37.5 to 40 year, by abolishing various special schemes allowing French railway (SNCF) and Paris public transports (RATP) workers to retire at the age of 50. The reform also intended to modify the original structure of social security by introducing an institutional amendment allowing parliament to vote on the social security budget (Natali 2003; Bonoli and Palier 1998).

PARLIAMENTARY STAGE

In this second stage, the draft bill undergoes the usual legislative process. The discussion begins at the parliamentary committee and goes to the plenary session. The National Assembly can react to the government’s bill in one of three ways:

- a) acceptance of government’s bill, ending the bargaining game;
- b) rejection of government’s bill, leading to a maintenance of the status quo;

- c) introduction of amendments, representing the classical bargaining situation between government and parliamentary opposition.

If the National Assembly accepts the government's bill, then it goes to the Senate. If the National Assembly rejects the bill, government may use the confidence vote procedure or the package vote or even accept the amendments made by the parliament. When the Senate comes into play, government can accept or reject the new amendments or simply adopt the bill by referring to the urgency of a certain bill and thus also override the upper house.

Only two days after the presentation of the Juppé plan, the National Assembly approved it with an overwhelming majority: 463 voices in favor (RPR-UDF), 87 against (PS and PCF) and also the Senate approved the Juppé plan with 218 votes in favor and 94 against. At the same time, in order to adopt the proposed measures, Juppé submitted a government bill to the Parliament enabling the government to legislate through ordinances. In order to delay the examination and adoption of a legislative text, and thus automatically to delay the attribution of exclusive jurisdiction to the government, the Socialist Party (PS) and the Communist Party (PCF) tabled 4533 amendments and 744 amendments of amendments. At the same time, in order to accelerate the legislative process, the government brought in the confidence vote procedure (Le Monde 11 December 1995, 7). The PS and PC used this opportunity to table a censure motion under article 49-3 that failed, since they had not a parliamentary majority (together 91 votes from 577). This was not surprising due to the distribution of parliamentary seats and hitherto, in the Fifth Republic, no censure motion tabled under the confidence vote procedure has succeeded.

In fact, the puzzling in France is that although the government had a stable majority and several institutional arrangements, like the power to rule by decrees or the right to turn any bill into a question of confidence, at its disposal to move pension reform from the political agenda into legislation, Juppé had to scrap its pension reform plan for the public sector.

The parliamentary approval of the Juppé plan led to a wave of public protests mainly organized by labor unions. From November 17 on, there were several demonstrations against the Juppé plan with the unions of French railways (SNCF) and Paris transports (RATP) in the center of the protest. This, in turn, led to an almost total paralysis of public transport and the railways lasting three weeks. Under pressure, the government bargained with unions and on December 10, 1995 Juppé withdraw his pension reform plan by keeping the retirement at the age of 50 for SNCF and RATP employees and also by maintaining the social security special

schemes for civil servants (Le Monde 17 May 1997; Bonoli 2000). How can this strong reaction to the Juppé plan be explained?

The failure of the Juppé reform shows that having an absolute majority in the National Assembly and holding control of important institutional procedures is not enough to successfully pass reforms. This is why the electoral and the corporatist arenas may help us to understand why the reform failed. First, the electoral arena (the timing of the electoral cycle) affected the policy preferences of governments, since these are embedded in a particular electoral system. Although Juppé was at the beginning of his mandate when he initiated the reform process, the parliamentary elections had taken place two years ago, so that the reform took place already in the second part of the electoral mandate. The government and the members of the National Assembly had to face an election at the latest in two years, so they feared electoral punishment. This has to do with the fact that majority electoral systems lead to a high electoral and party competition, since voters very easily can reward or punish politicians. Second, in line with Palier (2003) and Bozec and Mays (2001) the high level of unionization in the public-sector, and the privileges enjoyed by this socio-occupational category in the present pension system make reform difficult to achieve. Unions were able to ride a wave of public protest against what were perceived as attacks on the status of work and brought in this way the country to a halt. Moreover, the unions' ability to get the government to back down demonstrates the tremendous mobilizing capacity of French unions, despite their small numbers. Confrontation between the state and labor unions through demonstrations remains an important political weapon in the hands of the unions, since public sector strikes can paralyze the country.

3.2. THE 2003 RAFFARIN PENSIONS REFORM

PROPOSAL STAGE

The victory of President Jacques Chirac's UMP party in parliamentary elections in June 2002 ended the conservative-socialist cohabitation that had lasted since 1997. Chirac nominated Jean-Pierre Raffarin as Prime Minister on 17th June 2002 of a governing coalition with 394 out of 577 deputies.

Composition of the French National Assembly 2002-

Party	Seats
Union for the Presidential Majority (former RPR)	365
Union for French Democracy (UDF)	29
Socialists (PS)	141
Communists (PCF)	21
Other	21
Total	577

Source: <http://www.assemblee-nationale.fr/elections/historique-2.asp>

In this initial proposal stage, the Raffarin government issued in May 1993 a draft bill on pension reform that included concrete measures affecting the basic pension scheme and the special schemes of civil servants. The proposal included longer contribution periods, changes in the calculation of pension benefits for public sector employees and the settlement of a voluntary supplementary scheme for civil servants and for self-employed workers (*Le Monde* May 29, 2003; <http://www.retraites.gouv.fr/article296.html>).

After the government presented the draft bill some unions (CGT, UNSA, and FSU) initiated on May 13 a day of protest strike action and demonstration. Across the civil service, more than 50 per cent of employees adhered to the strikes. Altogether between one and two million people demonstrated all over the country. Following this social mobilization, the minister for social affairs, Francois Fillon, negotiated with all the main trade unions confederations and employers' organizations. Whereas the Communist-leaning CGT and the radical FO refused to negotiate with the government by leaving the bargaining table, the more conciliatory CFDT and CFE-CGC bargained with the government and at the end the revised draft bill contained 19 amendments, in which the demands of both unions were taken into account, but the key issue of lengthening the contribution period required to receive a full state pension was not challenged. More importantly, the government accepted excluding the special schemes from the reform. The integration of these amendments meeting the demands of the CFDT and of the CFE-CGC led to an end of the united trade union front on pension reform and weakened the position of the more radical unions, like the CGT, and the FO (*Le Monde* 17 May 2003, 3 June 2003).

PARLIAMENTARY STAGE

The Raffarin government could now initiate the phase of parliamentary discussion at both parliamentary chambers from a strength position, since the bill incorporated the amendments based on the package deal agreed with some unions. Scrutiny by the National Assembly began with a stormy debate on June 10. Not surprisingly, the ruling governmental coalition parties supported the bill draft. In contrast, the PCF deputies tabled over 6,500 amendments to a government bill containing 81 articles. The PS introduced more than 2,900 amendments. Both parties opposed above all the lengthening of the contribution period. Furthermore, the PS was not only very weak since its electoral defeat at the last presidential and legislative elections, there was also an internal division within the party with some deputies, like Michel Rocard, criticizing the party's obstructionist strategy (Le Monde 3 July 2003 (<http://www.retraites.gouv.fr/article354.html>)). But their amendments had no impact, they were just symbolic.

The debate in the National Assembly lasted 19 days, and the debate in the Senate 10 days. On 3 July the National Assembly approved the bill during the first reading. From the 521 expressed votes (an absolute majority of 261 deputies was needed to pass the law), 389 deputies voted in favor and 132 against the bill. The executive can intervene in the shuttle system after a single reading if it determines that the legislation is "urgent". By intervening, the Raffarin government called the conference committee of both houses of parliament into play. After the meeting of the conference committee on 24 July the National Assembly and the Senate passed the law on the reform of the pensions system. In the National Assembly from the 545 expressed votes, 393 deputies voted in favor and 152 against the law project. In the Senate the bill was adopted, with 204 of 317 votes in favor and 113 against. Thus, the law was published in its final form on 21 August 2003 (<http://www.senat.fr/scrutin/s02-378.html>); http://www.assemblee-nationale.fr/12/scrutins/jo_03_13.asp)

The new law has 116 articles. Parliament adopted a number of amendments: 23 from the National Assembly, 11 from the Senate and one from the conference committee. The most important ones concerned the financing of company early retirement schemes by contributions paid into the Old Age Solidarity Fund, only missing annual pension contributions for years spent in education (up to a three-year ceiling) can be purchased and the sums paid for these purposes will be tax deductible.

In order to delay the implementation of the new pension law, Socialist and Communist deputies and senators brought the new legislation before the Constitutional Council on 28th July 2003. They argued that the new law violates the principle of equality, since it makes

the issue of pension rights for those with arduous work a matter of collective bargaining, and because the same rights are not conferred on men and women. On 14 August the Constitutional Council, however, validated the law by overturning the complaints.

The Prime Minister Raffarin did not make use of the confidence vote procedure or the package vote to speed up the passage of a bill. Due to the use of the open rule that permits amendments proposals on the floor, the parliamentary debate on the bill submitted by the government lasted longer: 155 hours of discussion, from which 47 hours only concerning the first article of the bill, 11 153 amendments were submitted, 8 679 discussed and 453 amendments adopted (<http://www.assemblee-nationale.fr/12/cra/2002-2003-extra/007.asp>). In order to avoid that the adoption of the bill was postponed to the *rentrée* in September, the Raffarin government, however, determined the urgency of the bill, so that after a single reading in each chamber the bill could be adopted. Raffarin restricted time for discussion to better control the parliamentary agenda. In this way, the number of rounds of the shuttle system between National Assembly and Senate could be reduced and the government gained time. The decision-making process in this specific bill confirms Tsebelis and Money's (1995, 114) thesis that the relative power of each house in bicameral legislatures is a function of institutional constraints, that include the number of possible iterations, stopping rules, and agenda setting.

CONCLUSION

The French government has several methods at its disposition to control the parliamentary agenda and the legislative-making process: *time constraints* grant control of the legislative agenda and give priority for government projects; *exclusive government jurisdiction* gives government the power to make laws on a given subject and for a given period by ordinance or decree without parliamentary discussion; *package vote procedure* enables government to curtail parliamentary discussion, since the executive can at any time select articles and amendments and exclude those it opposes; under the *confidence vote procedure* there is no vote on the bill itself, but instead if no motion of censure is introduced in the next twenty-four hours, the law is considered as passed in the form designated by the government. Accordingly, there are few instruments available to the parliamentary opposition to control the executive or to delay the examination of a law project. The tabling of parliamentary amendments was used by the opposition (PS and PCF) in both pension reforms to slow down the legislative process. During the 2003 Raffarin reform the National Assembly discussed during 19 days, 155 hours the 11 153 amendments tabled mainly by the

opposition in a government bill with altogether 116 articles. The executive, aware of the impact of this instrument in the hands of the opposition, after the first lecture determined the urgency of the pensions bill, so that it could quickly be adopted before the parliamentary summer break. By determining that the law in question was a matter of urgency, the government adopted after a single reading in each chamber the legislation and shortened the parliamentary discussion. The failure of the Juppé constitutes an interesting and puzzling

Methods to control parliamentary agendas	France: Constitutional provisions	Juppé Reform	Raffarin Reform
Time constraints a) Government proposals have priority over parliamentary ones; b) Governments may restrict time for discussion	Government bills (<i>projets de loi</i>) have priority over private members' bills (<i>propositions de loi</i>) (art. 48); confidence vote procedure (art. 49.3)	✓	✓
Closed Rules No amendments to government proposals are accepted	Package vote (<i>vote bloqué</i>)	✓	—
Restrictive rules Few amendments accepted	—	—	—
Expansive rules Last-offer opportunity: permits government to make amendments that are prohibited to other parties			
Sequencing rules Allow government to make amendments at times when other amendments are not permitted	—	—	—
Voting order rules Government bills gain a privileged position in the order of voting	—	—	—
Vote-counting Votes in favor or against government proposals are counted differently than other proposals	—	—	—
Gate-Keeping rules Governments can close the gates and thereby to hold an issue away from consideration by the parliament	confidence vote procedure (art. 49.3) ?? urgency of a bill: reduction of the number of possible iterations between the two parliamentary houses	✓	✓
Attribution of exclusive jurisdiction to the government Executive decrees can be offered to the government by the constitution	Art. 38 gives government the power to rule by decrees	✓	—

case study. The Juppé government had a stable majority and used several methods to control the parliamentary agenda, like the confidence vote procedure, exclusive jurisdiction. Thus the Juppé plan could easily pass at both houses of parliament, but had to be withdrawn after three weeks of public protest.

Both reform situations show that institutional procedures or arrangements can and are used by governments to control the parliamentary agenda and the decision-making process. The restrictive procedures available to the executive, that is to say the agenda-setting power (the priority given to government bills), the package and the confidence vote procedure, the attribution of exclusive jurisdiction to the government (governance through decree-laws), the power to intervene in the shuttle process between both parliament chambers represent a “constitutional corset” enabling government to restrict parliamentary initiative and control.

Stable governing majorities and institutional arrangements strengthening the French government do not automatically guarantee that reforms can successfully pass, as the failure of the 1995 Juppé plan clearly exemplifies. More empirical research is needed on other variables that may affect policy outcomes, such as the relationship of organized interest groups with the executive and the timing in the electoral cycle. Bringing interest groups in this case unions is important, because even if unions do not dispose of formal veto power to block government action, they might cause governments to abstain from welfare cuts by mobilizing public support. Furthermore, timing in the electoral cycle might be a central variable to explain the failure or the occurrence of policy change. It is expected that governments will be more successful in passing legislation that implements unpopular reforms in the first two years of their electoral mandates, since voters will give them the benefit of the doubt and difficult decisions can be blamed as the legacy of the outgoing government.

REFERENCES

- Aspinwall, Mark D, and Gerald Schneider. 2000. Same Menu, Separate Tables: The Institutional Turn in Political Science and the Study of European Integration. *European Journal of Political Research* 38 (1): 1-36.
- Bonnard, Maryvonne. 2003. Le rôle du parlement. In *Institutions et vie politique: 3. édition mise à jour*, edited by J.-L. Parodi. Paris: La documentation Française.
- Bonoli, Giuliano. 2000. *The Politics of Pension Reform: Institutions and Policy Change in Western Europe*. Cambridge: Cambridge University Press.
- Bonoli, Giuliano, and Bruno Palier. 1998. Changing the Politics of Social Programmes: Innovative Change in British and French Welfare Reforms. *Journal of European Social Policy* 8 (4): 317-330.
- Bozec, Géraldine, and Claire Mays. 2001. Pension Reform in France. [cited 29.08.2004. Available from <http://www.iccr-international.org/pen-ref/report.html>.

- Frears, John. 1990. The French Parliament: Loyal Workhorse, Poor Watchdog. *West European Politics* 13 (3 (July)): 32-51.
- Hall, Peter A, and Rosemary C R Taylor. 1996. Political Science and the Three New Institutionalisms. *Political Studies* 44 (5): 936-957.
- Huber, John D. 1992. Restrictive Legislative Procedures in France and the United States. *American Political Science Review* 86 (3): 675-678.
- . 1996. *Rationalizing Parliament: Legislative Institutions and Party Politics in France*. Cambridge/New York: Cambridge University Press.
- Huber, John D, and Nolan McCarty. 2001. Cabinet Decision Rules and Political Uncertainty in Parliamentary Bargaining. *American Political Science Review* 95 (2): 345-360.
- Immergut, Ellen M. 1990. Institutions, Veto Points, and Policy Results: A Comparative Analysis of Health Care. *Journal of Public Policy* 10 (4): 391-416.
- . 1992. *Health Politics: Interests and Institutions in Western Europe*. Cambridge/New York/Melbourne: Cambridge University Press.
- Kempf, Udo. 2003. Das politische System Frankreichs. In *Die politischen Systeme Westeuropas*, edited by W. Ismayr. Opladen: Leske + Budrich.
- Knapp, Andrew, and Vincent Wright. 2001. *The Government and Politics of France: Fourth Edition*. 4 ed. London/New York: Routledge.
- Le Monde*, 3 July 2003
- , 3 June 2003
- , 11 December 1995
- , 17 May 1997
- , 17 May 2003
- Mény, Yves. 2002. France: The Institutionalization of Leadership. In *Political Institutions in Europe: Second Edition*, edited by J. M. Colomer. New York: Routledge.
- Natali, David. 2003. The Role of Trade Unions in the Pension Reforms in France and Italy in the 1990's: New Forms of Political Exchange? In *EUI Working paper*. Florence: European University Institute.
- Palier, Bruno. 2003. *La réforme des retraites*. Paris: Presses Universitaires de France.
- Tsebelis, George. 1995. Decision Making in Political Systems: Veto Players in Presidentialism, Parliamentarism, Multicameralism and Multipartyism. *British Journal of Political Science* 25 (3): 289-325.
- . 2000. Veto Players and Institutional Analysis. *Governance: An International Journal of Policy, Administration and Institutions* 13 (4 (October)): 441-476.
- . 2002. *Veto Players: How Political Institutions Work*. New York/Princeton, NJ/Woodstock: Princeton University Press.
- Tsebelis, George, and Jeannette Money. 1995. Bicameral Negotiations: The Navette System in France. *British Journal of Political Science* 25 (1): 101-129.
- . 1997. *Bicameralism*. Cambridge: University Press.