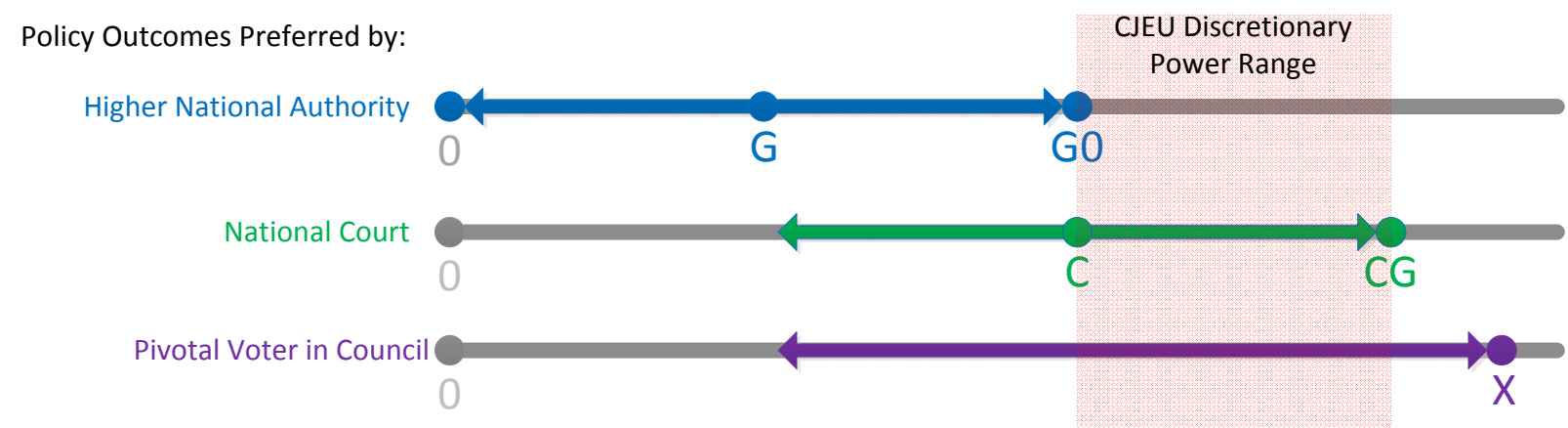


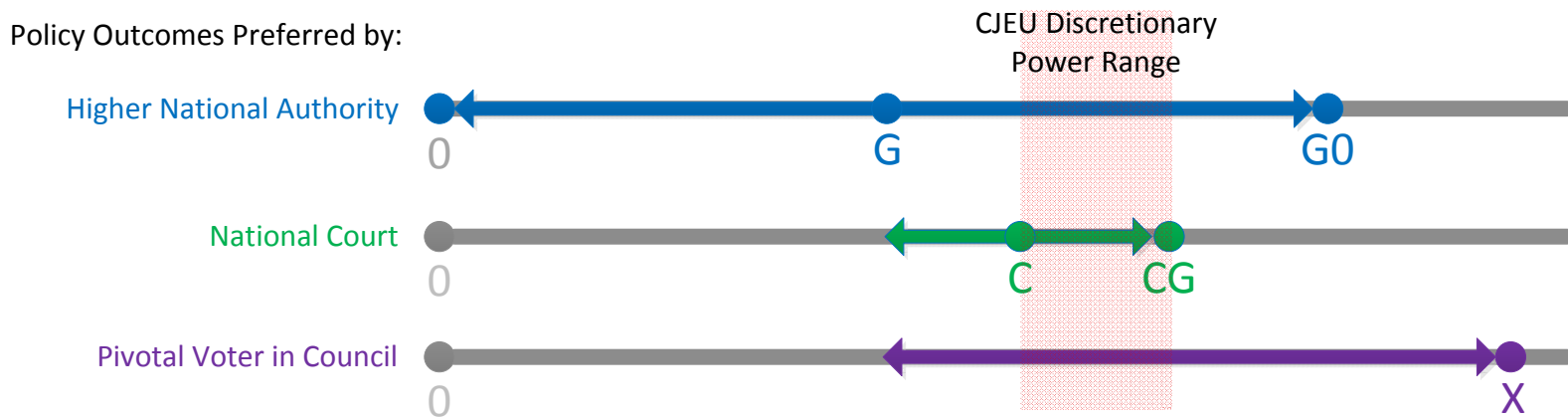
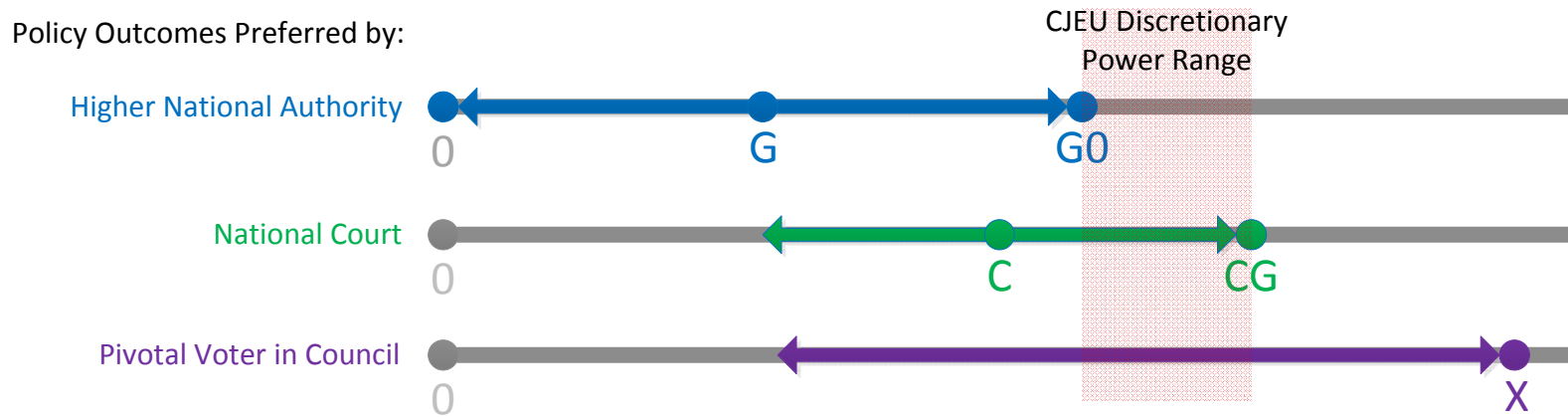
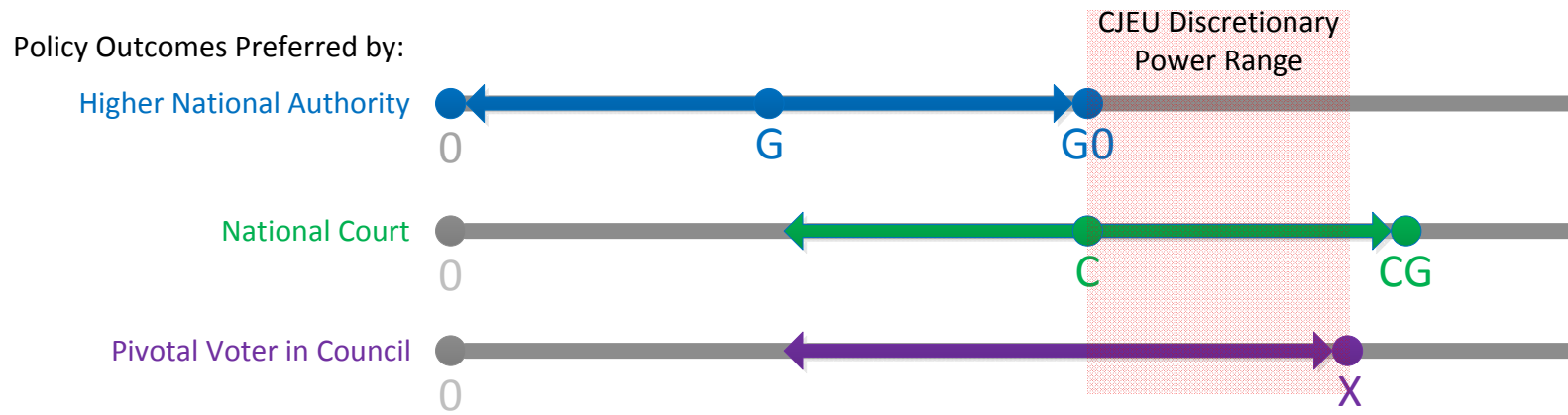
The T-Mobile Case and the Range of Discretionary Power of the Court of Justice of the European Union (CJEU) from the National Court's Perspective

See "National Courts and the European Court of Justice: A Public Choice Analysis of the Preliminary Reference Procedure" by George Tridimas and Takis Tridimas

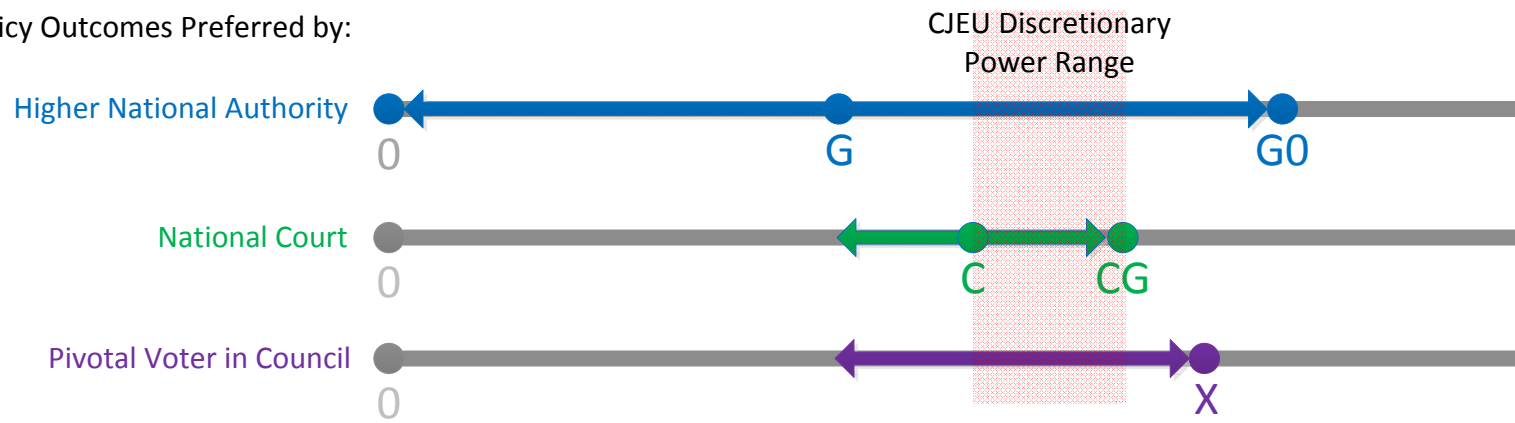
- Preferred policy outcome for the national court of a member state
C
- Preferred policy outcome for the higher national authority of the same member state
G
- Preferred policy outcome for the member state which is in favor of the largest policy value and whose vote is required to pass EC legislation ("Pivotal Voter in Council")
X
- No existing relevant legislation
0
- The largest policy outcome value the national court can tolerate before it becomes indifferent between G and CG; CG always = CCG
CG
- The largest policy outcome value the higher national authority can tolerate before it becomes indifferent between 0 (no existing policy) and G0; G0 always = GG0
G0
- Points between G and X cannot be overturned in the Council; points outside of G interval can never be enacted

For preliminary reference

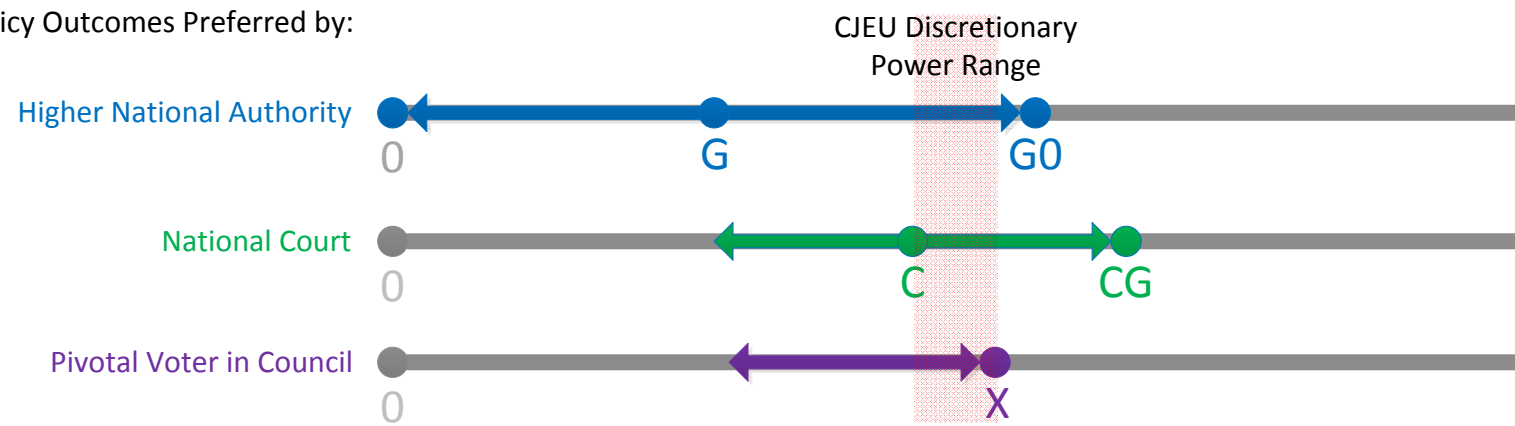




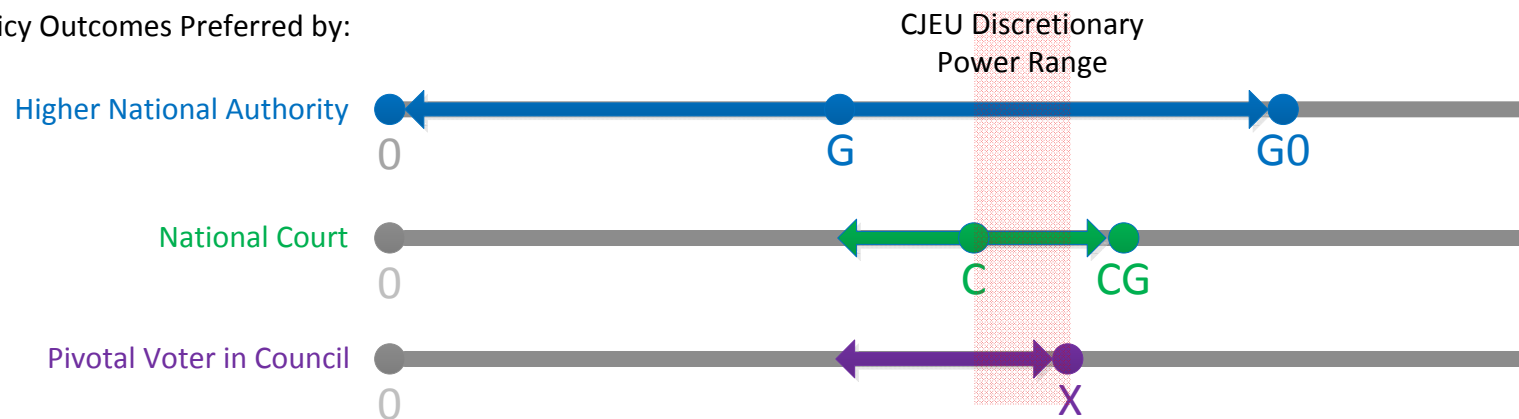
Policy Outcomes Preferred by:



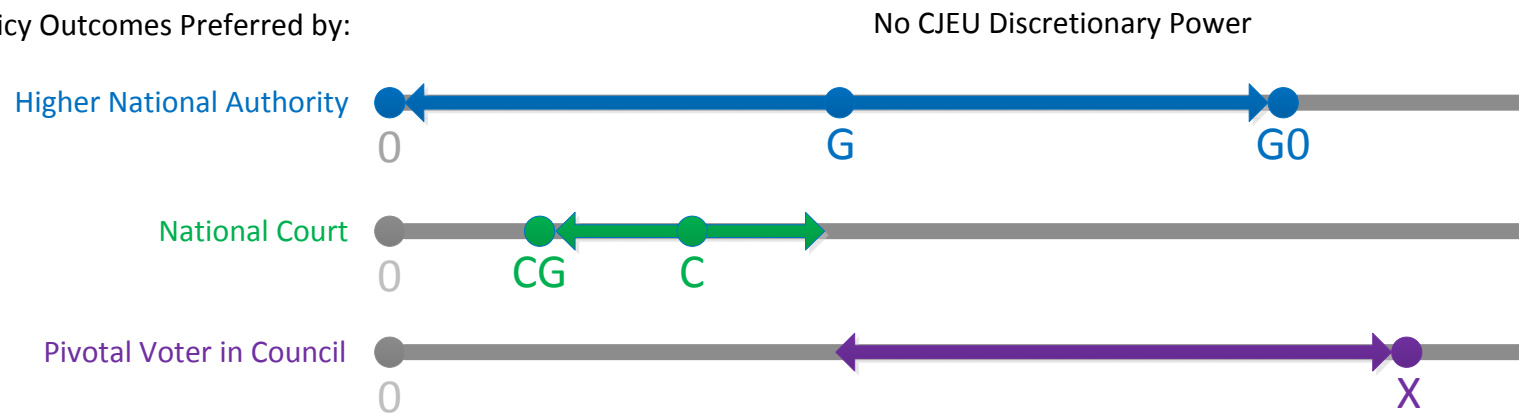
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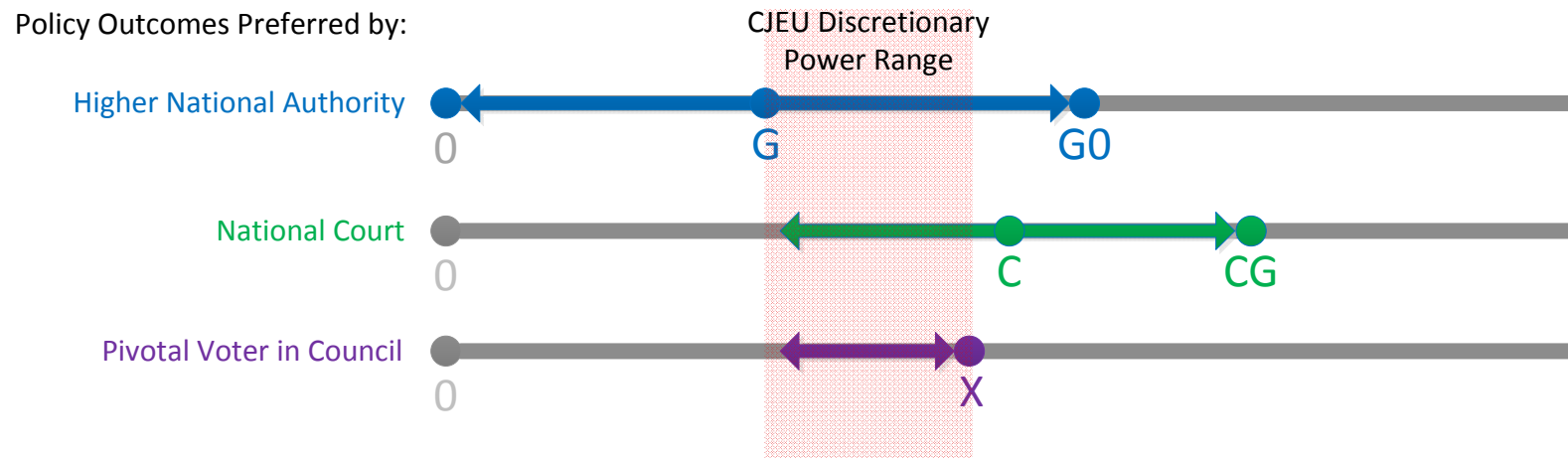
Policy Outcomes Preferred by:



Policy Outcomes Preferred by:



T-Mobile Case Example



- ❖ The goal of the European Competition law is to secure the competitive market structure .
- ❖ In this case, the Lower National Court (Rechtbank te Rotterdam) went with its own policy preference and remanded the case back to Dutch Competition Authority (MNa).
- ❖ Although the highest volume of preliminary references comes from Lower National Courts, in this case it came from the Higher National Authority (College van Beroep voor het bedrijfsleven).
- ❖ The preferred policy outcome of the Higher National Authority didn't match the preferred policy outcome of the Lower National Court .
- ❖ The CJEU's discretion range fell within the preferred policy outcome range of the Higher National Authority, still within the Pivotal Council Voter's range of preferred policy outcome and away from the Lower National Court's preferred policy outcome.