

WHAT DOES GERMANY THINK ABOUT EUROPE?

Edited by Ulrike Guérot
and Jacqueline Hénard



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Ulrike Guérot and Jacqueline Hénard

Introduction

At first glance, “What does Germany think about Europe?” might seem a strange question. However, it is one that Germany’s neighbours are increasingly asking themselves – and understandably so. After many years at the heart of the European project, Germany seems to have lost interest in it. The primacy that Europe once assumed in German foreign policy has gone. Berlin now coolly calculates the costs of integration and views its European future with unromantic sobriety. Nobody there still seems to believe in the idea of “ever closer union”, as it was enshrined in the Treaty of Maastricht.

Other European countries view this change of heart in their midst with feelings that range from irritation to concern. What do the Germans want? What do they *think* about European integration? Is there any vision left? The frustration with Berlin reached a peak in May 2010, when help for Greece was agonisingly slow to materialise. Ever since then, Germany has been acting like the strict economic taskmaster of Europe, attracting unfavourable headlines across the continent in the process. Less than a year after the Greek crisis, Berlin again provoked bemusement and anger by distancing itself politically from its European (and Atlantic) allies during the Libya crisis. More recently still, its abrupt abandonment of nuclear power after the Fukushima disaster upset some of Germany’s friends. Meanwhile, Germany’s relations with the so-called BRIC states are intensifying. Some Europeans now fear that Berlin sees its future with the BRICs rather than with Brussels. British historian Niall Ferguson recently summed up a widely held sentiment when he wrote that, in the future, people will say it was Germany that killed Europe.¹

¹ Niall Ferguson, “Murder on the EU Express”, *Newsweek*, 3 April 2011, available at <http://www.newsweek.com/2011/04/03/murder-on-the-eu-express.html>.

What is missing amid the recrimination is understanding. Just as German policymakers have failed to grasp why their behaviour is alienating their European counterparts, Germany's neighbours do not fully understand the shifting dynamics within that country that are underpinning decisions in Berlin. There has been, as a recent ECFR policy brief argued, a "dialogue of the deaf".²

The aim of this anthology is to break out of that dialogue, and to help overcome the current, mutual sense of incomprehension by facilitating a better understanding of Germany from the inside out. It seeks to explain what currently motivates Germany, what it thinks about Europe and why the debate has become so difficult. To do this, we have brought together 11 leading figures from various backgrounds, who attempt to explain the German debate about Europe in five sections: economics, politics, law, media and society. In each case, we wanted to try to bring out the fault lines in the debate, and have therefore selected two contributors with contrasting views. In particular, we have tried to give space both to the new Eurosceptic voices in Germany and to those who defend the EU and argue that Germany has benefited from the single currency.

Of course, Germany is not alone in its changing attitudes to Europe. In this era of crisis, the debate over the common project has become more difficult in *all* European countries, and nationalist sentiments are on the rise everywhere. But the shift in Germany is particularly noteworthy for two reasons. Firstly, because of that nation's size and consequent economic and political weight. What Germany thinks inevitably has huge consequences for Europe. Secondly, the change is remarkable because it represents such a departure from Germany's historical approach to Europe and its own role within it.

Until reunification, and well after it, European integration was effectively part of the Federal Republic's *raison d'état*. Germany's interests overlapped with those of Europe and prominent German politicians dreamed of a European federal state. However, in recent years, Germany has increasingly seen itself as "normal" and, having overcome the burden of history, felt it should be able to talk about its *own* interests – as other countries do.

Fundamental changes in its external relations were well underway before the euro crisis began. In foreign policy terms, participation in the 1999 Kosovo

² See Ulrike Guérot and Mark Leonard, *The New German Question: How Europe can get the Germany it needs*, European Council on Foreign Relations, Policy Brief, May 2011, available at http://www.ecfr.eu/page/-/ECFR30_GERMANY_AW.pdf

war was the first major shift from established positions, and triggered an important debate in Germany that linked responsibility for the past and the future. Germany's NATO partners welcomed its participation in the operation as a signal that Germany was assuming the responsibilities that came with its size and economic power.

That "normalisation" in foreign policy was mirrored in the domestic sphere. After a decade of passionate internal debates on national identity and memory politics following the fall of the Berlin Wall, Germany began taking more decisions based on domestic considerations and its global economic interests, rather than subsuming these interests in the common European good. When the financial crisis hit in 2008 therefore, it intensified a recently adopted view of Europe as a source of burdens and obligations. The German public seemed increasingly certain that it was doing everything right – limiting debt, pursuing austerity and focusing on exports – and it became frustrated by others' failure to behave similarly. It apparently occurred to few people that the German government could be part of the problem or that German solutions might not work in other countries. While Germany's European partners waited to be "saved" by Germany, Germany effectively wanted to be "saved" from Europe.³ An opinion poll conducted by the Allensbach Institute in January 2011 found that more than 50 percent of Germans have little to no faith in the EU, and over 70 percent do not see Europe as the future of Germany – a finding that almost all the authors in this collection cite.

To many in Germany, it is simply now behaving as other countries always have. To its critics, however, Germany has lost its inner compass: it no longer knows whether it should be "European" or go it alone in global politics. If it listened to outside voices, Germany would hear many complaints that it lacks a strategic vision, that trade policy has become a substitute for foreign policy, and that it behaves like a "big Switzerland" in the middle of the continent instead of providing leadership. For Europe to get the Germany it needs – as it must, at this critical time – the two sides in this conversation must stop talking past each other. It is in that spirit that we publish *What does Germany think about Europe?*

We begin the volume with two views of the euro crisis and the economic dimension of the German discourse on Europe. Pride in economic success and a stable currency have been central to German identity ever since the legendary

² Ibid.

currency reform of 1948. Against this background, **Michael Wohlgemuth** speaks for many Germans when he defends Germany's insistence on austerity and its principled approach to financial policy, which he sees as a model for the rest of Europe. **Henrik Enderlein**, on the other hand, argues that the euro crisis was caused not by a lack of a "stability culture" but by the flawed architecture of the single currency – for which creditor countries such as Germany were as responsible as other indebted member states. The only solution, he says, is to "dare to be more European" and integrate economic policy.

The two contributions by politicians are both by members of the smaller parties that frequently hold key foreign policy positions in Germany. **Christian Schmidt**, who is currently parliamentary secretary of state in the defence ministry, is a member of the CSU – the Bavarian Christian Democrat party that has a reputation for being Eurosceptic. He goes back to the party's origins after the end of the war to defend its attitude to Europe and, like several other authors, insists that Europe needs to develop a better relationship with its citizens. On the other hand, **Viola von Cramon**, a Green member of parliament, attempts to develop a new narrative for Europe based on the environment, climate change and sustainable economic development.

The third section picks up the legal debate following the Constitutional Court's controversial verdict on the Lisbon Treaty in June 2009, which limited further integration and criticised the EU's "democratic deficit". **Klaus Ferdinand Gärditz** and **Christian Hillgruber** argue in a revised and shortened version of an article published shortly after the verdict that the court had little choice but to reach the verdict it did. **Christian Calliess**, on the other hand, is more critical of the verdict in particular and of the terms of the legal debate over Europe in general. He laments the – as he sees it, almost tragic – focus of the Constitutional Court on international law, which tends to play off the principle of democracy against the goal of European integration.

Since the outbreak of the Greek crisis, the "fourth estate" has played an important and problematic role in the debate about Europe. **Klaus-Dieter Frankenberger**, foreign editor at the conservative *Frankfurter Allgemeine Zeitung*, suggests that the German tabloid press expressed a justified sense of anger and frustration about the Greek crisis in the first half of 2010. On the other hand, **Cornelia Bolesch**, who is both a media specialist and a long-time Brussels correspondent for the centre-left *Süddeutsche Zeitung*, criticises the way that German newspapers are dominated by stereotypical criticisms of Brussels that create an impression that Europe is effectively a "foreign power".

Bolesch suggests that a big part of the problem is a lack of communication between Brussels correspondents and editors based in Germany, who tend to have an insufficient understanding of how the EU works.

If generational change is also a big part of the shift in attitudes in Germany towards Europe, what do young Germans think? **Claus Leggewie**, a leading sociologist who belongs to the so-called 1968 generation, argues that young people in Germany don't attack the EU like some members of his own generation do, but also tend to take the EU for granted. In the 1990s, Leggewie wrote about the so-called 1989 generation – in other words, the young Germans who were teenagers at the time of the fall of the Berlin Wall. **Alexander Cammann** is a member of this generation, but grew up in the GDR, which may explain why he is not quite as disillusioned with Europe as Leggewie suggests the 89ers generally are. However, Cammann also rejects the idea that Europe is in crisis and he therefore does not see the need for further integration.

The philosopher **Jürgen Habermas** – who has long been a supporter of further European integration - concludes this collection with an analysis of the dilemma Europe faces following the euro crisis. In this essay, based on a speech he gave in Berlin in April, he argues that the series of measures taken by eurozone governments during the last year to coordinate economic policy risks exacerbating the democratic deficit from which the EU already suffers. “The process of European integration, which has always taken place over the heads of the population, has now reached a dead end”, he writes. Habermas calls for a “new pact” to frame a necessary shift towards political union and some sort of fiscal entity. In his conclusion, he reminds us that, in the light of new global challenges, Europe integration is not only a necessity but may also be a minor exercise compared to the task of creating a new system of global governance.

This essay collection makes no claim to comprehensiveness. But we hope it will give readers a glimpse of the complex debate in Germany about Europe and offer hints about the domestic pressures that are forcing German foreign policy to evolve. The essays do not suggest that Germany is abandoning Europe for an alternative future with the BRICs – in fact, there is not a single mention of China, on which German exporters are increasingly focused. But they do suggest that, 20 years after reunification, Germany is redefining its position in Europe. We hope that, by contributing to a better understanding of debates about Europe in Germany, this collection will help the rest of Europe to help Germany to do so.

ECONOMICS

Michael Wohlgemuth
Kant was no stickler
for principles

1

*Thinking of Germany in the night
Puts all thought of sleep to flight.*

Heinrich Heine wrote these lines in exile in 1843. These days, however, Germans are more likely to lose sleep at night from thinking about Europe than about Germany. The reasons are primarily economic ones. Their fear of inflation and overwhelming debt, rooted in the bitter experience of the 1920s and '30s, is now accompanied by a sense of helplessness: the deutschmark has gone and they have little control over their national budget either. The explicit and implicit pledges of German taxpayers to pay for the debts of other eurozone nations could amount to as much as Germany's own annual budget.

This explains why Germans have seldom been as Eurosceptic as they are today. According to a survey published in January 2011, the percentage of Germans who have little to no faith in the European Union has risen from 40 percent in 2002 to 67 percent in 2011. The majority of them regret the introduction of the euro. Experts are sceptical too. In one survey, 90 percent of German economics professors reject the euro bailout to which, according to German and European politicians, there is "no alternative". Their fear centres on the idea of "moral hazard" – the way it creates perverse incentives for politicians and banks in the eurozone.

The bailout should not have been presented as a solution to which there was "no alternative". German economists proposed rescue measures that, though they had their own risks and side effects, would have been a more effective treatment for Europe and would have reduced the chance of a future relapse. It must be possible for nations to undergo a regulated insolvency process leading to debt restructuring, for which private and institutional investors (who have earned good money from higher risk premiums) would initially assume liability, before innocent and/or unborn tax payers are burdened with it.

On this issue, experts are in line with the public in Germany: innocent bystanders must not be forced to accept responsibility for the mistakes of strangers. More so

than in other European countries, there is an underlying suspicion that haggling in Brussels leads to a collective lack of responsibility or a consensus for which others have to pay. Often, it's the Germans – whose role as “paymaster of Europe” is threatening to expand on an unprecedented scale – who have to pay. At the same time, former chancellor Helmut Kohl's idea of Europe as a matter of war and peace has less and less traction. Germany's post-war generation thinks pragmatically but also *categorically*. Like her predecessors, Chancellor Angela Merkel is part of a tradition of more recent German thought and action that centres on terms such as “regulatory policy” and “social market economy”.

The social market economy and European integration

The “social market economy” can be precisely traced to the conjuncture of monetary reform and price deregulation on 19 June 1948. It is thus one year older than the German Basic Law (1949) and nine years older than the Treaty of Rome (1957). It was not until the Treaty of Lisbon that the “social market economy” was explicitly dignified as a goal of the EU (in Article 3) – a legal status it was never accorded in the German constitution. However, it would be premature indeed to interpret this as the triumph of the “social market economy” in Europe. The past few decades of European integration have been an ambivalent achievement from the perspective of German regulatory policy.

If Ludwig Erhard, the father of the social market economy, had had his way, Germany would not have even signed the Treaty of Rome. Erhard was horrified by the thought of a European economic community consisting of just six members, and was inspired by the French desire to wall off the community from the outside and to promote systematic social and industrial policy from the inside. Erhard's vision was of a free-trade zone with convertible currencies and freedom of movement for people, goods, services and capital. His goal was a free market for the free West, including Great Britain and North America if at all possible. Konrad Adenauer saw this as a snub to reconciliation with France and in 1959 prohibited Erhard from voicing any further criticism of the European Economic Community. But Erhard was not one for avoiding controversy. In 1962 he wholeheartedly dismissed the European Commission's proposal for a far-reaching “fusion of policies” as “primitive planification.”

Erhard's gloomy predictions have been partly confirmed and also partly contradicted by events. The *acquis communautaire* – the 100,000 pages of rules and regulations for EU-wide binding standards and an EU budget, the vast

majority of which is devoted to planned economic measures – may have even exceeded Erhard’s fears. On the other hand, Erhard could hardly have imagined that principles such as free and undistorted competition, the banning of state subsidies and, above all, the enforcement of basic human rights would outlast the declarations of intent of the Treaty of Rome. They have become general principles of European law that have frequently been more consistently enforced by the European Commission and the European Court of Justice (ECJ) than would probably have been the case even in a country like Germany. Moreover, it was only through the detour of European integration that member states were persuaded to begin breaking up their (state) monopolies in the telecommunications, energy utility, banking and road transport sectors.

Regulatory policy is more effectively overseen by independent institutions that do not have to consider goals or party political disputes. Thus, monetary policy and competitive market policy were in better hands when they were regulated by the Bundesbank and the German Federal Cartel Office than by the parliament or government ministries. These competencies have now for the most part been “Europeanised”. But institutions such as the European Commission and the ECJ have been able to pursue an open market policy and a monetary policy more effectively than Europe’s national governments and parliaments not so much in spite of as *because* of their “democratic deficit”.

While the Treaty of Rome was concluded under a Rawlsian “veil of ignorance”, that veil should have long since lifted. The veil of ignorance (we do not know our future strengths) should be replaced by a conscious commitment (we are already aware of our weaknesses) to create opportunities for European regulatory policy. Whether the current crisis represents a *kairos*, or opportune moment to make a groundbreaking decision, is debatable. However, Europe would do well right now to follow the example of a wily and successful Greek – Odysseus – who knew he would lead himself and his fellow travellers to their doom if he succumbed to the temptations of the moment. Commitment to the political process means politicians must allow their boats to be tied to legal (constitutional) masts that *ex ante* prohibit them from giving in to temptations or at least make them pay dearly for it. Only those who *have* to say “no” are *able* to say “no”.

This logic was behind the German “debt brake” (the clause in Germany’s constitution that requires the federal government to reduce its structural deficit from the current level of about €70 billion to €10 billion by 2016). It may seem paradoxical that in such things as monetary stability, budget discipline, fair competition and free trade, the interests of the general public have to be protected

from the people's representatives and occasionally even the systematically distorted opinions of voters. However, it is justifiable for a democracy to constrain itself in this way once it acknowledges that it is in the interests of both politicians and voters.

“Germany Kant Kompete?”

One of the most persistent critics of German regulatory policy has been the economist Paul Krugman. In an article in *Fortune* magazine in 1999, entitled “Why Germany Kant Kompete”, he criticised Germany's obsession with principles and categorical imperatives.¹ He said Germans were “more conservative” than Americans because “they do believe in sound money and sound budgets”. But the real difference between them was a philosophical one: “Immanuel Kant's categorical imperative vs. William James' pragmatism”. Germans were sticklers for principles, while Americans were philosophical and personally “sloppy”. While the Germans had not done too badly in the past, as evidenced by the export successes of German engineering companies or the country's lower inflation rate during the 1970s and '80s, the world was now a different, more dynamic place that would reward American “flexibility” and made German “discipline” a threat to the “project of a more unified Europe”.

In hindsight, it would be easy to point out that discipline in both the private and public budget management of Europe, and certainly in the USA too, would have helped avoid the past few crises. The problem today is no longer “Why Germany Kant Kompete”, but rather the increased relative competitiveness of the Federal Republic of Germany, which in parts of the EU is wrongly considered “unfair”. Nevertheless, it is true that Germans place more emphasis on regulatory policy commitments than some of their European counterparts. Germans often act as the spoilsports when it comes to (even more) flexibility and freedom of action in determining and interpreting economic policy schemes and rules. Examples of this are German competition law, the “debt brake” and Germany's initial insistence on the “automatic” imposition of sanctions on excessively-indebted eurozone countries.

The pragmatism of William James also has its benefits – particularly as a decentralised, experimental discovery process. Regulatory policy should not

¹ Paul Krugman, “Why Germany Kant Kompete”, *Fortune*, July 1999, available at <http://web.mit.edu/krugman/www/kompete.html>.

presume to know the “true” rational principles applicable to every specific situation and make them binding once and for all on a “one size fits all” basis. Universally applicable principles are also of little help, even once they have acquired constitutional status, if they are not culturally and politically acceptable – as the abrupt removal of the “no bailout” clause most recently demonstrated . When I once quoted the German “debt brake” as a model for Europe at a conference, former British Chancellor of the Exchequer Alistair Darling retorted: “You Germans always want to set everything in constitutional stone. Yet, ultimately, it all comes down to one thing and one thing only: political will.” That may well be true, but what happens when there is a lack of political will? When people are “sloppy” in their private lives, they bear the consequences themselves. But it is very risky to put one’s faith in political “flexibility” and the hope of a “political will” that is incontrovertibly and sustainably committed to serving the greater good. In the end, others will have to pay for such a bet.

My theory is: Kant Kan Kompete! German regulatory policy, with all its binding rules, is a model for Europe. Kant’s 1795 essay, “Perpetual Peace”, which was aimed at Europe, addresses not only international law but above all the principles of a “republican constitution”. The great thing about it is that it does not presuppose “a nation of angels”. However hard it may seem, the problem of organising a state can be solved, even for a race of devils, if only they are intelligent. This is why: “Given a multitude of rational beings requiring universal laws for their preservation, but each of whom is secretly inclined to exempt himself from them, [the idea is] to establish a constitution in such a way that, although their private intentions conflict, they check each other, with the result that their public conduct is the same as if they had no such intentions.” In short, credible commitment (regulatory policy) does not require idealistic altruism, only enlightened self-interest.

Regulatory policy capable of binding participants to categorical principles and to the enforcement of universally applicable rules – even when it does not seem opportune to do so – is not only more ethical in the long run, but also more appropriate, more competitive and more successful than “sloppy” pragmatism. Is this what Germany thinks? Certainly not in a strict Kantian sense – but perhaps as a gut feeling. And, with a little “enlightenment”, these principles that the German theory of order has worked hard to embrace over the years might well have universal – or at least European – applicability.

Henrik Enderlein
More faith in the euro²

2

The crisis of spring 2010 relentlessly exposed the design faults of monetary union. Many EU member states that want a common currency are at the same time unwilling to accept any internal stabilisation mechanisms or far-reaching coordination of their finance policies. This has proved to be largely unworkable – primarily not as a result of the misguided policies of individual member states but because of the existing architecture of the eurozone. For, while some individual countries did not stick to the agreed rules, they are not the only countries now considered to be the weak spots of the eurozone. For example, Spain and Ireland respected the rules of the Growth and Stability Pact prior to the crisis, but the spotlight is now suddenly on them as the “debt-ridden countries”.

Countries such as Germany, Austria, France and the Netherlands, on the other hand, have failed to show respect for the rules in the past, yet are now among the “stable countries” of the eurozone. The above list shows that the lack of a “stability culture” that is often lamented by Germany in particular cannot be the only explanation for the crisis. Nor will the tightening of stability rules that is currently being debated be sufficient to prevent similar disasters in the future. It is far more important to recognise that the architecture of the eurozone itself is responsible for the current instability. Any answers to the crisis should therefore start with a close examination of the building’s overall structure rather than the location of the smoke detectors.

In retrospect, it is clear that the introduction of a common currency was linked to the illusion that it would be the end point of economic integration in Europe.

² This is a slightly revised version of a text that appeared in *Aus Politik und Zeitgeschichte*, 42/2010, 25 October 2010.

Even though greater coordination of economic policy was on the agenda again and again in the past decade, the crucial steps were never taken. Europe clung to the fallacy that a common currency zone could work without integrating economic policy. Economic policymakers were happy to leverage the benefits of a common currency and ignore the obligations. Reverting to our national currencies now would be a backward step. Adopting a uniform monetary policy will also create problems, but the cost of doing so should on no account tempt us to jeopardise the whole European project.

The bailout

What happened during the first 10 years of monetary union? The most important observation probably relates to the growth and inflation tendencies, which are sharply diverging trends. The European Central Bank (ECB) sets one interest rate that reflects the average of the eurozone. For all of those member states whose cyclical position deviates from the average of the eurozone, such a monetary policy is thus inappropriate. Over time, two blocs have gradually formed: a low-inflation bloc with high real interest rates and a tendency towards lower growth and employment rates – notably Germany – and another bloc with high inflation, very low or negative real interest rates, high growth rates and almost full employment – such as Spain, Ireland and Portugal and, to some extent, Greece as well. The ECB makes the right monetary policy for a country in the middle that simply does not exist. It cannot bring these two opposing blocs together.

It is only a hop, step and a jump from such cyclical disparities in the eurozone to the credit crisis. When the economic boom phase in the high-growth countries suddenly reversed into a recession, the countries concerned found themselves confronted with a refinancing challenge that was practically insurmountable. Take Spain and Ireland. Although the debt quota of both countries as a percentage of GDP prior to the crisis was significantly below the maximum threshold of the EU guidelines, these countries, due to sharply declining growth rates, were almost incapable of handling their own debt burden (in both cases primarily due to the banking system). The financial markets responded to this problem by immediately charging even higher interest rates. That set a dangerous interest-deficit spiral in motion. A similar scenario applies to Italy and Portugal too – even if both were already struggling with budgetary consolidation and the European Commission had instigated deficit proceedings against both countries long before the crisis began.

Greece is something of a special case. Its debt level had reached record European proportions even before the national debt crisis occurred. The false statements made about its budgetary position only increased the degree of scepticism already levelled at Greek economic policy. It is therefore no wonder that Greek government bonds steadily dropped in value from the turn of the year 2009/2010 and its interest burden rose so rapidly within a very short space of time in the spring of 2010. In view of this, it would have been perfectly justifiable to treat Greece as a special case before the actual crisis even broke. Although it is pointless to speculate in retrospect, a very early and quick restructuring of Greek national debt as far back as February or March 2010 would probably have helped to stabilise the entire eurozone. By the time pressure on the euro had significantly increased in late March and the Greek national debt problem had threatened to morph into European wildfire, a bailout of the country was inevitable. But because the rescue package was only begrudgingly announced and implemented, a wave of speculation then swept in, to the detriment of former growth countries.

The eurozone then had two options: either accept the inevitable state bankruptcy not only of Greece but also of Spain, Portugal and Ireland – and possibly even Italy – thus putting the survival of the euro at risk, or relax the “no bailout” clause, a central element of the Maastricht Treaty that stopped the EU or individual states becoming liable for the national debt of other states. From an economic perspective, the major rescue package agreed in May 2010 was the right signal at the right time. The combination of a total of €750 billion – a sum that, even for capital market participants, seemed unimaginably high – and an openly announced but furtively implemented market stabilisation mechanism through the direct intervention of the ECB achieved the desired effect.

The bailout could be described as the largest-ever “all-in”. If things go well, they will go really well. But if they fail, the euro could become history. So far, the deterrent factor has worked, not least because the “all-in” is now firmly enshrined in the EU Treaty. However, this leaves us with two questions. First, has the crisis been averted in the medium term? Second, how will the structural problems of the common currency zone be resolved?

More Europe

The Greek bailout and the rescue package were the correct short-term response during the acute phase of the crisis in the spring of 2010. But they did not solve

the medium- to long-term problem. Firstly, it is not clear that there has to be a restructuring of Greek national debt after all. Secondly, there is no certainty that the funds announced as part of the EU rescue package will be made available, as is currently planned, if there is a further setback in the financial market situation. Thirdly, it cannot be assumed that the eurozone architecture described above will be any more stable in the coming years than in the past decade.

What alternatives are there? Neither the dissolution of monetary union nor the withdrawal of individual countries is an option. So really the only alternative left is to take the bull by the horns. The answer to the eurozone crisis must be: more Europe.

Reverting to national currencies would be economic suicide. This applies to all eurozone countries. The re-introduction of the drachma, for instance, would not alter the national debt of Greece one iota, which would continue to exist in euros and grow even bigger. Even so much as a debate about the exit of individual countries would lead to massive problems for European financial and capital markets – especially in the countries concerned. Until the currency actually changed, the euro would remain available in the affected country, and afterwards it would continue to be legal tender in the rest of the eurozone. The inhabitants of any country that wanted to revert to its former currency would have to close their savings accounts within a very short space of time and take their savings home with them in cash. The run on the national banking system would inevitably lead to a collapse. From a legal perspective too, such a “solution” would probably be impossible. Monetary union was specifically designed to stop capital being attributable to a single country. Which current euro debts would then be converted into drachma debts? Which assets would be euro assets? It seems almost impossible to come up with a legal answer to such questions. As far as hard cash is concerned, any such distinction would definitely be out of the question.

This means the only option left for Europe is to take the bull by the horns. The widely held view to date that a common currency zone could exist without common economic policies has proved to be a fallacy. If Europe wants to avoid disasters like those of 2010 in the future, the European aspect of economic policy must be substantially strengthened. This applies first and foremost to the European Commission.

22 The European Commission must be strengthened to become a genuine governance arm of national economic policies. Instead of concentrating on

deficit and debt figures, it must assess the economic policies of member states from a much wider perspective and include in its deliberations such variables as tax revenue, consumption rates, savings rates, foreign trade and the labour market. However, this will only work if the commission returns to being an independent political body and takes its political tasks seriously. (Incidentally, no treaty change would be required for such a realignment of the role of the European Commission. Article 121 of the EU Treaty already envisages widespread monitoring of the economic policies of member states by the commission. It has simply chosen not to make enough use of these options in the past.)

As an aside, anyone who thinks that ultimately only national interests ever prevail in Europe and the European sphere is irrelevant is quite mistaken. If national governments only ever pursued their strict national interests, we would never have experienced the European integration process in the first place. Europe has demonstrated its strength time and time again and championed developments that nobody saw coming. Even in the mid-1980s, the euro was an unthinkable notion. However, it is not a matter of giving the European Commission rights over national parliaments in a hierarchical sense, which would turn Europe into a classic federation. It is too early for that. The commission must exert some political pressure via the public arena to ensure that Europe heads in the direction of an “optimal currency zone”. A currency zone must emerge that is defined less by the differences between the economic structures or business cycles of individual member states and more by a homogeneous whole.

The euro crisis is not just about a currency. The euro is a central part of what has been developed in Europe over the past few decades. If the euro fails, the European project as a whole is at risk of failing. Instead of returning to a Europe of national states and national currencies, the solution must be to dare to be more European. We have to accept that the transfer of sovereignty in the case of our national currency was only the beginning. For the necessary sovereignty concessions to succeed in other areas, not even treaty amendments or new rules would be necessary in the first instance. It is much more important that the governments of the member states adopt a clear European outlook. If there is no common willingness to advance the European project, it will fail.

This European outlook is needed in Germany more than in most other nations. Though nostalgic die-hards may demand the return of the deutschmark, it is the role of any intelligent German government to make the European apparatus more stable and robust – and convince people of the added value of Europe in

general and monetary union in particular. No country has benefited more from the euro than Germany. Now Germany's European policymakers must bring more to the European table than ever before.

POLITICS

Christian Schmidt

3

Is Europe a community of fate?

Germany's Christian Democrats are in favour of a united Europe. However, we feel there is considerable need for clarification of the structures and objectives of the European project. Many of the questions currently being raised by Christian Democrats about the degree of European integration, stability and identity have been around for a long time but have lost none of their relevance. Constant reassurance is required in the form of answers to these questions. The project of European integration would be discredited if it were reduced to an elite project with various motivations and consequences that are neither acknowledged nor understood. This is why a backward glance can simultaneously be a constructive forward glance, particularly when it comes to monetary union, its democratic legitimacy and the functionality of a European body with 27 member states, as well as its expansion and security policy. The following is an attempt to examine some of these aspects.

In its first manifesto in December 1946, the CSU (the Bavarian Christian Democrat party) declared: "We stand for the creation of a European economic and monetary union." It may come as a surprise to today's readers – but should not – that back then the CSU was already addressing the same questions of European integration that still concern us today. Inspired by the disaster of the great European war and the goal of creating a new supranational order, they proposed a pragmatic and rational approach to European integration, but also believed that it should be driven by the nations of Europe, which should not lose their own values in a flattening process of integration. Thus, there was an inherent tension in the way the party approached European integration.

Two generations after these founding statements, European integration is now an uncontroversial issue within the CSU. Ideological divisions within the party – for example, between "Atlanticists" and "Europeans" – have become less significant. The truth is that the hotly debated question of whether a European federal state

or a European confederation of states was preferable never really touched the hearts and minds of CSU politicians. Despite the apparently fundamental nature of the question, it soon became less significant for two reasons. First, the post-war yearning for a stand-in “European nation” to replace the defeated and discredited German nation initially did not seem realistic because of the dominance of the United States in security policy, and it has since become irrelevant. Second, it soon became apparent that there was a need for European structures capable of pro-active decision-making.

However, the debate about a “confederation” or “federal state” re-emerged in a diluted form in the debate over the Maastricht and Lisbon treaties, between those advocating an integrated approach and those preferring an intergovernmental approach in which the member states would play a dominant role as suggested in the 1946 manifesto. In my view, this dispute is good for the Christian Democrats and the European project as a whole in two ways. Firstly, it increases awareness of the need for European collaboration and integration, and the political and legal construct of European institutions that are based upon it. Secondly, it draws attention to the necessity of building a Europe for all citizens rather than an elite project that would lack any long-term stability.

Christian Democrats have discussed at length the question of the extent to which sovereignty can be transferred to a European structure. They did not suffer from a lack of vision of centrally organised and established states with a vertical distribution of power, since they had had plenty of their own experience of federalism. But the fear that the “EU juggernaut” would increasingly usurp state powers was – and still is – a widely held concern. The principle of subsidiarity is extremely important to the CSU, an explicitly federal organisation. But, to this day, the subsidiarity clause that rank and file Christian Democrats fought hard for does not seem to be understood in Brussels. Worryingly, the European Commission sometimes has a mechanical approach to matters of competence and fails to consider the fact that added value or adherence to the “betterment” clause must be derived in a political sense as well as from the transfer of competence to Brussels.

While Christian Democrats were unanimously in favour of the introduction of the internal market, the issue of monetary union was controversial within the CSU from the outset. For example, at the party conference in Fürth in 1992, there was a debate about the Treaty of Maastricht and monetary union. On one side were those who, with each additional transfer of competence to Europe, saw a problem of insufficient democratic legitimacy and linked doubt about the economic benefit

of monetary union to the question of constitutional legitimacy – and, in other words, posed the sixty-four-thousand dollar question of European politics. On the other side was the generation whose lives had been changed by war and a lack of freedom in Europe, who wanted to seize the German “mantle of history” and European unity no matter what. Fully convinced that, in the end, the books would surely balance in both a political and economic sense, they felt it necessary to invest in this project even if the costs were not entirely predictable.

This was one of the biggest rifts within what is, in general, a very homogeneous party that is deeply rooted in conservative, Christian social principles. The scepticism in parts of the CSU found media expression in Peter Gauweiler’s term “Maastricht Esperanto money”, which still has some traction among Christian Democrats and within the CSU in particular. The party does not question monetary union as such and there is no sign of Euroscepticism dominating it. But Christian Democrats, including the Europhile followers of Theo Waigel (former chancellor Helmut Kohl’s finance minister), will vehemently oppose any soft monetary policy, lack of budgetary discipline or other forms of negligence, especially in the wake of the disastrous financial market events of the past few months.

This is the crux of the Christian Democrat view of European integration: predictability and stability are the watchwords. This also separates the CSU very clearly from other political parties in Germany. By contrast, the “red-green” government under former chancellor Gerhard Schröder relinquished stability for the sake of growth when it broke the terms of the Stability and Growth Pact in 2001. The Christian Democrats want to make transgressions like this impossible once and for all. This must also be a matter of party policy because Christian Democrats also believe that we need European integration in almost all policy areas. In January 2011, the CSU made a clear commitment to a stable Europe, which concluded with the following words:

The idea of an EU of stability comes from European insight rather than a German *diktat*.

We all know that the nations of Europe can only succeed in the globally competitive marketplace by working together. Europe needs the persuasive power that comes from its single currency and its economic strength to make its voice heard in the world.

Another point of contention among the political class in Germany, the question of enlarging the EU to include Turkey, has united rather than divided the CSU. Although Edmund Stoiber, the Christian Democrat candidate in the general

election in 2002, suggested a form of partial membership of Turkey in the EU, for foreign and security policy purposes, he nevertheless rejected the idea of full EU membership for Turkey, which is still the CSU's position. Apart from a few Christian Democrats such as Volker Rühle, Ruprecht Polenz and Friedbert Pflüger, there is now a broad consensus around this position, particularly in view of the problematic stance of Turkey under its current prime minister, Recep Tayyip Erdoğan. This does not rule out the kind of fundamentally open and cooperative position that has often been formulated by Christian Democrats in the past, but it would also require a degree of cooperation from Turkish quarters.

Beyond the issue of Turkey, the security policy of the EU, or rather its member states, is viewed as an increasingly important task. The Christian Democrat ethos of stability has also taken on security policy dimensions. Closer inspection has revealed that our national resources are no longer sufficient for a credible defence and security system capable of addressing a host of different risk scenarios. Primarily driven by this conviction, the Christian Democrat Defence Minister Karl-Theodor zu Guttenberg launched a project under the Ghent initiative to achieve the best possible European defence capability with limited national resources.

A citizens' Europe or an elite project?

In the debate about the European constitution, Christian Democrats probed the question of the democratic legitimacy of the EU. Helmut Kohl and Theo Waigel showed great foresight in redefining the European project after the fall of the Berlin Wall in a form that survived everything from the Single European Act and the Treaty of Maastricht through to the Treaty of Nice. But the question of who decided what in Europe remained unclear to the tentative, democratic purists among us. Primarily thanks to the initiative of Christian Democrats such as Wolfgang Schäuble, Karl Lamers and Reinhold Bocklet, and the establishment of a consensus about core values through the work of Roman Herzog, a certain degree of calm ensued.

Nevertheless, many Christian Democrats have reservations about the pragmatic approach of seeking "ever closer union" in terms of European integration. This is why even integrationists within the CSU tend to accept the objection of Peter Gauweiler to the Treaty of Lisbon and to the verdict of the Constitutional Court, and even see it as pro-European. It was very much in the tradition the CSU, which

in 1973 appealed against the German-German treaty that created the state of Bavaria. The appeals against the Maastricht and Lisbon treaties are not part of a destructive pattern, but rather a logical, constructive continuum, especially when one considers the ground-breaking verdict of 1973, with its significant effect on the process of German reunification less than 20 years later.

Christian Democrats thus have a certain constructive, constitutional ambivalence about Europe that is also discernible in the verdicts of the Constitutional Court. It is very important that Europe is not simply a matter of a few elite representatives putting their heads together, but rather a concerted approach to build a Europe for all its citizens. The programme of the Adonnino Committee of 1984 is therefore still on the political agenda. The European Council said it was necessary to realign the pro-action of the elite with the expectations of ordinary citizens in the various states of Europe, but this has yet to be accomplished in some areas. While the Lisbon Treaty has made progress by introducing the European Citizens' Initiative and shoring up the rights of the European Parliament, the role of national representatives of the citizens still needs critical support. A particular litmus test will be the legal and political guarantee of a European stability culture.

It must be possible to establish a sustainable way to represent national and European citizens. Many Christian Democrats expect that this will also lead to a reduction in the volume of political issues requiring regulation at a European level. All too often, cases arise where regulation at a national or regional level should be sufficient or regulation of any kind is totally unnecessary. We shouldn't underestimate the explosive potential of these questions. A clear commitment to Europe is a good basis to work from, but the ability to engage in constructive criticism is vital. Having a self-limiting EU is also a good starting point in order to prevent renationalisation and to distinguish it from the necessary repatriation of competencies on the basis of the principle of subsidiarity.

The internal party debate about European integration is starting to regain momentum. It focuses less on fundamentals and more on the question of how much political and financial investment Europe should be costing us. As such discussions can very quickly lead to hard-line anti-European positions, pro-Europeans must come to the table well-armed with sound arguments and a purposeful vision. It will not be a quick sell, but it is a realistic prospect. In this way, Christian Democrats will remain the political motor of European integration.

If you take elections as a guide to public opinion, Germany is sending out some very contradictory signals about Europe. On the one hand, the turnout at European elections is lower than at any other type of election. On the other hand, unlike many other member states, German voters are not sending any professed anti-Europeans to the European Parliament. Entrenched anti-European feelings are generally only manifested in relation to issues that make people protest at the national level too: cumbersome bureaucracy, lack of public consultation and wasteful use of taxpayers' money. However, it is much easier to crusade against these three failings when the perpetrators are so far away that they are generally convicted in their absence.

The German government should rebut anti-European sentiments with arguments rather than simply ignore them. We should not tolerate members of parliament routinely spreading baseless accusations about European politics simply because they are assured of good media coverage as a result. Railing against the cost of agricultural policies or incomplete infrastructure projects in other member states is part of the negative political culture of Germany, particularly among conservatives. Good politics generally appeals to the mind rather to feelings, but it should not be overlooked that, for many people, the success of European integration is also a matter of the heart.

In that sense, a key task for German politicians should be to lobby for stricter criteria over the allocation of structural resources and agricultural subsidies. In particular, agricultural reform should not be left out of the current debate about the switch to renewable energy sources, which is now hopefully inevitable. This is a "European project" of global proportions, which is about combating climate change, overcoming world hunger, the use of genetic engineering and, ultimately, the fair distribution of resources. Agricultural policy also plays a significant role in regional development. European

agricultural policies based on ecological compatibility and local added-value may unleash new perspectives for rural areas and give entrepreneurial farmers the right incentives for environmentally sensitive farming practices. This could help the Common Agricultural Policy shrug off its negative image and develop into a positive lead project for the EU that might even help to persuade young people to become more involved in European politics.

Europe needs excellence

European politics was and is very demanding. It is always a matter of balancing regional and sectoral or urban and rural interests. In view of the great competence and skills required to strike such a balance, it is hard to understand why second-class candidates are increasingly being appointed to positions in EU institutions. If relocating to Brussels is perceived to be a backward career step, there is something wrong. The situation will not change until national governments stop using European Commission posts as a way to offload any personnel whom they no longer want.

Just as the EU needs the best people in its governance and administrative roles, the economic foundation of Europe also depends on excellence in research and development. The EU must address the challenges of the knowledge economy much more strategically than it currently does, and recognise the potential to be derived from a European research community. This applies to Germany in particular, where the federal structure contributes to fragmentation. A strong, common European research region depends on the mobility of students, graduates and researchers. Many more of our young people should therefore be gaining experience abroad – either as graduate interns or during their studies – for the purpose of learning, teaching or undertaking research. The Bologna Process, however, has unwittingly led to a decline in the mobility of students.

Europe needs a financial basis

It would certainly be a plus for our democratic culture if we more frequently examined the truth of the many negative clichés about Europe. Then, for instance, we could finally dispel the popular misconception that Germany is just Europe's "paymaster". Unfortunately, it is only industry that talks about how much our country has benefited economically from the common market and the common currency. It is hardly surprising that an export economy

such as ours would benefit from open markets and a common currency. The German government should acknowledge this fact and express it on a regular basis in order to highlight the benefit of the EU to Germany in particular. No other country benefits as much as Germany from the internal European market and the common European currency. More than 60 percent of Germany's net exports are from the EU.

It was clear from the debate about stabilising the euro that Germany's strong position presents some problems for the eurozone as an economic region. The response of the German government was neither appropriate nor helpful. With the so-called Pact for Competitiveness, the chancellor is trying to impose German solutions on other member states. Irrespective of the content, it must be said that such an approach cannot be in the best interests of Germany or Europe. If the euro is to survive, European economic governance is inevitable. But the intermediate phase of sovereign nation states has been extended for the umpteenth time now as a result of Germany's prescriptive requirements. In that sense, the desired non-committal content of the treaties acts as a stability mechanism for Europe.

However, Europe is of course much more than an economic community. It would therefore be a grave mistake to highlight only the economic benefits of the EU. From my reading of the situation, some new lines of argument are required to firmly anchor the idea of European integration within the German population. For the generation that lived through the Second World War, reconciliation and the elimination of hostilities between nations was and still is the driving force for European integration. But the younger generation needs new and different incentives to make further progress in building a "common European home".

As is the case for all other construction projects, there is also no getting around the issue of finance. In the past, the finance debate was often used in Germany to discuss everything that should not be funded by Brussels. Again and again, we hear comments that Germany has reached the limits of its ability to bear the financial burden. Constructive suggestions for sustainable financing of the EU, on the other hand, are very hard to come by. But without a stable, quantifiable financial plan, the EU will not be able to master the major challenges ahead of it. After all, how can the EU develop if the financial basis of that very development is constantly being eroded? Instead of making funds available for upcoming projects, other financial obligations of member states are being offloaded at the EU level, like expenses for the European Parliament.

The German government should also face facts. Germany has reduced its contribution to Brussels in percentage terms in the past few years. There is also a tendency for the specific national discounts enjoyed by big member states to be swept under the carpet. Equally, in discussions about the financial basis of the EU, there is seldom any mention of the substantial returns flowing into Germany from agricultural and structural resources, which in many cases take the form of direct subsidies to major operators.

The EU faces many further challenges. It will have to prove it is gaining public acceptance for its work within the member states. At the same time, the member states must apply some impetus of their own to further European development so that people identify more with European projects. If the EU wants to compete in the global marketplace, more money needs to be invested in infrastructure projects such as energy networks, grids for renewables and state-of-the-art internet connections. The densely populated regions of Asia already offer the fast broadband networks that are essential to business decision-making. The aim for the EU should be to generate the resources for all these transnational projects from its own taxation sources in the foreseeable future.

Europe's global responsibility

The EU is a historic achievement that shows how to bring peace to a continent. But we cannot rest on our laurels. The EU must bring its experience to bear on regions of acute conflict. Foreign policy has clearly been one of the areas in which it has long made sense to have a more unified and integrated approach. The historic mission and the obvious need for action are, however, blatantly at odds with the current situation. The EU has failed dismally in the area of foreign policy. It has not even begun to meet the expectation that it would speak with one voice following the appointment of a High Representative for Foreign Affairs and Security Policy. In fact, the high representative has not even managed to get all the member states to sing from the same hymn sheet, let alone produce any semblance of unity. This applies equally to strategic partnerships and the different responses of member states to the recent upheaval in North Africa and the Middle East. If Europe is to do justice to its global political responsibility, an end must be put to the dominance of foreign policy by the member states.

Germany is not helping integration in this area either. Not unreasonably, many in the EU want it to assume a leading role based on a cooperative approach and a sensitive antenna for the needs of smaller member states. In its foreign policy, Germany – more than other nations – tends to opt for civilian and preventative measures. Therein lies the potential for leadership from which the whole of Europe could benefit. But instead of consulting, listening and feeding its experience into European governance, Germany has wavered. This damages the EU as a whole. External observers, especially those in areas of conflict themselves, tend to see the multiplicity of views on foreign policy in general and the unilateral measures of Germany in particular as internal political posturing at their expense. A good year after the Lisbon Treaty came into force, the disappointment is palpable.

When it comes to key issues – and Europe is a key issue – government policy plays a crucial role in public awareness. It has to set the tone and, above all else, show some direction. Over the past few months, there has been an unusually high number of very complex European problems to solve. Yet Germany has never given the impression of making a concerted effort to encourage pro-European attitudes. On the contrary, there is no longer any trace of the community method pioneered by Jean Monnet. Situations in which Germany initially adopted an anti-European attitude have been the rule rather than the exception. A government that acts in this way causes lasting damage to idea of European unity.

The future of the EU and its acceptance by the general population will depend heavily in the next few years on economic and financial issues. However, the question of enlargement will also define how people in this country think about Europe. The two options of enlargement and integration should not be played off against each other. It is not a matter of an either/or decision in favour of consolidation or expansion, but about strategic expansion and stronger integration at the same time.

There is one final thing that we should not forget. Rationality may be desirable in politics but, at the same time, cooperation between the countries of our continent also requires the ownership and conviction of the people in the various member states. A real sense of European identity must be generated. The process of European integration must not be restricted to a project for the elite or a forum for self-serving profiteering. We cannot create more common ground and more Europe until transnational cooperation becomes a matter of course at as many levels as possible. That will only succeed if there is consensus

on major European projects. These include climate change initiatives, financial market regulation and affirmation of our common European values on the world stage.

LAW

Should Karlsruhe be the guardian of the Basic Law?³

In its historic verdict of 30 June 2009, the Federal Constitutional Court ruled on the constitutionality of the Act Approving the Lisbon Treaty and the accompanying law.⁴ Even though the court found only the accompanying law to be unconstitutional, it made some fundamental statements about the underlying principles of European integration from a constitutional perspective. It reinstated the democratic decision-making authority of the national parliament in the context of the European integration process, mobilised ordinary citizens to be the individual “guardians of democracy” and made itself the jointly responsible overseer.

A guarantee of German statehood

The German Basic Law guarantees an individual right to elect the Bundestag and have the constitutional principles of electoral law upheld.⁵ However, the Constitutional Court argues that the act of voting would lose its meaning if “the elected state body did not have a sufficient degree of responsibilities and competences in which the legitimised power to act can be realised”. The Basic Law thus “excludes the possibility [...] of depleting the content of the legitimation of state authority and [...] exercise of that authority provided by the election, by transferring the responsibilities [...] of the Bundestag to the European level to such an extent that the principle of democracy is violated”.⁶

³ This is an abridged and updated version of an article that originally appeared as “Volkssouveränität und Demokratie ernst genommen – Zum Lissabon-Urteil des Court”, *Juristenzeitung*, 2009, pp. 872-881.

⁴ CourtE 123, 267 ff., available in German and English at www.bundesverfassungsgericht.de. The recital numbers quoted here (R. xx) refer to the online version.

⁵ CourtE 89, 155 (171).

⁶ R. 175.

Based on this individual right to democracy, the court's verdict on the Lisbon Treaty limited Article 23.1, the clause in the Basic Law that empowers the Federal Republic to integration empowerment, much more clearly than its verdict on the Maastricht Treaty in 1993. It allows Germany to participate in a supranational system of cooperation, but the "autonomous" authority of the EU exercised according to treaty law must be anchored in the "constitutional law of the member states", i.e. it may only be such political rule as is derived from the member states and therefore limited in nature.⁷ Article 23.1 only legitimises the transfer of individual, suitably defined and thus factually limited powers to a treaty-based community, not the all-encompassing full sovereign power of the state.

However, it is not only in accordance with the currently applicable power to engage in European integration under Article 23.1 that "there can be no independent subject of legitimation for the authority of the EU which would constitute itself, so to speak, on a higher level, without being derived from an external will, and thus of its own right".⁸ In other words, the sovereign constitutional statehood of the Federal Republic must be preserved.⁹ Rather, on the basis of the Basic Law, the court categorically rules out any transfer to the EU – even by constitutional amendment – of "the competence to extend competence" and thus the participation of Germany in the formation of a European federal state which would then have the power to determine its own power, and effectively reduce the Federal Republic to a constituent state. "The Basic Law does not grant powers to bodies acting on behalf of Germany to abandon the right to self-determination of the German people [...] by joining a federal state."¹⁰ Relinquishing its own sovereign statehood would be in breach of Article 79.3 of the Basic Law, which states that the representatives of the people do not have a mandate over the inviolable identity of the constitution. "The Basic Law thus not only assumes the sovereign statehood of Germany but also guarantees it."¹¹

This guarantee of German sovereign statehood is not without controversy in German constitutional law circles. But it is appropriate for many reasons. The Federal Republic of Germany, as is evident from the preamble to the Basic Law, was conceived as the sovereign state of the German people. This decision is of

7 R. 231, 234.

8 R. 232.

9 R. 226.

10 R. 228.

11 R. 216.

fundamental significance to the constitution as a whole, which establishes the identity of the Federal Republic as defined by the Basic Law. Amendment of that decision does not fall within the competence of the *pouvoirs constitués* (constituted powers), nor of the *pouvoir constituant* (constituent power) which, as part of the constitutional authority, lacks the necessary legal power. The guarantee of sovereign German statehood ultimately follows from Article 79.3 as the inviolable essence of the constitution is not automatically preserved. It requires a reliable guarantor. Only if the sovereign power of Germany constituted and bound by the Basic Law does not allow its sovereign decision-making power to be taken away can the validity of a democratic order based on the notion of freedom and human dignity, in the sense of the Basic Law and the so-called eternity guarantee, be effectively and permanently safeguarded.

This notion of the guaranteed permanence of sovereign German statehood as per the Basic Law is no doubt the underlying rationale for the decision of the court on the Lisbon Treaty. For, in its opinion, “sovereign statehood stands for a pacified area and the order guaranteed therein on the basis of individual freedom and collective self-determination. The state is neither a myth nor an end in itself but the historically grown and globally recognised form of organisation of a viable political community”.¹² Contrary to what others might say, the court is not exhibiting any abstract obsession with sovereignty but rather proving its worth as the guardian of an integration-proof constitutional identity. It preserves the primary place of democratic self-determination of German citizens and simultaneously ensures the actions of the EU have the necessary democratic checks and balances to establish sufficient legitimacy.¹³

Only the German nation, by virtue of the original and inalienable constitutional power of its people, can revoke its own fundamental decision in a new constitutional law and, by abandoning its constitutional autonomy, downgrade its status to that of a mere constituent state under a superior European entity.¹⁴ According to the Basic Law, however, an effective departure from the sovereignty of the German state would be unconstitutional – even if decided by plebiscite. On that particular point, the decision of the court seems at least partially ambiguous. Transition to a European federal state can hardly be brought about “in a continuity of legality to the rule of the Basic Law”.¹⁵

¹² R. 231, 234.

¹³ R. 232.

¹⁴ R. 226.

¹⁵ R. 228.

Article 146 of the old version of the Basic Law was rendered obsolete by German reunification, which was deemed “accession” in accordance with Article 23.2 of the old version of the Basic Law. Article 146 of the new version of the Basic Law, which has been valid since 1990, is thus a new construct of the constitution-amending legislature, which is why it is included under the constitutional protection of Article 79.3 of the Basic Law. Something this article prohibits cannot therefore be brought about by way of a constitutional replacement under Article 146 of the Basic Law. It could only be implemented by means of a new law establishing its constituent power, which from a Basic Law perspective would be unconstitutional, but nonetheless undoubtedly effective if ever enforced. That makes a crucial difference. If any replacement of the Basic Law were to conform to the constitution of a sovereign state in compliance with the Basic Law, the constituted state authority could then participate in it and even take the initiative for it. However, because it breaches the Basic Law, and not even Article 146 of the Basic Law paves the way for it, the constituted state authority must on the contrary try to prevent any replacement of the Basic Law, with which all state authority is inextricably linked. It certainly cannot take any initiative in this direction itself.

Conferral with no procedural safeguards

Furthermore, the verdict further states that the legal act of transfer must be factually limited and, in principle, revocable.¹⁶ The principle of conferral under European law is constitutionally appropriate; no general empowerment may be conferred.¹⁷ Otherwise, there would be potential for the EU to assume the “competence to extend competence” or violate the constitutional identity of the member states.¹⁸ The court also accepts dynamically evolving clauses and blanket empowerment provisions “if they can still be interpreted in a manner that respects the national responsibility for integration”, although it considers it advisable to emphasise the principle of conferral in the treaties and in their application for democratic reasons.¹⁹ This is questionable, as a treaty provision empowering EU institutions that is too non-specific would be open to interpretation and not democratically defensible.²⁰ For this reason alone – i.e. lack of specificity – it does not meet the required constitutional threshold.

¹⁶ R. 233.

¹⁷ R. 236.

¹⁸ R. 265.

¹⁹ R. 239.

²⁰ Cf. R. 306.

The court explicitly approves – “as part of the mandate of integration called for by the Basic Law” – a tendency towards maintaining the *acquis communautaire* and effectively interpreting powers along the lines of the US doctrine of implied powers “or the principle of *effet utile* under the law of international treaties”.²¹ This procedural carte blanche is not convincing due to the very general nature of the mandate. Commonly vested rights only deserve recognition and protection provided that they are not acquired by dishonest means, i.e. through usurping competence or retrospective acceptance by member states. Furthermore it may not be curtailed through reassignment of conferred supranational competences to the member states as part of a treaty amendment, which is expressly declared permissible under Article 4 8.2 of the EU Treaty.

Above all, however, the European Court of Justice’s extensive practice of applying the *effet utile* principle in its interpretations has not only given rise to a “constitutionally significant tension with the principle of conferral”, but also counteracted any system of conferral, if it is (mis)understood as the ideal option.²² Against the wishes of the signatories to the treaty, this then opens the way to a gradual elimination of borders, because the absolutely binding goal of integration ultimately requires *all* necessary action to be taken to achieve that end, and allows conferral to mutate into an inadmissible blanket empowerment. In interpreting the notion of conferral, the principle of effectiveness may only be considered valid as a negative interpretation that makes empowerment practically meaningless, does not correspond to the declared will of the treaty states, and would furthermore be pointless. Such a forced positive interpretation of (limited) EU competence justifiable solely by the apparently useful effect of integration (“*effet utile*”) would, on the contrary, be a good reason to suspect a blatant overstepping of competence. The misplaced generosity applied by the court here in procedural terms could come back to haunt it when disputes arise because the court could hardly reject a ruling by the European Court of Justice – as the *Honeywell/Mangold* case showed.²³

²¹ R. 237, 242.

²² R. 238.

²³ European Court of Justice, EuGRZ 2010, 497 (502).

Outlook

The Constitutional Court court intended the *ultra vires* review to be an *ultima ratio*. The fact that such a judicial backstop function is available in emergencies does not remove the obligation for political institutions to adapt better to the special requirements of the European legislative process. In the wake of its decision, a new integration responsibility law (the Responsibility for Integration Act, amending accompanying laws to Article 23 of the Basic Law) was enacted. It strengthens the options for parliamentary influence on the integration process and extends parliamentary information requirements. The objection that strengthening the Bundestag and the Bundesrat would lead to a German blockade of the European decision-making process does not hold much water. It cannot be disputed that stronger national parliamentary participation takes time. Deliberation does come at a cost. The measure of how much value is placed on the process of establishing the democratic will is evident from the amount of time allocated to it. Meaningful integration of the European Affairs Committee (Article 45 of the Basic Law) may even make parliamentary work more efficient. Moreover, any delays in the legislative process may occasionally help improve the questionable quality of European legislation to date. In any case, ordinary citizens will not allow their democratic self-determination to be taken out of their hands, and the Constitutional Court will continue to perform the role of veto player in European politics for as long as European politicians fail to view their citizens as a pan-European political public or involve them in progress on European integration.²⁴

²⁴ Peter Graf Kielmansegg, "Letzte Rettung", *Frankfurter Allgemeine Zeitung*, 24 February 2011, available at <http://www.faz.net/artikel/C31408/gastbeitrag-letzte-rettung-30332774.html>.

Christian Calliess

How much of the German constitution can the EU take?

The referenda in France and the Netherlands in 2005 scuppered the European Constitutional Treaty that was signed in 2004. The debate in Germany since then about the future prospects of the EU, which has often been disguised as an argument about democracy, culminated in the judgment of the Federal Constitutional Court of 30 June 2009 on the Lisbon Treaty. The judgment in turn triggered an occasionally heated debate in the media and academia, which swung from initial approval to subsequent criticism, at least about some aspects of the judgment.²⁵

The court's decision demands respect: it is receiving attention well beyond the borders of Germany and also within the EU institutions. But some of the statements contained in it continue to invoke irritation, uncertainty and criticism. Given the Europe-wide respect enjoyed by the court, the questions being asked are: Is Germany going off the idea of the EU? What is the intention of the highest court in Germany? To what extent do Germans still think in European terms?

The court delivered an ambivalent verdict. On the one hand, one has to acknowledge that, despite the argument of Eurosceptics who warned of a European super-state and the "demise of the German Basic Law", the judgment did make clear that the Lisbon Treaty and the law approving it were constitutional.²⁶ Only in respect of the proposed simplified amendments to Article 48 of the EU Treaty did the court require the active approval of the German legislature. The basis for this argument is a convincing principle of continuing parliamentary responsibility for European integration.

²⁵ P See Matthias Ruffert, "Nach dem Lissabon-Urteil des Bundesverfassungsgerichts – zur Anatomie einer Debatte", *Journal for Comparative Government and European Policy*, 3-4 2009, p. 381 ff.

²⁶ Dietrich Murswiek, "Das Ende des Grundgesetzes", *Süddeutsche Zeitung*, 17 April 2009.

On the other hand, the judgment's reasoning adopts a rather restrained, at times even dismissive, view of further European integration. This is particularly true of the overall context of the decision. It is striking that the court has a fundamental mistrust of political protagonists and even of the democratically elected legislature. The court spells out a host of requirements for Germany's future European policy and ventures well into the political arena. The "yes, but" verdict of the court may well be the price for the ability of the court – which includes judges with extremely diverse views – to ultimately reach a unanimous decision that the Lisbon Treaty is compatible with the German constitution. However, it was that very "but" aspect that has triggered all the criticism of the verdict and compelled the president of the court to take the unusual step of attempting to explain and elucidate the decision.

The Constitutional Court's view of the EU

Both the Lisbon judgment itself and the court's general view of European integration as a whole are strongly influenced by the duality of constitutional and international law. However, if one thinks of the EU as a boat on a river, it is currently negotiating a course between two riverbanks: on the one hand, the riverbank of an international organisation it has long since abandoned; and, on the other hand, the riverbank of a federal state in a traditional sense that it has not yet reached and probably never will. As an ongoing process, the EU is establishing something new, which could be described as a federal association of states based on a multilevel constitution.²⁷

The Lisbon decision does not do justice to this. It focuses, from a classical international law perspective, quite clearly on the question of German sovereignty. For the court, therefore, the central question is the principle of conferral. The court sees this as being assured for the moment by the treaty's intended distribution of competence between the EU and its member states. Nevertheless, its remarks about sovereignty extend well beyond aspects directly relevant to the decision. They define, limit and ring-fence the role of Germany within the EU as follows:

²⁷ Christian Calliess, *Die neue Europäische Union nach dem Vertrag von Lissabon* (Tübingen: Mohr Siebeck, 2010), p. 43.

1. By making a link between sovereignty and democracy, the court identifies some specific areas of state responsibility, which, along with constitutional identity, cannot be touched by European measures. This is intended to ensure that Germany still has the ability to determine its own economic, cultural and social life. Policy areas such as citizenship, the state monopoly on the use of force, fundamental fiscal decision-making in the context of the budget, criminal law, and cultural and social issues are all cited in this passage.

2. Furthermore, the court raises the question of sovereignty in relation to the primacy of European over national law. With reference to one of its earlier judgments, it emphasises that such primacy is based on constitutional empowerment (the first sentence of Article 23 of the Basic Law). This leads the court to conclude that the primacy of European jurisdiction, when exercised in Germany, only extends as far as the Federal Republic has agreed to this in the Act Approving the Treaty of Lisbon and was constitutionally entitled to do so. In that sense, the court specifies three review provisions – firstly, in relation to European protection of fundamental rights; secondly, the exercise of European competence (“*ultra-vires* control”); and thirdly, in respect of the constitutional identity of the German Basic Law – which may not be violated by European integration.

Such national reservations are very sensitive issues from the perspective of European law on the basis that there is no unity without primacy. In conjunction with the European Court of Justice (ECJ), the primacy rule ensures the uniform interpretation and application of common European law in all member states. If other member states’ highest courts were to follow the example of the German Constitutional Court, European law would become a fragmented legal system indeed. In response to overwhelming criticism from politicians as well as legal scholars, the Constitutional Court has since then partially corrected itself. In its *Honeywell* judgment, it made a submission to the ECJ in a formal sense, and a structural shift in competence in a material sense – the prerequisite for its “*ultra-vires* control”.

Democracy and the EU

However, the sovereignty element ultimately colours even the Constitutional Court’s view of the future of the EU. In its argumentation, the court links state sovereignty to the democratic principles of the Basic Law. Foreign policy is traditionally the role of the executive, which is why – particularly at the level of

classic international organisations such as the United Nations (UN) or the World Trade Organisation (WTO) – there are rather weak democratic mechanisms. The democratic deficit of globalisation and internationalisation has its origins in the historical, symbiotic growth of the nation state and democracy, which has defined most democratic theories to this day.

In that context, the Constitutional Court develops what appears at first glance to be the thoroughly correct argument that elections to the European Parliament reveal a democratic deficit when measured against the defining principle of electoral equality (“one man, one vote”). Such a structural deficit cannot be offset, according to the court, by the relative dominance of the bigger member states in the European Council or the European Parliament, but only by greater involvement of the national parliaments. The court thus accords the European Parliament a minor role, which is at odds with legal, political and practical reality. However, democratic legitimacy cannot be measured by the election rules of the European Parliament alone. In many federal systems, for example those of the United States, Switzerland and even Germany itself, the direct representation of citizens (in the first chamber) and states (in the second chamber) amount to composite systems for the exercise of political power. The principle of sliding-scale proportionality is itself democratic to the extent that it serves to protect minorities and thus promotes acceptance of the European Parliament in the smaller member states. General elections for many national parliaments are conducted with minority quotas or in constituencies of unequal size.

Quite apart from that, the court rejects any approach for a specific European form of democracy. It does not take up the explicit framework of a European principle of democracy in articles 10 to 12 of the EU Treaty – in particular, the dual legitimacy approach, in which both sources of legitimacy – the European Council and national parliaments on the one hand, and European Parliament on the other – are seen as complementary. Once again, in taking this view, the court is adopting an international law point of view. It is almost tragic that, in doing so, it is making a democratic example of the very organisation that – contrary to classic international organisations such as the UN and the WTO – actually has a parliament that is directly elected by its citizens and has wide-reaching decision-making and control powers.

In setting excessively high standards for the EU, is the court not playing off the democratic principle against European integration? In its current form, the European Parliament does not meet the requirements of the (German) principle of democracy. But the EU can only meet such requirements if it becomes a

federal state, which (by the so-called “eternity clause” of the third paragraph of Article 79 of the Basic Law) has supposedly been ruled out as an option. In creating such a democratic dilemma, the court is effectively ring-fencing any further European integration from a German perspective and at the same time subjecting it to its own control.

Outlook

From a legal point of view, a distinction must be made between two levels of the German discussion on the EU. At the micro-level, the court’s ruling picks up a debate about the role of the European Commission and the ECJ in the integration process, which has been the subject of critical debate for some time now in Germany. This culminated in a newspaper article under the headline “Stop the European Court of Justice”. It was co-written by Roman Herzog, the German president from 1994 to 1999, who had previously also been a prominent voice at the European level as chairman of the Convention for the Charter of Human Rights.²⁸ The very hard-hitting article sparked criticism but found also a great deal of approval. The lasting effect of this discussion might explain the limiting approach, especially the review provisions contained in the Lisbon decision.

At the macro-level, the court’s judgment picks up a widespread unease about European integration. The EU successfully delivered peace and prosperity in the period following 1945, but Germans (as well as other Europeans) are now asking where it is heading: Should the EU openly pursue the goal of an “ever closer union among the people of Europe”, as stated in the preamble to the Treaty of Rome, and thus shift to a kind of federation? That has been the intention of German politicians from Konrad Adenauer to Helmut Kohl. Or should the EU be reduced to a mere economic community in the sense of an internal European market?

Since the failure of the European constitution, the earlier discussion about the EU’s “remoteness from ordinary citizens” and “democratic deficit” has been coupled with criticism of European integration as an “elite project”. The more political the EU becomes, the more it needs broad democratic legitimacy. For

²⁸ Roman Herzog and Lüder Gerken, “Stoppt den Europäischen Gerichtshof”, *Frankfurter Allgemeine Zeitung*, 8 September 2008, available at http://www.cep.eu/fileadmin/user_upload/Pressemappe/CEP_in_den_Medien/Herzog-EuGH-Webseite.pdf.

decades, member states have given their citizens the false impression that European integration is primarily an economic project. For instance, it is only now, in the midst of the euro crisis, that many are starting to realise that the common currency also has a political dimension.

Since there has never been a referendum in Germany on the European treaties, the court seems keen to use its judgment on Lisbon as a way of giving expression to the unease that many ordinary citizens feel. In doing so, it has failed to meet not only the perspective of integration but also the historical consensus that European economic integration was not an end in itself but rather intended to pave the way for an ever closer political union among the peoples (and states) of Europe within the EU. To that end, its “open” constitution requires Germany to become part of the EU, to contribute to its ongoing development and to make room for the necessary adjustments to European requirements. The relevant text, the first sentence of Article 23.1, makes conformity with the Basic Law’s fundamental constitutional principles a condition of German integration into the EU. It does not, however, demand that the EU exactly meets German standards of democracy, the rule of law and fundamental rights.

MEDIA

Cornelia Bolesch

A potpourri of clichés

7

More than 20 years ago, the poet and essayist Hans Magnus Enzensberger travelled through seven European countries and wrote a book called *Ach Europa!* (published in English as *Europe, Europe*). Not long ago, *Spiegel* magazine printed an extract from his new book on Europe, “Sanftes Monster Brüssel” (which will be published in English as “Gentle Monster Brussels”). A more appropriate title might well have been “Ach Enzensberger!” According to *Spiegel*, Enzensberger spent time in Brussels, where he “met bureaucrats and politicians”. But he need not have bothered leaving his Munich apartment for all the insights he brought back with him from the EU capital. He could just as easily have stayed at his desk and downloaded from the internet all the character assassinations, wisecracks and caricatures that dominate his text. Enzensberger has dusted off tired old myths and presented them as if they were brand new: the dark forces of Brussels are beavering away to turn the whole continent into a reform school, with bureaucrats wanting to determine even how big toilet bowls should be while we, the hapless citizens of the EU, have no say in all the mysterious goings-on.

It would be laughable if it were not so sad – a hugely talented German intellectual, in the twilight of his creative years, indulging in a potpourri of clichés about Europe. If Enzensberger had offered the same kind of rundown on Germany as he did of the EU – focusing on the German legislature and the bureaucratic finer points of German federalism – we would no doubt have had exactly the same feeling of being trapped in a Kafkaesque headlock, even though in reality most people in Germany actually lead a very comfortable life.

The problem is not that all of what Enzensberger writes is untrue, rather that he leaves out key elements. He does not seem at all interested in how the EU works, which is anything but undemocratic. His mockery lacks context and a sense of proportion. Instead of shedding any real light on the EU and the central

workings of this political hybrid, he merely fumbles about, sarcastically poking away in some dark, and at times very remote, corners of the building.

Spiegel, which has already devoted several pages to this stale diatribe, is a media organisation with sufficient personnel and money to offer its more than five million readers a more accurate, long-term view of how the European continent is administered – warts and all. But it clearly has no desire to do so. *Spiegel* treats the subject of Europe in a rather slipshod and condescending manner. An internationally unique, inherently risky experiment designed to bring 27 wilful nations together is apparently not enough to make magazine editors sitting in a Hamburg high-rise review their narrow-minded journalistic thinking or change their outdated work practices. For decades, they have shown no interest whatsoever in the inner workings of the EU or the real force behind it – so why should they start now?

Enzensberger clearly found no information in *Spiegel* – or any of the national daily newspapers or public broadcasting channels for that matter – to temper his view that the EU is primarily the butt of some good jokes. Yet, apart from *Bild*, the best-selling tabloid newspaper, the German media are not opposed to Europe as such. This is what makes the situation even more paradoxical and, in a sense, worse. Since they started taking more notice of Europe, the German media have become beset with what can only be called “EU fatigue”.

Over the past 10 years or so, the German press has hugely increased the amount of news reports on EU events. However, as a result of that coverage, many editors-in-chief think they have essentially done their duty. There is plenty of news coverage of EU summits, the European crisis, tensions between Merkel and Sarkozy, and so on. Newspapers typically allocate whole pages to such events and publish major cover stories on the subject, with only public television seemingly determined not to let Europe get in the way of their programming routines. Yet this kind of daily news is ephemeral if people do not really understand the political system behind it – as is the case with the EU.

At one point, there did seem to be such a thing as a European resurgence. About 10 years ago, editors seemed to discover Brussels – not only as the NATO headquarters during the Kosovo crisis or as the nucleus of the single currency, but as the central switchboard of European politics. It was during that period that I moved to the EU capital myself. Other German newspapers were expanding their EU offices too, and even regional newspapers attempted to establish some form of representation there. At the time, there was a great

deal of goodwill about finally getting to grips with every angle of the unknown planet that was Europe. But in the day-to-day world of journalism, many of those hopes soon receded.

Often it was due to a breakdown in communication between EU correspondents and their editors. Correspondents in Brussels found themselves in a new place with indecipherable signs and unfamiliar traffic rules. Meanwhile, their colleagues back in Germany were shocked to find that advances in technology were revolutionising their everyday working environment and that the internet was increasingly accelerating processes and decision-making channels. The material that used to be put together by the editorial team for the following day's edition of the newspaper at a relatively leisurely pace was suddenly subject to constant updating and comparison with national "mainstream" reporting. Newspapers and television networks had to keep pace with online media services. That meant news desks rather than section editors were in control. This acceleration process, which took place just as editors had begun to take an interest in Brussels as a source of real news, made it harder to do in-depth reporting about Europe.

The political business of the EU and the overriding dictates of the media business are like chalk and cheese. The EU system is a sophisticated, often convoluted beast – but the media prefer things to be simple. The EU always needs to find consensus – but the media prefer to talk about winners and losers. And finally, the media worship speed – but the EU works laboriously slowly. Every EU directive that appears to come from nowhere out of Brussels in reality goes through many different stages before being announced. Interest groups post comprehensive and universally accessible questions and answers on the internet at the start of any legislative process; the European Commission announces specific proposals at least one year in advance; and directives and ordinances are negotiated back and forth between the Council of Europe and the European Parliament for months at a time. The EU legislative process is like a shifting sand dune, nudging slowly ahead, millimetre by millimetre, year after year, but also with great consistency. Almost 80 percent of such European progress is completely ignored by the media, even though it happens in a totally transparent way. It is not until these policies are about to be adopted that the media suddenly thrusts them into the limelight.

Many correspondents in Brussels would love to make the public more aware of the special nature of this European political process. The European way of doing politics, namely of seeking consensus, might appeal to many Germans more

than the political shadow-boxing between government and opposition that occurs in Berlin. But journalists in Brussels have too little time to delve deeply into the underlying links between issues and the background behind them. They simply cannot spend a week with the European Commission President's general secretary in order to tease out how the inner sanctum of the commission works. They cannot describe the disparate cultures in the European Parliament that constantly have to form majorities. And even if they did take the time to do so, there would be no room in their newspapers for such elaborate portrayals. They would always be asked: "Where is the news?" Stories of this kind have to compete with other world news, as they share the limited space allocated to political information and almost always draw the short straw in the process.

Over the past 10 years, correspondents based in Brussels have often had to explain things to their colleagues back home and, in particular, put things in context. For example, they have had to point out that no EU law ever came about as a result of a public servant in the commission expressing the bright idea currently being described as a "scandal" by *Bild*. But people typically do not enjoy hearing such things, and journalists in particular are totally resistant to reality checks. What makes Brussels tick is something that remains alien to many editors, and such explanations are an increasing source of annoyance in the hectic day-to-day business of chasing deadlines. In particular, the famous European "consensus" has proved to be a real shelf-warmer compared to the fast-paced political stunts in Berlin, where government and opposition can be relied upon to create headlines. Correspondents in Brussels have gained a reputation at home for being spin doctors and smooth talkers for refusing to come up with words like "madness" to describe European agriculture policies.

To this day, no daily newspaper, magazine or television channel has had the courage to change its own professional practices in order to do justice to the unique political system of the EU, with all its strengths and weaknesses. Such changes could take the form of sections devoted to Europe, regular pages on Europe or special editorial networking to more accurately depict the differences between Brussels and Berlin. But not even the headlines are accurate these days. Whenever the European Commission comes up with a policy idea on its own, the headline is always "The EU wants to ..." while "member states oppose it". Over time, such persistent misuse of those two letters cannot help but give readers the impression that the EU is a foreign power which has nothing to do with their own national government. So far, the media has consistently failed to depict the EU as the collective entity that it really is.

It is perfectly understandable that editors take no pleasure in explaining all these administrative bodies and shedding light on the inner workings of such institutions, even though it is actually part of their role as defined by the constitution. What is less excusable, however, is how little space German media devote to the everyday happenings of our European neighbours. When reporters travel to Italy, for instance, they usually do so only to find out what Italians think of Silvio Berlusconi. They are less interested in how young Italians with good qualifications who cannot find jobs are coping or how they despair of the impenetrability of their society. Reports about the day-to-day reality of Europe are hard to come by in the German media. The one place where they can reliably be found, and where something of a collective European identity has emerged as a result, is the public service broadcaster Deutschlandfunk.

The financial and European crisis that has been simmering for months now has only served to underline the peculiar distance of the German media towards Europe. The crisis is not being exploited by them for populist gain – *Bild*, which last year ran headlines such as “Sell your islands, you bankrupt Greeks... and the Acropolis while you’re at it!”, is thankfully an isolated case. But the media has also failed to make any noticeable moves towards Europe. All the while, the general population is increasingly becoming disoriented. According to an Allensbach survey in January 2011, only 41 percent of respondents agreed with the statement “Europe is our future”. A year ago, that figure was as high as 53 percent. How can people have faith in a political system that remains foreign to them? Lack of communication about European developments, warns Allensbach, “is jeopardising the long-term future of Europe”.

Klaus-Dieter Frankenberger
Are the tabloids right?

8

For some time now, it has been claimed that European politics is being renationalised. In particular, Germany has been accused of increasingly pursuing national interests over European interests while viewing European integration and solidarity as a burden, based on the motto that Berlin is not Bonn.

A superficial analysis might lead one to conclude that, 20 years after reunification, Germans are only capable of seeing things in legalistic terms (“no bailout” for habitual debtors), are intent on imposing their economic model on other members of the eurozone and view arrogant crowing as leadership for the common good. In the spring of 2010, the German debate about the horrendous national debt of some member states, the ensuing consequences for their European counterparts and the stability of the single currency all pointed in that direction. When the Greek crisis was monopolising the headlines and European crisis management was panic-driven, the impression may have been given in German tabloid newspapers – and not only there – that resentment and cold self-interest had returned with a vengeance and that European and currency policies in Germany were being driven by the populism of tabloid journalism.

The majority of Germans had little sympathy for the heavily indebted nations. They had years of wage restraint behind them and were still having to digest the biggest overhaul of the social welfare system in German history. They did not want to pick up the tab for debt-ridden nations that had enjoyed substantial wage increases and state expenditure at a time of declining productivity and market competitiveness. Germans felt cheated because the gift of a common currency had done them no favours and the promise of then-chancellor Kohl that the euro would be as stable as the deutschmark had clearly been contradicted by events. They were no less furious than the Greeks and felt their trust had been abused. So it is hardly surprising that frantic crisis-management policies and major rescue packages only increased their mistrust in monetary union, fanned even further by

dramatic statements like those of Chancellor Merkel that “if the euro fails, so will Europe”. That was not what the Germans had bargained for. They did not want to be held accountable for other people’s debts nor be forced into a “transfer union” under any circumstances. The feeling was that if they did eventually leap to the aid of others, it would definitely be on their terms.

The disturbing thing is that the feeling of unease extends well beyond the subject of monetary stability, as trust in the EU generally is evaporating. In a survey published in January 2011, only 41 percent of Germans surveyed saw “our future” as being in Europe. Clearly, the financial crisis has so tried their patience that roughly two-thirds of Germans – already sick of their role as Europe’s “paymaster” – have only little, hardly any or no faith at all in the EU. The German public’s view of the future of European integration now appears to be almost on a par with that of the UK. Only 12 percent advocate a faster pace and 43 percent want things to proceed at a slower rate.

Such Euroscepticism did not emerge overnight. Ever since reunification, polls have registered more and more signs of unease about the process of European integration. All of the major European policy decisions of the past two decades – from the introduction of the euro to the start of accession negotiations with Turkey – have been made against the will of the German population. The debt crisis of individual member states and the perceived excessive expectations of the Berlin government held by their European partners have only served to fan the embers of unease.

As more and more time has elapsed since the Second World War, the historical and political constellations of the early days of European unity, the attitude of many Germans has, to a certain extent, returned to normal levels. European integration is now the legitimate object of political debate, with all the exaggerations and denunciations that entails. Even more significantly, Germans no longer see “Europe” as a substitute for their own government or national identity. Germans welcome collaboration and partnership with Europeans, but reject the idea that EU institutions should have precedence over their own national institutions. A rift is developing between them and politicians who are definitely assertive about pursuing “German” interests but who are in most cases still pro-European.

This rift can also be interpreted as evidence of a misunderstanding. Many European politicians assumed their citizens shared their dream of a “United States of Europe” as the ultimate version of European unification. They may well have been mistaken in that assumption. The EU will not become a coherent entity

in the foreseeable future. Despite the disillusionment with their own government, people are still very attached to their national institutions and the symbols of their own communities; even in the age of globalisation, and despite the prospect of a long-term watering down of “Europe” as an entity, national consciousness has not abated. Most people – in Germany and elsewhere on the continent – do not want a European Federal Republic. Even if there is some truth in the argument that the EU needs to assume more and more responsibility in order for Europeans to survive in the multipolar world, there is no particularly compelling argument coming from the EU itself.

Whether this is ironic or a calculated move, the key protagonists themselves are not convinced of the argument and tend to behave accordingly. For years, one treaty change after another was imposed, and work was even completed on a European constitution, which voters in France and the Netherlands later rejected. The outcome of all these institutional efforts is that the degree of alienation from “Europe” felt by ordinary citizens has not lessened but rather increased. The member states now tend to assert themselves more strongly and sometimes even vehemently.

Take foreign policy. Member states are very reluctant to leave the decision-making to European foreign policy representatives, particularly on matters of war and peace. The strengthening of the European Advisory Council by the Treaty of Lisbon technically upgrades the status of member states, or, to be more specific, that of their heads of state and government. It should therefore come as no surprise or a source of indignation that representatives of the big member states, in particular, are keen to exploit such opportunities and try to use them to enhance their internal and external profiles or further their own interests. The divisions among Europeans on Libya are a good example of this.

Clearly the goal of achieving “ever closer union” is at odds with reality. This applies to economic policy, security issues and the relationship of ordinary citizens to European institutions. In any case, there is no obvious pathway to that lofty goal. This certainly does not mean Germany would be better off going it alone again; after all, European integration was once intended to be the long-term, peacetime answer to the “German question”. But German politicians also have to have some goals that are not only realistic and take the German national identity into consideration, but also do justice to the collective desire for security and prosperity. As the economically strongest member of the EU, Germany has a special responsibility in that regard. A strong sense of balance is therefore required.

Some 20 years after the collapse of the Soviet Union, the situation in and around Europe is fundamentally different to that of the Cold War period. The United States, the unspoken protector of the EU, has made Asia and the Middle East the focus of its foreign policy. At the same time, the EU has grown in size. This gives European powers, including Germany, more options. Naturally, this does not mean Germany should detach itself from the EU or NATO, but it does partly explain why Germany took the opposite course to its Western allies on issues such as Iraq and the Libyan conflict, and why European integration no longer conforms to its founding fathers' ideas of finality. The world-political framework has changed and new generations have superseded the post-war generation. At the same time, the old narrative of integration has lost traction.

Germany still has an interest in the completion of the internal European market and the consolidation and continued expansion of monetary union. The internal European market is the foundation of the EU. Its so-called eastern expansion in 2004 was one of the greatest triumphs of European integration, even if it did rob integrationists of their dream of a European Federal Republic. However, it has to be said that many people in western Europe, including Germany, view the expansion of the EU to central, eastern and south-eastern Europe with mixed feelings or, at the very least, scepticism, irrespective of the enormous economic opportunities it has created.

The future expansion of the EU to include what are now called the Western Balkans will also meet with opposition which it will take more than a few good words to dispel. There is some justification for the view that Bulgaria and Romania were insufficiently prepared to join the EU and have noticeably tempered their reforming zeal since their acceptance into the fold, so more care will have to be taken to ensure future candidates come fully prepared. If people here in Germany tend to dismiss the next candidates as liabilities, risks or dangers – for example, in the form of transnational criminality – the number of Eurosceptics will only grow. If Turkey were to join, such a groundswell would probably turn into a flood of epic proportions. For a host of different reasons, inclusion of this country, only a fraction of which is geographically part of Europe, would burst the EU's political, cultural, historical and regulatory-policy boundaries and give rise to a populist opposition movement.

Denying or ignoring the consequences of growing public scepticism will inevitably lead to a repeat of what happened in France and the Netherlands in 2005, when politicians simply did not know what had hit them. Ordinary citizens often have a keen sense of when the EU is overextending itself and want

their “own” democratic regimes to retain some freedom of action in the future. Any German government must take into account the preferences of the German people and the limits imposed by the Basic Law and the Constitutional Court. On the other hand, it also has to balance these limits against the expectations of its European partners that Germany will not be entirely self-serving.

Germany should show leadership by organising the continent rather than by marginalising EU institutions. But to believe that Germany, as it supposedly or actually often did prior to reunification, would hide behind or within these institutions, would be to ignore the developments of the past few years. Germany is no longer afraid of flexing its economic muscle and proudly showcasing its policies – complete with sacrifices and hardships – as a model for others to follow, although it shouldn’t be a loudmouth. Germany is no longer reluctant to insist on a quid pro quo either when it comes to internal European solidarity.

Anyone wanting “more Europe” these days must acknowledge that, while it makes sense to transfer power to Brussels in some areas such as budgetary policy, there are limits – if only because ordinary citizens and their governments say so. The southern European member states’ debt crisis and the Irish banking crisis have tested the limits of the safeguards of monetary union. They have made it very clear to everyone what a huge economic gulf there is within the EU in general and within the eurozone in particular. Rescuing the “endangered” countries has cost a great deal of political capital and revived old political animosities – this time between the new categories of “rescuers” and “rescued”.

It appears that the idea of a European “community of fate” has reached its internal limits. Perhaps it will take some bigger external challenges to change that. But even then it will not be easy to unite Europeans behind a common political cause. National identity will always trump any European identity – even in Germany. If we are not careful, the EU may become seen as nothing but a burden – and the sense of being weighed down and fleeced may explode any feeling of solidarity among Europeans.

SOCIETY

Claus Leggewie
The young like it green

9

My generation is getting on my nerves. Today's 60-somethings – the so-called baby boomers or the “1968 generation” – tend to be disgruntled and sceptical about Europe. The overwhelming success of Thilo Sarrazin's book *Deutschland schafft sich ab* (“Germany Does Away with Itself”) is a dramatic sign of this cantankerous mood and fear of the future: a signal by Germany's political, economic and cultural elite to potential immigrants that they are not wanted. The old Federal Republic was once a highly attractive place for goods, capital and migrants. Today, Germany is an ageing country that has more emigrants than immigrants. After 1968 and 1989, it is now high time for a new generation and a new, upbeat approach to European policy.

Younger Germans are, for the most part, pragmatic and liberal in outlook. They look to the future with restrained optimism and approach the (not always rosy) side effects of social change as rationally as they did the repercussions of the economic crisis, which were particularly harsh for them. Generally speaking, they tacitly approve of Europe and the EU. In fact, they tend to take the EU for granted – perhaps a little too much. According to the latest Eurobarometer survey, Germany, which was once avidly pro-European, is now close to the EU average. Only 50 percent of respondents agreed that EU membership was a good thing compared with 60 percent a year earlier. But younger Germans in particular have a well-developed, cosmopolitan approach to life, reinforced by frequent travel, extensive school and student exchanges, and high media uptake. They are less likely than their parents to fear bureaucratic excesses and the loss of national and cultural identity.

Two issues are particularly important to young Germans: climate change and economic sustainability. According to the Shell Youth Study of 2010, some 76 percent of young Germans view climate change as a major problem, and two out of three young people even see human survival as being threatened. The attitude

of all Germans to the economy has changed. According to another survey in 2010, by the Emnid Institute, only a third of Germans still believe economic growth will increase the quality of their private life. Non-material values such as justice and environmental protection, on the other hand, are gaining ground. Some 88 percent of respondents considered the current economic system to be inappropriate for adequate protection of the environment, careful use of resources and social justice. Younger Germans in particular are sceptical of the power of the market to heal itself. Over two-thirds of school leavers agreed that “Prosperity is less important to me than environmental protection and debt reduction”. Young people cared most about poverty, lack of adequate food and drinking water, climate change and environmental damage. These are clear signals that the political and economic elite need to work harder on sustainability. Young people are also willing to get involved. So why is nobody taking them up on the offer?

Old world

As my generation retires, it will benefit from a massive accumulation of assets and leave a legacy of enormous problems for the younger generation. Rather than tot up the mountain of challenges facing them, I want to list here the fundamental attitudes and behavioural patterns of young people that may help find a solution:

- Irreversible demographic change is being met by young people with an astonishingly high degree of willingness to perform community service and other voluntary work involving care of the elderly and disabled. The continued desire to have children and to do so within a conventional nuclear family is also interesting.
- Our enormous debt mountain means every newborn German currently inherits more than €20,000 worth of debt. The recent attempt to enforce a “debt brake” should at least reduce the amount of new debt.
- The aversion young people have towards political parties and associations is growing (only 7 per cent of Germans under the age of 30 are members of a political party). However, over the past 10 years, the rate of voluntary work overall has remained stable. Young people are getting involved in clubs and NGOs, social networks and virtual

communities. They are also taking part in non-parliamentary protest activities. Interest in politics and the common good is on the rise, but conventional intermediary organisations fail to understand how to leverage this interest.

- Ethnic prejudices are significantly less prevalent among German-born and migrant youths than in the 60-plus bracket. Many young people are actively committed to fighting discrimination and racism and supporting human rights and the rights of minorities.
- There is a high level of awareness of the widening social divide and the yawning gap between the richer and poorer regions of the world.
- Awareness of the ecological crisis is fuelling an equally principled and pragmatically driven desire for change, combined with practical approaches such as “ecological service” and participation in community initiatives.

It is clear that the toxins of the old industrial risk society have triggered some new antidotes. This also applies to the age cohorts who became involved in the neoliberal game of the 1990s, with its promise of eternal growth, only to find themselves back in the working class. Outrage over domestic and global injustice seems to be on the rise. With the exception of Greece and some suburban areas of France, this has not engendered any collective youth revolt nor a strong sense of generational solidarity. Nevertheless, the political establishment would be well advised to monitor this trend very closely and create opportunities for it to flourish.

Comeback vision

Young Germans are green – although not necessarily in a party-political sense. However, there is certainly a prevailing consensus among young Germans that sustainability is not only the top priority but also a practical policy and that the idea of “economy versus ecology” is outdated. In view of this prevailing mood, investment decisions, legislation and infrastructure policies should be geared towards a “green economy”. However, there is a lack of concrete vision and decisive leadership to pool all the energy exhibited in the non-parliamentary domain into a realistic sustainability project for Europe. Climate change and energy policy would be a central lever in that process.

Europe, or rather the EU, likes to see itself and be seen as at the forefront of climate change policy. Although the facts do not fully support that particular self-image, there are good reasons for assuming some global responsibility in the field. North-western and central Europe were the first regions in the world to pursue a development path that churned massive volumes of greenhouse gases into the atmosphere, and they have not yet abandoned that path. At the rate of 10 tonnes of CO₂ emissions per capita, Europeans use twice as much as the Chinese and five times as much as the Indians. Europe therefore has every reason to adopt a pioneering role in the battle to curb climate change.

In view of the required scope, simultaneity and speed of the transition to renewables, the task is without historical precedent; yet Europe, with its new technologies, financial clout, political union and civil society, is probably better equipped to make a contribution than any other continent. The EU itself is a recent example of successful transformation on a grand scale. European integration was preceded by the catastrophic experience of two world wars and totalitarian regimes, and was played out against a backdrop of confrontation between the superpowers of the US and the Soviet Union, with the aim of incorporating the defeated Germany in a bipolar world order.

The darkest hour of Europe led to a vision of a peaceful, united and prosperous community. There was no precedent for the development of supranational institutions back then. Over the ensuing decades, the idea became so appealing that a further 21 countries joined the six founding nations. Initially, European integration was an economic project, but the intention behind it (peace) was a political one. Subsequent accessions occurred for both economic and political reasons, such as rectifying the economic mismanagement of the socialist states and the Yalta divide. Expansion and consolidation of the union have long been parallel trends. Formulating a Common Foreign and Security Policy and introducing a common European currency gave the project its “second wind” from 1990 onwards. But as new global players have emerged since then, Europe’s influence and reputation have clearly declined. It urgently needs a new impetus.

Energy in both senses of the word

At the climate change summit in Cancún last year, the EU agreed to reduce emissions of European greenhouse gases by four-fifths by 2050. Industry has to reduce emissions by 87 percent, via building insulation; energy efficiency measures are supposed to achieve a 90 percent saving in living, heating and

cooling systems; and traffic pollution is to be cut by up to 75 percent. The investments required to achieve all this present new economic opportunities with some political side-effects. As a low-carbon society, Europe will be less dependent on imports from authoritarian oil sheikh regimes and gas potentates. This means Europe will be able to create a new relationship on its eastern and southern fronts and resume its pioneering role as a global coordinator.

The targets for electricity generation set in the (very ambitious) Greenpeace Advanced Energy [R]evolution scenario of 2010 can be achieved by switching to wind power, solar energy and biomass. Dependence on lignite, hard coal and oil can be overcome by 2030 and reliance on gas by 2050. Even nuclear energy, to which countries such as France and Sweden are still clinging, can be phased out by then. The very high initial investment will be offset by the reduction in energy imports and substantial cost savings in the medium to long term. Veto players from the old industrial sectors object to such plans on the grounds that they are too expensive, curb economic growth and jeopardise jobs. However, some credible studies show that the opposite may be true if the process is managed correctly.²⁹ Even (or rather especially) if Europe persists with the goal of an even greater reduction in greenhouse gases, climate change targets will be achievable and substantial development potential will be unleashed as a welcome by-product.

European cities in particular can derive considerable impetus from such an infrastructure programme. The export potential of such an energy policy for the internal European market cannot be overestimated. Europe has a comparatively well-developed grid infrastructure and widely disseminated technology, enabling it to act as a role model in both North America and major Asian centres. At the same time, in regions with high solar-energy potential but poor energy supplies, like the Sahara, it may be able to harness climate change, energy and development policies to make a real contribution to “humane development”. The best way to support democracy in the Middle East and North Africa is to include the region in the European energy network and establish an entrepreneurial class interested in more than just fixed returns from commodity exports. If new industrial centres are based on the abundance of solar energy available in that region, potential development opportunities south of the Sahara will also emerge.

²⁹ See for example Wissenschaftlicher Beirat der Bundesregierung Globale Umweltveränderungen (WBGU), Hauptgutachten 2011; and studies by the Potsdam Institute for Climate Impact.

The Fukushima nuclear disaster shows that we must shift to renewables. Vested interests want to bide their time just as they did after the Chernobyl meltdown in 1986. In addition, climate change offers some poisoned chalices – like the prospect of being able to drill for raw materials and oil in the ice-free zones of the Arctic, which could lead to some embittered territorial and distribution conflicts. Climate change could lead to international and intra-national disputes, particularly in the poorer regions of the world, and increase migration to the rich north. We therefore need to make a concerted shift to alternative energy and recommit to international cooperation. Climate change and energy policy are the key levers of peace and development policies for a multipolar world. The industrial revolution was all about the Promethean release of productive potential as well as increasing prosperity. In addition, economic and technical progress always went hand in hand with additional freedoms for individuals and society. The same thing applies today. The energy revolution, with all its repercussions for changing lifestyles and work methods, is a historic project.

Alexander Cammann
Happy Europe

10

It was by far the most successful political project of an otherwise grim century: European integration. In hindsight, it could even be called a stand-out success. This is what makes the vociferous talk of crisis that has accompanied it from the outset so surprising. “Is Europe destined to fail?”, “Europe on the brink”, “European engine sputters”, “The integration process grinds to a halt”, and so on – anyone following media commentary since the signing of the Treaty of Rome in 1957 will keep seeing such headlines. The European public does not seem to have lost its taste for criticism – even though their circumstances have improved enormously since those founding days. Such moaning seems particularly paradoxical today, when the EU has just passed a huge test with flying colours by surviving the global financial crisis of 2008. But no, Denmark’s closure of a few border patrols and signs of bailout fatigue are enough to prompt “The Press Club” – a long-running Sunday morning talk show on German television – to run the following dramatic headline, the gist of which has been repeated hundreds of times elsewhere: “Borders sealed – the euro under fire. Is Europe shutting up shop?” So far, so boring. It is obviously destined to be the eternal background noise of the European integration process.

Maybe it is time to consider the other side of the ledger for a moment and reflect on the remarkable effectiveness of European mechanisms in the wake of the financial crisis. It was a baptism of fire for Europe as a political project – and the community passed this historic test of its maturity with flying colours. I find all the alarmist talk currently dominating European crisis debates quite grotesque. And it is bewildering to note the degree of collective short-term memory loss, given the sad realities that defined the continent until a few years ago. After all, what would have been the usual European response to such a dramatic economic crisis until recently?

In Greece, for instance, reactionary colonels would have taken power in a coup, a general strike would probably have mutated into a communist uprising, followed by a civil war and a reactionary regime that persecuted anyone who dared to object. All of that used to be business as usual for Greece – yet it is unimaginable today. In Portugal and Spain, things were no different: dictatorships were the turbulent, permanent reality. The 30-year anniversary of the 1981 coup attempt by Lieutenant Colonel Antonio Tejero Molina was recently commemorated in Madrid, yet nobody would dream of such stunts today, even though, as our apocalyptic commentators would have us believe, the European situation is supposedly worse than ever.

The historic argument could be developed even further. For centuries, Europe survived massive emigration waves during periods of economic crises – yet today the supposedly crisis-ridden continent is a dream destination for immigrants. And how would the political leaders in those European member states have behaved if they had not been ousted or overthrown in such revolutions? They would have terminated their traditional alliances and swiftly waged war against their neighbours or immediately picked a fight with the rest of the world – that was, we would do well to remember, the tried and tested European crisis response method prior to the invention of bailouts and rescue packages.

Admittedly such scenarios sound absurd to us today – but we clearly need to be reminded that such deadly events were the horrific reality of every European generation up to and including our parents and grandparents and hardly any corner of Europe was spared such experiences. It remains the historic achievement of the European unification process that such disasters seem out of the question today, even in drastic circumstances.

Central and eastern Europe is a good example of this. Since the epic changes of 1989 and the fall of communism, the prospect of membership within the hitherto western European club was the crucial stability factor. Despite all the commotion and upheaval, that is precisely why the decision-making elite in those countries became pro-European during the massive transformation crises. Whether they did so out of conviction or political pragmatism is neither here nor there. There were certainly populists everywhere, and authoritarian tendencies continued to surface, even recently in Hungary under Prime Minister Viktor Orbán. But there too, the fact is that the situation remained remarkably stable and predictable even after a decade of entrenched dictatorship. There were no civil wars or pogroms, which are hardly rare events in the wake of historic upheaval around the world.

Some may well ask: what about the Balkans? But allow me to draw an historic analogy here. Arguably, the Balkan wars of the 1990s – initially the Bosnian dispute and ultimately the conflict in Kosovo – mirror the wars of German unification with Denmark in 1864, between Prussia and Austria in 1866, and finally with France in 1870-71. They were the last wars fought in the wider region in all three cases. Fortunately, much suggests that the Balkan wars were also the last to be waged in Europe – and the catalyst for European unification. Other analogies might be equally appropriate and telling (though not in a strict literal sense). After all, the unification of the German Empire was followed by a severe financial and economic crisis – yet this did not lead people to question unification.

Admittedly, such analogies have a more illustrative than analytical purpose. Nevertheless, the drama of internal European integration in recent years is without parallel in world history: resolution of conflict without war or brutal oppression; deep-seated changes for some primarily rural, pre-modern societies; not to mention a consensus among the various political elite and leaders – and probably the general public too – to persist with such a European project while the financial crisis was growing into such a perceived existential threat; repeatedly setting aside particular interests and displaying a remarkable ability to reach a political compromise. The benefits of Europe are now engrained within the collective consciousness and political psyche of the continent.

The proof of the pudding is that, precisely at a time of crisis, we do not have outstanding governments or skilled leaders at the helm. Angela Merkel, Nicolas Sarkozy, Silvio Berlusconi and Gordon Brown are not exactly the best leaders that key member states have had. But the fact that we were still able to overcome the crisis relatively smoothly shows how far integration has progressed and how much closer our institutions, interests and societies have become over the years. The EU's operating logic has thus become part of the social fabric. Vanities and self-interest no longer prevail. Even problematic or weak governments are no longer a serious threat to the process of European integration. Its bureaucratic, normalising pressure tolerates situations that appear to be part of some anarchistic dream. Belgium, for instance, continues to function as a member state, even though it has failed to form a government for a whole year now.

There is good reason to criticise some aspects of the EU. However, what is more remarkable and crucial in the long term is that a breakdown was

successfully averted after the financial crisis. Mediocre or bizarre European political leaders have committed to a “European *raison d'état*” that would have been a credit to the luminary founding fathers of the EEC. Even the much-vaunted fear of populism has been surprisingly toothless. For years, the most it has done is to throw a little sand in the wheels. The normalising de facto power of Europe continues to be stronger. The massive modernisation of European societies has gone too far for populist Pied Pipers to have any lasting hold in a huge region of almost half a billion inhabitants.

Given that the European balance sheet is so healthy, where is all the strident criticism and permanent crisis talk in pubs and seminars really coming from? Is it all just petty frustration and business as usual? Take the latest objections to the state of affairs in Europe by two great German intellectuals. Hans Magnus Enzensberger tilts at the windmills of a supposed Brussels juggernaut and Jürgen Habermas grumbles away, as ever, about the lack of a democratic European public sphere or proper legitimacy for the European government. Such shortcomings do exist. But surely they are problems of secondary significance, given all the upheaval in this blood-drenched continent within an unprecedentedly short period of time? The gains in democracy and freedom – not to mention prosperity – for the vast majority of Europeans are so incomparable that it is tempting to ask whether our poets and thinkers have lost all sense of history. Nothing new could possibly take shape any faster than what is currently occurring in Europe.

Some blemishes remain that weigh on the mind of every European – the regime of Alyaksandr Lukashenka in Belarus, for instance. The questions are entirely predictable here: How could you have let this happen for so long on your own doorstep? Why don't you stand up for the Belarusians more in your dealings with Putin and Medvedev? Or, in the case of the Ukraine, which is also on our doorstep: Why have you done so little since the “Orange Revolution” to encourage a more democratic approach? Why do you keep letting the old and new oligarchies carve up all the power among themselves? And, in the heart of old Europe: Why don't you use all of the tools at the EU's disposal to actively oppose the disastrous Berlusconi government which is undermining the democratic culture and institutions of his own country?

Europe still has a way to go. But the term “crisis” becomes meaningless when it is constantly thrown around. It would be ludicrous for politicians of all colours to spend decades devoted to a project that never makes it out of crisis mode.

tedious crisis talk may prove to have been a helpful false alarm in a dialectic sense: as a therapeutic mechanism warding off any imperial self-satisfaction; as an injection of alarmism triggering the fight (as opposed to flight) response to perceived threats – and, in its shadow, the solution to some real problems. Let us hope that it is all a case of what Hegel called the “cunning of reason” and not a dangerous loss of reality. On closer inspection, the situation is undoubtedly much better than all the analyses suggest. Europe has become a continent that, historically speaking, is happier than ever. Naturally, we must do everything in our power to ensure it remains that way. But we Europeans certainly have good reason for optimism.

AFTERWORD

Jürgen Habermas

A pact for or against Europe?

March 2011 ended with two major political events in Germany. The defeat of the Christian Democrats in their stronghold of Baden-Württemberg put a swift end to nuclear energy. Two days earlier, the European Council coupled measures to stabilise the common currency with a long-overdue initiative to coordinate the economic policies of the relevant member states. However, there is little public awareness of the impact of this shift towards greater integration because, in other respects, the two events appear to be in marked contrast with each other. After 40 years of civilian protests, a groundswell of public opinion in Baden-Württemberg defeated the die-hard mentality on which the pro-industry elite had until then relied. Meanwhile, in Brussels, following a year of speculation against the euro, a package of “economic governance” measures was passed behind closed doors, leaving lawyers, economists and political scientists to deal with the consequences. On the one hand, a long and hard-fought shift in mentality was achieved from the bottom up; on the other, a step towards integration was suddenly forced by the financial markets through a consensus of national governments.

The shift in energy policy, which has been developing for decades now against the background of vociferous public opinion, represents an important break. But what about the technocratic shift towards greater coordination of policy areas that according to the EU Treaty is the responsibility of member states, which was buried in the business pages of the newspapers and took place almost in silence? What is the problem – and can it be solved by a deal struck between the leaders of member states?

The flawed design of monetary union

I will not attempt to answer the financial question of whether the new European Stability Mechanism (ESM) will end speculation against the euro. Far more

important is the political question of the flawed design of monetary union that speculation has revealed. When the euro was introduced, in 1999, some still hoped that the process of European integration would continue. Ordoliberal supporters of the euro, on the other hand, believed that adherence to a few simple rules would be enough to consolidate national budgets and reduce the imbalances between eurozone economies in terms of unit labour costs.

However, both hopes have been dashed. The rapid succession of a financial, debt and euro crisis has exposed the flawed design of an enormous economic and monetary area that does not have the tools to create a common economic policy. Systemic pressures have pushed Eurosceptics such as Angela Merkel reluctantly towards greater integration. Now the idea is to rectify the fault through the informal method of “open coordination”. Those involved say that this emergency solution has the advantage of letting sleeping dogs lie. On the other hand, even if it works, it is undemocratic in execution and liable to stir up popular resentments between various member states.

The heads of government have agreed to implement a series of financial, economic, social and wage policies, which should really be a matter for the national parliaments (or business and unions) to decide. The recommendations reflect a German approach. Instead of commenting on the economic wisdom of austerity, which may well lead to counter-productive and long-lasting deflation, I want to focus on the procedure itself. Heads of government plan to look over each others’ shoulders every year to check whether their colleagues have deregulated their labour market and aligned their debt level, retirement age, social welfare and healthcare system, public sector wages, wage ratio, corporate tax and much more besides according to the European Council’s “guidelines”.

The wrong method

The non-binding nature of the intergovernmental agreement on economic policies, which encroaches on the core responsibilities of the member states and their parliaments, leads to a dilemma. If recommendations on economic governance have no impact, the problems they sought to resolve will become even more entrenched. However, if national governments do manage to coordinate their measures in the desired way, they first have to “secure” the necessary legitimacy at home for doing so. That would presuppose some dubious *chiaroscuro* pressure from above and some involuntary-

voluntary accommodation from below. What could it mean for the European Commission to have the right to check the budgets of the member states “in a timely manner” (i.e. before the parliaments themselves have passed them) except an assumed right to prejudge national policy?

National parliaments (and, in some cases, the unions) will not be able to shrug off the suspicion that they are merely rubber-stamping decisions already made elsewhere. Such distrust will inevitably erode any democratic credibility. Wishy-washy coordination, the legality of which is intentionally vague, is not sufficient for rules that require the EU to work as a unit. Such decisions must be legitimised in the two ways prescribed for all EU decisions – not only through the indirect route of the governments represented in the European Council, but also directly via the European Parliament. Otherwise, the familiar centrifugal force of finger-pointing at “Brussels” will only be accelerated – the wrong method will sow seeds of discontent.

As long as European citizens only see their national governments as actors on the European stage, they will continue to see the decision-making processes as zero-sum games in which they simply have to stand their ground. Their national heroes line up against the “others”, who are to blame for everything imposed on or demanded from “them” by the Brussels monster. Only by seeing the parliament in Strasbourg they elect as one made up of parties rather than nations will European citizens ever come to see the task of economic governance as a common challenge.

The alternative

A more challenging alternative might be that the European Commission exercise this role in a democratic way through the co-decision procedure – in other words, with the approval of the European Council and Parliament. This would, however, entail a transfer of power from the member states to the EU which would require a drastic treaty amendment that seems unrealistic for the moment.

It is probably true that the fatigued European public would currently reject any further transfer of sovereignty, even in one of the EU’s core policy areas. But political elites also use such predictions as an excuse for denying any responsibility for the sorry state of the EU. It was not inevitable that, after decades of widespread approval, support for European integration would significantly decline, even in Germany. The process of European integration, which has always taken place

over the heads of the population, has now reached a dead end because it cannot go any further without switching from its usual administrative mode to one of greater public involvement. But political elites are burying their heads in the sand. They are doggedly persisting with their elitist project and the disenfranchisement of the European population. I would like to highlight just three of the reasons for such brazenness.

The rediscovery of German nationhood

Reunification has led to a new mentality in Germany, which, as academic studies show, has changed the way Germans see both themselves and German foreign policy and, in particular, made them more self-centred. Since the 1990s, Germany has become more self-confident as a medium-sized power backed by military force that is able and willing to act on the global stage. This new identity has replaced the previous role of Germany as a “civilian power” that, informed by a “culture of restraint”, aimed above all to contribute to the development of the international rule of law. Since the change of government in 2005, this change has also been particularly visible in Germany’s attitude to Europe. Hans-Dietrich Genscher’s idea of a cooperative Germany with a “European vocation” is increasingly giving way to an undisguised bid for leadership by “European Germany in a German Europe”. European integration was in Germany’s interest from the outset. However, awareness of the responsibilities of Germany’s history led to diplomatic restraint and a willingness to see things from the point of view of others, acknowledge the weight of normative perspectives and occasionally take the heat out of conflicts by making concessions.

For Angela Merkel, this may still play a part in relations with Israel. However, no German chancellor has ever pursued national interests as blatantly as she did in blocking European help for Greece and the euro bailout for weeks prior to the debacle of 8 May 2009. The current bailout package has also been put together by Germany, the economic star pupil, with so little sensitivity that neighbouring countries now complain not about “Brussels” but about the “German” policy that they feel is being imposed upon them. The Constitutional Court’s anti-European verdict on the Lisbon Treaty, which opposed any further integration efforts by randomly stipulating inviolable national responsibilities and appointed it as the guardian of German national identity, fits very much with this new German mindset. Constitutional lawyers aptly summarised the verdict with the sarcastic headline: “The German Constitutional Court says ‘yes’ to Germany.”

Poll-driven opportunism

This new German normality does not explain the fact that there has not been a single European election and virtually no referenda in any of the member states so far on anything other than national issues. Political parties naturally avoid discussion of unpopular issues. In one sense, this is rather trivial, because parties have to win elections. In another sense, however, it is not trivial at all that, for decades, European elections have been dominated by issues and personalities that are not even relevant. Political parties should do much more to explain to ordinary citizens the relevance of what happens in the remote-seeming locations of Strasbourg and Brussels, but they stubbornly refuse to do so.

It certainly seems as if, these days, politics is in general characterised by a lack of perspective and creative drive. The growing complexity of matters requiring regulation necessitates quick responses from politicians who have less and less room for manoeuvre. As though applying the exposé principle of system theory, they shamelessly follow the opportunistic script of poll-driven pragmatism, which seems to be free of norms or obligations. Merkel's U-turn on nuclear power after the Fukushima nuclear disaster is only the most obvious example. It was also Merkel who, as *Frankfurter Allgemeine Zeitung* put it, "made half of Germany and nearly every Christian Democrat lie" when she tried to keep Defence Minister Karl-Theodor zu Guttenberg in office because he was so popular, even though he had been publicly exposed for plagiarism.

Underlying this is what, after the re-election of President George W. Bush, the *New York Times* called "post-truth democracy". To the extent that politicians make decisions based exclusively on the prevailing public mood, which they slavishly chase from one election to the next, the democratic process loses its purpose. The point of a democratic election is not simply to illustrate the natural spectrum of public opinion; instead, it should reflect the outcome of an opinion-forming process. The votes cast at the polling booth take on the institutional weight of democratic co-determination only in conjunction with publicly articulated opinions formed by a communicative exchange of standpoints, information and reasoned argument about key issues. This is the very reason why Article 21 of the German Basic Law accords political parties the privilege of "helping shape the political will of the people". Similarly, the EU will not be able to develop a democratic character as long as political parties are too afraid to even discuss alternatives to decisions with far-reaching implications.

The political class and its discontents

The media is not completely innocent of the deplorable state of politics in Germany today. Politicians are seduced by the media's gentle pressure to gain exposure from sound bites, while media programmers themselves get carried away in the haste and heat of the moment. The upbeat presenters of countless talk shows, with their unchanging personnel, offer a mishmash of opinions that rob viewers of any hope of meaningful political arguments. However, if I am not mistaken, although German broadsheet newspapers stand up well to international comparison, even the best newspapers are not immune to the way that politicians and journalists are developing a closer rapport – and are even proud of this achievement. A good example of this is the way a “liberal” weekly newspaper praised Merkel for defending Guttenberg when he was accused of plagiarism. Moreover, if press commentators want to provide any sort of counterbalance to politics with no clear vision, they have to stop allowing current events to totally dictate their content. For example, they treat the euro crisis as a highly specialised economic issue, which means there is a lack of context on those occasions when political editors deign to talk about the consequences of the crisis for the restructuring of the EU as a whole.

The rediscovery of German nationhood, the disorientation and short-sightedness of politicians, and the merging of the political and media classes may account for the fact that politicians have run out of steam on such a major project as European integration. But maybe we shouldn't be looking upwards to the political elite and the media. Perhaps the motivation that is missing can only be generated from below – in other words, from ordinary citizens. The phase-out of nuclear energy is a prime example of how political and cultural sensibilities, and thus the parameters of public debate, cannot be shifted without the tenacious legwork of social movements.

Frustration with under-performing politicians

There's no sign of the emergence of such a social movement for European integration. Instead we are witnessing something else: a growing sense of disenchantment with politics whose origins are unclear. This sense of disenchantment is usually blamed on the personalities and behavioural styles of individuals. It is often said that people like politicians from unusual backgrounds such as the Social Democrat presidential candidate Joachim Gauck, glamorous figures who can communicate well, like Guttenberg, and

likeable rogues such as the veteran Christian Democrat Heiner Geissler. They all have qualities that are sadly lacking in most politicians. However, this anti-political enthusiasm for mavericks could actually be an expression of a frustration with politics in general.

In the past, government policy seemed to be based on clear visions: Konrad Adenauer focused on integrating the Federal Republic into the West, Willy Brandt on *Ostpolitik* and the Third World; Helmut Schmidt put the fate of little Europe in the broader context of the global economy; and Helmut Kohl wanted to link German reunification to European integration. In short, all of them wanted something. Gerhard Schröder, on the other hand, tended to be reactive rather than proactive, but at least Joschka Fischer called for a decision on the “finality” of European integration. However, since 2005, things have been completely blurred. It is no longer possible to work out whether there is even an aim beyond winning the next election. The public senses that something is missing from this value-free political discourse. This is expressed in the way that ordinary people are turning away from organised politics and towards protest movements such as the “Stuttgart 21” movement against the redevelopment of Stuttgart railway station. Perhaps at least one political party should roll up its sleeves and actively take the fight for European integration to the streets.

It’s not good enough to simply abandon “big” projects. The international community cannot escape from issues such as climate change, the global risks of nuclear power, the need to regulate financial market capitalism and the implementation of human rights at an international level. After all, compared to the scale of these problems, the challenge Europe faces seems almost straightforward.

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